



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

MINUTES OF THE 129th COUNCIL MEETING of the
WESTERN PACIFIC REGIONAL
FISHERY MANAGEMENT COUNCIL

**Tumon Bay, Guam
Hilton Guam
202 Hilton Road**

9 - 11 November 2005

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

APPROVED BY COUNCIL

A handwritten signature in black ink, appearing to read "Frank McCoy", is written over a horizontal line.

CHAIR: Frank McCoy
Western Pacific Regional Fishery Management Council

Table of Contents

Table of Contents	2
1. OPENING CHAMORRO CHANT	5
4. INTRODUCTIONS	5
2. GREETINGS FROM THE GOVERNOR	5
3. PRESENTATION TO MARIANA ARCHIPELAGO POSTER CONTEST WINNERS	6
5. APPROVAL OF AGENDA	7
6. APPROVAL of 127th and 128th MEETING MINUTES	7
7. ISLAND REPORTS AND ISLAND AGENCY ENFORCEMENT REPORTS	7
A. AMERICAN SAMOA	7
B. GUAM ISLAND REPORT	9
C. HAWAII ISLAND REPORT	10
D. CNMI ISLAND REPORT	13
8. AGENCY REPORTS	15
A. NATIONAL MARINE FISHERIES SERVICE	15
1. PACIFIC ISLANDS REGIONAL OFFICE	15
2. PACIFIC ISLANDS FISHERIES SCIENCE CENTER	20
B. DEPARTMENT OF INTERIOR	23
C. NOAA GENERAL COUNSEL	26
D. DEPARTMENT OF STATE REPORT	31
9. ENFORCEMENT AND VMS ISSUES	33
A. U.S. COAST GUARD REPORT	33
B. NOAA OFFICE OF LAW ENFORCEMENT	35
C. STATUS OF VIOLATIONS	37
D. GUAM ENFORCEMENT REPORT	38
E. PUBLIC COMMENT	40
F. COUNCIL DISCUSSION AND ACTION	41
10. FISHERY RIGHTS OF INDIGENOUS PEOPLES	41
A. GUAM VOLUNTARY DATA COLLECTION PROGRAM	41
B. CDPP PROJECTS	47
1. GUAM LONGLINE PROJECT	47
2. CNMI REMOTE FISHING STATION	48
F. PUBLIC COMMENT	49
11. BOTTOMFISH FISHERIES	49
A. REPORT ON GUAM BOTTOMFISH FISHERY	49

B. MHI BOTTOMFISH OVERFISHING	52
C. SSC RECOMMENDATIONS	57
D. PUBLIC COMMENT	61
E. COUNCIL DISCUSSION AND ACTION	61
12. PRECIOUS CORAL FISHERIES	61
A. BLACK CORAL MANAGEMENT	61
B. SSC RECOMMENDATIONS	62
C. STANDING COMMITTEE RECOMMENDATIONS	62
D. PUBLIC COMMENT	63
E. COUNCIL DISCUSSION AND ACTION	63
13. CRUSTACEANS FISHERIES	64
B. NORTHWESTERN HAWAIIAN ISLANDS SPINY LOBSTER MODEL REVIEW REPORT	64
C. SSC RECOMMENDATIONS	65
D. PUBLIC COMMENT	65
E. COUNCIL DISCUSSION AND ACTION	65
14. PELAGIC/INTERNATIONAL FISHERIES	65
B. PELAGIC FISHERY MANAGEMENT PLAN ACTIONS	65
1. MANAGEMENT OF SWORDFISH FISHERY	65
2. OVERFISHING OF WCPO YELLOWFIN	67
3. MAIN HAWAIIAN ISLAND LONGLINE BUFFER ZONES	71
4. DEFINITION OF SHORTLINES	73
5. AMERICAN SAMOA FAD CLOSURES	75
A. REPORT ON GUAM'S PELAGIC FISHERIES	77
C. INTERNATIONAL FISHERIES MANAGEMENT	80
1. IATTC	80
2. WCPFC	80
3. PIRO INTERNATIONAL DIVISION ACTIVITIES	81
4. OTHER ISSUES	86
5. U.N. RESOLUTION	87
D. AMERICAN SAMOA AND HAWAII LONGLINE FISHERIES QUARTERLY REPORTS	88
E. PELAGIC PLAN TEAM REPORT	90
F. SSC RECOMMENDATIONS	91
G. STANDING COMMITTEE RECOMMENDATIONS	93
H. PUBLIC HEARING	93
I. COUNCIL DISCUSSION AND ACTION	93
16. ECOSYSTEMS AND HABITAT	100
B. MARIANAS FEP PILOT	100
1. PROJECT OVERVIEW	100
2. ECOSYSTEM INDICATORS	101

3. CNMI/GUAM INSHORE COMMUNITY-BASED INITIATIVES	108
4. GUAM OFFSHORE BANKS MANAGEMENT OPTIONS	110
A. WESTERN PACIFIC FISHERY ECOSYSTEM PLANS	112
D. REPORT ON GUAM'S CORAL REEF FISHERIES	115
E. GUAM REEF ECOSYSTEM ANNUAL REPORT	117
F. RECONSTRUCTION OF CORAL REEF AND BOTTOMFISH CATCHES	121
G. MARIANAS RAMP CRUISE REPORT	123
H. NATIONAL MARINE SANCTUARY PROGRAM	126
1. NMSP REPORT	126
2. NOAA REVIEW OF COUNCIL'S NWHI DRAFT FISHING REGULATIONS.	131
I. HAWAII NWHI REFUGE and MHI MMAS	138
J. REPORTS FROM PLAN TEAMS	144
K. SSC RECOMMENDATIONS	146
L. STANDING COMMITTEE RECOMMENDATIONS	147
M. PUBLIC COMMENT	147
N. COUNCIL DISCUSSION AND ACTION.....	150
15. PROTECTED SPECIES	164
C. HAGGAN (TURTLE) WATCH PROGRAM	164
D. CNMI TURTLE WATCH PROGRAM	165
F. SSC RECOMMENDATIONS.....	166
G. PUBLIC COMMENT	167
H. COUNCIL DISCUSSION AND ACTION.....	167
17. PROGRAM PLANNING	167
C. STATUS OF FISHERY MANAGEMENT ISSUES.....	167
D. EDUCATION AND OUTREACH REPORT.....	168
E. REPORT ON STATE DISASTER RELIEF PROGRAM	169
F. PUBLIC COMMENT.....	171
G. COUNCIL DISCUSSION AND ACTION.....	171
18. ADMINISTRATIVE MATTERS AND BUDGET	171
A. FINANCIAL REPORTS.....	171
11. BOTTOMFISH FISHERIES	172
E. BOTTOMFISH COUNCIL DISCUSSION AND ACTION	172
19. OTHER BUSINESS	174
A. NATIONAL PLAN OF ACTION ON FISHING CAPACITY	174

1. OPENING CHAMORRO CHANT

Mr. Frank McCoy, Council Chairman, formally opened the 129th meeting of the Western Pacific Regional Fisheries Management Council on November 9, 2005. McCoy expressed his appreciation to Governor Felix Camacho and the People of Guam for their kind hospitality and introduced the Gama' Palu Lei Traditional Chamorro Dance Group to perform opening ceremonies and prayer.

4. INTRODUCTIONS

McCoy thanked the performers and then asked Council members to introduce themselves.

Members in attendance were: Don Palawski, U.S. Fish and Wildlife Service; Bill Gibbons-Fly, U.S. Department of State; Commander Bob Wilson, U.S. Coast Guard; Bill Robinson, NOAA Fisheries Pacific Islands Region Office; Alofa Tuaumu, American Samoa Designee; Stephen Haleck, American Samoa; Benigno Sablan, Saipan; Richard Seman, CNMI; Manny Duenas, Guam; Adrienne Loerzel, Guam; Sean Martin, Hawaii; Fred Duerr, Hawaii; Ed Ebisui, Hawaii; Peter Young, Hawaii; Silas DeRoma, NOAA Office of General Counsel; Judson Feder, NOAA Office of the General Counsel; Paul Callaghan, Guam; and Guam Governor Felix Camacho.

2. GREETINGS FROM THE GOVERNOR

Mr. Manuel Duenas introduced Governor Camacho as a guest speaker.

Governor Camacho thanked the Council for traveling to Guam to hold the Council meeting in which decisions will be made which have a great impact upon what happens in territorial jurisdictions. He emphasized Islanders strongly believe "what happens in small places can have a large effect" and "the oceans do not divide the islands, they unite us."

Camacho added the People of Guam are looking to the Council for remedies on how they can right maybe several wrongs that have occurred over time. He wished the Council a blessing of wisdom, of understanding or discernment and courage in their decision-making endeavors. He thanked and commended the Council for coming to Guam.

Mr. Richard Seman offered apologies for the absence of CNMI Governor Juan Nekai Babauta, as the Governor was attending the arrival of two fallen soldiers that had recently passed away in Iraq. Seman echoed Governor Camacho's sentiments and noted the ecosystem-based management approach will require Guam and CNMI to be considered as one ecosystem, Guam and CNMI are permanently joined together by surrounding waters and stressed the importance of working together to protect the Archipelago's valuable resources for future generations. Seman also offered congratulations to all winners of the Marianas Archipelago Ecosystem Poster Contest, as well as the parents of the participants. Seman also thanked the Council for traveling to Guam.

McCoy invited Duenas to speak to the move from single-species management to ecosystem-based management.

Duenas briefly spoke to the concept of ecosystem-based management plans as something that all fishermen and users of the marine resources can embrace and thanked the Council for undergoing the process.

3. PRESENTATION TO MARIANA ARCHIPELAGO POSTER CONTEST WINNERS

McCoy invited John Calvo, Guam Island Coordinator, and Jack Ogomuro, CNMI Island Coordinator, to present the winners of the Marianas Archipelago Ecosystem Poster Contest.

Calvo first thanked all the sponsors of the contest and then announced the winners, as Governor Camacho congratulated the children.

The Guam winners in attendance, as follows:

Grades K to 2, Kevin Ray Igtanloc.
Grades 9 to 12, Jeffry Ejan.

Ogomuro announced the sponsors and winners from CNMI.

The CNMI winners in attendance, as follows:

Grade K to 2, Benakina Antologuto Lasama (phonetic).
Grades 3 to 5, Mark Caacbay.
Grade 6 to 8, Sojung Song.

Grades 9 to 12, Arwin Piamonte.

McCoy thanked the kids, parents and teachers for the beautiful artwork.

(Brief break taken)

5. APPROVAL OF AGENDA

McCoy asked for approval of the agenda.

Mr. Ben Sablan moved for approval. Mr. Sean Martin seconded the motion.

Mr. Bill Robinson noted a minor change of Item 16.H.2, NOAA Review of Council's Northwestern Hawaiian Islands Draft Fishing Regulations, will be presented by Ed Lindelof. The motion was passed unanimously.

6. APPROVAL of 127th and 128th MEETING MINUTES

McCoy asked for approval of the minutes of the 127th Council Meeting and the minutes of the 128th Council Meeting. Duenas seconded motion to approve the minutes.

Mr. Ebisui asked if the minutes from the 128th Council are available, as he has not yet seen them. Executive Director Simonds replied the staff is checking.

The motion was amended to approve the minutes of the 127th Council meeting. The minutes of the 127th Council meeting was passed unanimously.

Duenas moved the approval of the 128th Council meeting be moved to such time they are available. Sablan seconded the motion. Motion was passed unanimously.

7. ISLAND REPORTS AND ISLAND AGENCY ENFORCEMENT REPORTS

A. AMERICAN SAMOA

Mr. Alofa Tuamu informed the Council regarding data collection and data processing, the offshore fisheries port samplers report 38 interviews; approximately 10 alias, from 45 sample days for July to September with data entered and sent to West Pac FIN as usual; a

total of \$76,000 in local commercial landings estimated from DMWR receipt books, with an additional 6,000 pounds imported from Neighboring Samoa.

Federal longline participant counts and logbook data were entered and sent to West Pac FIN as usual. Dave Hamm and staff continued their support in visiting Samoa to keep up the timely data flowing. Some of the ongoing projects are:

Activities funded by other federal agencies, such as the Federal Aid Program, which is the Community-based Fishery Management Program, the Inshore Fisheries Documentation, the Key Reef Species Biology and Ecology and the FAD Program.

A new MPA Program, Marine Protected Area Program, was added to the approved FY 06 plan, which is separate from the Community-based Fisheries Management Program.

Three buoys have been deployed, with two or three more buoys to be deployed before the end of the year.

A new Chief Fisheries Biologist joined the Department, Dr. Karl Brookins, which came onboard during June. He is now recommended to become the American Samoa representative on the Council's SSC.

Dr. Doug Fenner now assigned as the Coral Reef Monitor, a Coral Reef Ecologist for the DMWR, will be monitoring the Coral Reef Monitoring Program.

There is also a Sea Turtle Research Program funded by NOAA, with the current and ongoing activities listed in the written report.

The DMWR is continuing to work with NOAA Enforcement. The MOU is in place, as well as the equipment. Tuaumu expressed appreciation for the cooperation with the NOAA Enforcement Group in the enforcement activities in American Samoa.

Taumu stated he has details of all activities within each project and will be glad to make copies available of all the detailed accomplishments to Council Members. He thanked the Chairman for the opportunity to report.

McCoy asked Mr. Stephen Haleck if he had any additional comments to the American Samoa Island Report.

Haleck briefly reported on the October palolo season as a very good harvest. He noted due to the southeasterly winds, the currents were carrying the palolo onto the reefs.

McCoy asked if there were questions regarding the American Samoa Island Report.

Sablan asked for an explanation of palolo.

Tuaumu explained palolo is an important American Samoan delicacy, which is a sea worm, harvested once or twice a year, which is often harvested in a traditional customary manner. He added that they are looking forward to the next harvest to occur around the end of November.

McCoy asked if there was a noticeable decline in palolo production. Tuaumu answered there is a decline in areas which have damage to corals. Dr. Fenner, the coral ecologist, is assigned to look into the issue.

B. GUAM ISLAND REPORT

Miss Adrienne Loerzel reported fuel prices have gone up significantly and has reduced trolling effort. Fishermen's Co-op reported catches were good for summer and fall, but not for crab and lobster because of rougher waters on the east side.

For enforcement, an incidence of gear conflict was reported with a fisherman targeting sharks on the Southern Banks, which was forwarded to NMFS.

A kid's fishing derby was held in July, as well as a catch-and-release educational effort with 80 children registered in the derby. Two derbies are planned for next year.

Eighteen boats were registered in the Rota Derby, which a Guam fisherman won.

As far as new initiatives, there are some upcoming eco-regional assessments working in partnership with Nature Conservancy Micronesia, looking at 2006 for the Northern Mariana Islands and possibly 2007 for the Guam area. Scoping meetings will be conducted probably later this month and also in December.

Regarding educational initiatives, there will be a marine focus in a new children's show that will be airing in January next year. Also, a workshop for Marine Protected Areas, Pacific Island Marine Protected Area Community happened in late August, looking at building capacity and building partnerships in the region to look at the best ways Marine Protected Areas can be used as a tool and also used to support cultural uses.

Duenas presented an update on the longline project, which is 90 percent complete, but still has to finish off the hydraulics and install the reel system.

The Fishermen's Festival held in June is getting more and more successful every year, although due to fuel prices there was a major decline in the participants registered for the fishing derby. The Festival enjoyed nearly 1,000 participants. He noted there is a very good Ecosystem Approach Program in the community and is very proud of it. The main focus promotes the use of pelagic fish over reef fish in order to protect nearshore resources.

Because of rough weather fishermen have been experiencing poor catch rates, extremely poor for the month of July, August, running through September. Catch improved in late October. Now through November is wahoo season.

Bottomfish catch rates are being monitored. The Fishermen's Co-op has implemented a price structure that has been discouraging fishermen from over-harvesting. He noted it's been rather successful in the past, and has found it to work out in the last three months. The monitoring programs have been rather successful.

McCoy asked if there were any questions for the Guam Island Report.

Sablan asked for more information on the Nature Conservancy Program from Loerzel.

Loerzel explained the Nature Conservancy of Micronesia Program is doing ecological ecosystem monitoring and assessments, focusing on the Federated States of Micronesia. Pohnpei was first. Kosarai is scheduled now. With additional funding they've built onto some of the work that's already been done through federal and local agencies. If funding remains available, public meetings will be held by the end of the year to let the community know the status and describe priorities. The plan is to move through Guam hopefully in 2007.

Sablan asked for clarification of the timeline. Loerzel surmised they're looking at next month for the public meetings to begin and actual work will progress sometime in 2006, depending partly on the scoping meetings and also on the funding.

Duenas noted the positive experience he's had in working with the Nature Conservancy.

C. HAWAII ISLAND REPORT

Mr. Peter Young directed everyone's attention to Tab 7.C, Hawaii's Island Report, for reading.

Young pointed out issues regarding the Northwestern Hawaiian Islands are listed elsewhere on the agenda so he will address those issues at that time. He noted one item

not mentioned in the Island Report is the hire of a new Aquatic Resources Administrator, Dan Polhemus, who's in attendance.

McCoy invited additional comments for Hawaii.

On behalf of the Council, Martin welcomed two new Council Members, Frederick Duerr and Myrick Gaffney, to the Council.

He reported, from the commercial fisheries standpoint, the Hawaii longline fleet presently is exclusively targeting tuna, to the best of his knowledge at the moment, which is a seasonal thing, with completion of two-thirds of the allocated sets for shallow-set fishing, with turtle takes somewhere over 50 percent. He expects there will be a little bit more effort in the remaining two months of the year.

When the swordfish fishery was quite active from January to May they experienced good catch rates on good-sized fish, which contributed to a much healthier economic environment for the fleet, although fuel prices have had a significant impact.

The fisheries are going well. Currently fishing is fair and prices have been quite good.

McCoy invited questions for Young or Martin.

Ebisui briefly reported on the shark tour operations operating off of the North Shore of Oahu. He noted at the 127th Council Meeting held in June there were two vessels operating shark tours, while currently there are three vessels with a rumored fourth vessel preparing to enter into business. He added that apparently the shark tour operations are very profitable, with very low overhead, much money to be made and are expanding rather rapidly.

McCoy invited questions.

Duenas asked whether the shark tour operations were conducted in State waters or Federal waters. Ebisui replied that originally they were in State waters, then moving into Federal waters after the State of Hawaii passed laws regulating the chumming of sharks in State waters. At this time, they are supposed to be operating in Federal waters.

Duenas asked Young if the regulations were promulgated by Young's agency. Young replied it was probably done by rule, but he did not know the details.

McCoy said he remembered the Council had asked to look into the shark migration and movement and asked if there was response to the request. Duenas and Ebisui both replied

not yet. Council Staff Eric Kingma said there are some requests for proposals to do studies by Pelagics Resource Group, PFRP.

McCoy asked Ebisui if he feels there is a problem. Ebisui replied that he thinks there is a common sense conceptual problem, that when humans cause a behavioral change in sharks, such as to aggregate them and hold them, it is basically creating permanent feeding stations so the sharks are very, very prevalent.

He added that at the present time all you need to do is stop your boat anywhere near the area and they'll come up to the boat, with numerous surf breaks, a lot of people surfing, canoe paddling, skin diving, a wide variety of ocean-users directly inshore.

McCoy asked the Coast Guard if the shark tour operators are required to have licenses to ferry people in and out. Commander Wilson replied that he believes the operators are six-packs.

Ebisui added that another problem with the shark tour operation is the deployment of anchors and floats tethered to the cages, and the floats are unmarked, without reflective material and lights, 24/7. Other fishermen have run into them and damaged their props. One vessel is licensed for more than six passengers.

Wilson said he didn't have that information. If a report is made that they are leaving buoys out, that should be reported to the Coast Guard office, and is something the Coast Guard can take action on.

Ebisui said at the previous Council Meeting one tour operator attended the meeting and acknowledged that they leave their floats out. The floats are very easy to find during the daytime. Ebisui said an additional problem is that the operations encourage the sharks to interact with fishermen with potential lethal consequences to the sharks.

McCoy asked if the trapping activity is still ongoing. Ebisui replied there are several operators that have for years run strings of crab pots and fish traps, but that those fishermen continually move their gear.

McCoy invited Duerr to comment.

Duerr noted that he thinks any time you start feeding sharks, you change shark behavior. Sharks are scavengers and introducing a foreign food to them can't be good for the system. He does not believe in feeding sharks, but he knows it's going on the Big Island, too.

Having no more comments, McCoy moved on to the CNMI Island Report.

D. CNMI ISLAND REPORT

Seman referred the Council to Document 7.D.

Seman reported the CNMI Government has taken the dispute over 264,000 square miles of submerged lands in the Northern Mariana Islands to the U.S. Supreme Court, filing a petition to seek to review and reverse a ruling of an appellate court that affirmed the Federal Government's ownership of the land. Taking the matter to the Supreme Court has remained the CNMI Government's only judicial option after the Ninth Circuit denied the appeal and request for a full-panel hearing. The CNMI, however, still has an extra judicial means for a possible relief as negotiations between the Government for the Commonwealth and the Federal Government have been ongoing.

In Enforcement, two arrests were made for fishing within a Marine Sanctuary and one arrest for lobster fishing. The Sanctuary violation occurred inside the Forbidden Island Marine Sanctuary and is now awaiting court hearing and possible trial. The lobster violation involved undersized egg-bearing females and the use of spearguns. An administrative hearing of this regulation violation has been conducted and a total fine of \$1,050 has been levied against the perpetrators.

Inshore creel survey. A local marine biologist has just been hired by the Division of Fish and Wildlife to work on its inshore creel sampling program. The hiring of the biologist will allow the Division to get started with the sampling program that has been held off for over a year due to the lack of a marine biologist on island.

The CNMI and Guam Council Members along with the Council staff unveiled the Fishery Ecosystem Plan for the Marianas Archipelago to the government and community officials on Saipan, Tinian and Rota on October 25, 26, and 27, respectively. Public hearings on the FEP were also held on all three islands during those three days.

Two sets of marked buoys were installed by the Division of Fish and Wildlife in two marine sanctuary sites. The buoys delineate the actual boundaries of both sanctuaries and will assist fishermen from encroachment. The buoys also improve the enforcement surveillance and monitoring activities of the Division.

The 21st Annual Saipan International Fishing Tournament was finally held on September 10th and 11th on Saipan after it was postponed two weeks earlier due to bad weather. The tournament was well attended with over 300 anglers and 80 boats registered. Last year's Grand Prize Winner out of Guam, the CHARLIE CAT, retained its title for

another year with a 422-pound Pacific blue marlin. There were about 17 boats from Guam in this year's tournament.

On October 5 the newly-completed transit dock was officially opened for operation and to receive transit vessels visiting the Island of Saipan. The project was made possible through a boating infrastructure grant from the Federal Aid Office from the U.S. Fish and Wildlife Service. The new facility has running potable water, 240-volt electrical connection, pumphouse stations, security cameras, parking stalls and lockable storage bins. The facility was engineered and installed by the Hawaii-based company Blue Water Docks and Marina Specialties.

A Seattle-based commercial fishing group, LADY KIMBERLY, has expressed a desire to conduct longline fishing within the CNMI waters. The company supposedly has secured necessary fishing permits from the Federal Permitting Agencies and is now working with the Commonwealth Development Authority for a loan guarantee before heading out to the Marianas.

An invitation to bid for the proposed public market has been completed. Sealed bids will be opened at the end of this month and construction shall begin by early January of next year and completed within 16 months. When completed, the facility will provide adequate space for sale of fresh fish and fresh fruit and vegetables as well as locally processed and value-added food. This project is estimated to cost over 1.5 million dollars.

McCoy invited questions to Seman.

Duenas cautioned CNMI against funding outsiders to come in and explore CNMI's waters without a guaranteed loan, as many vessels have been abandoned on Guam and Guam has had problems with such things.

Sablan agreed with Duenas that CNMI should be very cautious about such a situation.

Sablan also reported that last week's gubernatorial election is not over yet. Three candidates are still very close, less than 200 votes apart, with 1500 absentee ballots sent out. By November 19th the ballots will be counted and CNMI will have the next governor of the CNMI.

McCoy asked Sablan how many voters are registered in CNMI. Sablan replied that there are 15,000 registered voters.

McCoy invited questions to the CNMI Island Report.

Duerr asked if the spearing of fish is allowed with scuba. Sablan replied no.

Having no further questions, McCoy moved on to Agency Reports.

8. AGENCY REPORTS

A. NATIONAL MARINE FISHERIES SERVICE

1. PACIFIC ISLANDS REGIONAL OFFICE

Robinson reported it's been a very busy period of time since the last Council Meeting. On July 13th in the Federal Register published an Advanced Notice of Proposed Rule-making establishing a control date for the Main Hawaiian Islands bottomfish fishery in federal waters as recommended by the Council, as well as a proposed rule on the seabird measures that allowed the option of side-setting or using a combination of other traditional seabird mitigation measures.

The comment period for that proposed rule closed on August 12th. NMFS received a number of comments, the most significant being comments relative to the use of tori lines, in addition to other traditional measures and weights.

Those comments resulted in the holding of the 128th Council Meeting by conference call on November 1st, at which the Council made some recommendations which the Agency will be working with to determine which recommendations can be accommodated in the final rule or whether some additional rule-making might be required.

PIRO also some time ago contracted with a researcher to assess the performance of the Shallow-set Certificate Program. The progress report on that will be given to the Council at the March meeting in Honolulu.

On August 1st the Pelagics Amendment 11 establishing the American Samoa Longline Limited Entry Program became effective. Other measures, including the vessel monitoring system and observer placement, became effective on December 1st. A Compliance Guide for the limited entry permit was completed and an informational web page was added to the website.

An orientation workshop was held in Pago Pago on August 13th. Seventeen fishermen attended and were briefed on the new permit application procedures and eligibility qualifications, VMS requirements and also the Protected Species

Workshops.

In November PIRO will host a Protected Species Workshop in Pago Pago to certify owners and operators of longline vessels operating under the new Limited Entry Program and provide more information on the new regulations.

Permit application packets, including a letter, application form and instructions, a Compliance Guide and a copy of the final rule, were mailed on September 27th to all fishermen known to have fished in the American Samoa longline fishery up to March 2002 from a list provided by the Council. Twenty applications have been received as of October 27th. Fifteen permits have been issued to date.

On August 15th PIRO published a control date in the Federal Register for the non-longline commercial pelagic fisheries around Hawaii and a control date for the purse seine and longline fisheries in the Western Pacific, both recommended by the Council as part of the bigeye tuna overfishing consideration by the Council.

Also on August 15th PIRO published a proposed rule in the Federal Register that would set requirements for Protected Species Workshops and fishing gear configuration for the General Permit Longline Fisheries. The comment period for the proposed rule ended on September 14th. PIRO sent the final rule package to Headquarters in October with changes expected to be effective around the beginning of December.

On September 2nd PIRO published an emergency rule in the Federal Register to close the U.S. longline fishery for bigeye tuna in the Eastern Tropical Pacific from August 30th to December 31st because the bigeye tuna catch in the IATTC Convention area had reached the reported level of catch made in 2001. This was to be consistent with an IATTC resolution which required that countries keep their longline bigeye catches at the 2001 level or below.

In late September PIRO hosted a Federal Regulations Writing Workshop which was conducted by Headquarters Staff.

On October 4th PIRO sent out solicitations to all Hawaii Longline Limited Entry Permit holders for soliciting interest in the 2006 shallow-set certificates. As of October 27th PIRO had received 130 Notices of Interest. Closing date was November 1. The 2006 shallow-set certificates will be printed shortly and should be available around December 1st.

Protected Species Workshops for Hawaii longliners were conducted in both September and October. PIRO is working with the Council staff on a number of regulatory issues, as well as a backlog, such as to update the final draft of Amendment 9 of the Bottomfish and Seamount Groundfish FMP that would establish the 50-mile area closure around Guam to large bottomfish vessels. PIRO is just about complete with that package and hopes to begin Secretarial Review very, very soon.

PIRO is also working with the Council staff on bringing up to date the Omnibus Amendment on the Pacific Remote Island Areas and hopes to begin processing that very soon as well.

PIRO is also working with the Council on reviewing and making comments on the Bigeye Tuna Amendment 14.

In the past four months PIRO produced a number of outreach and educational materials, TV spots and brochures. Two staff members are going to participate on a cruise aboard the OSCAR ELTON SETTE in November as part of the Bycatch Reduction Studies for testing the effectiveness of dehooking equipment and increasing the survivability of sharks and tunas released during longline operations.

NEPA activities are ongoing.

Robinson deferred reporting on International Fisheries Activities until the Pelagics agenda section, at which time a complete review of the International Activities will be presented.

For Protected Resources, PIRO recently completed consultation under Section 7 of the Endangered Species Act on the effects of the Hawaii-based Pelagic deep-set longline fishery on listed sea turtles and humpback whales. The Biological Opinion was issued on October 4th. It concludes that the deep-set fishery is not likely to jeopardize the continued existence of leatherbacks, loggerheads, olive ridleys, green sea turtles or humpback whales.

The Biological Opinion contains an Incidental Take Statement which authorizes sea turtle takes in the fishery over a period of three years.

Robinson noted that this Biological Opinion is the first opinion that was delegated to the Pacific Islands Regional Office. It was prepared in conjunction with the Pacific Islands Fisheries Science Center, the Council staff and the applicants, the Hawaii Longline Association, independently of Headquarters. An e-mail was sent from a lawyer at Headquarters saying it was one of the best biological opinions that she had ever

reviewed. Robinson said he's proud of the fact that PIRO's first major biological opinion is completed and so far all went well with it.

PIRO is also working with other NMFS Regions and Headquarters Office to determine how to move forward with an MMPA Negligible Impact Analysis for humpback whales.

Based on a recommendation from the Council's Marine Mammal Advisory Committee Protected Resources staff participated in the NMFS Southeast Region Take Reduction Team addressing pilot whale interactions with the Atlantic longline fishery. It's expected that the team's efforts will produce potential mitigation measures for consideration to address false killer whale interactions with the Hawaii longline fishery.

The State of Hawaii withdrew its application for an Incidental Take Permit pursuant to Section 10 of the ESA to address interactions between protected species and nearshore fisheries in the Main Hawaiian Islands. However, PIRO will continue to work with the State on a number of conservation plans and programs to protect sea turtles and monk seals around Hawaii.

An Advanced Notice of Proposed Rule-making will soon be published in the Federal Register describing PIRO's intent to explore regulations to protect Hawaiian spinner dolphins from human activities while resting, noting that these will be the first site-specific approach regulations that the Agency will have promulgated.

Since the last Council Meeting several new Protected Resources staff have come onboard:

Jane LaFors is the NEPA Project Manager.

Dave Scoffield (phonetic), Marine Mammal Response Coordinator, has taken over the Marine Mammal Network and works very closely with the State, particularly Jeff Walters and others.

An MMPA Specialist and a Marine Mammal Biologist, who will start in the next several months.

The Assistant Regional Administrator for Protected Resources Division, Tamra Faris, took a new position in Headquarters. Chris Yates, who was the Marine Mammal Branch Chief, is the Acting ARA.

The Habitat Conservation area is working on the damage assessment for the grounding of the CAPE FLATTERY at Barbers Point; similarly, is also working on the response and assessment for the CASITAS grounding at Pearl and Hermes Atoll.

PIRO's GIS Specialist is working with the Council to compile data used for establishing Habitat Areas of Particular Concern for bottomfish in the Main Hawaiian Islands and evaluate site selections, as well as has done a lot of work with the Navy and the Department of Defense out in the Pacific Islands areas.

With the recent addition of a Coral Reef Ecologist, a JIMAR-hire in Guam, staff is present in each of the four island areas doing habitat work and working with folks on local action strategies.

The Observer Program has had 100 percent coverage to October 16th on shallow-set longline, 25.9 percent for deep-set longline and 22 percent for the bottomfish fishery.

PIRO has also facilitated observers to collect data from circle hook research projects during 57 trips with the Hawaii longline fleet to evaluate circle hooks in the deep-set fishery.

At least two observer training classes have been conducted to meet the coverage need. The next training class is scheduled for February.

Presently there are 50 active observers provided by the contractor, with 11 debriefers on staff for debriefing observers and managing the data.

In American Samoa an operating plan is being developed that will address a range of issues to implement the program. Placement of observers in the new program is expected to begin in March 2006, aiming for 20 percent coverage of the longline fishing trips from American Samoa.

PIRO has also participated in observer training in Papua New Guinea, with the major focus being to train New Guinea observers to collect information on marine mammals and sea turtles, as well as teaching them handling and dehooking techniques.

Headquarters has hired and state-located in the region a Recreational Fisheries Coordinator, Nicole Bartlett. She will be working with the Hawaii DAR and the Council on recreational survey issues, as well as coordinating and providing a link to provide information and to get the views of the recreational fishing community to incorporate into PIRO programs.

McCoy invited questions to Robinson.

Haleck asked Robinson what is the effective date on the requirement for the VMS system for American Samoa and the final decision on VMS funding. Robinson replied he thinks the effective date is December 1st and there is still no definitive decision from Headquarters on funding. But PIRO has asked for the American Samoa longline fleet to be treated the same way as the Hawaii longline fleet, considering it's one fishery.

Simonds agreed the American Samoa longline fleet is an extension of the Council's Hawaii Limited Entry Program and Council philosophy is that the Federal Government should pay for VMS.

Simonds also said the Council is very pleased with the biological opinion produced by PIRO. She asked that since the State withdrew the Section 10 Permit, does that mean there are no takes for turtles. Robinson replied it meant there are no authorized takes.

Simonds asked Young why the State changed their decision about the Section 10 Permit. Young replied that what the State originally applied for was an Incidental Take Permit in the event there was a take. After internal discussion, the State decided to withdraw the application.

Simonds said the Council thought it was not advisable to add monk seals to the Section 10 Permit and only have it pertain to turtles.

Robinson said that he thought the reason given by the State was that they needed to take some more time to consider the issue before proceeding.

Robinson also complimented Brandee Gerke, who was the principal author of the biological opinion, for doing an excellent job.

Having no further questions, McCoy called on Dr. Sam Pooley from the Pacific Islands Fisheries Science Center.

2. PACIFIC ISLANDS FISHERIES SCIENCE CENTER

Pooley referred the Council to Section 8.A.2.A.

Pooley reported it's been a busy period in the National Marine Fisheries Service and feels a lot of good science is going on, adding that the Center is discovering their ability to respond to short-term analytical needs and related kind of crises is limited at the moment

and the Northwestern Hawaiian Islands bottomfish flap is as good an example of that as any.

NOAA is increasingly focused on ecosystem management so there was some consideration for reorganizing the Research Division into, for example, pelagic or insular. Subsequently it was decided not to do that because there is sufficient disruption going on right now, as the budget situation is rather weak and hiring people has been difficult because of the cost of living in Hawaii. As reported last time, the three stock assessment positions opened at that time all declined because of the cost of living.

The Protected Species Division placed an acoustic monitoring array at Cross Seamount and Palmyra to listen for marine mammals, including false killer whales.

The LaJolla Lab has scheduled a cetacean cruise to Palmyra this year. There is one staff member onboard that cruise, but as yet has not reported in.

The Fish Biology and Stock Assessment Division had a successful working group meeting at the International Scientific Committee in Tokyo on marlins and swordfish, moving ahead rather aggressively on those pelagic issues.

The Fishery Monitoring and Stock Assessment Division is trying out barbless hooks in the shoreline ulua fishery in Hawaii with some considerable success, working with local fishermen and at tournaments, which would be an interesting topic for the Council to hear about in more detail some time.

The Ecosystem and Oceanography Division has been looking at the issue of larval exchange between Johnston Atoll and the Northwestern Hawaiian Islands. HIMB has done some genetic work and looked at oceanographic conditions, which nobody else has done, to see whether it's possible and what the duration of the larval stage would need to be in order for it to be successful and, in essence, has verified the genetic information.

The Coral Reef Ecosystem Division just returned recently from the Marianas Coral Reef Cruise in the Northern Mariana Islands where they did an outreach event and attempted to do an outreach event in Guam, but had problems with Navy Security, or something like that.

Last month Pooley was in Vladivostok, Russia for the annual meeting of the North Pacific Science Organization, PICES, which is planning a symposium in Honolulu in April.

Most of PICES's activity is north of 30 Degrees, which limits its relevance the Council's

area, but it turns out that the Korean and Japanese delegates to PICES are also heavily involved in their Highly Migratory Species work. In particular, Hideki Nakano, who was an intern at the lab, now works for the Japan Fisheries Agency, is the Japanese delegate, and would be a good thing for the Council to be involved in.

McCoy invited questions for Pooley.

Duenas thanked Pooley for the Center's efforts in the Guam area and enjoyed hosting them and looks forward to the next visit, and hopefully will not have such tight security when visiting the ship, as the children of Guam were interested in what type of technology was onboard. He explained the lady who was to be the fisherperson onboard was away in Hawaii as an observer so the opportunity was lost, and thanked Pooley again.

Pooley said it was very disappointing about not being able to do the outreach event as well and looks forward to the next time.

Simonds said that when the Council recently went to Washington it was made known to Bill Hogarth and other people that they should raise the GS levels, and that something needs to be done about the Region not being able to recruit stock assessment people in Hawaii, because that's exactly the kind of work that is needed. There are many problems because there are no stock assessments. She stressed that it is one of the most important things for the Service to provide the Councils with.

Pooley said that in the interim some scientists are contracted at the University of British Columbia to do stock assessments, and are doing the bottomfish stock assessment presently. Even though the Center has had a long working relationship with these scientists and is confident in them, it will be more of an academic-looking stock assessment and less user-friendly.

Pooley added that the lobster stock assessment is essentially done and is being peer-reviewed by the expert panel that was set up several years ago and will report on it at the next Council Meeting.

A. OBSERVER PLACEMENT PROTOCOL

Robinson reported under the protocols for observers, the bottom line is observers are in no way to direct or influence the activities of the skipper and are not to interpret regulations for them. They are simply observers.

In addition to the first biological opinion, the most recent milestone that reflects the development of the Pacific Islands Region is the arrival of Pacific Islands General Counsel. Robinson introduced Silas DeRoma and said how pleased he was to have him onboard and is looking forward to working with him over the coming years.

Robinson also acknowledged the long and productive relationship with Judson Feder. He noted Feder has always done a great job and has always been available. Everyone is sad to see Feder relinquish his duties here, but at the same time PIRO is very, very happy to have a new milestone in having the Pacific Islands General Counsel's Office.

Having no further questions or comments, McCoy moved on to the next agenda item.

B. DEPARTMENT OF INTERIOR

Palawski reported that the Fish and Wildlife Service has embarked on a Comprehensive Conservation Plan for the 19 refuges in the Pacific, starting with Howland, Baker and Jarvis Islands.

In early summer coordination meetings were held with agency partners in Honolulu. Staff from the Science Center, the Regional Office and the Council attended, in which an overview of the refuge system, information on refuge policies and an overview of what the Comprehensive Conservation Plan was presented.

The National Wildlife Refuge system has been in existence for over 100 years, with 545 refuges around the country. It's the largest system of lands in the world dedicated to wildlife conservation. All of the refuges are going through the same process.

The Fish and Wildlife Service has been using ecosystems for a long time. Most of these refuges on the mainland are related to migratory birds and the ecosystem that's needed to go from north to south to provide breeding grounds, resting grounds.

In the Pacific, there are nineteen refuges, with nine marine refuges, Pacific Remote Insular Areas, that really are a system in a system and a part of an ecosystem. All of the planning process is based on the National Wildlife Refuge System Improvement Act, which was passed in 1997. This act gives the organic legislation on how to manage National Wildlife Refuges.

Probably the most important factor that was directed by Congress in this legislation, the Fish and Wildlife Service acknowledges that humans are part of the ecosystem. But in a National Wildlife Refuge wildlife come first. So Fish and Wildlife consider what the wildlife uses are before what the human uses can be.

Congress said there are priority public uses, which usually relates to hunting and some fishing, recreational fishing, wildlife observation, things like that.

The Congress also mandated how to address compatibility and defined how a use is compatible with the mission of that refuge or purpose of that refuge. It is mandated to maintain the biological integrity, diversity and environmental health of the system and of each refuge.

The refuges are managed as a system, which includes the Pacific Remote Island Areas. Palawski said he looks forward to interacting with the Council through the planning process.

This hierarchy of activities goes back to wildlife first; what can be done in a refuge, what comes first, what comes second, what is not appropriate to do in a refuge.

State involvement will not apply to Unincorporated U.S. Possessions, which Howland, Jarvis and Baker are not associated with a state. But Palawski said he looks forward to always working with the State, especially in Hawaii, on Hawaiian Island refuge issues.

The Comprehensive Conservation Planning Process is also mandated.

Mission of the Fish and Wildlife Service is just to support, protect and where appropriate restore fish and wildlife and plants for the benefit of the American people.

The priority uses are hunting, sportfishing, wildlife observation, environmental education, interpretation and photography. These also must be determined whether they're compatible for a particular refuge.

The Comprehensive Conservation Planning Process is mandated by Congress to be done within a 15-year period. There is a lot of work to do in the Pacific, starting on Howland, Baker and Jarvis.

Compatibility determination as to what's compatible within a refuge and what isn't will be determined through the process. The NEPA process will be followed as well as other Service compliance mandates.

When the plan comes out it will have chapters on background and history of the refuge, what the purpose of that refuge was when it was established, division and goals for that refuge, the objectives that to be used to manage the refuge, and then monitoring programs to see whether the objectives are accomplished.

For Howland, Baker and Jarvis, last summer preplanning was done. A notice in the Federal Register was published on September 14th looking for public input for Howland, Baker and Jarvis. Scoping period ends on November 14th, but FWS will continue to accept scoping comments throughout the process, up to the point in time that a draft environmental document is released.

The vision and goals statement developing alternatives is being worked on. Public input will also be welcomed at that draft planning stage.

Then the final plan. Again, public input will be welcomed.

Then implementation and monitoring. Palawski also showed the organizational structure.

He stressed again that compatibility is a key part in deciding whether an alternative is acceptable or not acceptable. The idea of biological integrity must go into the alternative.

As this process evolves, there will continually be policy development within the Fish and Wildlife Service.

He again emphasized that what happens in a refuge is always based on what the original purpose of the refuge was. Most remote refuges, the purpose of the refuge was for conservation of seabirds and for protecting marine resources. A use is always evaluated based on whether it's going to interfere with those protections.

The compatibility determination is decided at the Refuge Manager level. The Fish and Wildlife Service does have policies on biological integrity, diversity policy and will share with Council staff and others.

The State involvement will not apply to Unincorporated Possessions.

He went over the brief overview of the 19 refuges in the Pacific, consisting of more than 2.4 million acres. There is refuge staff on all of the main islands of the Hawaiian Islands.

Palawski's particular responsibility is for the eight Pacific Remote Island Areas refuges; the Hawaiian Islands National Wildlife Refuge, Johnston Island Refuges, Rose Atoll National Wildlife Refuge, Palmyra Atoll Refuge, Kingman Reef Refuge, Baker, Howland and Jarvis Islands.

The region matches up with the National Marine Fisheries Service Region and the Council region.

He showed a map of the region's refuge management, depicting a large area, but in terms of the entire Pacific Ocean are really just very small little points in the ocean.

Considering the total amount of acreage in the Pacific, the refuge system represents a very small percentage of acres. However, the biodiversity associated with these small areas is extensive and may represent a majority of the biodiversity in the Pacific Ocean.

One note, Rose Atoll has been moved down. Limited by staff and time, Rose Atoll did not start the planning process in '05 as scheduled.

McCoy invited questions to Palawski. Palawski offered an overview handout available at the table, and a sign-up sheet for any requests for more handouts and assured the members he recently updated the mailing list so they will receive refuge updates as they're produced.

Having no questions or comments, McCoy moved on to the NOAA General Counsel Report.

C. NOAA GENERAL COUNSEL

Mr. Judson Feder welcomed Silas DeRoma to his first Council Meeting with the Western Pacific Council, who will be joined by another attorney who is being transferred from the NOAA General Counsel Office in St. Petersburg, Florida, named Shepard Grimes, who will be joining the office later this month or in the next month or so.

Feder directed the Council Members to Tab 8.C in the briefing book, although it was missing in Silas' briefing book.

He reported there have been no new cases filed that are of direct interest to the Fisheries Management Council.

First case of interest, the Hui Malama I Kohala case, which is before the District Court in Honolulu. That case involves an environmental organization challenge to the categorization of the Hawaii longline fishery under Section 118 of the Marine Mammal Protection Act.

The fishery was categorized as a Category III fishery under the MMPA, which means that it has infrequent interactions with marine mammals.

The case was filed about two years ago.

In the interim, the Fisheries Service re-categorized the fishery as a Category I fishery, which means that it has frequent interactions with marine mammals.

Perhaps as a result or partially as a result of that re-categorization, the District Court upheld the Fisheries Service's decision to have originally categorized the fishery as Category III and later categorized it to Category I and withheld the decisions of the Fisheries Service under Section 118 of the Marine Mammal Protection Act.

The Environmental Plaintiffs appealed that decision about a year and a half ago.

The briefings on the appeal were completed over the summer. There were oral arguments scheduled to take place in Honolulu on November 17th. That hearing has been cancelled. The Ninth Circuit evidently decided to consider the appeal strictly on the briefs and not entertain oral argument.

Second case is the Turtle Island Restoration Network case, also before the District Court in Honolulu, and also on appeal to the Ninth Circuit, a case in which environmental organizations challenged the Fisheries Service's management of the Hawaii-based longline fishery alleging that the Fisheries Service managed the fishery in violation of the Migratory Bird Treaty Act, National Environmental Policy Act and the Endangered Species Act.

District Court upheld the Fisheries Service's decisions to manage the fishery and found the Fisheries Service in compliance with those acts.

Again, Environmental Plaintiffs appealed that decision to Ninth Circuit. Briefing has been completed. Oral argument before the Ninth Circuit is scheduled for November 17th in Honolulu.

There will be a public hearing and for people interested in attending, contact him for the details.

Third case is the Transworld Marine Case, which is before the Southern District of California, which involves the Fisheries Service's program to provide direct economic assistance to longline fishermen who were shut out of the longline fishery because of the turtle litigation. A longline fisherman challenged the Fisheries Service's denial of an Application for Economic Assistance. The District Court upheld the Fisheries Service's denial of the application for assistance.

A year ago last summer Plaintiff Longline Fisherman appealed that District Court decision to the Ninth Circuit. Both the plaintiffs and the federal defendant filed appeal briefs with the Ninth Circuit. The briefing was completed in April of this year.

There is no update in this case. Oral argument has not been scheduled. He predicts that the Ninth Circuit will probably rule on the basis of the briefing documents alone. It will not request an oral argument.

Fourth case is the CNMI case. This case was filed back in 1999 by the Commonwealth of the Northern Marianas asking the court to quiet title to submerged lands seaward of the coast of what they alleged was an archipelagic baseline along the Archipelago of the CNMI, submerged lands out seaward to 12 nautical miles from that baseline.

The District of the Northern Mariana Islands, the U.S. District ruled two years ago that not only does the CNMI not have title to the submerged lands, but two statutes of the CNMI, Marine Sovereignty Act and Submerged Lands Act, are preempted by federal law. The CNMI appealed that ruling to the Ninth Circuit.

In February of this year the Ninth Circuit affirmed the District Court's ruling and confirmed that the Marine Sovereignty Act and the Submerged Lands Act of the CNMI are preempted by federal law. The CNMI filed a petition for Writ of Certiorari, which means that they requested the U.S. Supreme Court to overturn the decision at the Ninth Circuit in a petition filed on October 6th.

The deadline for the United States Government to submit a written reply to that Petition for Writ of Certiorari is scheduled for tomorrow. Last update is the U.S. Government had not yet decided whether to even file a written response at this time. The process would be that if the Supreme Court is interested in entertaining this petition to hear the case, the Supreme Court would ask the United States Government to file a brief. In that case, the U.S. would file a brief.

But if the U.S. is not requested to file a brief, it may not.

In other words, the CNMI has requested the Supreme Court to entertain an appeal. The Supreme Court may or may not entertain an appeal. The Supreme Court entertains relatively few appeals every year. So it's entirely unclear whether the Supreme Court will even entertain this motion for an appeal.

Feder reported on other cases that have some interest but are not directly related to the business of the Council. They are as follows:

The Earth Island Institute Case, which involves indirectly the tuna purse seine fishery operating in the Eastern Tropical Pacific Ocean and is also regulated in part by decisions of the Inter-American Tropical Tuna Commission, the IATTC. This case involves a decision by the Secretary of Commerce that the international purse seine fishery in the ETP is not having a significant adverse impact on depleted dolphin stocks. That decision was challenged by environmental groups. The District set aside the Secretary of Commerce's finding about the adverse impacts on depleted dolphin stocks.

The news in that case is the government decided to appeal that decision at the District Court and filed an appellate brief with the Ninth Circuit on August 25th.

Second case is the UFO Shooting case in Honolulu. This case involves regulations promulgated by the State of Hawaii regulating parasailing off the Coast of Hawaii, off Maui, specifically, for the conservation of humpback whales. Two private companies in Hawaii challenged the regulation arguing that the State of Hawaii lacked authority to promulgate regulations for conservation of marine mammals.

The Federal District Court ruled in favor of those private companies and struck down the Hawaii regulations. But after that ruling Congress adopted and the President signed a law that specifically authorized the State of Hawaii to regulate vessels of Hawaii for the purpose of conserving marine mammals.

NOAA intervened in support of the State.

In the end, the District Court judge, who'd originally ruled against the State in July of 2004, vacated her original order and decided that the State of Hawaii and NOAA were correct, the new law passed by Congress specifically authorizes the State of Hawaii to issue these parasailing restrictions and confirmed that the State of Hawaii could continue to enforce these regulations.

On August 1st of this year the plaintiffs, the private parasailing companies, filed a Notice of Appeal with the Ninth Circuit. That case will continue.

The third case is a fisheries case on the West Coast, a Ninth Circuit case, involving management of groundfish fisheries off of Washington, Oregon and California, specifically, a species of groundfish called darkblotched rockfish, which is overfished.

The Pacific Council and the Fisheries Service in response to the overfished condition of darkblotched rockfish adopted a rebuilding plan under the Magnuson Act that provided for the rebuilding of darkblotched rockfish that would take decades. The Magnuson Act

requires generally that rebuilding plans should rebuild overfished fish in as short a time as possible, and generally no longer than ten years.

In this case the Ninth Circuit looked very, very hard at the Administrative Record that was prepared by the Fisheries Service and determined that the Agency lacked an adequate administrative record that described why in this circumstance the Agency allowed for a rebuilding time that lasted for so many decades. It ruled that the Fisheries Service had failed to explain clearly why it would take so long; interpreted the Magnuson Act in a fairly strict way and a fairly literal way, that if a stock is overfished NMFS is responsible to rebuild the stocks literally in as short a time as possible unless there is really a good reason.

The take-home message here is that although there are not stocks yet that are determined to be overfished and for which a rebuilding plan is required to be established, if that day comes the Council and the Fisheries Service have to be very careful to establish a very strong administrative record explaining why the rebuilding time is as long as it is. This is an indication of how strictly the courts are interpreting the overfishing provisions of the Magnuson Act.

McCoy invited questions for Feder.

Duenas asked for clarification of the policy on the recent filling of the two vacancies on the Council. Feder replied he didn't know the answer and has to check with colleagues back in D.C. to give a full answer on the interpretation of the Magnuson Act. He speculated there is an established interpretation that's being used in all regions and it was not suddenly decided in response to the short list that was provided by the Governor of Hawaii in this case, but he will get back with the answer before the end of the meeting.

Seman asked for clarification on Judge Munson's preemption of the submerged lands and the Marine Sovereignty Act; in the event the Supreme Court decides to hear and overrules Munson's decision, would that void the preemptions. Feder replied it would depend exactly what the Supreme Court rules. If the Supreme Court ruled completely in favor of the CNMI and vacated the Ninth Circuit decision, that would overturn the decisions to preempt those two statutes, but the Supreme Court could do all kinds of different things, or variations of different things.

Seman further asked Feder if he had the opportunity to review the petition that was made by the CNMI Government. Feder replied yes.

Sablan asked for clarification of the deadline for the U.S. Supreme Court to respond to

the petition. Feder replied that if the U.S. Government decides on its own to file a brief in opposition to the CNMI's petition, the deadline for the United States to file that brief would be tomorrow. But that's not the deadline for the Supreme Court to make a decision.

Sablan stated that he would like to confer with Judson during recess.

Having no further questions, McCoy moved on to the next agenda item.

D. DEPARTMENT OF STATE REPORT

Gibbons-Fly said he will prepare and leave a written report with the staff for the record of the meeting before he leaves the island.

Not wanting to be redundant in reporting international activities, he deferred to the PIRO report to be presented in the Pelagics section of the agenda and will offer comment as appropriate.

He updated the Council on the status of U.S. ratification and accession to the Western and Central Pacific Fisheries Commission, as there have been some positive developments in the last couple of months that would be of interest to the Council.

Back in May of this year the President transmitted the Convention establishing the Western and Central Pacific Fisheries Commission to the Senate for its review with a view towards advice and consent to ratification. On September 22nd the Senate Foreign Relations Committee held a hearing to review a number of oceans-related treaties, including the WCPFC Convention.

The hearing went very well. The Deputy Assistant Secretary for Oceans and Fisheries, Dave Balton, testified before the committee on all of the treaties. The questions did not indicate that there was any opposition, but in fact suggested there was broad support from the committee for timely U.S. accession to the Commission, which was confirmed about two weeks ago when on October 25th the Senate Foreign Relations Committee had a business meeting at which it voted favorably on the Convention and agreed to pass it to the full Senate for advice and consent to ratification. He feels hopeful that the Senate will have an opportunity to take that up before the end of this session.

If not, it is hoped that it would be taken up very early in the new year.

Once Senate advice and consent is obtained, there are additional steps that need to

take place before the United States is able to become a member of the Commission. The most important of those is the passage of implementing legislation through both the Senate and the House. The Administration, in particular State and NOAA, have been working very closely on a piece of draft implementing legislation which is currently under review in the Office of Management and Review.

Once interagency clearance is obtained, it will be forwarded to the Hill.

The Senate staff has also prepared draft legislation. The hope is that once the Administration's version is sent forward, it will harmonize effectively with whatever is currently being considered by the Senate staff.

It is fully anticipated that the U.S. becomes full members, the participation of Guam, American Samoa and CNMI in their own right will also be authorized, meaning that they would have a seat at the table with their own flag placard and their own representative at the meetings.

McCoy invited questions to Gibbons-fly.

Simonds asked as a hypothetical question, if he thinks that the Commission will take serious action at its next meeting. Gibbons-Fly replied he hopes so. The topic can be discussed in more detail in the Pelagics Section regarding a meeting that took place in Tokyo in September, which was an informal meeting of the parties to the WCPFC. At that meeting, the United States presented a list of issues of importance for consideration by the Commission at its second meeting in December, including the conservation and management measures for yellowfin and bigeye tuna, conservation and management measures for associated and dependent species, including measures to address the incidental take of sea turtles and longline fisheries, measures for North Pacific albacore, measures with respect to sharks and shark finning have been adopted in IATTC, ICCAT and elsewhere, as well as other issues. That list was essentially endorsed by the informal meeting as a list of issues on which the Commission should give priority attention.

He added that there's a long way to go in getting 26 countries around the table to agree on what the appropriate suite of management measures should be, and impossible to predict at this time, though the signs are hopeful. The intent is to work within the Commission to get some effective measures in the December meeting.

Simonds said it seems that there are some sort of administrative things that need to be taken care of, depending on what kind of management scheme is going to be chosen; knowing the true number of boats that are out there fishing from all of the countries, their

configurations, catch information, all of those kinds of things. Simonds thanked Gibbons-fly for his opinion.

Gibbons-Fly added that it is now a transitional phase from a time in which the State Department has had the lead on issues, which is the negotiation of the Convention and the Preparatory Conference to establish the international organization, toward the point in which the organization is actually managing the resources, at which time the lead shifts over to Bill and his staff at NOAA Fisheries, which will be discussed in the Pelagics agenda topic.

He noted that Bill and his staff have been very active over the summer and recently in looking at all of these conservation and management issues. Comments and advice have been provided, but that has really been an area in which they have had a lead in doing, and has done a very outstanding job.

Having no further questions, McCoy called for a brief break.

(Brief break taken)

9. ENFORCEMENT AND VMS ISSUES

A. U.S. COAST GUARD REPORT

Wilson directed attention to Tab 9.A.1, which covers the period from May 1st through September 30th.

Multiple area patrols were conducted of all the Exclusive Economic Zones, with the exception of Wake. No foreign fishing vessel violations were detected.

In May the Cutter SEQUOIA out of Guam patrolled the Guam EEZ. No violations detected.

From May through the end of July the Cutter JARVIS took part in a multilateral operation to combat illegal, unregulated and unreported fishing, specifically targeting large-scale driftnetters. During this operation the JARVIS conducted joint patrols with the Russian Border Directorate Vessel VOROVSKY and People's Republic of China Fisheries Law Enforcement Command Vessel ZHONG GUO ZHENG 202, with Canada providing aerial coverage during the patrols.

All the sighting and patrol information was passed between the member agencies of the North Pacific Coast Guard's Forum. Membership includes Canada, Russia, Japan, Korea, China, in addition to the United States.

Although JARVIS didn't detect any violations during her patrol, in May a U.S. fisherman reported two foreign vessels hauling in driftnets approximately 800 nautical miles east northeast of Tokyo. Unfortunately, the JARVIS was not in a position to respond. The U.S. fisherman was able to take pictures of both of the vessels. Of the pictures that she took she was only able to get the name and the home port of one of the vessels.

When she returned to port she sent those pictures to us. It was put together in a case package, which was forwarded through the State Department for further action. The vessel was a Taiwan vessel. The Government of Taiwan has got this case for action.

From June through July the Cutter Walnut headed south patrolling the southern portion of the Main Hawaiian Islands, Kingman, Palmyra and Jarvis. Nothing significant to report here.

From July through August the Cutter KUKUI conducted a law enforcement patrol south of the Main Hawaiian Islands through Kingman, Palmyra and Jarvis, and down to American Samoa. On the way back she also patrolled the Howland, Baker EEZ. Although no foreign fishing violations were detected, KUKUI did terminate the voyage of one vessel in American Samoa for insufficient life-saving equipment and also cited another vessel for having a non-U.S. master.

In August and September Sector Honolulu units and one of the patrol boats working in the Main Hawaiian Islands conducted boardings with nothing significant to report.

Both buoy tenders headed up to the Northwestern Hawaiian Islands to conduct marine debris removal. They came back with over 40,000 pounds of marine debris.

Within the next few months another patrol boat will arrive in Hawaii. It should be operational once the crew gets trained, probably by early in the next calendar year. In the middle of the summer of 2006 one of the 110-foot patrol boats will be moved to Guam. Guam will have two 110-foot patrol boats.

Martin invited questions or comments to Commander Wilson.

Seman asked if there are any plans for stationing any of the boats in the Northern Mariana Islands. Wilson replied, nothing right now.

McCoy asked if picking up marine debris is part of the training program or part of their duty. Wilson replied that it's something that the Coast Guard has participated in throughout the years when resources are available.

Martin asked what agencies were involved in the marine debris removal. Wilson replied that NOAA Fisheries folks were onboard, although the crew was actually in the water cutting some of the marine debris out and then gathering it all together, then booming that onboard and putting that in containers.

Palawski noted the Coast Guard has the ability to get debris from areas that others could not get and has been a big help.

Sablan asked what permits a proposed longline fishery would need to fish in international waters within the U.S. EEZ in CNMI. Wilson said he will check, but was not aware of any.

Martin asked for clarification from a NOAA representative. Mr. Alvin Katekaru replied that a High Seas Fishing Compliance Act Permit is needed to fish in international waters. If they land in one the shores of our EEZ, then they would need an FMP permit.

McCoy followed up with regards as to if they were to land in another port other than the U.S. port, do they still need to have a High Seas Compliance Act permit. Katekaru replied, yes, which is issued out of the PIRO Office.

Duenas asked for confirmation that a FAD was found off of Hawaii that came out of Guam's waters. Wilson replied that he had no information.

Seman said there was a FAD picked up in Saipan that came from the Big Island, which was then recycled, which happened about nine years ago.

Martin, on behalf of the Council, thanked the Coast Guard and Fish and Wildlife Service for under unique circumstances this summer in the marine debris charter that didn't go as well as it could have, the Coast Guard stepping in and at least contributing to that effort, which was deeply appreciated by the Council. The Council is committed to the marine debris removal program.

Having no further questions, Martin moved on.

B. NOAA OFFICE OF LAW ENFORCEMENT

Mr. Chuck Radderman reported 41 investigations, of which 21 are Magnuson-Stevens Conservation Act; two Endangered Species Act violations, one Lacey Act violation and four Marine Mammal Protection Act. Each investigation not only determines the outcome, but whether there is any violation to begin with.

The Pacific Islands Division Office is fairly new. Special Agent-in-Charge Fogarty and DSAC Mark Cline have done an exemplary job as they are very understaffed. Two new employees are coming to Honolulu, one VMS Officer and one enforcement tech, another Special Agent will be hired for Guam, another Assistant Special-Agent-in-Charge also in American Samoa.

Plans include a Joint Enforcement Agreement Training Program for the CNMI, for Guam and also for American Samoa to take place at the end of the month, working with other agencies, such as the U.S. Coast Guard, U.S. Attorney's Office and other Guam local and federal agencies.

Also training is planned about what each jurisdiction needs, be it the General Counsel's Office, be it the CNMI District Attorney's Office or be it the U.S. Attorney's Office, for both criminal and civil cases. Each format is different. Evidence collection is also planned in the training.

He thanked the U.S. Coast Guard for their help because without them, their platform and availability in some of the high seas areas would be vastly diminished.

He stated their job is to implement the fisheries with the laws available. One concern is having laws that can be enhanced and more effectively enforced. He added that there is a need for laws that are applicable.

Radderman invited questions.

Duenas asked for more information on the report section regarding the closure of the bigeye longline fishery. Radderman replied that it is regarding the diminished capacity for bigeye tuna fishing, and invited NOAA representatives to further explain.

Robinson replied the only closure that he's aware of would be the Eastern Pacific Ocean closure in August of this year when the IATTC closed when the quota was reached east of 150 Degrees.

Duenas asked for more clarification regarding the second Special Agent coming to Guam. Radderman explained the opening is still open on the internet at USA Jobs.

Kingma added that the issue highlighted in the report was that the notification of the quota was reached came at a point where NOAA OLE didn't have enough lead time or resources to respond adequately. His understanding from discussions with Judy Fogarty, there was some communication issues within NOAA regarding the quota being reached by the longline vessels and then adequate enforcement response.

Sablan asked if Radderman could look into the issue of the bombing of FDM related to any ESA violations. Radderman said he'd be happy to speak with him about it. Sablan offered to help Radderman look in to the issue.

C. STATUS OF VIOLATIONS

Feder reported for Paul Ortiz, from the Office of General Counsel for Enforcement and Litigation, directing attention to Item 9.C.1.

The single case contained in the report is a case that was settled involving a longline fisherman fishing in the EEZ around American Samoa without a valid longline general permit.

Originally NOAA NMFS Enforcement had assessed a penalty of \$1500, but due to the fisherman's financial condition the penalty was suspended with the commitment from the fisherman that there will be no violations of the Magnuson Act or its implementing regulations for a period of five years or the penalty will be reinstated.

The Magnuson Act provides that when assessing a penalty the violator's ability to pay shall be taken into account, which was the statutory basis for the decision to suspend this penalty.

Martin invited questions to Feder.

McCoy asked for clarification, as the vessel in question is no longer seaworthy. Feder explained the report only contains activities since May 25th.

Seman asked for clarification of the five-year period. Feder explained it is a suspension of the fine for five years, not a suspension of the fishing permit.

Tuaumu wanted to know how the fisherman's financial condition was determined. Feder explained a respondent in a case like this will have an interest in explaining to NOAA why the respondent is not able to pay. He speculated that in this case the fisherman, himself, gave financial information to NOAA General Counsel and to NOAA

Enforcement and convinced them that he was unable to pay by maybe providing financial records, tax returns, records like that.

Tuaumu asked if this type of information can be communicated to the American Samoa DWR office so that we can get more information before a decision is made. He pointed out that this respondent currently has a boat at the port and if he catches fish, then some property or the boat could be taken. Tuaumu is concerned about what message is being sent to people. Feder said he would pass the information along to Paul Ortiz.

Duerr asked if it might be better if a lien is filed against the boat and equipment. Feder agreed that such a thing is allowed under the Magnuson Act, but is not aware of the details of the particular case.

D. GUAM ENFORCEMENT REPORT

Mr. Mike Reyes, a Conservation Officer from the Department of Agriculture, Division of Aquatic and Wildlife Resource Law Enforcement Section reported on some of the duties and responsibilities of conservation officers in Guam, which primarily is to enforce the natural resource laws of Guam, as well as all departmental laws and regulations; cattle rustling laws, the wildland fire arson investigations, and so forth. Fishery enforcement is just a small portion of their duties.

The bulk of fishing violations are committed within the Marine Preserves or the Marine Protected Areas; PATI Point Preserve, Tumon Bay, Piti Bomb Hole, Sasa Preserve and the Achang Reef Flats. People found in violation of the laws can be fined anywhere between 50 to \$500 and may spend at least 90 days in jail.

Restrictions within the Marine Preserves includes: The taking of aquatic animals is restricted unless specifically authorized, all types of shell collecting, fishing and the use of gaffs and the removal of sand and rocks are prohibited in the preserves.

One of the preserves, Pati Point Preserve, the northernmost preserve, the use of hook-and-line from shore is allowed for all types of fishing. Trolling is allowed from the reef margin seaward for pelagic fish.

Tumon Bay Preserve, hook-and-line, cast net from shore, regulating four types of fish; the rabbitfish, the convict tang, juvenile goatfish and the juvenile jacks. Cast netting is allowed on the reef margin for two types of fish, the rabbitfish and the convict tang. Bottomfishing is allowed from the 100-foot contour seaward. Trolling is also allowed from the reef margin seaward for pelagic fish.

Piti Bomb Holes Preserve, no fishing within the boundaries. Trolling is allowed from the reef margin seaward.

Sasa Bay Preserve, no fishing within the boundaries of this preserve. Trolling is allowed from the reef margin seaward for pelagic fish.

Achang Reef Flats, no fishing within the boundaries of the preserve. Trolling is allowed seaward for pelagic fish. There is a permit issued for taking of seasonal fish for this particular preserve.

Illegal fishing cases from 2002 to 2005 include:

For the year 2001, a total of 125 written warnings were issued. This was the education period where the Department went out and basically educated the public as to what the preserves were and when the preserves will be enforced.

Actual enforcement began in 2002. A total of 17 arrests were made for illegal fishing, 11 in the marine preserves, six outside.

- In 2003, 25 arrests, 14 in the MPA, 11 outside.
- In 2004, 21, 20 in the MPAs, one outside.
- In 2005, the count right now is at 20, 18 in the MPA and two on the outside.
- On the endangered species side of the house, one arrest in 2002 and two in 2004.

Prosecution rate:

- Total arrest cases for fishing, 83.
- Total dismissed, 18.
- Total prosecuted, one.
- Total pending, 64.

On the endangered species side of the house, total of three cases all successfully federally prosecuted.

The Department recently hired a natural resource attorney. She's onboard now as of November 1st, 2005. This attorney is primarily charged with handling the fishing violations. She will be aggressively prosecuting these cases. It is anticipated these violators will be brought to justice.

Public hearing is scheduled this year for the issue of Public Law 25-26, which gave the Department of Agriculture the ability to issue citations for hunting and fishing violations.

Public law 28-30 implemented the Volunteer Conservation Program. This program, itself, will boost manpower for enforcing the terrestrial as well as the marine enforcement side of the house.

2006 is the first year out of eight years that additional funding has been available for operations, while still receiving continuous support from the Coral Reef as well as the Coastal Zone Management folks in applying for grants. They've been a big help.

Reyes invited questions.

Seman asked the amount of funding the enforcement program is getting out of the Coral Reef Initiative and a breakdown of the implementation of the funds. Reyes guessed maybe about 150,000 with the bulk of the money going to equipping the officers to do the job, such as the purchase of vehicles and little odds and ends needed to perform the job.

Tuaumu asked if the natural resource attorney is paid from the local budget or some federal grant. Reyes replied he believes the funding source is coming from NOAA, as well as the Coastal Zone, split half and half for two years.

Ebisui asked Reyes what species were involved in the ESA cases. Reyes replied one hawksbill turtle and two green sea turtles.

Duenas complimented Reyes on doing an excellent job protecting marine preserves and asked if there are regulations violated with the raking of algae that grows along the shoreline is performed. Reyes replied the removal of sand and aquatic animals from the preserve is prohibited, and since it has been brought to his attention he will take a look as to whether permits were actually issued. If not, then action will be taken. He told Duenas he will make a personal pledge to look at it and give him feedback.

Loerzel offered a clarification on the natural resources prosecutor, as it is a combined federal funding source. In the agreement that allowed the attorney to be hired there was a pledge on the part of the local government that after two or three years the cost would be funded by GovGuam.

Martin returned to Chair back to McCoy.

E. PUBLIC COMMENT

There were no public comments.

F. COUNCIL DISCUSSION AND ACTION

There were no recommendations.

10. FISHERY RIGHTS OF INDIGENOUS PEOPLES

A. GUAM VOLUNTARY DATA COLLECTION PROGRAM

Calvo reported that the Guam Voluntary Data Collection Pilot Project was started during the 118th Council Meeting where Guam advisors proposed a voluntary program to gather fishery data as a Community Development Program. The primary motivation for proposing the voluntary reporting of fishery data by the small-boat fleet is the desire of fishers not to have federal management of the fishery through a permit and mandatory reporting system. The secondary motivation on the part of the fishers is that international negotiations might result in the establishment of quotas for each fishing nation.

Collected data would be used to establish the size and activity of the fishing community relative to the population of Guam. This is with regards to the Community Fishery Survey, which also provides profiles of local fishermen and the fish community. There was an effort to try to pursue 100 percent volunteer effort from the fishermen to participate in this particular survey.

The volunteer fishing trip survey collects fishery data from fishermen, augments the creel data, survey data and maintains education and outreach for the fishermen.

The project's aim is to recruit fishermen to participate in the Volunteer Data Collection Project which would assist in defining the local fishing community and provide additional information on fishing methods and effort and frequency of the fish caught. All information is confidential and is used for the purpose of developing a model to provide insight into the fishing community and the local fish stocks.

The results are to augment current data collection efforts and provide additional tools to support fishery management efforts.

The project moved forward with posters, brochures, survey forms made available to fishermen at the Guam Fishermen's Co-op. Materials were also made available at the Aquatics and Wildlife, Mayors' Offices and some fish and tackle shops.

Since September 2004 there were 143 fishermen and women who volunteered to participate in the Data Collection Project. All of this was basically done by the community survey, those who filled out the community surveys. Of the 145, two were not Co-op members.

With the assistance of West Pac FIN, a Microsoft Access database was created to provide the base information for all participants. The fishermen profiles reviewed that all villages on the island are represented by the Guam Fishermen's Co-op membership.

Efforts to work with Aquatics and Wildlife and the Village Mayors Offices to expand the participation have been made. According to Tom Flores, the staff of the Aquatics and Wildlife promoted the project during their randomly-scheduled creel surveys without much success, citing a lack of interest on the part of inshore and offshore fishermen approached. Staff noted that fishermen did not want to fill out the forms at that time.

Brochures and forms were provided, but they reported that none were turned in.

A subsequent meeting with Aquatics and Wildlife and Mike Quach of West Pac FIN notes that Aquatics staff need to focus on the creel surveys that were signed.

For those fishermen dropping fish off at the Guam Fishermen's Co-op, remembering to fill out and submit their fishing trip survey while they're there has been a hit and miss, primarily because many fishermen when they come in after a day of fishing are pretty tired, and basically just wants to drop off their fish and head home and rest. The Co-op staff offers to assist with the survey. However, there are times when they are very busy because of the amount of work that has to be done at the Co-op, whether it be receiving fish or taking care of customers. There are times when there are just a lot of things going on at the same time, and it is a confined area.

Still, the information received is pretty insightful. First and foremost, that the practice of putting food on the table and the cultural practice of sharing is still alive and well. Secondly, information on shark interactions shows basically that it does affect the actual catch effort.

According to J.P. Gesner for Aquatics, West Pac FIN completed and installed the database program on August 19th of this year, with the data input by Aquatics staff by October 21st. The input was then forwarded to Mike Quach, who will be providing a report on the data that was turned in.

Education and outreach has been a consistent challenge in terms of getting the

information out to the fishermen and encouraging them to participate in the project. While there has been genuine interest in the project by fishermen, motivation to do the actual paperwork has been a challenge. After fishing, basically they note they're tired after the fishing trip. They just want to go home and rest. Many do take the survey forms, but fail to turn them back in.

Weather has always been an unknown variable and will continue to affect the participation of the survey. However, good fishing conditions may also increase the number of surveys turned in.

Guam's current infrastructure problems with its water and power may affect participation. This issue goes towards the proper handling and storage of fish. The Guam Fishermen's Co-op has worked to educate its members and other fishermen on the importance of proper fish handling and storage.

Other issues include Aquatics and Wildlife being unable to take the lead in the project, as well as the support from other areas of government, including the Village Mayors' Offices and most importantly, participation from fishermen.

Moving forward, if the Council is to continue with this particular program it is suggested to actually move that the Division of Aquatics and Wildlife Resources will need to take the lead for the project. It basically has to have someone with the science background to be overseeing this particular project here. This will be a challenge for Aquatics and Wildlife, as they are operating with a staff shortage.

West Pac FIN will need to do the staff training of the data collection process, continue to audit the surveys and process and make recommendations to improve them accordingly.

The Council will need to fund the one technical assistant to assist Aquatics and Wildlife with the input and also to assist with the education and outreach process and work with the Guam Fishermen's Co-op to train staff on the assisting of fishermen with the survey. However, this may be a challenge as the staff is already stretched with the regular operation and also working in a confined area, which makes it difficult to have many people there.

Lastly, to continue to pursue support from other areas of the Government of Guam, including the Village Mayors, and most importantly, the participation of the fishermen, themselves.

Michael Quach, manager of West Pac FIN at the Pacific Islands Fishery Center, provided a data summary of the data collection project. The program's goal is to assist island

fisheries agencies with their fisheries monitoring program to support fishery management at the local and federal level.

Two forms are used to collect the information. Some of the points of information collected include:

- The fisherman's status information;
- Estimate of their method of catch and how frequently they fish;
- What portion of their fish they sell to market;
- What portion taken home or given to relatives;
- Method of effort;
- How many hours they fish;
- Bycatch data; and
- Species composition.

So far 143 forms have been submitted and 134 fishermen participated, which means some fishermen actually make more than one trip and have provided multiple forms.

- The unique vessel count is about 113:
- Charter, noncharter fishermen, 124 and 10, respectively.
- NonCo-op and Co-op members, two to 132, respectively.
- Classes of vessel registration:
- Three registered as commercial fishing;
- 64 as pleasure boats;
- 67 unknown.
- Estimate of sale of fish;
- For charter, 10 percent does not sell any of their fish at all.
- Noncharter, about 13 percent.
- The two sectors together, 13 percent.

For the fishermen's profile included is the estimate of their fishing trips made per month with a breakdown by method level.

For trolling:

- Less than one trip a month, nine; which is seven percent for trolling, 29 percent for shallow bottom, 42 percent for deep bottom, shoreline is 47 percent, spear is 32 percent. Fishing with net, only one reported.
- Four trips per month; 55 percent for trolling, 55 for shallow bottom, 43 percent for deep bottom, 18 percent for shoreline, 10 percent spearfish.

- Five or more trips per month, 38 percent; for trolling, 16 percent for shallow bottom, deep bottom is 15 percent; shoreline is 35 percent, spearfishing is 58 percent.

Statistical information ranges from September 2004 to October 2005 with 178 forms submitted:

- Total number of trips is 178.
- Number of unique vessels, 47 vessels;
- Noncharter and charter fishermen, 90 percent and 10 percent, respectively;
- NonCo-op and Co-op members, seven percent and 93 percent, respectively.
- Classes of vessel registration, 18 pleasure boats and 159 unknown.

Disposition of catch:

- Charter sector, 59 percent of catch is reported as sold, 41 percent of catch is sold.
- Noncharter, 71 percent sold, 29 percent kept.
- Catch distribution for the CDP Project, total number of sold reported is about 43,000 pounds with the total kept reported as 8,000 pounds.

Commercial data sectors, the data is as follows:

- Landed fish, 313,000 pounds with 50,000 pounds of fish estimated to be taken home.

Fishing effort:

- Total of 1,021 trolling hours.
- Shallow bottom, 242 hours.
- Deep bottom, 184 hours.
- Spear, 39 hours.
- Shoreline, three hours.
- Bycatch information is as follows:
- Out of 178 trips, there's only about 62 trips reported bycatch, which equals 35 percent.
- Released information, 118 alive and 255 dead.

Quach pointed there are a few QC problems with the data, which needs some integration and adjustment.

In summary:

- West Pac FIN provides software application for the project.
- DAWR staff has entered all the data collected up to date.
- The CDP Data Collection Program provides:

Kept information;

- Landings by method;
- Species composition;
- Bycatch and shark interaction information;
- And also most of the catch per unit effort.

Improvements include:

- Work on the data control problem;
- Encourage fishermen to participate;
- Development of more tools to integrate the CDP data with other datasets, like the creel survey data and the commercial data;

The Project Coordinating Committee should revisit the priority of the project and define responsibility of the participating party involved in the project;

Identify the pilot project and its priorities; and

Identify available funding resources, as presently it is all volunteer.

Duerr pointed out difficulties in calculating number of fishing trips made per month. Quach agreed, explaining the profile provides a benchmark of the activity level of fishermen.

Ebisui asked Quach what kind of fishing occurs at depths for which onaga would be considered bycatch. Quach replied the depth that fish are being caught is not collected as it would make reporting too complex.

Sablan invited additional comments from Duenas.

Duenas clarified the form has limited space and to keep it neater, the interaction section is where the onaga is reported, as sometimes they cross over and put they lost an onaga to a shark and those species are not necessarily bycatch. Killed or lost is the heading.

He added that he believes at least 85 percent of the data is from non-revenue fish. The

Co-op does have problems with personnel, but when they break the data down on the form, the CPUE is more accurate on the fishing ability of fishermen. He looks at the program as a successful one because it provides fishermen with the opportunity, but money is needed to fund it.

Duenas estimated at least 80 percent of the data of offshore users in the association is captured and Quach's information looks very accurate compared with the surveys they've seen at the Co-op.

Mr. Paul Callaghan suggested the project design process be run by the SSC to ensure statistical significances in the results.

Duenas welcomed any type of suggestions and hopes the results can be used in policies and Council decisions. He will work with Calvo and Quach with supplying the forms. Quach also said he would work together with the Council to try to come up with some summary information.

Having no further comments, Sablan moved on to the next agenda item.

B. CDPP PROJECTS

1. GUAM LONGLINE PROJECT

Harris Hiura presented an update on the Guam longline project, beginning with a brief history of Guam Fishermen's Co-op, which presently has 200 active members. New facilities are planned, with a groundbreaking scheduled for 2006.

Long-term goals of project is to be able to demonstrate the feasibility of Guam to have a commercial longline deep-set fishery for bigeye tuna and other pelagic fish, providing fish for the U.S. Mainland and Hawaii, as well as having the capacity to export quality fish.

Guam would like to be able to be included in that decision, as far as any type of quota being set forth.

Some of the obstacles encountered so far is the lack of locally-owned boats that had the capability of longlining, as well as the frequent severe storms experienced in Guam.

The current boat was initially a pole-and-line boat, but it has been salvaged, performed by the Co-op members on a voluntary basis.

The project right now is 90 percent completed. The next phase will consist of training.

Sablan asked Hiura if there are plans for obtaining a Pelagic FMP Permit or Bottom FMP Permit from the federal government and if fishing will be conducted in the CNMI EEZ. Hiura replied as they get further along in the process the necessary permits will be obtained.

Duenas added that after speaking to Al Katekaru about a General Longline Permit and a High Seas Permit and a Crustacean Permit, they will apply for all three permits. He reiterated should the Guam Fishermen's Co-op project venture into the CNMI EEZ, all necessary information will be provided to the CNMI authorities and 50-mile closure of longline fishing that is already promulgated for Guam will be respected for CNMI in spite of the fact CNMI closure is not yet effective for longlining.

Having no further comments, Sablan moved on to the next agenda item.

2. CNMI REMOTE FISHING STATION

Sablan presented a brief update of the CNMI Remote Fishing Station Project. A fishing community has been formed. The island is resettled and has a participating fishing business and will market fresh fish, sun-dried fish, smoke-dried fish. They'll learn traditional fishing methods and become self-sufficient. A vessel will be chartered for the trip to Alamagan and also for the return trip.

Funds were used to purchase solar equipment, fishing gear, fishing supplies and communication equipment, although the equipment cannot reach Saipan, only within a ten-mile radius of Alamagan. Freezers are already on the island, as well as a 10-footer aluminum boat, ice coolers, scales and a small engine.

Just recently the Northern Island Mayor chartered a helicopter to move the equipment inland, which was not part of the CDPP funding.

The fishermen have received training from the CNMI Division of Fish and Wildlife in regards to gonad training, which will help the fishermen to identify when the fish are in season, at which time they will stop fishing, which is part of the traditional fishing method.

Fishermen are suggesting it is possible to catch 3,000 pounds in one week. In selling that amount in Saipan, they'll be able to charter a vessel to bring them back with the profits.

Participation in the creel census is very important for the conditions of the CDPP funds.

They must have creel data of their catch.

Accomplishments to date:

- Constructed three houses for fishermen;
- Purchased needed fishing items;
- Started a facility for equipment and food processes;
- Alamagan residents organized and fishing community established.

This project has been tremendous for the Community of Alamagan.

Barriers contributing to project delays:

- Landing is very difficult when the seas are rough;
- Inclement weather;
- No docking facilities;
- No beach, cliff-line type landing.

Sablan invited questions. Having no questions, lunch break was taken.

(Lunch break taken)

F. PUBLIC COMMENT

McCoy called the 129th Council Meeting back to order. He invited the public to comment with regards to Fisheries Rights of Indigenous Peoples. No public comment was offered.

11. BOTTOMFISH FISHERIES

Ebisui called upon Tom Flores to report on Guam's bottomfish fishery.

A. REPORT ON GUAM BOTTOMFISH FISHERY

Mr. Tom Flores, a Division of Aquatics and Wildlife Resources fisheries biologist, presented a brief overview of the fishery throughout the years.

Most of the bottomfishing on Guam is primarily a boat-based fishery comprised of

recreational, subsistence and small-scale commercial fisheries. There are two distinct fisheries, a shelf component and a deep component. Federal waters included in bottomfishing on Guam include the Southern Banks and Rota Banks to the north.

The local waters are comprised basically of Cocos Lagoon, to the south, and along the coastal areas on Guam. Around the coastal areas are relatively small. It is easy to fish out the limited areas available for bottomfishing.

The fish that are caught bottomfishing generally fall into four categories; snappers, groupers, emperors and jacks. In recent years the demand for locally-caught fish or local reef fish has increased.

There are two types of creel survey conducted. The offshore creel survey has been collected since 1982, which is conducted at three of the most heavily used boat ramps, which consists of counting vehicle trailers. All data collected from fishermen is voluntary, which includes participation, effort and catch.

With the help of West Pac FIN and the Council, there is now a computerized program that performs the expansion by computer rather than by hand.

The next survey is an inshore creel survey, which is included in the bottomfish data analysis because the inshore creel survey was capturing what is considered bottomfish species. This data has been collected since 1985. The island is broken into three different sub areas where certain number of times the area is sampled during the month.

Because those areas do not cover the entire area of Guam, it is augmented with an island-wide participation survey, which is performed by driving around the island and counting fishermen. Aerial surveys are also used to count fishermen that are fishing in areas that are not accessible by vehicle.

The data collected for the inshore creel is also voluntary, collecting participation, effort and catch data.

Because of a very high turnover rate with biologists, technical staff does the bulk of the data collection effort. Each staff member is trained to be able to identify fish in the field down to the species level.

Flores briefly described the historical trends depicted in the data, which is heavily influenced by the robustness of the economy and the weather pattern, as it generally reflected an increase up to the '90s, but after '92 leveling off. Although looking at catch per unit effort, a reversed trend, with a decrease reflected.

Because it is a voluntary data collection program many times people opt not to give data. Coverage has also been a problem, both area and time staff working hours. Some sectors of the fishery are more difficult to collect data from, such as spearfishermen, as well as the high number of varying methods used to catch bottomfish makes collecting data difficult.

The agency performs a Gillnet Removal Program. When gillnets are left sometimes for weeks, the agency will pull them out of the water.

Ebisui invited questions to Flores. Having no questions, Ebisui moved on.

Mr. Brent Tibbetts, another fisheries biologist with Guam Division of Aquatics and Wildlife Resources, presented some preliminary data from a study at Bank A.

The study was conducted in 1998 and 1999. At the time Bank A was considered a pristine bank. The study was compare a heavily-fished bank to a moderately-fished bank. The data presented is preliminary, any conclusions at the end are with regards to this study only.

Tibbetts passed handouts to accompany his presentation.

The study looked at three banks, the unfished bank, Bank A; a moderately-fished bank, which is Bank White Tuna, and a heavily-fished bank, which is Galvez. Survey data was used to determine the status of the banks.

From 1982 to 2005 there no records of fishing trips to Bank A, although there is a record of one fishing trip post study. White Tuna had 27 trips. Galvez had 61 trips.

Bank A is located 117 miles west northwest of Guam, Galvez is 14 miles south southwest and White Tuna is 35 miles south southwest. There is a whole chain of submerged mounts to the west of the Marianas, rising to within 30 or 40 meters of the surface.

Species composition consists of mainly four species or species groups; the black jack, the black-tipped grouper and the species complex of flag-tailed grouper and the red-gilled emperor

The four species accounted for about 83 percent of the catch at every one of the sites fished, although composition differs.

Bank A, the unfished bank, black jacks comprised 25 percent of the catch.

At the moderately-fished bank, two percent.

At the heavily-fished bank, less than one percent.

The small groupers, at the heavily-fished bank, comprised eight percent of the catch.

On the lesser-fished banks, less than one percent of the catch.

The emperors were over half of the catch at the moderately-fished bank and a much smaller percentage at the heavily-fished bank, and a much smaller percentage of the unfished bank as well.

The number of jacks went down dramatically as the amount of fishing activity associated with the bank increased. The number of small groupers increased as the amount of fishing activity increased with the bank.

The other two study groups, the emperors and the black-tipped groupers varied, but they're always either the first or second most abundant component of any of the survey areas.

The average length and the weight were greatest at the unfished bank. The CPUE was highest at the moderately-fished bank. The CPUE was lowest at the heavily-fished bank, but the average size was larger than at the moderately-fished bank.

Catch rate and CPUE may not be the best indicator of fishing pressure. So far the change in the species composition of the jack seem to be the most accurate indicator in the amount of fishing activity at the sites.

Duenas asked the time of the study and time of day. Tibbetts replied 1998 and 1999 with daytime fishing with very little nighttime fishing, but most of the target groups were very minor components of the nighttime catch, all fishing took place 15 and 40 fathoms.

Having no further questions, Ebisui moved on.

B. MHI BOTTOMFISH OVERFISHING

Mitsuyasu presented an update on the overfishing listing of the Hawaii bottomfish fishery since the June Council Meeting.

Mitsuyasu gave a brief description of the fishery in Hawaii, which is a hook-and-line fishery, usually four stations per vessel, catching mostly deep-slope type species. Hawaii is divided into three major zones, the Main Hawaiian Islands, the Mau Zone and the Hoomalu Zone.

The Council has taken the lead in terms of developing management regulations for the Northwestern Hawaiian Islands, which includes the Hoomalu and Mau Zone. A Limited Entry Program was put in place in 1998 in the Hoomalu Zone and 1999 in the Mau Zone. Current limits on vessel participation in the Mau Zone is ten boats; seven boats for the Hoomalu Zone.

In the Main Hawaiian Islands the State of Hawaii has taken the primary lead in terms of developing a management regime for the bottomfish fisheries because of available habitat and where that habitat lies within state or federal jurisdiction. In the Northwestern Hawaiian Islands 80 percent of the habitat is outside of three miles.

In May 2005 the Council received a letter from the Secretary of Commerce saying overfishing is occurring. The Council now must work to raise the bottomfish fishery out of the overfished category.

An overview was presented of the existing measures in place with regard to bottomfishing in the Main Hawaiian Islands and the Northwestern Hawaiian Islands.

Based on the 2003 data, fishing effort must be reduced by 15 percent. Although the Science Center has not completed 2004 data yet, there isn't going to be much change between 2003 and 2004.

Some of the options that the Council looked at in the June meeting in terms of improving data collection:

Council staff is to conduct a targeted survey of all of the bottomfish fishermen who participate in the fishery, which was developed over the summer working in partnership with the State of Hawaii, which consists of 3700 vessels.

The alternatives are:

- The no action alternative;
- Federalizing or overlaying federal regulations on State closures;
- Area closures.

Other options include:

- Time/area closures;
- Seasonal closures;

Total allowable catch, individual quotas or any combination thereof.

Mr. Tony Beeching presented the update on a survey conducted by HDAR and the Council. The survey was mailed to the 3,786 bottomfish fishermen registered with the State of Hawaii.

The results were:

- The largest percentage did not respond at all;
- Three percent were returned with a forwarding address;
- Twenty percent were returned;
- Of the 722 that were returned:
 - A large proportion, 48 percent, didn't bottomfish in the previous year, 2004, 2005.
 - Fourteen percent didn't bottomfish at all.
 - Nearly 273, 38 percent, bottomfished during the time period.
- The survey basically shows the same information as the commercial catch records, with
 - concentrated effort in the winter months.
 - The weekend, Friday, Saturday, Sunday and on holidays were the days preferred.
 - Area of first preference is Grid Area 331, Penguin Bank.
 - Fishers with expired licenses equaled 29 percent, 32 percent having no commercial license at all and 39 percent are active.

Beeching directed attention to Document 11.B.3 for discussion of the alternatives. Two alternatives proposed is the first, the no action alternative and, two, federalization of State closures.

Mitsuyasu stressed the alternative of closing Penguin and Middle Bank is pretty much the only alternative at this time that the Council could take independently of the State and meet the minimum 15 percent reduction in effort. Under this alternative the landing or targeting of bottomfish from those areas would be prohibited. It would apply to all the vessels, both commercial and recreational boats. Under this alternative the State's management program would continue.

One alternative looks at time/area closures or seasonal closures, which would apply to

the Main Hawaiian Islands. Under this alternative, the Northwestern Hawaiian Islands would still continue.

Beeching continued with Alternative 5 which use of a quota-based system.

Alternative 6 consisted of establishing individual fishing quotas.

Simonds asked Beeching to clarify the definition that is being used for commercial fishermen. Beeching replied it was the State definition.

Alternative 7 is a hybrid of a seasonal closure and an IFQ.

The final alternative consists of seasonal closure and a partial closure of Penguin Bank.

Mitsuyasu added that a working group consisting of the State of Hawaii, the Coast Guard, NMFS Enforcement and the Council have met to discuss the alternatives and feasibility issues, especially from the enforcement perspective. The summary of the three meetings is in the Council briefing book.

The Council has also been working with PIRO staff with regards to preparing the required NEPA document. NMFS has provided the Council with two options in terms of time frame for preparing the EIS. One concern is the Council would like to take final action in March. Both timelines would not meet that deadline, as there is a constraint within the overfishing requirement.

The constraint is with Alternative 2 that looks at supplementing the State's area closure. The State will need to reassess their closures and see if they were going to modify them, so the Council could incorporate that into the alternatives. The information is needed as soon as possible in order to hold public scoping hearings.

Ebisui invited questions to Beeching or Mitsuyasu.

Duenas asked how long the State area closures have been in effect. Beeching replied since 1998.

Duenas asked if the CPUE has been affected, since that would cause more fishing pressure. Mitsuyasu replied there has been no difference in CPUE.

Duenas asked for clarification of the species being overfished. Mitsuyasu replied that the fishery is monitored on an SPR basis. There is no stock assessment for the resource at this time, although the Science Center is working to prepare one.

Ebisui added that there have been tagging studies which tracked movement. There is some growth information there, but nothing comprehensive has been done.

Pooley added that in the '80s when the question came up with the original State closures there were studies done about what it would take for the biomass to re-grow with various methods. But because they are very slow-growing species meaningful results would take a period of 30 years for a number of species.

Duenas asked for more clarification on growth rates, as he was still confused. Pooley said you have to look at them species-by-species, and there's a lot of variation. He couldn't give the growth rates of the species off the top of his head.

Martin asked if there is any work to determine the effectiveness of the State's 20 closed areas. Polhemus replied that the information is just beginning to be analyzed. The State is to review the results of the program at five years It's now going on seven years. The State is finally getting to the point where there will be some answers.

Polhemus continued:

"But the bottom line is we're not going to see it until December, so it's not going to help you here today. Initial indications are, it's kind of across the board. In some areas of the State we've seen improvement and other areas of the State we haven't. Admittedly, when we set up those closed areas we were -- well, I wasn't onboard at that time. This is before I showed up, but it appears to me we were dealing with imperfect information.

We didn't have the sophisticated level of benthic mapping that we now possess for multibeam sonar and other methods. We relied largely on the fishermen to tell us where they were catching bottomfish, which areas were good, which areas weren't.

In some cases it's clear now based on what we know that we made incorrect assumptions with some of those closed areas. So it's going to be a mixed bag.

We're going to have to look at areas that were truly -- that truly contained viable bottomfish habitat, and then go from there."

Martin asked what level of effective enforcement was available for the closed areas. Polhemus replied that at the time the program was set up the hope was that the bottomfish fishermen, themselves, would help police the program, although he is not convinced that that's been particularly effective. State of Hawaii does not have a significant patrol presence offshore in those areas, nor the federal side.

Ebisui asked Polhemus if the State is on track to evaluate the restricted fishing areas in December, and also to make some kind of recommendations or have a position with respect to resizing, relocating or restructuring. Polhemus replied, yes, he's instructed his staff to try to have the draft analysis completed by the end of December, although his fall-back position is that if they absolutely can't quite hit that deadline, hope is for the end of January. He has pressed them on it a little beyond their initial comfort zone.

Ebisui said the reason he asked is because the State's position has an impact on what the Council does with respect to the federal regulations. Polhemus replied he understands.

Polhemus added:

"In terms of redefining our areas, I mentioned we now have very sophisticated benthic mapping. We showed this to the SSC. I think they were all very impressed with the level of mapping we've now got. Not only do we know benthic topography, we're able to analyze slope at varying degrees. So we can tell you how much of a slope of 20 percent or greater, 25 percent or greater, 30 percent or greater.

We can also tell you bottom hardness based on backscatter. So we can show you not only is it a slope made of soft material, we can show you if it's a slope made of hard material or whether it's a mosaic of all that.

So we really are now able to now gaze into the benthos and have a very good idea. Based on that, we realize that some of our closed areas are, to be quite honest, worthless. They contain no bottomfish habitat whatsoever.

Other areas are extremely good.

Other areas are imperfectly defined because they partially enclose certain features where we would need to redefine them to be better oriented. So, yes, we will redefine the areas. I believe that we should have that done, at least in draft form, by the end of December."

Ebisui moved on to the SSC report because of the time constraint.

C. SSC RECOMMENDATIONS

Callaghan, Chairman of the Council's SSC, presented the SSC recommendations:

The SSC notes that the closure of Penguin Bank and Middle Bank is the only purely federal alternative that appears to meet the mandated 15 percent reduction in fishing mortality. However, this alternative alone concentrates the impact of the closure on the Molokai and Oahu fishermen. Therefore.

The SSC recommends that the Council consider a combination of Alternatives 3 and 4, which turns out to be Alternative 8. In essence, the SSC is recommending Alternative 8, a combination of seasonal closures and partial closure of Penguin Bank based on the new habitat mapping data provided by the State. To be effective, this alternative requires State and federal cooperation. Should such cooperation not be forthcoming, full closure of Penguin Bank and Middle Banks would be necessary to meet the 15 percent requirement.

The SSC notes, given seasonal weather patterns, that a precautionary extended summer closure for the Main Hawaiian Islands May to September would be more effective than a three-month closure in reducing the number of days available to bottomfish fishermen. Areas closures may change following State review of their effectiveness based on the new habitat mapping data.

The current statistical reporting areas, the State Catch Grid System, makes it difficult to identify catches made on the edges of Penguin Bank, because there is some grid overlap there.

The SSC also supports Alternative 2, developing federal regulations that mirror and support the State's restricted fishing areas.

This alternative may improve enforcement and reporting, but alone will not achieve the 15 percent reduction in fish mortality.

The SSC has and continues to be on record supporting registration and reporting of all fishing in federal waters.

Ebisui invited questions to Callaghan. Having no questions, Ebisui returned to Wilson.

Wilson offered the following comments with regard to enforcement:

"I just wanted to make a couple comments with regard to enforcement.

If you're looking at at-sea enforcement, this really goes to the patrol boats, which would be the backbone of any at-sea enforcement program, I'll tell you this, starting this year I've got what I would consider a fairly significant increase in requests for patrol boat

hours that will go to -- as much as I hate to say it, that will go to higher priority missions. So I can't guarantee that we may have the assets that you might need to enforce a purely at-sea program.

While we're on the subject of that, if you're looking at a time/area closure, I saw in the time/area closure that there would be no need for at-sea enforcement, and I would question that as well. I believe there would be a need for an at-sea component.

That being said, if you go back, depending on if this is the way the Council wants to go, if you're looking at enforcement, it's possible that we might be able to write regulations that would permit aerial enforcement.

In other words, if you were a boat that's got BF in front of the number and you are in a closed area, just by virtue of the fact that you're in that area, you are now guilty. Something like that.

I throw that out there only because if you do something like that, if that's within the realm of the doable, now I can enforce that from the air and I probably have sufficient assets to do something like that. Food for thought."

Simonds asked Wilson if he was referring to helicopter assets. Wilson replied yes, as well as the C130s.

Ebisui asked Wilson if the Coast Guard would be able to provide some kind of an analysis to the Council before the next meeting of how enforceable the various alternatives are and the problems associated with each alternative under the current circumstances, with the understanding of the higher priority being accorded to Homeland Security matters. Wilson replied that he can do that by the next meeting.

Ebisui asked Young if the State could provide the same kind of analysis with respect to the enforcement issues at the next Council meeting. Young agreed to come up with a statement.

Young asked that with respect to the area closures, if the expectation is that the State would change its rules to be consistent with the federal rules so that there would be no bottomfishing in State or federal waters during those times that it's closed. Simonds replied yes. Ebisui also replied yes.

Martin reiterated his concern voiced in previous meetings regarding the availability on somewhat of a consistent basis of bottomfish and wondered if there were other methods of perhaps rolling closures that might be effective and require little at-sea enforcement.

He is concerned about the availability of fresh Hawaiian fish to restaurants and the public in Hawaii.

Ebisui commented that with any kind of stepped-up regulation the market is going to suffer, regular availability of fresh fish will suffer and there will be confusion as to origin of the fish.

Ebisui asked Robinson if the Regional Office was in a position to be able to get the work and the EIS product in time for the March Meeting.

Robinson replied:

"Mr. Chairman, we put forth two optional schedules. The first option was where the Council would make its final decision in March, but would not have the benefit of the full public comment period on the DEIS.

The second option would have the Council making sort of a tentative file decision in March and a final decision at the June Council Meeting, at which time it would have the benefit of all of the comments on the DEIS.

Those were the two options that we put forward."

Ebisui commented that would mean another Council meeting. Robinson said it would not.

Duerr commented that he thinks a reduction in catch will still allow local fishermen to make just as much money, as the customers will just pay a little bit more for it, which is happening now seasonally.

Robinson offered an additional comment to his reply, that if the Council took final action in March without the benefit of the full comments on the DEIS, and the comments on the DEIS brought up a significant enough issue, the Council might have to reconsider, then obviously there might be a need for either an inter-sessional meeting between the March and June meeting or defer to the June meeting. There would be the possibility of another meeting.

Ebisui said with things being what they are that he thinks there will be a need for another meeting.

Having no further comments and no issues for action by the Council, Ebisui turned the chair back to McCoy.

D. PUBLIC COMMENT

McCoy invited to public to comment. There was no public comment.

E. COUNCIL DISCUSSION AND ACTION

There was no Council discussion and action.

The meeting was adjourned for the day.

McCoy reconvened the meeting on Thursday, November 10, 2005.

12. PRECIOUS CORAL FISHERIES

Polhemus called on Beeching to present information on black coral management measures.

A. BLACK CORAL MANAGEMENT

Beeching briefly described the alternatives as follows:

- No action.
- Retain the exemption, but use height only as a qualifier.
- Eliminate the height limit and keep the base diameter only.
- Remove the exemption entirely. Harvesters must harvest coral over an inch in diameter and over 48 inches high.
- Remove the exemption, but coral must be 48 inches in height.
- Retain the exemption, but must have a one-inch diameter.
- A moratorium with no black coral harvest.

The plan team favored Alternative 5, remove the exemption allowing the harvest of black coral with a minimum base diameter of three-quarters of an inch and a minimum height of 36 inches, as it is easier for the harvesters to estimate height and will help facilitate monitoring and enforcement.

At the 89th SSC Meeting the SSC took a precautionary view and favored no black coral harvest. It was suggested there should be a moratorium for harvest of black coral in the Au'Au Channel until more information was available.

At the previous Council meeting a number of stakeholders were present, along with Council advisory panel members and Standing Committee members. After meeting together it was determined that the best alternative was to remove the exemption entirely, allowing the harvest of black coral that is over one-inch in base diameter and over 48 inches high.

It was noted that the difference between 36 inches and 48 inches represents seven years of recruitment.

Following further input and information, the SSC at their last meeting revised their opinion somewhat and supported the Council's recommendation. The Preferred Alternative is removing the exemption, allowing harvest of black coral with a one-inch base diameter and 48-inch height.

B. SSC RECOMMENDATIONS

Callaghan directed attention to Document 12.C.1. Recommendations are as follows:

The SSC is not opposed to the Council's Preferred Alternative, Alternative 4, for managing black coral. However, this alternative is less restrictive than the moratorium previously recommended by the SSC, which is Alternative 7.

The SSC continues to be concerned about the effects of decreased recruitment on black coral resources by both harvest and Carijoa, and encourages continued close monitoring of the resource.

The SSC also supports the Council's proposed workshop for black coral harvesters and managers to identify and designate protected areas for black corals.

C. STANDING COMMITTEE RECOMMENDATIONS

Polhemus reported the Standing Committee concluded with regard to black coral management that all exemptions of harvesting for black coral in Federal waters around Hawaii should be removed so that there's no longer a dichotomy between a grandfathered in 36-inch height or three-quarter inch diameter at the base for people already in the fishery versus the recommendation for a 48-inch height and a one-inch diameter at the base for all persons for who might enter the fishery subsequently.

The Standing Committee further recommended that the State of Hawaii be encouraged to mirror the federal regulations by imposing the same minimum limits on black coral harvesting in State waters and to bring their rules into compliance by going with the 48-inch height, one-inch base diameter.

Polhemus added that Peter Young reaffirmed that the State of Hawaii is willing to go forward with that.

Beeching reminded the Council the area of focus, the Au'au Channel, the central area between Maui and Lanai, is the federally-controlled area.

Beeching also mentioned other influences on black coral, such as Carijoa, which has been discussed at many previous Council meetings.

D. PUBLIC COMMENT

There was no public comment.

E. COUNCIL DISCUSSION AND ACTION

Palawski asked Callaghan to clarify the SSC's recommendation with regard to plans for close monitoring of the black coral. Callaghan replied that it was realized by the SSC that if the area is closed entirely then monitoring would be more difficult. With some fishing of the resource there is the ability to get a better handle on the coral's condition. The SSC's suggestion was that fishing be monitored very carefully for size frequency, and so on, as well as the fishermen's reports. Polhemus noted that the total number of fishermen in this fishery currently is four, the average age is 59, so it's likely to change demographically in the coming years.

McCoy asked if the State's request will be incorporated. Polhemus replied the State will have to change its rules through the State's process, which means a proposed rule change, which will entail a public hearing process and approval by the Land Board. The State's intention is to carry this forward in a timely fashion.

McCoy read the motion as follows:

With regard to black coral management, all exemptions for harvesting black coral in Federal waters around Hawaii should be removed and a harvest restriction of a minimum one-inch base diameter in combination with a 48-inch height limit should be maintained. The Standing Committee further recommends that the State be

encouraged to mirror federal regulations by imposing the same minimum limits on black coral harvested in State waters.

The motion was moved by Polhemus and seconded by Duenas.

McCoy conducted a roll call vote. The recommendations were approved unanimously by all Council Members present.

13. CRUSTACEANS FISHERIES

B. NORTHWESTERN HAWAIIAN ISLANDS SPINY LOBSTER MODEL REVIEW REPORT

Pooley directed attention to the Executive Summary of the Draft Analysis in the Council briefing book.

Pooley reported the project has been worked on for a year in detail. Expert academic support has been contracted out for doing the stock assessment. The intention is that the stock assessment will be reviewed by a second external panel of experts.

The draft assessment is completed. It indicates that there has not been the kind of recovery of the lobster stocks in the Northwestern Hawaiian Islands that one would have expected given a five-year closure. There are a variety of possible reasons for that, and the final report will go in to more detail.

One of the real issues in the Northwestern Hawaiian Islands that clearly has affected the lobster populations historically are oceanographic regime shifts. The question is how the oceanographic regimes would have affected larvae in the previous years. However, stock assessment experts tend to be loathe to include environmental variables in their models. It is an area of research that will be conducted in the foreseeable future.

Pooley noted that one of the first fisheries oceanography papers that came out of the Honolulu Laboratory was by Jeff Polovina looking at the relationship between oceanographic regimes and productivity in the Northwestern Hawaiian Islands. However, it has not generated useful results when used.

The precise cause of the lack of recovery of the lobster stocks in the Northwestern Hawaiian Islands is not known.

The expert panel was scheduled to meet in September to review the stock assessment. However, because of the Joint Ecosystem Workshop held by the Council and the Laboratory, the review panel could not get together twice because a number of them were involved in the ecosystem panel. The review panel will conduct its business by correspondence. It's expected to be completed by the end of December and hopefully be able to present a report at the next Council meeting.

C. SSC RECOMMENDATIONS

There were no SSC recommendations.

D. PUBLIC COMMENT

No public comment.

E. COUNCIL DISCUSSION AND ACTION

No discussion and no action.

14. PELAGIC/INTERNATIONAL FISHERIES

B. PELAGIC FISHERY MANAGEMENT PLAN ACTIONS

1. MANAGEMENT OF SWORDFISH FISHERY

Hamilton provided a brief overview of the status of the swordfish fishery; 2,120 shallow sets allowed per year, fishermen must submit their set certificates with the logbook, set turtle hard caps are applied, with 100 percent observer coverage, as well as other measures.

Hamilton then presented some alternatives for Council consideration, as follows:

No action, no change to the present measures.

Consider raising the shallow-set effort cap to 75 percent of historical effort, maintaining the current turtle caps. The one-week notice given to close the fishery under this alternative would be maintained.

Eliminate the cap on shallow-setting all together, while still maintaining the current turtle

caps, halting fishing immediately upon reaching the turtle cap. This would require real-time reporting. The legal mechanism to close the fishery without a Federal Register Notice needs to be further investigated.

Increase the shallow-set effort limit to 75 percent of historical effort and increase the turtle caps accordingly, maintaining the current fishery closure process.

Hamilton outlined the pros and cons of the alternatives:

Alternative 1 pros:

Presently working well, creates strong incentive for fishermen to avoid turtles, may have mitigation effect on turtle takes through effort restraint.

Alternative 1 cons:

It's an administrative burden on NMFS, an economic burden on fishermen and fishermen must buy set certificates to make more than one trip.

Alternative 2 pros:

Sets would increase to 3,000 sets, increasing swordfish fishing opportunities and revenue from the fishery. It would maintain incentive to avoid turtles and maintain mitigation effect of having to go through the certificate process.

Alternative 2 cons:

Maintains the administrative burden on NMFS; maintains that economic burden on the fishermen, more turtles may be caught within cap limits, fishery closure process could conceivably have another interaction during the closing process.

Alternative 3 pros:

Reduces the administrative burden on NMFS, maintains incentive to avoid turtles.

Alternative 3 cons:

More observers required, turtle limit may be reached and they may catch more turtles within the allowable catch limit, may result in premature closure of the fishery, may eliminate a source of revenue for the permit holders who sell swordfish set certificates.

Alternative 4 pros:

More swordfish fishing, but still an incentive to avoid turtles, may mitigate turtle takes through effort restraints.

Alternative 4 cons:

Administrative burden on NMFS, economic burden on fishermen, may catch more turtles and may result in litigation challenges from NGOs.

After some discussion, the SSC recommended that no action be taken at this time concerning this issue, neither raising the effort limit or the turtle limit. The SSC felt that this was premature, and that although it does look promising, the circle hooks and mackerel bait appear to be working well. It would be premature to make this change at this time.

McCoy invited questions to Hamilton. Having no questions, McCoy moved on.

2. OVERFISHING OF WCPO YELLOWFIN

Dalzell reported stock assessments have revealed that yellowfin is being overfished. The stocks are still healthy, but the level of fishing on stocks is such that if it was to continue at the current rate it will deplete the biomass of the stocks below that which would generate MSY.

The U.S. Fisheries take of yellowfin in the Pacific and in the Western Pacific amount to about three percent of the total yellowfin caught in the Pacific. In the Western Pacific the U.S. Fisheries account for five percent, which includes purse seine fisheries that are not regulated by the Council. Approximately 90 percent of the catch comes from the U.S. purse seine fleet, with 15 to 20 vessels. The next biggest contributor is the Hawaii longline, as well as Hawaii as a whole. American Samoa is the next biggest contributor because of the longline fleet there. A small volume comes from Guam. A small volume comes from NMI.

Thanks to HDAR there is some sense of the volume of recreational catches in Hawaii. According to the figures, it suggests in Hawaii there's between five to eleven million pounds of yellowfin caught by recreational troll fishing. The commercial catch amounts to 3.4 million pounds.

Trends for yellowfin CPUE in the four troll fisheries; American Samoa, Guam, Hawaii, NMI, are variable, but the overall trends tend to be flat.

Handline CPUE in Hawaii mirror the trends.

Reporting has improved, with better identification between yellowfin and bigeye.

No real discernible trend in CPUE for U.S. purse seine fisheries.

Dalzell showed a graph depicting the impact of different fisheries in different regions on yellowfin biomass in the entire Western and Central Pacific Ocean. The Philippines and Indonesian fisheries have a very large fleet, numbering several thousand pole-and-line boats. The Philippines also has a mix of purse seine, ringnet and handline fisheries.

The impact of the longline fishery on yellowfin is small and has been declining for 20 years, with most of the impact coming from surface fisheries, purse seining on FADs or on free-swimming schools and from huge fisheries in the far west of the region.

Dalzell showed graphs depicting a concentration of catch in Regions 3 and 4.

Dalzell mentioned the amendment document to the Pelagics FMP that covered a whole range of issues, both for large and small-scale fisheries, implementing a management protocol for international management to Pacific Highly Migrator Species. This protocol encapsulates the way the Council would work with its colleagues in NMFS and Department of State to generate recommendations to forward to NMFS and DOS so that they could be put forward in the appropriate regional fishery management organizations; such as the WCPFC, Western and Central Pacific Fisheries Commission, in the west, and the IATTC, the Inter-American Tropical Tuna Commission, in the east.

For the long term, levels of fishing mortality must be reduced to sustainable levels.

If quotas are established, they should be transferable within countries.

Fish aggregating devices used by purse seiners must be required to be registered and limited in number. There are probably tens of thousands of FADs now in the Pacific between China to Peru concentrated in countries like Philippines, Indonesia, Papua New Guinea. PNG's entire coastline is picket-fenced by FADs.

Consideration should be given to allow for development of emerging Pacific Island fisheries.

Another recommendation was to exempt fleets that take less than one percent of the total

bigeye tuna catch in the EPO. Another option would be exempt fleets which catch less than 550 metric tons of bigeye tuna annually in the EPO. Or provide the U.S. fleet with a quota of 250 metric tons of Eastern Pacific bigeye tuna, which is just slightly larger than the long-term historical average caught in the region.

All recommendations include a provision in whatever management measures are adopted to permit landings of a small volume of bigeye tuna when quotas are exceeded to minimize bycatch and waste by longliners not targeting bigeye tuna. This is similar to the provision presently for tuna boats. Tuna boats do catch swordfish from time to time, but targeting swordfish is tightly controlled.

Management measures for domestic fisheries catching bigeye tuna in the WCPO includes implementing a target survey of all Hawaii-based pelagic small-boat owners and operators to obtain information on their fishing effort and catches, which is the Preferred Alternative.

The four options are aimed at improving data flow for bigeye tuna. There is a significant catch of yellowfin recreationally in Hawaii and HDAR has a handle on the sector, but not with the catch on bigeye.

At the last Council meeting the idea was to have a federal permit and reporting program for Hawaii-based commercial pelagic small-boat fishermen. The Council staff is currently talking with enforcement, HDAR and PIRO about how to implement these. A control date for commercial pelagic Hawaii small-boat fisheries was also discussed.

Dalzell went on to propose some potential solutions to be coordinated with international management measures. One measure was to have scientists look at what is happening now and project it forward by running various management scenarios, including time/area closures and turtle mitigation.

Sustaining fisheries is both biological and economic.

MSY-based reference points are still being used as the basis for doing these analyses, which is useful because that's how the National Standard 1 Control Rule is based.

Scenarios were performed that looked at both what would happen with the most recent average recruitment and average long-term recruitment. It was found bigeye and yellowfin are being overfished by 20 percent.

South Pacific albacore is being fished at five percent of the level of effort required to

generate MSY. Bigeye tuna and yellowfin are being fished too high by 20 percent, and catches are too high by 35 percent.

When looking at time/area closures and FADs, the results are very uncertain in absolute terms.

There were no multi-species interactions considered.

Dalzell went on to describe the many scenarios that were run in doing the analysis.

Dalzell presented the following conclusions:

Reduction in longline catch effort has an immediate and significant impact on bigeye tuna adult biomass. Switching effort from log FADs to unassociated school sets was the most effective purse seine measure investigated in the case of bigeye tuna.

For yellowfin, a similar 50 percent reduction in log FAD set catchability provided somewhat greater biomass gains, but this reduction in catchability is only theoretical. No one knows how it would actually be accomplished.

If adjustments are made with longline, bigeye tuna will be affected. If adjustments are made with log FAD sets, yellowfin and bigeye tuna will be affected.

More interestingly, quarterly closures in individual regions were not particularly effective when effort is allowed to transfer from the neighboring region during the closure, with the possible exception being a longline closure in Region 4 in the case of bigeye tuna.

The SSC recommended that with regard to international management of WCPO fisheries, the SSC supports the plan team's suggestion of a 15 percent reduction in total effort and/or redirection of purse seine effort from FADs to free-swimming tuna schools. Such measures should be implemented because projections suggest that they would lead to stock recovery of both bigeye tuna and yellowfin tuna in a five-to-ten-year period.

Dalzell asked for Council approval to move forward to include yellowfin in the amendment document.

Eastern Pacific yellowfin tuna has also been subjected to overfishing similar to what is occurring in the Western Pacific.

McCoy invited questions to Paul Dalzell.

Duenas asked if any purse seiners are fishing in the U.S. EEZ. Dalzell replied that U.S. purse seiners sometimes do fish in the American Samoa EEZ and areas around Howland, Baker, Jarvis, Palmyra, usually during El Nino years.

Duenas asked if there were documentation to that effect. Dalzell replied he would have to look at the data to answer.

Duenas asked if the vessels have VMS. Dalzell replied yes, which was a requirement under the purse seine treaty.

Duenas asked if a chart was available which included harvest rates by region. Dalzell replied yes, and the best source for that type of information is from the Secretariat of the Pacific Communities Tuna Yearbook. Robinson said he was not aware of any increase in the size of the vessels.

Duenas noted the fact that purse seiners catch seven times more fish. Dalzell agreed, saying purse seiners adds greatly to juvenile mortality.

Duenas questioned the effectiveness of time/area closures on highly migratory species, as he does not believe fish are migratory, that most species move only 500 miles during their lifetime. Dalzell agreed that most tunas don't move more than 200 miles in their lifetime. It's possible that fisheries can be managed on a closure basis, as models suggest that if an area is closed there will be more fish in that area.

McCoy asked how long it took for fish stocks to get in the present condition. Dalzell replied that it has been a slow process over a long period of time, citing the expansion of the human population since World War II, especially in areas such as the Philippines and Indonesia, both of which are not industrialized countries, depending mostly on primary production for their economy, such as farming and fishing.

Having no further questions, McCoy moved on.

3. MAIN HAWAIIAN ISLAND LONGLINE BUFFER ZONES

Hamilton provided background information on the longline buffer zones and gear conflicts.

At the 127th meeting the Council directed staff to investigate the issue of gear conflict within the buffer zones around the Main Hawaiian Islands. The buffer zone is an area where longline boats are not allowed to fish, which were originally created to resolve

gear conflicts with small boats and longline boats. The buffer zones are approximately 50 to 75 miles from the shore of the Main Hawaiian Islands. During the winter months, from October to January the zones' boundaries are brought into 25 miles from shore.

Hamilton identified the area of interest as the area that goes from south of Maui, around the Big Island to the south of the Big Island, an area where PFADS are located within 25 to 50 miles of shore. The PFAD fishermen feel the presence of longline vessels is leading to catch competition and gear conflict.

The longline fishery catches mostly bigeye tuna in that area, along with a variety of other species. In contrast, the handline catch is predominantly bigeye tuna, although they do catch other species as well. Everybody is focused on the bigeye tuna in the winter.

Some potential alternatives for the Council to consider include:

Eliminate the winter reduction completely and have no shrinkage of the buffer zone in the winter.

Prohibit the use of PFADs outside of 25 miles.

Hamilton pointed out there are various ways to address the issue of catch competition and potential gear conflict.

The SSC suggested a more valid comparison would be looking at just a few months of catch inside the area versus looking at catch all year outside of the area and to present information on the handline catch for October to January. Also, to examine how important that area is to longline vessels as well as to the handline vessels.

Some additional information needed is what kind of impact it would have to the vessels fishing to the area. The Council will be presented with further information at the next Council meeting.

McCoy invited questions to Hamilton.

Martin commented the reason the Pelagic Review Board recommended the area closure originally was based on gear conflict exclusively, and small boats were given exclusions to fishing within the closed areas. Martin feels this is really a catch competition issue.

Martin also pointed out that in the last two years there's been a significant shift in effort

from some of the smaller boats in the Hawaii longline fleet who fish out of Hilo, and as the data for '04 and '05 is collected it will show increased effort and catch in the area as well.

Ebisui said at this point in time he sees no justification to vary from the present closures.

Duerr agrees with Duenas that the fish are not highly migratory and the area that's closed is a modified bedroom for fish. In the winter when the seas are rough the small boats cannot reach the areas so the fish get a break.

Having no further questions, McCoy moved on.

4. DEFINITION OF SHORTLINES

Dalzell reported there have been developments in small-boat fisheries in Hawaii, Guam and American Samoa. One issue is the use of shortlines, longlines less than one nautical mile in length, being used in Guam to target sharks.

At the 127th meeting in June the Council noted that the advent of the use of multiple shortlines means that pelagic longline fishing can be conducted that is not subject to federal regulations. Federal regulations include permits, logbooks, observers, VMS, area closures, turtle bycatch mitigation, seabird bycatch mitigation, et cetera. The Council's intent of the provision for onglines less than a 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, therefore, recommended that the definition of longline gear less than one nautical mile in length be revisited and regulations be considered, particularly the number of units that may be deployed by each vessel. There is very little data on the fishery, but it seems that there is growing interest in using these mini longlines, shortlines, particularly around areas like the Cross Seamount or around FADs, Private FADs and around NOAA weather buoys that are deployed offshore in Hawaii.

Experiments by fishermen on the Cross Seamount has led to the use of vertical longlines and then to the use of shortlines to catch bigeye and seamount monchong, or pomfret.

Presently there are not many boats operating with this system in the State of Hawaii. As a consequence, there are confidentiality issues surrounding the data.

Fishermen are beginning to become interested in the multiple hook techniques using

short longlines. The Council needs to make some decisions regarding the short longline method of fishing.

Of the fish caught, 80 percent is bigeye tuna, which is higher than the handline fishery and higher than the longline fishery. It's a focused fishery on bigeye, taking almost entirely bigeye.

HDAR began documenting shortline fishing in 2002. Data are incomplete because of confidentiality. The fishery is estimated to have 10 active operators using shortlines presently. The fishery is believed to be expanding due to success of the pioneer fishermen of the method.

There is a single vessel using the shortline method presently in Guam recently developed to target sharks on the seamounts and banks, with multiple shortlines used to circumvent longline area closures. Guam has area closures around the banks to 50 miles.

The question before the Council right now is, should the Council develop additional regulations for shortlines.

When presented to the SSC, a concern was noted about the expansion of a shortline fishery targeting tuna and monchong in Hawaii and sharks in Guam. At this time the SSC recommends that the Council continue to closely monitor developments in these fisheries. McCoy asked if the shortline fishing was taking place only in Federal waters. Dalzell replied he believes it all takes place in Federal waters.

McCoy mentioned the lack-of-data problem. Dalzell acknowledged HDAR has been making a good effort and has provided some information, but it has confidentiality issues.

Duenas commented the problem in Guam with the fishery is the fisherman had a gear conflict on his first trip out when another fisherman ran over the gear. It was worked out between the fishermen. After conferring with the National Marine Fisheries Service Enforcement Office, the fisherman is using a shortline but using multiple longlines. He has also caught bottomfish species.

Duenas said AP is looking at the issue and is considering a possible ban of any type of longlining using lines greater than 50 feet. Guam has limited resources on the offshore mounts and the resource must be protected.

Martin noted the reported amount of fish caught with the method and suspected there is a lot of missing data. The amount in the presentation he felt was quite light. The fact the fishery targets bigeye is also of importance to consider.

Duerr suggested one solution might be to limit the fishermen by mandating the distance between each shortline, such as was used in the State of Hawaii with regards to setting nets.

McCoy asked about enforcement of such a regulation. Duenas agreed enforcement would be problematic, and suggested to perhaps put identification on the gear.

Wilson agreed, enforcement would be possible, but more of an at-sea enforcement effort, which is more difficult.

Martin commented that if the fishery was a permitted fishery data would be collected and there would be more information. If the fishery was a federally-permitted fishery then some observer coverage would answer several of these questions as to how they operate.

Simonds asked Martin if he had any idea as to the amount of fish taken with shortlines. Martin replied it is not uncommon to see 12-to-14,000 pound loads coming off relatively small boats, consisting of relatively small fish. If a boat averages 10,000 pounds and makes seven trips a year, that equals 70,000, times ten boats.

McCoy asked Wilson how would requiring less than one nautical mile of line be enforced. Wilson replied that as this subject was discussed at the last meeting, he has alerted his units to gather more information, and so far he has not received anything back from them.

Duenas said even if it is a nightmare to enforce, it still should be regulated. McCoy agreed, noting it is a type of fishing that's been around for a long time and fishermen are becoming more and more efficient and with the overfishing issues at the forefront, it is important to regulate the fishery.

Ebisui pointed out similarities to the old flagline fishery. He added as the shortline method becomes more common, the sooner regulations are put in place the easier it will be to manage.

Having no further comments, McCoy moved on.

5. AMERICAN SAMOA FAD CLOSURES

Dalzell said the Council has made no firm decision on FAD-based area closures around American Samoa. At the 127th meeting the Council directed staff to investigate the

possibility of five-mile closures to the longline fishery around charted FADs within the U.S. EEZ waters around American Samoa.

Dalzell acknowledged assistance from the Pacific Islands Fisheries Science Center, Dave Hamm and from a previous employee of the Fish and Wildlife Service in American Samoa in producing charts of fishing effort over time.

On the charts, he pointed out that 40 to 50 percent of the catches for small alia come from within the areas of where the FADs are deployed. Catches in the past were as high as 80 percent.

After showing a chart of FAD locations around American Samoa Dalzell pointed out that if closed areas are imposed around the FADs small longliners will be affected.

The FADS closest to Tutuila are the most productive.

One issue of concern is there is a perception from elements in American Samoa's troll fishery that there are conflicts in the FAD areas.

Another issue of concern is enforcement of longline closed areas around FADs.

Dalzell said the question to the Council today is, should staff proceed and develop five-mile closures around American Samoa and FADs.

After discussion at the SSC meeting, the SSC noted that it may be difficult to make FAD closures around ephemeral objects like FADs. These FADs only have a finite life span and sometimes break away or sink. The SSC also felt it was an allocation issue better discussed by the Council.

McCoy invited questions to Dalzell.

Haleck said he has not heard of any gear conflict between alia longline fishermen and recreational or sports fishermen in Samoa. He is concerned that if the Council so chooses to look at five-mile closures around the FADs it will push alia longline fishermen out to 40 or 50 miles, which is unsafe for the small boats. He feels the present 50-mile closure is suitable.

Tuaumu asked if any public hearings have been held in American Samoa regarding this issue. Dalzell replied no, but that it has been discussed in various meetings of the Council and advisory bodies. After such discussions, each time it was sent back to the American Samoan Council Members to discuss with fishermen to get a consensus.

McCoy asked Dalzell if this proposal would be handled as a regulatory amendment. Dalzell replied yes, which would call for a two-meeting process, with public meetings throughout the jurisdiction.

Tuaumu asked if the sports fishermen have been considered. He felt that more investigation should be conducted. He also had a concern that some buoys are not in Federal waters.

Wilson asked the Council to keep in mind that straight-line boundaries are an important consideration for enforcement.

Duerr voiced concern about the enforcement capability.

Tuaumu noted FADs are not permanent objects.

McCoy suggested getting the different stakeholder groups together to hash out the issues, noting enforcement and budgetary issues make it even more complicated.

(Brief break taken)

McCoy called the meeting back to order.

A. REPORT ON GUAM'S PELAGIC FISHERIES

Tibbetts presented a brief report on the Pelagic Fisheries of Guam, with data beginning in 2004.

There are two classes of vessels fishing on Guam; longliners and purse seiners who fish outside of the Federal EEZ and commercial troll boats and private boats trolling inside the EEZ, with one boat using shortline for sharks, as mentioned earlier.

Most vessels are less than 10 meters in length, with a few commercial charter boats. Most are private fishermen, some selling the catch, some giving to family and friends.

Last year there were 401 small private fishing boats on Guam, which is an eight percent increase over 2003.

Number of fishing trips, 7,296, which is an increase of four percent from last year, which 5700 were noncharter and 1500 were charter.

Species caught consists of mainly the tuna PMUS units; skipjack, tuna and yellowfin. Non tuna PMUS species are wahoo, mahi and blue marlin, which account for about 90 percent of the pelagic harvest on Guam last year. The rest were non PMUS; dogtooth tuna, rainbow runners and barracuda. Very small amounts of sailfish, monchong or pomfrets and no albacore, no bigeye tuna, no swordfish were reported in survey data from last year. Bonita catch was down by 11 percent.

Yellowfin has increased. The total catch last year was up by 49 percent.

Noncharter boats increased by 39 percent. The charter boats increased by over 260 percent, and that's comparing 2004 catch and 2003.

Yellowfin CPUE also has improved; 42 percent last year for all, 29 percent for noncharter and 185 percent for charter. There is a 23-year dataset for CPUE. All are well above the average for 23 years.

Same with wahoo. Total catch last year was about 116,000 pounds. Total catch was up 83 percent for total, 91 percent for noncharter and 43 percent for charter. CPUE also was up 70 percent, 84 percent for noncharter and 16 percent for charter. All three levels are above the 23-year average.

Mahi total catch last year, 690,000 pounds of all pelagics. Mahi is the largest single component, about 197,000 pounds, the largest increase of any species, 134 percent total mahi landing last year, 237 percent for noncharter and 120 percent for charter.

Weather has a great effect on the fisheries, as ice and gasoline supply becomes limited during inclement weather.

Total catch for marlin decreased last year by 27 percent. Of the total, 55 percent for noncharter and 82 percent for charter. Charter increased by 82 percent. Charter and noncharter each accounted for about half of the marlin fishery on Guam in 2004.

Marlin season is during the summer and Japanese tourists come specifically for marlin fishing.

Duenas asked if the number of vessels reflect registered vessels or actual operational vessels. Tibbetts replied the number represents operational vessels.

Duenas commented there were three bigeye brought into the Fishermen's Co-op in 2004, and the yellowfin and skipjack catch increased.

Duenas asked for a motion to approve the 128th Council Meeting Minutes. The motion was moved and seconded.

Martin called attention to the bottom of page 3 where it talks about the SSC recommendations, relating back to the deletion of daytime setting from the recommendation. He pointed out the SSC's recommendation of the tori line incentive or disincentive was really to encourage people to side-set. He noted the side-setting program has been quite successful, and currently there are 45 vessels that side-set in the Hawaii fishery with 30 more who have requested assistance in changing over to side-setting, which amounts to well over 50 percent of the fleet will be side-setting soon. Although there are some logistical problems with certain vessels having to do with twin engines and rotations of the propeller, the progress is very encouraging.

Martin also noted the significant difference in interaction rates, well over an order of magnitude difference between the deep-set and shallow-set, which was his motivation to suggest the deletion.

Martin pointed out Robinson's comments made at the meeting related to the tori line recommendations and invited Robinson to comment.

Robinson said that in March of 2005 when the requirement for tori line was added to the recommendation of the SSC as an incentive for side-setting, there really wasn't any substantial supporting analysis or justification for including tori lines that address issues of seabird bycatch or cost to the industry. He has been uncomfortable with the original recommendation to include them since it wasn't based upon any particular set of analysis or anything other than that one bit of rationale. Given that there was such a weak rationale for it in the first place, and that it wasn't part of the current management measures, and given that there was substantial progress in meeting the objective that was given in March of encouraging longline vessels to convert to side-setting, he didn't see a sound justification or rationale for continuing to require tori lines.

McCoy called for the approval of the minutes of the 128th Council Meeting held by teleconference. The minutes were approved unanimously.

Duenas recognized visiting dignitaries in the audience, Mr. Paul Bordallo, initial Council Member from Guam, and Mr. Wadworth Yee, also an initial Council Member from Hawaii, Paul Callaghan, also an initial Council Member and present SSC Chairman. Duenas thanked them for their contributions to the Council's mission.

C. INTERNATIONAL FISHERIES MANAGEMENT

1. IATTC

Simonds directed attention to Document 8.A.1.B, which is the report on IATTC prepared by the NMFS Southwest Region. She asked members to note the resolutions.

There's a letter to Don Hanson from Rod McInnis. Attached is a summary of the resolutions that were tabled and voted on by the Commission when it met in June in Spain. The Commission approved a consolidated resolution on bycatch, a resolution on the conservation of sharks caught in association with fisheries in the Eastern Pacific, a resolution on incidental mortality of seabirds and a resolution concerning the adoption of trade measures to promote compliance.

Simonds noted the most interesting proposal is one that the U.S. put forward to exempt nations with a total catch of 250 metric tons or less from the quota system for one year. That proposal was blocked by Korea. When this action is renegotiated in the Commission, she will try again to raise the quota of our longline industry. So over the next several months the Council will be discussing options that that body might accept.

Duenas invited questions to Simonds. Having no questions, Duenas moved on.

2. WCPFC

Dalzell directed attention to Document 14.C.2.A in the Council's briefing book, the draft report of the first regular session of the Scientific Committee of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. He and colleagues from National Marine Fisheries Service attended the meeting in Noumea in August.

Bigeye tuna and yellowfin tuna were discussed at the meeting. Stock assessments for bigeye and yellowfin were also included.

The meeting covered a range of topics, including the biological specialist working groups as well as data issues. Most of the data responsibility for the Western and Central Pacific Fisheries Commission has been conducted by the Secretariat of the Pacific Communities Oceanic Fisheries Program.

Data management in the future was extensively discussed. One of the key problems was

that in the future the Commission will contract SPC to manage the data issues, but at the same time there was some concern that the chair of the specialist working group for data would be the contractee, SPC OFP under the guise of Tim Lawson, so a new chair was selected for that Data Committee.

Dalzell chairs the Ecosystem and Bycatch Working Group. The principal presentation in his section related to estimates of seabirds, sharks and turtle bycatch and mortality, which was a recommendation that came out of the first Western and Central Pacific Fisheries Commission meeting. An extensive report of this study is attached.

Estimates of turtle takes by purse seine and longline fisheries were generated, similarly for seabirds, sharks and marine mammals. There was a high degree of uncertainty around a lot of the estimates based upon that fact that most of the fisheries have very, very low observer coverage.

He noted that although the U.S. at the time of the meeting was a Cooperating Nonmember the Commission agreed U.S. Delegation members would continue chairing the various groups. The issue will be brought forward to the next Scientific Committee meeting.

The meeting also went through modeling exercises to look at options for management of bigeye and yellowfin, which is also attached to the report.

Duenas invited questions to Dalzell. Having no questions, he moved on.

3. PIRO INTERNATIONAL DIVISION ACTIVITIES

Robinson reported PIRO has had quite a large number of international activities that's been driven by the realization that in order to manage and conserve the pelagic stocks that our fisheries depend upon the real progress we have to make is in international regional fishery management organizations.

In an effort to build capacity PIRO has hired a few new people, which include:

One new FTE as an international policy analyst, Rhea Moss, a Pacific Islander with a degree from Stanford University and has worked in the Marshall Islands and for the Department of State.

Andy Burnell, a contract employee, who worked for the State of Hawaii to help in the Division.

Two major activities PIRO is involved in internationally are:

The South Pacific Tuna Treaty, which regulates access by U.S. purse seiners to the waters of a number of Pacific Island EEZs where they conduct a great deal of their fishing. PIRO is working to implement recent amendments to regulations in the treaty, including a formal Section 7 Consultation and Biological Opinion.

Recently in San Diego they participated in broader cooperation talks and treaty technical discussions with the purse seine industry and tuna groups with the FFA countries and staff of the FFA, as well as meeting with the purse seine group on a variety of issues, including the treaty, as well as soliciting their views on positions the U.S. might take in the WCPFC II meeting in December.

PIRO is continuing preparations for the 18th formal consultation of the parties to the South Pacific Tuna Treaty, which will be held for the very first time in the United States in Honolulu in March of 2006.

Of utmost importance to the Council is the upcoming meeting of the Western and Central Pacific Fisheries Convention. Leading up to that meeting PIRO initially attended the Science Committee meeting in Noumea, New Caledonia and provided assistance in drafting the Terms of Reference in the Science Committee.

In early September a Preparatory Meeting in Tokyo was held by invitation to Japan for the WCPFC II meeting, as well as a second Preparatory Meeting of the potential members of the Northern Committee to the Commission dealing with fisheries north of 20 Degrees, in particular northern albacore.

Robinson felt the meetings were extremely valuable. The Science Committee report was reviewed and the members expressed an interest in making substantial progress at this meeting on a number of issues, such as conservation and management issues and technical and compliance issues. Strong interest was expressed in having the Commission make progress on conservation management and management measures for bigeye and for yellowfin tuna, also measures to address sea turtle mortality, shark conservation and finning. Fisheries data collection is also very important.

For northern albacore, the group expressed an expectation that the Commission might adopt a resolution coming from the Northern Committee with regards to fishing capacity and even longer-term management.

On the Technical and Compliance side, the participants expressed an interest on establishing operating standards for VMS, working on observer issues, monitoring and

compliance, and a variety of other statistical and other issues. Member parties to the WCPFC were expressing a very positive attitude in the expectation that at the December meeting they would tee up many of the issues and try to make substantial progress.

The Northern Committee plans to meet informally just prior to the Commission meeting in December as a group. There was an expectation that the committee at that time would develop some recommendations for the Commission.

Robinson also had a strong impression that the Commission Secretariat was understaffed and really would be struggling to handle a lot of the preparatory work. So the United States group, particularly PIRO, offered to assist the Secretariat in preparing background papers that would be distributed to all the members by the Secretariat that provided background on some of the major issues, such as observers and albacore, turtles and sharks. Subsequent to the meeting in Tokyo a series of meetings were held.

PIRO has met with interested parties in Honolulu, California and San Diego to get input on what positions the United States should take and how to approach the Commission in addressing many of the conservation and management and technical and compliance issues.

Background papers have been prepared for the Secretariat on sharks, albacore, turtles and observers. Draft resolutions on a number of issues have also been prepared and circulated among the U.S. Delegation and will soon be provided to the Secretariat, asking the Secretariat to circulate those position papers and resolutions through other delegations.

On a bilateral basis, PIRO will be sharing thoughts on proposed resolutions with other delegations and getting their thoughts in anticipation of gaining support for some of the positions. Resolutions are being prepared principally on turtles, shark finning, on northern albacore and also working with other countries to work through the conservation and management of bigeye tuna and yellowfin.

PIRO has worked closely with the Department of State, Bill Gibbons-Fly and Holly Kohler, and with the U.S. Delegation. He will be going to the Commission meeting with high expectations, although understanding the reality of such negotiations, that you don't always get everything that you're striving for. But still, he is hoping for some significant progress.

In addition to seeking international agreements on bycatch mitigation measures in fisheries a number of projects are underway to protect nesting beaches, working with local communities to promote turtle conservation.

Some of the projects include:

Projects in Indonesia, Guam and the Mariana Islands.

Contracts have been completed for work in Papua New Guinea, Indonesia, Vietnam and the Solomon Islands.

Agreement has been reached for turtle work in New Caledonia.

A contract has been completed with the FFA countries for providing observer training with regards to sea turtles and other protected species.

The PIRO Sea Turtle Coordinator and International Staff have visited the Marshall Islands, Indonesia, FSM, Guam and CNMI during the past year. Work is continuing in the Marshall Islands on a pilot marine turtle project involving nongovernmental organizations.

Staff has visited Bali, Indonesia and participated in the first public consultation between the World Wildlife Fund and Indonesia and the Indonesian fishing industry.

Also projects have been in Papua and Yap.

Staff attended the Longline Bycatch Meeting in Borneo.

Turtle recovery programs are ongoing presently in Guam and CNMI.

Robinson invited comments from Gibbons-Fly for additional information.

Gibbons-fly commended Robinson and his staff for the work that they've done in support of efforts in the WCPFC. The Pacific Islands Regional Office has shown very strong leadership within the U.S. Delegation in moving a lot of issues forward in cooperation with other members of the U.S.

Delegation, including representatives of the Council and the Coast Guard and the fishing industry and the NGO community, including Linda Paul.

With that support the U.S. Delegation has really been able to take a leadership role in moving issues forward. The hope is to be able to continue the progress in the December meeting.

The resolution for the Scientific Committee to prepare a scientific analysis of options for conservation and management measures was a result of a U.S. proposal that was generated by Robinson's office and his staff. It was consulted among the entire U.S. Delegation and received a lot of good input. When it was put forward, it was adopted by the Commission. Gibbons-fly felt that in the absence of that initiative he didn't think the Commission would have taken any action at its December meeting with respect to moving forward on conservation and management measures, as well as the list at the September meeting which was adopted, which is being called, the road map toward the December meeting.

He added that even though the U.S. is not yet a member of the Commission the good will of the members of the Commission and their seeking input has continued. He was very pleased to hear Dalzell's report that even though the U.S. is not yet members, the U.S participants as chairs in the Standing Committee, subcommittees or in the scientific subcommittees were allowed to continue in their roles as chairs. He thinks that is a reflection of the good will that the United States has engendered within this organization.

It is his strong hope that by the third meeting of the Commission next December the U.S. will be members and all of the issues will be resolved.

He thanked everyone who has participated on the U.S. Delegation, Robinson and his staff, Council representatives, industry representatives, NGOs and colleagues from the Coast Guard.

Duenas asked Robinson for clarification of the sea turtle project on Guam. Robinson replied it's called the Guam Sea Turtle Recovery Program, which involves a marine turtle nesting beach at Camp Dealy. Duenas commented that in the future he would like to have an assessment added to the project.

Martin thanked Robinson and Gibbons-fly for their efforts and for keeping the Council informed of the activities.

Gibbons-fly offered one other comment with regards to the purse seine fleet in the Pacific which, just as the longline fleet, the U.S. purse seine fleet operating in the Pacific under the treaty is also a very small percentage of the total purse seine effort. The NARU Arrangement provides for a limit of 205 purse seine vessels, which are purse seine vessels from Japan, Korea, U.S., Taiwan, as well as some flagged in FSM, Vanuatu and Papua New Guinea that are operating in waters other than their flag state.

The 205 purse seiners do not include purse seiners flagged in places like the Philippines and PNG that operate exclusively in the waters under the jurisdiction of those countries. All vessels will need to be regulated to address the purse seine issue under the WCPFC.

In the recent meeting with folks from the Pacific Island States and the Foreign Fisheries Agency to discuss implementation and operation of the South Pacific Tuna Treaty he was very pleased to hear the staff of the FFA say the U.S. purse seine fleet is leading the way in the Pacific in terms of setting the standard for things like VMS usage, observer coverage, reporting requirements. They expressed their appreciation about the fact that the leadership of the U.S. and the U.S. industry in this regard gave them much greater leverage to require the same kinds of requirements from the other Distant Water Fishing States that were being licensed to fish in their waters, leverage that they would not have had if the U.S. vessels were not operating up to that standard.

In the absence of measures under the WCPFC, the FFA is the only multilateral or international organization that is currently implementing any of these requirements, and they expressed their appreciation for the efforts the U.S. has played in strengthening their hand in regulating the purse seine fishery operating in the waters of all their member states.

Having no further comments, Duenas moved on.

4. OTHER ISSUES

Dalzell reported that North Pacific albacore is generally not something that is focused on in any great detail by the Council. The albacore stock in the North Pacific is assessed through a workshop that's held primarily between Japan, the U.S. and Canada. The 19th workshop was held in 2004 at the end of the year.

There was also a preliminary report to the ISC 5, what is now called the International Scientific Committee, a preliminary report. The IATTC is also taking an interest in albacore now that its range of jurisdiction has increased north and south.

There was a major peak in the albacore catch in the mid 1970s and mid 1990s. The U.S. troll fleet catches about 20 percent of the total albacore catch in the North Pacific.

Using a variety of methods, the most realistic estimate of the biomass, comparing the '02 and '04 analyses, shows a rising trend in biomass from 1990, onwards. It is believed that like all other pelagic stocks, albacore is subject to fluctuations based on inter-decadal scales of oceanic productivity.

There is a concern that the spawning stock biomass has been relatively flat and in the last ten years or so has been declining. Even though there appears to be an increase in the stock biomass overall, the spawning stock biomass may still be relatively depressed.

The outcome of the most recent stock assessment is that if fishing mortality for North Pacific albacore remains high and a regime shift back to a lower oceanic productivity regime occurs, then in the next few years a situation where albacore would be deemed to be not overfished as a stock, but be subjected to overfishing will occur.

Duenas invited questions to Dalzell. Having no questions, Duenas moved on.

5. U.N. RESOLUTION

Gibbons-fly reported that each fall the United Nations General Assembly adopts a resolution on fisheries. Those negotiations are taking place presently. Holly Kohler, from Gibbons-fly's office is chairing the working session in the United Nations.

He directed attention to Document 14.C.5.B, which appears to be based on a press release from Sea Turtle Restoration Project, which talks about the U.N. recommendation under fire. The document relates to one issue under discussion in the resolution called for by a number of groups for a ban or moratorium on pelagic longline fishing.

The draft of the resolution did not endorse the idea of a moratorium, but instead called for the endorsement of the FAO Technical Guidelines on Mitigation of Sea Turtle Mortality in Longline Fisheries, which include a lot of the mitigation measures that have been pioneered out here in Hawaii by NOAA, the Council and the industry in Hawaii, including circle hooks and mackerel bait and other changes to fishing operations.

Another issue under discussion is the call by a number of NGO groups for a ban of high seas bottom trawling. That is an issue that was also under discussion last year.

In last year's resolution there was some language that called upon states and regional fishery management organizations to take steps to mitigate the impacts of destructive fishing practices on sensitive marine ecosystems and called for some research and analysis with a view towards revisiting that issue in 2006. That plan is still on track at this time as far as he is aware.

Negotiations are scheduled to conclude tomorrow.

Duenas invited questions to Gibbons-fly. Having no questions, Duenas moved on.

D. AMERICAN SAMOA AND HAWAII LONGLINE FISHERIES QUARTERLY REPORTS

Dalzell presented the quarterly report for the American Samoa longline fishery for the second quarter of 2005.

The number of vessels operating every quarter reached a peak in '01 and has been declining ever since. Albacore CPUE trends in American Samoa and across the South Pacific in general have declined due to changes in oceanic productivity. The southern albacore stock is being fished relatively modestly at the moment.

Number of sets reflects the trend in the number of vessels, reaching a peak in '01 and '02, and then declining as vessels have left the fishery.

Again, number of hooks reflects the same trend as shown for vessels and sets.

Total longline catch by all species also reflects a declining trend in total catch.

CPUE for albacore, two periods of relatively high catch rates in 1997 and again over the '01, '02 period. Since '01 there's been a declining trend.

CPUE of yellowfin, skipjack and bigeye tuna, although very variable, there's an increasing trend for bigeye tuna, somewhat increasing trend for skipjack. But overall, relatively flat.

Also, mahi, billfish, and wahoo has generally had a declining trend in the longline fishery. Billfish has come down as well.

Right now things are not doing too well with albacore. It's likely that a lot of this fishery is always going to be at the mercy of the South Equatorial Countercurrent. The fishery is going to be very responsive to oceanic conditions given a much smaller EEZ.

Duenas invited questions to Dalzell.

Martin asked if U.S. vessels have a requirement to submit logbooks if they're fishing

other EEZs and if the information Dalzell presented was taken from logbook data. Dalzell replied the data is from logbooks when they fish outside and land back into American Samoa.

Martin asked if there's some opportunity through some sort of a cooperative agreement to get the information from the surrounding fishing areas or through canneries, through landings. Dalzell replied he did not know whether the U.S. collects information on fishing in other EEZs.

Having no further questions, Duenas moved on.

(HAWAII REPORT)

Pooley replied to Martin's question, information is collected from other EEZs if they land in American Samoa.

Pooley presented a brief overview of the historical records of the longline fishery.

There's been a dramatic but long term increase in the total amount of hooks, which is partly a reflection of shifting from swordfish, which sets less hooks per set than the tuna fishery.

Bigeye is the primary target species. Quarter by quarter, the catch goes up and down.

The chart of CPUE by quarter reflects high variability.

The swordfish catch was low for some time and then has bounced back up. The fish per thousand hooks on the swordfish gear bounced back up to the long-term average of 15 fish per thousand hooks.

Blue shark has remained rather low since the '90s.

Dalzell presented the two recommendations from the SSC:

That stock assessments be conducted on species such as monchong, wahoo and mahimahi.

The SSC also requested a review be presented at the next meeting on how the Hawaii Longline Limited Entry Program vessel cap was established and what was the projected number of hooks for this vessel limit.

Duenas invited questions to Dalzell and Pooley.

Martin asked Pooley if the Science Center was gathering any size information on the swordfish catch. Pooley replied that historically the average size of fish is included in the annual report of the fishery. However, given that there's less than a full year's worth of swordfish fishing from last year it would not be appropriate to put it in this year's report at this time. He said they can generate something that might not be in the annual report, but just for the Council's interest.

Martin noted that the graph on pomfrets showed a spike last year he thinks because of one individual vessel that started using, quote-end quote, shortlines on a seamount targeting pomfret. He added that he thinks it's important to note it's going to be interesting to see how the year shakes out as the first swordfish year concludes.

He noted that the practice of boats that swordfish in the past have been that they spend more time not fishing when it's not swordfish season, which is probably even more dramatic this year because of fuel prices.

Having no further questions, Duenas moved on.

E. PELAGIC PLAN TEAM REPORT

Dalzell presented the four recommendations from the plan team:

The first recommendation, the Pelagic Plan Team recommends that Council staff look at the consequences to U.S. WCPO fisheries of rolling back fishing effort to 1999 levels as proposed in a resolution from MHLC 5 in terms of catches of bigeye tuna, yellowfin and other Pelagic Management Unit Species.

With respect to international management of WCP fisheries, the plan team suggests a 15 percent reduction in total effort or redirection of purse seine effort on FADs to free-swimming tuna schools. Such measures should be implemented because projections suggest they will lead to stock recovery of both bigeye tuna and yellowfin tuna in a five-to-ten-year period.

The plan team recommends making the changes to seabird mitigation regulations as proposed in the Council's discussion paper.

The plan team recommends exploring options to change the fishing effort allocation for the Hawaii-based shallow-set longline fishery. Among the issues to consider include

swordfish shallow-set effort allocation certificates to be increased or unconstrained with loggerhead and leatherback caps unchanged;

Potential for changing the allocation period from calendar year to reflect the actual swordfish fishing season, which is October to September;

Option of carrying over effort certificates to the following allocation period when turtle caps are not exceeded. Turtle caps would not change;

Cost implications to the NMFS Observer Program if any change to the effort cap should be considered;

Also, conduct a survey of the fishing industry comprehensively, both fishermen and buyers, about the proposed changes.

F. SSC RECOMMENDATIONS

Callaghan presented the SSC recommendations. He directed attention to Document 14.F.1.

Item B, regarding the Hawaii swordfish fishery, changes in the caps on effort relative to turtle takes, the SSC felt it was premature to look at altering the current management framework for this fishery at this time. Consequently, the SSC recommends that no action be taken at this time concerning the cap on the number of sets for the swordfish fishery segment of the Hawaii longline fishery.

The SSC also encourages further research on factors such as weights and weight location relative to hooks and sinking time. Some experimentation might occur here which would give the Council a better handle on what size weights and what length from the hook they should be located with regard to how fast they sink.

With respect to Item C, FAD management and the Main Hawaiian Island buffer zones, the SSC suggested further data and comparisons for the months of October to January to the staff.

With respect to Item D, definition of shortlines versus longlines, the SSC is concerned about the expansion of shortlines, less than one nautical mile fishing lines, targeting tuna and monchong in Hawaii and sharks in Guam. The SSC recommends that the Council continue to closely monitor developments in these fisheries.

With regard to Item F, the American Samoa FAD closures, the SSC only noted that it may be very difficult to make closures around moving objects like FADs, that this was an allocation issue and left it to Council discussion.

The SSC noted that the Biological Opinion was a great improvement over those developed in previous years for the Hawaii longline fishery. The SSC also commented that because the North Pacific humpback whale population is increasing at seven percent annually, and the Eastern Pacific olive ridley population is growing at 12 percent annually, it is likely that consultations may have to be re-initiated within the three-year period covered by the Biological Opinion due to probable increased interactions.

The SSC is also concerned that the Council's conservation projects are not explicitly accounted for in the Biological Opinion's risk analysis. This omission may constitute a disincentive for continuing nonfishery-related marine turtle conservation.

Now, with respect to Item H, which is the Hawaii longline fishery quarterly report, the SSC recommends that stock assessments be conducted on species such as monchong, wahoo and mahimahi. ECOSIM modeling suggests that decreases in the biomass of large predators may lead to increases in smaller predators, such as skipjack and possibly mahimahi and wahoo.

The SSC continued to express concern about the expected number of hooks versus the fleet size for the limited entry Hawaii longline fleet. Therefore, the SSC requests that a review be presented at the next meeting on how Hawaii Longline Limited Entry Program vessel cap was established, and what was the projected number of hooks for this vessel limit.

Item I, the American Samoa pelagic research reports. It appears that there is a connection between albacore CPUE and the strength of the South Equatorial Countercurrent and also sea surface temperatures in the EEZ around American Samoa. In view of the ecosystem approach to management, the SSC encourages the Council to pursue its previous recommendation for a workshop with countries bordering American Samoa on issues of mutual concern, such as longline fisheries for albacore.

The plan team suggests a 15 percent reduction in total effort and/or a shift of purse seine effort from FADs to free-swimming tuna schools. Such measures should be implemented because projections suggest that they will lead to stock recovery of both bigeye tuna and yellowfin in a five-to-ten-year period. The SSC concurred with Recommendation 2 and recommends that the Council strongly encourage the U.S. Delegation to regional fishery management organizations to advocate for the adoption of such measures.

The SSC had no comment on Plan Team Recommendation 1.

Duenas invited questions to Callaghan. Having no questions, Duenas broke for lunch.

(Lunch break taken)

McCoy called the meeting back to order.

G. STANDING COMMITTEE RECOMMENDATIONS

The Standing Committee referred its recommendations to the Council as a whole for review.

H. PUBLIC HEARING

No public comment.

I. COUNCIL DISCUSSION AND ACTION

Dalzell read the first recommendation, as follows:

Council directs Council staff to provide an analysis to the Council of the consequences to U.S. Western and Central Pacific Ocean fisheries of rolling back effort to 1999 levels as proposed in the resolution from the Fifth Multilateral High Level Meeting in terms of catches of bigeye tuna, yellowfin tuna and other Pelagic Management Unit Species.

Dalzell suggested one edit change to use other base years in terms of catches of bigeye tuna, yellowfin tuna and other Pelagic Management Unit Species.

The edited recommendation was read:

Council directs Council staff to provide an analysis to the Council of the consequences to U.S. Western and Central Pacific Ocean fisheries of using 1999 as a base year for capping fishing effort levels, as proposed in resolution from the Fifth Multilateral High Level meeting, in terms of catches of bigeye tuna, yellowfin tuna and other Pelagic Management Unit Species and to explore alternatives to 1999 as the base year.

Callaghan reiterated that the SSC offered no comment on this issue because the SSC considered it an allocation issue, but that there were comments around the table regarding

the appropriateness of 1999 and to perhaps consider looking at other years. The SSC would support this recommendation.

Simonds said additional wordsmithing is needed, but what it means is to have analyses of other years.

Hamilton asked if the Council is proposing a change to its recommendations for the bigeye amendment document, in which case the staff would need to wait for the analysis to be completed. Hamilton stated staff would prefer that a decision be made at this point to either delete the recommendation of the bigeye amendment for the rollback to 1999 or leave it in and move forward and consider this in a future amendment.

Ebisui asked Hamilton for clarification. Hamilton replied that the amendment to the Pelagics FMP to address overfishing of bigeye included a recommendation that effort levels be rolled back to 1999, which was a final action by the Council and part of the preferred alternative. There is a one-year timeline for completing the document. If the staff had to wait for the recommended analysis, the one-year deadline would not be met.

Simonds suggested continuing with the document and to make the recommendations to the U.S. Delegation and still prepare the analysis.

Gibbons-fly said that he thinks the additional analysis is a good idea because the information should be available to be used in making such a decision. Gibbons-fly supports the additional language.

Hamilton said she just wanted to be clear on the intent.

A motion was made to approve the recommendation. After the motion was seconded, the Council Members approved the motion unanimously.

Dalzell read the next recommendation:

With regard to international management of Western Pacific Ocean Fisheries, the Council recommends to the U.S. Delegation a redirection of purse seine effort from fish aggregating devices, FADs, to free-swimming tuna schools because projections suggest this will lead to a stock recovery of both bigeye tuna and yellowfin tuna in a five-to-ten-year period.

Martin noted the recommendation read out is not the same as the recommendation on their document.

Young asked why "15 percent" is removed from the recommendation. Dalzell replied that it is for the same reason why the qualms exist about the 1999 levels of effort.

Simonds said she does not think that a percentage needs to be included at this time.

Gibbons-Fly said he thinks that there needs to be a clear distinction between what the Council is recommending to the U.S. Delegation to the WCPFC as a U.S. position and what U.S. fishermen will be required to do under the plan. Having some guidance as to what is the appropriate level of reduction of fishing level is useful because it gives the delegation some flexibility in deciding how best to achieve that.

Simonds added that the problem is that the Council is really not prepared to say a specific percentage at this time and would prefer to first have discussions with the Science Center.

Young pointed out that while a specific recommendation of a reduction is removed, it leaves a specific recommendation for a redirection of the fishing effort. He said it's inconsistent to say it's not good to be specific in one case, but it's good in another.

Simonds said that this is a recommendation from the Science Committee, which was discussed earlier in the day when Young was not in attendance. The Science Committee had a specific recommendation for purse seiners.

Young suggested including a cautionary statement such as, may consider items such as a 15 percent, or a reduction in effort, or a redirection of the fishing effort.

Gibbons-fly suggested including words such as: Or other measures that would achieve a comparable level of reduction in fishing effort.

Robinson clarified that the recommendation is for use when going through the process of making a recommendation to the U.S. Delegation to take forward. Duenas agreed.

Young said he understood the intent of the recommendation is for giving the delegation at least some alternatives.

Dalzell read additional words for the recommendation: **“With appropriate reductions in total pelagic fishing effort.”**

Martin moved to approve the recommendation. Ebisui seconded the motion. The recommendation was approved with one abstention by Robinson.

Dalzell read the next recommendation:

The Council concurred with the SSC recommendation that it was premature to be looking at altering the current management regime for the Hawaii-based shallow-set longline fishery. In 2004 and 2005 the sea turtle takes were about 50 percent of the hard caps with two-thirds of the allowable effort expended in the fishery. Increasing the effort cap to 75 percent of the historical average risks reaching the hard caps with the remaining effort.

Consequently, the Council recommended that no action be taken at this time concerning the cap on the number of sets for the swordfish fishery segment of the Hawaii longline fishery. However, the Council directs staff to investigate the potential for changing the allocation period from calendar year to reflect the actual swordfish fishing, October to September, the option of over effort certificates to the following allocation period if turtle caps are not exceeded.

Ebisui moved for the recommendation to be split into two recommendations. Sablan seconded the motion.

Martin spoke in favor of the recommendation. He is cautiously optimistic about the results of the re-initiated swordfish fishery presently, but feels that one fishing season is hardly an adequate period of time to base such changes.

The motion was passed unanimously.

Dalzell read a modification to the second half of the recommendation:

With respect to future modifications of the current management regime for the Hawaii-based shallow-set longline fishery, the Council directs staff to investigate potential for changing the allocation period from calendar year to reflect the actual swordfish fishing, October to September, the option of over effort certificates to the following allocation period if turtle caps are not exceeded.

Seman moved to adopt the recommendation. Sablan seconded the motion.

Ebisui said he was uncomfortable with the motion, in general, as it looks like an effort to manipulate the period so that more fishing can be done. It also appears like the whole point of this recommendation is to fish up to the cap, as if it were a quota on turtles. Council efforts are resulting in very positive gains in terms of turtle takes and the Council should stay the course.

Young concurred with Ebisui. He felt that carrying over an unused allocation is a dangerous way to look at protecting species and the Council should let the process continue to work as it is now.

Simonds asked Dalzell to explain why the plan team suggested this recommendation. Dalzell explained that the first part of the recommendation reflects the fact that the swordfish season is not a calendar year. The second half of the recommendation was proposed because there was a sense by plan team members that some of the effort would not be used so would it be appropriate to bring the effort across to the following year if the turtle catches had remained low.

A third reason is if the effort allocation were to increase, with 100 percent coverage there would be a major cost and admin burden for NMFS to maintain.

The last reason was to simply find out the opinions of the industry as a whole.

Young pointed out that the recommendation is asking staff to investigate the issues, but by approving the recommendation it could be implied that the Council supported all of the items. Without approving the recommendation the investigation could still be conducted. Staff does not need the Council to tell them to gather input from fishery participants.

Duenas disagreed. The Council directs staff to investigate. If items are not on the list to investigate, staff will not investigate it. Because it was a plan team recommendation he felt it merits some investigation regardless of what the outcome may be in future Council decisions. It is not an action. It's just an investigation.

Robinson said that from the standpoint of just doing the investigation and laying out the information of the pros and cons of taking the next step, he had no problem with that part. Although, the Council may not want to take the next step.

Duerr said he did not see this recommendation as an example of good conservation. Robinson agreed with Duerr's point and he said it appears to treat the turtle caps as goals, to just keep fishing and keep fishing and keep fishing to make sure the caps are reached every year. The caps are not meant to be goals. The caps are meant to be ceilings.

Martin asked for clarification for the allocation period changing. Dalzell replied that with respect to the calendar year idea, the plan team thought it might make more sense to run a 12-month scheme based on how the fishery fishes and also would be easier administratively.

Another aspect of the idea was to carry over effort to the following year would perhaps provide a small reward to the fishermen for staying well below the turtle caps.

Martin stated he feels the investigation of the effort allocation is premature. He appreciates the plan team's willingness to support the efforts and successes of the industry, but stands by his earlier comment that one year is too short a period of time.

Robinson offered to provide the analysis of the impacts to the observer program.

After lengthy discussion, the recommendation was withdrawn.

Dalzell read the next recommendation:

The Council is concerned about the expansion of short longline, less than one nautical mile longline, fishing targeting tuna and monchong in Hawaii and sharks in Guam. Further, the Council concurs with the SSC recommendation that developments in this fishery should be closely monitored.

Sablan moved for the Council to adopt the recommendation. Young seconded the motion for discussion purposes.

Young asked if the motion is passed, will it become a policy statement and who is the recommendation directed to. Simonds said the recommendation does not reflect the discussion from earlier today and the comments made by the Chairman. Earlier the Chairman said that the Council should regulate the shortline fishery.

The motion was withdrawn.

Dalzell read the next recommendation:

The Council, therefore, directs Council staff to begin the process of developing an amendment to the Pelagics FMP to regulate shortline fishing.

Sablan moved for adoption of the recommendation. Ebusui seconded the motion.

McCoy reiterated earlier comments as to the need to monitor this fishery.

Martin asked for clarification as to the shortline fishery, whether it was a handline fishery or a FAD fishery. Ebusui said it includes both.

The motion was approved unanimously by the Council.

Dalzell read the next recommendation:

The Council recommends that NMFS conduct stock assessments on species such as monchong, wahoo and mahimahi. Ecological simulation, ECOSIM, modeling suggests that a decrease in the biomass of large predators may lead to an increase of small predators, such as skipjack and possibly mahimahi and wahoo.

Sablan moved for approval. Haleck seconded the motion. The recommendation was approved unanimously.

Dalzell read the next recommendation:

The Council supports the SSC's request that a review be presented at the next SSC meeting by the NMFS Pacific Islands Fisheries Science Center on how the Hawaii Longline Limited Entry Program cap on vessels was established and the projected number of hooks for the vessel limit.

Sablan moved for approval. The motion was seconded. The recommendation was approved unanimously by the Council.

Dalzell read the next recommendation:

In view of the ecosystem approach to management, the Council encourages Council staff to pursue the previous Council recommendation for a workshop with countries bordering American Samoa on issues of mutual concern, such as longline fisheries for albacore.

The recommendation was moved and seconded.

Ebisui asked to change the word "encourages" to "directs." There were no objections.

The recommendation was approved unanimously by the Council.

Gibbons-fly offered alternative wording to a paragraph on page 3 which more accurately reflects his comments. The edit read as:

"... and some member countries of the WCPFC may object to limitations on FADs if the burden of conservation was perceived as not being shared equitably among nations and fleets." There were no objections to the amendment.

Dalzell read the next recommendation:

The Council directs staff to include anticipated yellowfin overfishing issues in Amendment 14 to the Pelagic Fishery Management Plan.

The recommendation was moved and seconded. The recommendation was approved unanimously by the Council.

Martin offered an additional motion for an SSC recommendation that was not included:

The Council requests that NMFS Pacific Islands Fisheries Science Center conduct further research on weights and weight location and sink rates, as well as research on hook size and other factors affecting hook sink rates.

The motion was moved and seconded.

Pooley said the Science Center is happy to do what it can on seabird mitigation and sink rate research, but warned the Council there is no funding for such research. He added that it may be more a matter of the Science Center contacting knowledgeable people than dropping hooks in water and measuring their sink rates.

Dalzell noted that he received a draft report from Eric Gilman, from the Blue Ocean Institute, on some experiments conducted in Hawaii with Nigel Brothers on sink rates which supports the information that was presented at the 128th Council Meeting.

Palawski said he thinks the hook sink rate research is important.

The recommendation was approved unanimously by the Council.

(Brief break taken)

McCoy reconvened the 129th Council Meeting.

16. ECOSYSTEMS AND HABITAT

B. MARIANAS FEP PILOT

1. PROJECT OVERVIEW

Mr. Paul Bartram and other colleagues have been conducting a pilot study for the Mariana Archipelago to look at some of the initial steps that might be taken for implementation of ecosystem approaches to fisheries management for the Mariana Archipelago.

He noted at the Ecosystem Management Workshop held in 2005, ecosystem modeling was pointed out as an important step. Another major point discussed at the same workshop was the monitoring of changes. Ecosystem-based management is all about trying to see if there's change, and then intervene in certain situations when change is either detected or forecasted.

Bartram said the pilot project involves three major aspects, identifying appropriate indicators, involving communities and fishermen's knowledge in ecosystem approaches to management and applying such approaches to the management of a group of offshore banks in the U.S. EEZ south of Guam.

The first of the presentations of the Pilot Project will be presented by Judith Amesbury of the MARS Company, a Guam-based archeological company. The second will be a presentation prepared with the assistance of Alan Friedlander from Hawaii, Jesse Rosario from Guam and Jack Ogumoro, the Council's CNMI Onsite Coordinator looking at community-based approaches for inshore areas. And finally, John Gourley, of Micronesian Environmental Services, will be speaking about Guam offshore bank management.

2. ECOSYSTEM INDICATORS

Amesbury directed attention to Document 16.B.2, which is in regards to monitoring and forecasting ecological changes in the Mariana Archipelago.

Guam is an unincorporated territory of the United States. The fourteen islands north of Guam are the Commonwealth of the Northern Mariana Islands.

There's a geological division that's different from the political division. The geological division consists of two arcs. The southern arc consists of the six southern islands. The nine northern islands make up the northern arc.

The southern arc islands are much larger and older than the northern arc islands. They have more reef development. The northern arc islands are smaller and more recent and some are still volcanically active. The southern arc islands haven't been volcanically active for millions of years.

Almost all of the population lives on the southern arc. In the 2000 census there were more than 224,000 people on the southern arc, but only six people on the northern arc. Thanks to the Council's CDPP project on Alamagan, there's more than six people on the northern arc now. There are now 20 or 30.

The Mariana Archipelago is a unique ecosystem and a one-size-fits-all Fishery Ecosystem Plan won't work for all of the areas that the Council manages.

American Samoa and Hawaii are in much more peaceful parts of the Pacific than the Marianas. The Mariana Archipelago has a very high perturbation ecosystem with frequent typhoons, El Nino events, droughts, fires, earthquakes and volcanic eruptions.

The ecosystem includes the people and their cultures and the past. People have lived in the Marianas for at least 3,500 years. There are a lot of early radio carbon dates associated with cultural material that cluster around 3,500 years ago.

Timelines that show ecological events in Guam and the Northern Mariana Islands are included in the Council's notebook.

The timelines only represent the period from 1940 to 2005, 65 years in Guam. Above the line are typhoons and super typhoons. Also below the line are typhoons and super typhoons that came within 60 miles of Guam. Below the line are the moderate El Nino years and strong El Nino years.

Tables in your notebooks are included that show population increase and certain historic events that have affected the ecosystem.

The population has increased. In 1940 the population was 22,000. In 2000, it was 154,000.

One category included in the table is government and military events. A second category is immigration events. There have been certain periods in the history of Guam where there has been high numbers of immigrants entering Guam.

A third category of events on the table are related to the economy. Another category relates to fishery events.

A timeline for the CNMI is also included in the Council's book, which begins in 1945. The CNMI didn't belong to the United States prior to 1944. The same categories are included in the CNMI timeline.

Meaningful ecosystem management requires holistic thinking. Consideration has to be given to multiple time scales, multiple impacts and to all areas of the ecosystem, both land and sea.

In Hawaii they have the ahupua'a concept of land parcels that run from the mountains to the sea. The same thing is true on any island, what happens on the land affects what happens in the sea.

Ineffective ecological monitoring usually results from a failure to consider both spatial and temporal scales at the same time. Some programs focus on snapshots of particular places, but they don't take into account the various temporal scales. Some monitoring programs track changes through time, but don't relate to a specific place. Amesbury would like to see ecological monitoring that takes into account both the temporal and spatial.

Amesbury presented an example of that system in the history of Fouha Bay. Fouha Bay has been studied for almost 30 years.

Amesbury directed attention to the document entitled, References Regarding Fouha Bay.

Dick Randall and Chuck Birkeland did a study at Fouha in 1977. They did not realize at that time that their study would become the baseline study for Fouha Bay.

One conclusion they reached was, suspended sediment load was one of many factors that influences the structures of the coral communities in Fouha Bay.

From 1988 to '90 there was road building and clearing, which caused increased erosion. The sedimentation affected the corals in Fouha Bay.

In 2001 Eric Wolanski and Bob Richmond and others looked at Fouha Bay again. They found that the corals had not recovered to the level that they were back when Randall and Birkeland studied them. Coral cover showed a decline and the reef was overgrown with an algal mat which trapped a large amount of fine sediment.

Wolanski and Richmond made two recommendations; plant more trees to prevent erosion and ban fishing for herbivorous fish so the herbivorous fish would eat the algal mat.

Around the same time some people from WERI (phonetic), the Water and Energy Institute at the University, did a study of soil erosion in the same La Sa Fua drainage. La Sa Fua is the name of the river and Fouha Bay is the name of the bay.

They found that most of the sediment carried into Fouha Bay was from the immediate stream banks and wasn't coming from the big cleared areas or from the road building.

In 2004 a man named Teina Rongo obtained his Masters thesis from the Marine Lab. He reported that the coral distribution at Fouha Bay was back to the level seen by Randall and Birkeland in 1977. Teina Rongo said that the annual sediment load for Fouha Bay had not changed substantially since 1978. He concluded that the reefs in Southern Guam have been subjected to sedimentation for many years and have not changed for at least the last 25 years.

Rongo, though, did mention that one of the main causes for erosion in Southern Guam are the fires. People blame the hunters for the fires in Southern Guam. They say that hunters set the fires so that when the new grass shoots come up the deer come, and people think that those burned areas cause erosion.

There was another study done by Dr. Golabi and others at the University saying that wild fires have no effect on erosion rates in Guam's grasslands.

Amesbury said this shows how complex an issue it is.

Golabi is speaking at the Fishers Forum to be held later in the meeting. He's studying the use of a nonnative grass. Apparently it's very effective for holding soil. So it looks like that grass, which is not native to the Marianas, may actually be a solution to the erosion problem in Southern Guam.

There's archeological evidence for increased siltiness of the nearshore environment in Southern Guam over the last 2,000 years. The evidence is found in the fact that certain types of mollusks that live in silty environments have increased over the last 2,000 years.

Mangroves have also increased in Southern Guam over the last 2,000 years. Southern Guam is the only place in the Marianas where mangroves have been increasing. There are other places in Northern Guam and Saipan and Tinian where mangroves disappeared early on, some 2,500 years ago.

Wolanski and Richmond thought the erosion was caused by road building and clearing. That may have exacerbated the problem, but in fact it may all be part of a natural process which involves the droughts, the typhoons, the relative sea level decline that's been going on in the Marianas, the down-cutting of the streams, and so on.

Amesbury said it is not a simple question.

As you drive across the cross-island road you can see that a lot of trees have been planted. It turns out that it hasn't been effective.

Wolanski and Richmond were jumping to conclusion by saying, ban fishing of herbivorous fish so that the fish will eat this algal mat. They were just thinking that that algal mat was part of the problem, when in fact algae is a part of the habitat of fish.

Managers are powerless against the major environmental perturbations, like typhoons and El Nino, but resource monitoring can be designed to be sensitive to such elements.

Amesbury presented a checklist of things that need to be monitored, such as seasonal fish runs that provide rhythm to the local cultures. There are annual runs of manahak, ti'ao, i'e and atulai that are important cultural events.

But there are large year-to-year fluctuations that sometimes cause community concern that there's something wrong with the ecosystem. Amesbury presented graphs showing the cyclical nature of the ecosystem.

A graph of metric tons of manahak over a 41-year period in Guam depicted more than 15 metric tons were harvested in four years; 1957, 1972, 1988 and 1994. There was a long period of low harvest in the '70s and '80s. That caused the Division of Aquatic and Wildlife to start saying maybe these stocks have been over-harvested.

Then all of a sudden there was a record high catch in 1988. The reason the graph stops at 1997 is because the Division of Aquatic and Wildlife stopped collecting manahak data in that year.

The same idea was illustrated with atulai harvest in Saipan. There were more than 20,000 pounds harvested in four years; '86, 2000, 2001 and 2002. The relationships between species that run and other species needs to be better understood.

One example is the manahak and seagrass to other fish species. When the manahak come in large numbers, they can decimate the seagrass beds, which has effects on other juvenile reef fish. Steve Amesbury and others found that the relationship between manahak and seagrass exemplifies an oscillating steady state, which means that it comes and goes.

The second thing that should be monitored are environmental extremes that limit long-lived species. An example of this is the variation in distribution of stony corals on Guam. Much of that is attributable to which parts of the reef are exposed and the depth of water retained on submerged parts during minus tides.

The drying effects are made worse during El Nino years when the sea level can be as much as six inches or more lower. At these times more of the reef flat is emergent.

A third thing that needs to be monitored is fish refuge of all types, not just Marine Protected Areas but natural kinds of refuge also.

Most reef fish populations show positive responses to protection, whether it's physical, biological or human protection. Habitat plays a critical role in structuring fish assemblages.

Some factors of fish habitat quality include:

Number and size of holes;

The rugosity;

The live coral;

The water quality;

The seaweed, seagrass and mangroves.

It's not just coral cover that counts, but the seaweed, seagrass and mangroves are important habitats for fish also.

A list of what is now being monitored includes:

The Guam EPA is going to be conducting water quality monitoring on the surface waters and nearshore coastal waters of Guam. They're using the nationally standardized protocol.

Environmental indicators to be tested include the water, sediment, habitats, plant and animal life at randomly-chosen sites from the 60-foot depth contour to the shoreline.

The sampling and testing protocol is nationally prescribed, but it may help to assess local habitat quality.

In the CNMI, the Division of Environmental Quality is monitoring water quality at 46 beach locations in the southern islands. They're using U.S. EPA techniques also.

In addition to the Division of Environmental Quality, there's a CNMI Marine Monitoring Team that's made up of DEQ, plus Coastal Resources Management and Division of Fish and Wildlife. They're carrying out long-term coral reef and lagoon monitoring. This includes the coral communities, benthic communities, invertebrate and fish abundances from different habitats and watersheds.

It is recommended that monitoring be established based on a spectrum of recovery trajectories. It would be helpful to know, is this what the conditions were six months after a typhoon, or twelve months after a typhoon or eighteen months after a typhoon.

A fourth thing that needs to be monitored are the changes in diet of the island people. For example, how much seafood is consumed, what kind of species and how much of it is locally produced.

It was estimated that in the late 1940s in the CNMI people were eating one pound of fish per person per day. But in 1980 in Guam it was estimated to be at least 60 pounds per person per year. Then in 2002 the Navy conducted a household survey in three southern villages in Guam; Piti, Agat and Santa Rita, and found it was an average of 2.5 ounces per day. In other words, 57 pounds per person per year.

There's also changes in consumption patterns, because as the standard of living increases there's less reliance on subsistence activities and more reliance on the cash economy. There's less reliance on home cooking and more reliance on convenience foods.

Also, immigrants from different cultures consume a greater diversity of species.

Amesbury presented some points to consider:

What are the trends in the sources of seafood and how much is locally produced versus imported. Sometimes people don't even realize that they're buying imported fish. They think they're buying locally-produced fish when they're buying imported fish.

Islands are obviously becoming less resilient. There are more people in the Marianas than there ever have been in human history.

The next logical step is after the Council changes from the Fishery Management Plans to the Fishery Ecosystem Plans, the annual reports will need to be restructured. It is recommended preparing a model for the structure and the content of a future annual report for the Mariana Archipelago Fishery Ecosystem Plan that would show what kind of things would be monitored.

It's possible to forecast El Ninos so some of the effects of El Ninos could be predicted on the archipelago resource dynamics. The effects could include drought, lower sea level and higher sea surface temperature.

Amesbury invited Council Members to read her reports.

Seman invited questions to Amesbury.

Duenas thanked Amesbury for her efforts in the project and found it very insightful.

Duerr commended Amesbury. He suggested Amesbury go online to see a similar study conducted by the State of Hawaii.

Having no further questions, Seman moved on.

3. CNMI/GUAM INSHORE COMMUNITY-BASED INITIATIVES

Bartram presented the pilot study theme that focused on community-based approaches to ecosystem-based management.

When people see the word "inshore" they might think the Council is thinking about proposing federal regulations for inshore areas. The Council has other mandates that bring their attention right to the shore. Some of those mandates are to work with communities and to be concerned with Essential Fish Habitat issues.

Bartram has canvassed fishermen in Guam and in CNMI. He found that there are projects that were already underway and he was able to provide some immediate technical support.

He also found that there are other projects that are longer term which need greater community organization and capacity leadership. The canvassing continues through the Council's onsite coordinators for Guam and the CNMI.

Communities can offer everything from educational-type programs, peer pressure to fish responsibly, revitalization of cultural practices that can promote responsible fishing and partnerships for things like watershed kinds of projects that could lead to restoration of marine habitats.

He noted that there was a lot of discussion in some of the breakout groups at the Council's ecosystem modeling workshop in April about how successful the watershed approach in the terrestrial environment on the U.S. Mainland has been in terms of

applying ecosystem principles. In spite of the fact that there really is no national consensus in the management of land or ecosystem-based management of land on the mainland, watershed councils, which are community-based and place-based, have been extremely successful. The same approach is just as effective for marine resources management.

Bartram introduced Jesse Rosario, a third generation subsistence fisherman from Guam who presently works at the College of Agriculture in Guam.

Rosario presented five initiatives that they felt are appropriate for the pilot project.

The five initiatives include:

To track participants of the 4H Youth Summer Fisheries Program that's conducted at the University of Guam by the Cooperative Extension Services.

A field survey of inshore fishing practices of subsistence fish catch, consumption and seafood dependence.

To produce a public calendar promoting responsible inshore fishing.

To investigate establishing a reserve for their fishing grounds.

Create an exemption in some of Guam's Marine Reserves to sustain the teaching of traditional fishing practices to their kids and grandchildren to allow seasonal fishing and allow catch of fish for special occasions, such as weddings, village fiestas for their saints, et cetera.

Rosario offered details on how to accomplish each of the initiatives. He also acknowledged the need for the Council's assistance and the participation of the stakeholders.

He believes if everything works the way planned, they will accomplish a sustained and healthy ecosystem and habitat area, more responsible fishing, increased protection of the shores, proper enforcement and it will benefit everyone.

Seman invited questions to Rosario. Having no questions, he moved on.

Bartram introduce Jack Ogumoro from Saipan speaking on a similar community initiatives.

Ogumoro reported that since May there has been work focused on four ecosystem-related projects. The projects include:

The Rota High School Marine Exploration Club.

Self-management of inshore fishing in the Northern Islands by not targeting major fish species during peak spawning.

Revive traditional chenchulu fishing practice.

Allow limited annual take of green sea turtles for indigenous ceremonial purposes.

Next year they expect 50 more community fishing projects.

After presenting some thoughts on how to accomplish each of the projects, he also acknowledged the importance of working with the government to ensure a collaborated and coordinated approach in pursuing the goals. He added that although it might be difficult, it's not impossible.

Seman invited questions to Ogumoro.

Tuaumu asked if the CNMI is presently allowed to take turtles. Ogumoro answered no. Seman further explained that when the Northern Mariana Islands became a U.S. Commonwealth, the turtle were banned in CNMI. Prior to the Commonwealth, turtle was allowed to be taken. A simple political change turtle take.

Bartram introduced John Gourley of Micronesian Environmental Services to talk about his research.

Bartram clarified that the adaptive management approach is to design a simple model and then start doing an experiment or a trial management, monitor the results of that trial, evaluate the results of the trial and then if it's necessary to change management based on what's been learned, then iterate.

The concept of community-based voluntary guidelines in adaptive management is that the community agrees to set some voluntary fishing guidelines for a particular area. They enforce those guidelines not through regulations, but through peer pressure. Users are not only catching fish, but they're also collecting information.

4. GUAM OFFSHORE BANKS MANAGEMENT OPTIONS

Gourley pointed out to the Council that in practicing ecosystem-based management, place-based management, the fisherman's knowledge must be utilized. In order to do that, experienced Guam bottomfishermen were interviewed.

He briefly described the species found on Guam's offshore banks, characterization of the vessels, distribution of the fishing grounds, island of origin for stakeholders, weather restrictions on the ability to fish and the resource connectivity among the banks.

Place-based options for management include:

To manage each bank separately.

Differentiate demersal resources into two different depth-associated regimes, shallow-water and deepwater areas.

The use of spatial Eco-Management Regions, which is more or less a nested approach.

Some regulatory-based options for management include:

The status quo, which is the applicable existing federal regulations under the Council.

Develop a formal co-management agreement between the Council and the Guam fishing community which would be responsible for data reporting, monitoring, establishing guidelines in fishing regulations and community-based peer pressure for enforcement. The community would also work in a cooperative relationship with the University of Guam Marine Lab in determining reproductive seasons for the various fish they're targeting. The South Guam Eco-Management Region has been chosen as an initial site for trial.

Some proposed trial management parameters:

A three-year project focused on the South Guam Eco-Management Region. South Guam covers the alvez and the Santa Rosa Banks. Some of these banks are perceived by the local fishers to be depleted of shallow-water bottomfish.

The Guam fishing community would be responsible for conducting all monitoring, data collection and working with the University of Guam for additional data collection and helping the adaptive management process, with an annual review of their efforts.

The cooperative research between community and the UOG Marine Lab is very important because it helps the fishermen learn a side of fishing that they may not be fully

aware of. It helps the fishermen to understand what they're doing. It also gives the fishermen a sense of pride in having them involved in something that they have some control over.

The results of the adaptive management program will be reviewed by the Council, West Pac FIN, DAWR and University of Guam.

Guidelines will be adapted and research plans will be based on lessons learned.

Gourley presented a map of the two regions proposed, the Guam South Eco-Management Region and the Guam North Eco-Management Region.

Seman invited questions to Gourley. Having no questions, Bartram continued.

Bartram summarized the points of the pilot study just presented by Amesbury, Ogumoro, Rosario and Gourley.

Bartram recommended preparation of a prototype of a future annual report using a much more dynamic approach and continued moral and financial support is critical. In some cases, financial support for inshore coastal community initiatives is needed. Assistance of a technical manager to assist the community in terms of pulling all the elements together for this community-based trial has also been proposed.

Bartram explained the reason the Guam part of the project is so far along is because of the support and the strength of the Guam Fishermen's Co-op as a community organization.

Other areas considered as a possible Eco-Management Region are north of Rota and the Western Mariana Ridge of Seamounts.

Seman invited questions to Bartram. Having no questions, Seman moved on.

A. WESTERN PACIFIC FISHERY ECOSYSTEM PLANS

Makaiau summarized a number of reasons the Council is developing Fishery Ecosystem Plans, such as the Magnuson Act mandates consideration of ecosystem impacts through habitat degradation, impacts to Essential Fish Habitat and protected species. The Pew Ocean Commission, the U.S. Commission on Ocean Policy, NMFS Ecosystem Principles Advisory Panel all call for looking at a more broader approach to management of coastal and ocean resources.

The Marianas Pilot Project just presented s one example of a potential approach. Right now there is no blueprint for ecosystem-based management. If one were to sit down and think of all the things that need to be considered the list would be enormous.

H said the draft Fishery Ecosystem Plans, provided to the Council members represents the first step to establish a framework under which the Council will manage fishery resources and begin integration of the ecosystem type information into the Council's decision-making process.

Makaiau pointed out that the ecosystem is a huge mandate, not only for the Council but also for federal and state and territorial and commonwealth agencies together. It will have to be done through a multi-step approach, coordinated with all island areas.

Makaiau said the Council does not have all the answers. Hypotheses need to be tested. Experiments need to be performed. Models need to be run. The transition to ecosystem management will be ongoing and continual. .

In terms of regulatory actions at this point in time, the Council has directed Council staff to investigate looking at moving towards an archipelagic-based Fishery Ecosystem Plan. Internal workings and internal structure also needs to be reviewed. Right now the plan teams and advisory panels are still based on fishery sectors. The advisory process needs to be reorganized to help facilitate the new place-based management approach.

Experts and agencies that have oversight and responsibility over activities other than fishing need to be consulted and coordinated with, as well as increased collaboration with communities and international countries that share resources.

Some people may ask where are the ecosystem indicators in these plans that can be used to account for uncertainties in ecosystem trophic interactions between species. Right now that information is not available.

The Ecosystem Principles Advisory Panel Report recommended Council begin developing food web models. There are partnerships and initiatives ongoing, such as the Hawaiian Archipelago Research Initiative. Additionally, in April 2005, the Council held an Ecosystem Science and Management Workshop which asked scientists to identify the most effective ecosystem-based approaches to marine resource management that could be implemented based on current bio-physical data. A second workshop will be held in January 2006 to identify the social science components needed to effectively support ecosystem-based approaches to marine resource management.

Kingma presented an outline of the public input that's gone into this process and described the NEPA Compliance that's been conducted as well.

A Notice of Intent was published to conduct a Programmatic EIS. Public scoping meetings were held last year around the region as well as joint plan team meetings. Public hearings were held regarding FEPs recently.

In planning for this document and planning for the Council's steps toward ecosystem approaches, the Programmatic EIS is appropriate for the NEPA compliance of this action. It could be debatable if the Council's reorganization for moving from species-based to place-based is a major federal action, but using the Programmatic EIS approach is a good way for the Council and the public to get an idea of the broad-based planning or regional planning and the differences of the new approach.

The Programmatic EIS was developed this summer.

The public comment period begins tomorrow and lasts until December 19th, which amounts to a 45-day public comment period. Council Members will also receive a copy in the mail.

Five issues were analyzed in the Programmatic EIS. They include: (1) FEP Objectives; (2) FEP Boundaries; ((3) FEP Management Unit Species; (4) Council Advisory Structure; (4) Community Involvement; (5) Regional and International coordination.

Kingma noted that the Programmatic EIS includes a well-rounded analysis for the Council's movement towards the ecosystem approach.

Makaiau then provided the Council with a summary of the preferred alternative for each of the five issues analyzed. He noted that the preferred alternative is described in detail in each of the FEPs.

Seman invited questions to Makaiau and Kingma. Having no questions, Seman returned the chair to McCoy.

McCoy adjourned the meeting for the day.

McCoy reconvened the meeting on Friday, November 11, 2005.

Seman called on Jay Gutierrez to report on Guam's Coral Reef Fisheries.

D. REPORT ON GUAM'S CORAL REEF FISHERIES

Mr. Jay Gutierrez, from the Guam Department of Agriculture, Division of Aquatic and Wildlife Resources, presented a brief overview of the coral reef fisheries in Guam

The Mission Statement of the Fishery Section of the Division of Aquatic and Wildlife Resources is to restore, conserve, manage and enhance aquatic resources in and about Guam and to provide for the benefits and the public use from these resources.

The Division of Aquatic and Wildlife Resources collects data on coral reef fisheries via offshore surveys, the Commercial Fisheries Program, the inshore creel surveys and the MPA Fish Assessment Survey.

The offshore surveys consist of boat-based surveys, collecting catch and effort data from the Agana Boat Basin, the Magnum Marina (phonetic) and Merizo Pier. Eight surveys are conducted per month; four surveys conducted during weekend periods and four surveys conducted during weekdays.

The Commercial Fisheries Program is a volunteer-based receipt book program. A minimum of three vendors are needed for the program. Many vendors do not provide CPUE data. Data collected includes commercial landings and revenue.

The MP Assessments gather data from studies conducted in the Piti Bomb Holes Preserve and Achang Reef Flat Preserve. Methods used are transects and timed swim counts for collection of density and diversity over time data. Baseline data within the Piti Bomb Holes Preserve has been collected with regards to substrate cover. Follow up is needed.

The inshore survey is a non boat-based survey, which consists of surveys conducted onshore. Data is collected regarding catch and effort, total harvest, species composition and CPUE information. Four surveys are conducted each month. The surveys have been conducted since '85. The three regions covered are Adelupe to Agat, Gun Beach to Adelupe and then Pago to Merizo.

Participation surveys are conducted four times per month with two aerial surveys to cover inaccessible areas.

Top families for FY 04 include surgeonfish, which are the most harvested species, with a total harvest of approximately 21 metric tons; followed by jacks, with a total harvest of 16 metric tons. Following the jacks are rabbitfish, goatfish, snappers, emperors, needlefish, rudderfish, groupers and parrotfish.

Rabbitfish was the most harvested individual species, with 7.2 metric tons; followed by the bluefin trevalley; followed by the blue-spined unicorn fish, the convict tang, orange-spined unicorn fish, the bigeye scad, goatfish and bigeye trevalley.

Hook-and-line was the most commonly used method, with approximately 31 metric tons of fish caught.

Gear-hours total approximately 154,000, while CPUE for this method was at approximately 31 metric tons. Cast net is the next most highly used method, with 11 metric tons of fish caught; followed by gillnet, surround net and spear/snorkel and scuba/spear. Next is hook and gaff, with 1.4 metric tons. Drag net. Lastly, all other methods, which is approximately 2.8 metric tons. Total harvest for FY 04 equals 92 metric tons.

Seman invited questions to Gutierrez.

Loerzel asked if the rabbitfish numbers include both the adults and the manahak. Gutierrez responded it was only adults, but the information is available for the manahak.

Seman asked if records are kept of fresh reef fish imports. Gutierrez replied only if the vendors report the information via the Commercial Fisheries Receipt Book Program. Customs may also have some estimate. There are no figures available off the top of his head, but he can get the numbers for Seman.

Seman explained in the Division of Fish and Wildlife on CNMI the information is collected via airway bills from the Quarantine Office. Every fresh fish imported by air is recorded. Saipan imports over 300,000 pounds, with 60 percent from Palau and the rest from Pohnpei or Yap. CNMI has a relatively simple way of getting the information by just simply collecting the airway bills as they come in and entering it into the computer system. Gutierrez said he will look into obtaining the information and get back to Seman.

Duenas estimated three or four flights a week arrive in Guam from Chuuk, each flight has anywhere from five to ten thousand pounds of reef fish. The fish is sold as local fish. Customs does keep a record of all the imports. Two years ago the imports into Guam totaled \$32 million worth of fish products, which makes up about 95 percent of the island's consumption.

Duenas agreed it would be a good idea to get the information from Customs and incorporate it into the annual report.

Seman said the data also gives an idea of the economic potential of fish in general.

McCoy noted the conference call regarding the NPOA on Fishing Capacity scheduled on the agenda for 9 o'clock has been cancelled.

E. GUAM REEF ECOSYSTEM ANNUAL REPORT

Mr. James Hawhee, contracted to prepare the beginning assessment for Guam's Coral Reef Fisheries to be included in the annual report, provided the Council with an update of his progress. There are plans to expand the assessment to the other island areas. These assessments are a step toward ecosystem-based fishery management.

Hawhee outlined the two levels of the analysis as:

Level I is just simple basic fishery statistics.

Level II incorporates ecosystem and trophic level designations in the analysis.

The Level 1 analysis includes basic data similar to Gutierrez's report. Most of the data for the study is coming from Guam's creel surveys which are very detailed.

The data includes catch by gear type, aggregate inshore, offshore and total catch for the ecosystem, effort listed by trip and by gear-hour and CPUE by hour in the aggregate sense.

The first task was the determination of which species were going to be called coral reef species. He showed a list of the Coral Reef Ecosystem Management Unit Species. He was asked to couple the analysis of the CREMUS species with some Shallow-water Bottomfish Management Unit Species.

Trophic levels were then determined for the 800-and-some species that have been identified as being caught in Guam over the last 25 years. Previously no concrete methodology existed for categorizing these trophic levels. The only general consensus is that there are four trophic levels.

Hawhee briefly described some of the types of data used.

Some of the results of the analysis so far include:

All inshore gears showed decreases or no trend in total catch.

Effort trends are mixed for inshore gear types, but the last seven years show a 54 percent reduction in total hours fished.

For the inshore catch per unit effort six of nine gears showed negative trends. There are some substantial declines in the net and hook-and-line fisheries over the time period.

For offshore trends, one offshore gear type shows an increase in catch. Effort for most offshore gear types is increasing, nearly a threefold increase in total hours since 1985.

Offshore catch per unit effort showed mixed trends with some declines in the night light fisheries and a substantial increase in the offshore scuba spearfishing.

Charts of catch over time of the various gear types were displayed. He noted the decline in effort and catch over the last seven years depicted on the chart.

He also noted that in the last 23 years that the study covers the prominence of offshore fishing has emerged, as inshore fishing shows little potential for growth and/or signs of overfishing. However, the offshore fishery has seen some recent decline as well.

He drew attention to some indicator tables that were created. The table depict years that show the maximum ten-year average catch per unit effort and various indicators calculated by both gear type and family. All points are above the Minimum SST.

Some potential indicators that will be useful when analyzing what's going on in the system include:

The proportion of take by trophic level for each gear type, to see how that changes over time;

Some multiple regression analyses with other quantified factors, especially looking at catch of previous years versus the catch per unit effort the following years;

The evaluation of pristine ecosystem traits.

Hawhee noted some points of concern, such as stock indicators are based on one-half of the maximum catch per unit effort average. This really presumes the assumption that 1985 to 1994 was a pristine unfished ecosystem. Looking at a number of studies there are massive declines in catch and catch per unit effort over longer periods. So this brings to mind shifting baseline considerations.

He briefly touched on the reconstruction studies which are ongoing which estimate the total catch in Guam since 1950 which show drastic reductions in catch from historical levels to present. Jarad Makaiau will report on the reconstruction study later in the meeting.

Another point of concern are fishery mortality and effort indicators. The fishery management plan is unclear in the description of the indicators. There are no examples and no defined equations.

Optimal effort is going to be different under different ecosystem states. You would want to develop a curve instead of a point with regard to optimal effort that relates to not just biological factors, but economic factors as well.

Future work planned includes:

Continued literature search and consultation with stock assessment experts;

To team with West Pac FIN to start establishing some programming languages for future reports;

Move out to the other island areas;

Perform a closer examination of potential indicators.

Hawhee hopes by the end of March he will have a report on the Council's desk. He thanked Jarad and West Pac FIN for their valuable assistance.

Seman invited questions to Hawhee.

Duenas asked for clarification of Hawhee's statement with regard to Guam's pristine condition in 1985, as his family has been fishing way before that. Hawhee replied if that is true, then the information needs to be reexamined and explained his work is a work in progress of a very, very complex task.

Duenas also questioned the consumption rate prior to the '80s. He thinks Guam has never harvested such a high amount of fish. Hawhee said he wished Zeller, author of the reconstruction study, was present to discuss such points.

Loerzel also voiced curiosity about some of the reconstruction rates in terms of differentiating the inshore and the offshore. Hawhee agreed, pointing out he used the terms to mean the boat-based fisheries versus the shore-based fisheries, which might have

been a mistake in his terminology. Loerzel said again that she was surprised by the numbers.

Sablan asked where the data came from for the CPUE on the charts. Hawhee replied the data came from DAWR.

Sablan asked if such a bleak picture of the fisheries in Guam is a fair representation for the Council when the data used only goes back to 1985. Hawhee replied that all the data from DAWR is data that is absolutely relevant for management of the fishery. There's no guesswork. All the information comes from creel surveys that have been validated and used for the last 20 years.

Sablan asked if there are any gaps in the data. Hawhee replied there some gaps for some of the gear types that aren't utilized quite as much, but the more commonly used gear types have no gaps. A determination was made that data from 1985 on is the best data there is for him to work with.

Sablan asked if there were any other variabilities that was not reported in the presentation. Hawhee replied there were tons. There's a lot of data, covering 25 gear types and 100 fish families. He's looking at every single datapoint the DAWR has taken in the last 25 years for this fishery. He is just trying to give an idea of what he's doing and some of the interesting things that are going on.

Duenas asked why spearfishing was not covered. Hawhee replied that there is scuba spearfishing, snorkel spearfishing, mixed spearfishing, but he did not show them all. There are 25 different gears covered. For the most part, the snorkel spearfishing tracked the scuba spearfishing.

Hawhee will be working with West Pac FIN very closely in the coming months to fill in the many gaps.

Duenas raised the issue of the change in society from a fishing and farming society to a monetary society after the war. He feels this should be taken into consideration by Hawhee. Duenas said he knows there is a problem with the inshore fishery, but is not convinced there's a problem with the offshore fishery by the numbers shown in the presentation.

Seman asked what kind of adjustment was made in the analysis with regards to Guam's area closures, meaning military bases. Hawhee replied that with any change to management there may be small differences in the catch. Right now he is looking at data and doing the math and that kind of consideration will be done in the future.

Seman's concern is the fact that people may change their fishing habits, such as after 9/11, because of security measures taken and suggested adjustments should be considered for such situations. Hawhee replied that he has not yet taken that into consideration, but plans to do so in the future.

F. RECONSTRUCTION OF CORAL REEF AND BOTTOMFISH CATCHES

Makaiau attempted to brief the Council on Dr. Zeller's presentation on the reconstruction project as Zeller was not able to attend because of his wife giving birth. Zeller, from the University of British Columbia, was contracted to prepare a reconstruction of the fisheries.

Makaiau briefly explained some of the methods used to reconstruct fisheries data for all island areas before records were kept of coral reef and bottomfish fisheries from the period of 1950 to 2002.

The project was initiated in 2003. To reconstruct fisheries data using nontraditional sources, Zeller is trying to obtain the global view of the fisheries. One problem with this method is there is a high level of uncertainty and variability using this type of information. Sometimes only partial data is used because that's the only data available.

Makaiau briefly explained the concept of anchor points, or point estimates, which Zeller used in trying to account for nonexistent data. Zeller then talks with experts to check on the accurateness of the estimates.

Makaiau pointed out the reconstruction does not include any pelagic species, tunas and billfish. It only deals with coral reef species and bottomfish species, as well as atulai and akule, which are nearshore coastal pelagics.

There are many assumptions used in this exercise. Some assumptions are derived from cultural practices, such as urbanization. Locally significant events and factors are probably not always accounted for.

The following are some conclusions from Zeller's report:

For all island areas combined, based on this reconstructed data, the UBC team estimated there has been a 69 percent decline in catches of reef fish.

For individual island areas, Zeller's conclusions are:

In American Samoa there has been an 82 percent decline in reef fish catch.

In CNMI, a 50 percent decline.

In Guam, an 86 percent decline.

In Hawaii, a 78 percent decline.

Reported data collected could possibly be underreported by an order of 4.6 percent.

He believes that the catch rates per area are conservative compared to the published literature and that the main islands, or the population centers, have more stress. Obviously, with more people there's more potential for over-exploitation of resources.

There are significant data gaps for this report; catch rates, consumption rates
Import/export information is almost nonexistent.

Zeller made an assumption that a lot of the resources which were utilized immediately after World War II were taken from the shore area.

After the draft report was circulated to each of the island areas and the plan teams to review there were significant concerns about the methodologies, the approaches and the conclusions. A workshop was held in August of 2005 to discuss the data, the methodologies and assumptions and findings of the report.

Comments offered are as follows:

The island areas recommended that the language referencing the terms "overfished" and "overfishing" be struck because obviously this language has Magnuson Act implications. The assessment, itself, was not done in accordance with the stock assessment.

A note be included in the Executive Summary note that the reconstruction does not consider shoreline changes, changes in diet, shoreline development, a shift from traditional food sources. It does not address any of those things which could influence catches over the long term.

Lack of data is another concern.

To validate the information from a number of other sources.

The Council commissioned the report to help assess the shifting baseline issue, what is the possible availability of food fish from the past, and is that a level that we want to try to achieve in the future.

The author is presently incorporating all the comments received, which is expected to be finalized in December of 2005.

Seman invited questions to Makaiau. Having no questions, Seman moved on.

G. MARIANAS RAMP CRUISE REPORT

Schroeder reported on research conducted by the Coral Reef Ecosystem Division of the Fisheries Science Center based in Honolulu aboard the NOAA vessel, the OSCAR ELTON SETTE. Funding and support was also provided by the NOAA Coral Reef Conservation Program. Local partners participating in the cruise included, in the CNMI, DFW, DEQ and CRM; in Guam, partners included DAWR, UOG and the Fisheries Cooperative.

The objectives for this study were to monitor reef resource species, looking at the composition, abundance and distribution of reef fish, corals and macro-invertebrates and algae. Habitat composition was mapped. Oceanographic monitoring was another objective, looking at things like temperature, salinity, clarity of the water, nutrients, carbon chlorophyll, mid-water biota and circulation patterns and wave energy.

Field tests were conducted using a BOTCAM, which is an underwater camera bait station, to assess relative abundance of deepwater bottomfish.

An Education Outreach Specialist was onboard to help promote understanding of the work and the value of coral reefs.

Schroeder summarized the accomplishments as follows:

A total of 33 scientists participated on three legs, 20 scientists each leg.

The group spent a total of 31 days doing underwater surveys from early September to the 9th of October, completed 140 towed diver fish and habitat transects, did 74 fish and benthic REAs, or rapid ecological assessments, with 52 moorings retrieved and deployed. There were 472 CTD profiles looking at temperature through a depth profile.

The group completed 75 bioacoustic transects done at night. There were 13 trawls looking for the planktonic organisms that the bioacoustic transects look for.

There were 42 BOTCAM drops completed, with a total of 960 scuba dives for everybody involved.

Fish survey methods included belt transects and stationary-point counts and ROV diving surveys to get species composition. Some sampling collection was done where needed.

Schroeder briefly reviewed the 2003 data collected. Trends basically show the numerical density of mid to large fish is considerably higher in the northern islands, somewhat intermediate in the mid islands and lowest in the southern islands. Looking at the same trend for different groups, whether it be grouper, snapper, emperor fish, surgeonfish, there is a similar trend.

Some general trends found in 2005 include:

Medium-large fish were still relatively abundant and diverse in most of the northern islands. The east side of Rota also had some pretty good fish fauna. On the western banks it was a bit less abundant, but still fairly good. In the southern islands, they were uncommon, as well on the Southern Banks.

Overall, the fish trends for 2005 showed small fish were the most common numerically. In the south there were a lot recruitment pulses going on for several species of damselfishes.

Looking at rare and endangered species, the Napoleon wrasse or humphead wrasse, a few were seen at some of the islands in the middle of the chain in the south.

Bumphead parrotfish, another very rare species in most places of the Pacific, were not seen at all this year anywhere. In 2003, several were seen.

A new species was collected. Photographs that were sent to Jack Randall at the Bishop Museum confirmed it as a new species. A manuscript is being worked on for publishing for *Pseudojoloides*, which is a type of rainbow wrasse.

Schroeder also briefly reviewed the benthic survey methods and listed some of the common taxa seen, as well as corals.

The ship stopped at Wake for five days of survey on transit back to Honolulu.

Schroeder also presented an overview of the algae results and oceanographic parameters and information on spatial and temporal distribution.

Schroeder highlighted some of the trends seen on a few of the islands during the cruise. He played a short video of bait release through acoustic release.

Schroeder thanked the Council for allowing him to attend the Council meeting to present the results of the cruise.

Seman invited questions to Schroeder.

Sablan asked what the depth of Arakane was and if there were any giant clams reported on Maug. Schroeder replied the depth at Arakane is approximately 241 meters and gigas were seen at Maug, as most of the Bottomfish Management Unit Species were seen at Maug.

Sablan asked when the report will be ready to be released to the CNMI and Guam. Schroeder replied that there are some funding proposals in to get more units. Once they get more units, they will go to each area every two years. This will be important to be used in Hawaii where there are bottomfish issues. Plans are to be around Tutuila in February.

Sablan asked if he concluded that the Napoleon wrasse and the bumphead parrotfish are no longer there since they were not seen. Schroeder replied that with the brief stays at the islands, sometimes only one day per island, it's hard to make firm conclusions about that at this point in time. They may be at a lower abundance than what they two years ago.

Sablan asked if the Napoleon wrasse was listed as an endangered species now. Schroeder replied that the Napoleon wrasse is endangered, along with the humphead parrotfish, which are found to be even more rare around the U.S. Pacific Islands, but they are not listed yet. He believes the listing is being worked on.

Seman asked for clarification regarding the endangered listing. Schroeder replied that he was speaking of the IUCN Red List, an international listing.

Duenas asked if there were any changes in the habitat noted on the cruise. Schroeder replied there were some changes in the habitat. Rota habitat seemed to be of a bit lower quality than it was two years ago. He suspected that was because of the number of typhoons that came through in the past two years. Sarigan, which is about 20 miles north of Anatahan, some of the reefs looked a bit stressed there, probably from ash fall from the

volcano. Vegetation on one side of the island was brownish, probably from ash as well. They did smell sulfur fumes while diving Sarigan.

Duenas explained historically on Guam there is a season for the Napoleon wrasse in August, where it's harvested on the eastern side of the island. You can find anywhere at least 120 pounders almost any time of the week. It is assumed they are coming from the banks.

Duenas thanked Schroeder for the invitation to have a Co-op member join the cruise and was sorry no member could ride along and hopes the invitation will be extended on the next cruise.

(Brief break was taken)

McCoy reconvened the 129th Council Meeting.

Seman introduced Malia Chow from the Pacific Islands Region of the National Marine Sanctuary Program.

H. NATIONAL MARINE SANCTUARY PROGRAM

1. NMSP REPORT

Chow attended the meeting representing Allen Tom, who was not able to attend due to a scheduling conflict. She thanked the Council for the opportunity to report on NOAA's National Marine Sanctuary Program.

Chow explained that National Marine Sanctuaries are areas of special significance in the marine environment that have been identified because of their unique conservation, recreational, ecological, historical, cultural, archeological or aesthetic qualities. The National Marine Sanctuary Program is mandated by the National Marine Sanctuary Act.

Chow presented an overview of the highlights for 2006 projects:

The National Marine Sanctuaries Act will be reauthorized in 2006. Of the 13 National Marine Sanctuaries throughout the country, there are several that are undergoing Management Plan Reviews.

A Joint Management Plan Review on the West Coast will be conducted in 2006. The Channel Islands will also be conducted in 2006.

The Olympic Coast will begin its review, as well as the Stelwagen Bank up in New England.

The Hawaiian Islands Humpback Whale and American Samoa will also be getting their Management Plan Review.

Some key events taking place in the Pacific in 2006 includes:

The HI'IALAKAI, the NOS' research vessel, will be doing an educational cruise in American Samoa in January of 2006 for three to five days.

The Research Coordinators Meeting will be held in Honolulu in February of 2006. The educators will also be meeting in American Samoa in March.

Chow briefly explained the Management Review Plan process.

Every site develops management plans. The plan is really a planning and management document that implements and articulates goals and objectives. It contains strategies and future activities that guide site management. It also identifies staffing and budget needs. It's also a document that sets priorities and performance measures, outlines shared with local, state and federal authorities and contains regulations and site boundaries.

The reviews are required by law every five years. Throughout the process the operational and management framework, the regulations, the boundaries and the priorities are reviewed.

It allows each site to ask the following questions:

Are the statutory objectives and performance measures being met.

Are present issues and concerns being addressed and are they being dealt with effectively.

Management plans integrate with overall program planning efforts. Within the past year the National Marine Sanctuary Program developed a strategic plan that fits in with the goals within NOAA and addresses a lot of similar performance measures. That plan has about a five to ten year lifetime.

These management plans are developed and then implemented through what is called the Annual Operating Plan. It addresses the budget and day-to-day activities and is done annually.

Program performance measures are linked both at the national level and at the site level. Within the Annual Operating Plan there are key targets that need to be met.

Fagatele Bay is about to celebrate its 20th year birthday. It was established in 1986. It's about a quarter mile square, composed of primarily tropical coral reefs.

The Hawaiian Islands Humpback Whale was established in 1992. It's about 1,370 miles square, and primarily focuses on whale breeding and calving grounds.

The Northwestern Hawaiian Islands is a Reserve established about five years ago. NMSP is currently undergoing a Sanctuary Designation Process. The Reserve is 99,000 nautical miles square.

Key areas for Fagatele Bay National Marine Sanctuary for 2006 include:

Management plan development.

They've recently established a Sanctuary Advisory Council, which has a fishing representative. The Chair is Lauvao Stephen Haleck.

The HI'IALAKAI will have an educational cruise in January. Pending funds available, a dive and education workshop is planned for 2006.

The Hawaiian Islands Humpback Whale National Marine Sanctuary is in its final year of a cetacean survey, an international collaboration between countries surveying humpback whales. They received in 2005 an educational earmark of about 1.7 million that focuses on incorporating marine science education in a lot of their research activities. Ship strikes and strandings will also be a focus.

Primary focus for the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve is the Designation Process.

In Hilo there is a Discovery Center which highlights Hawaii's remote reefs, with two cruises a year, one, which was just completed, in October and another in May. The October cruise was a RAMP monitoring cruise. The May cruise allows researchers from the Hawaii Institute of Marine Biology to get out to the site and conduct their research.

The focus of the regional budget in 2006 includes:

A brochure and bookmark will be produced for the Maritime Heritage Program where it looks at surveys of shipwrecks throughout the different Marine Sanctuary sites.

GIS products, including bathymetry maps.

The Pacific Islands Region also provides the umbrella for MOAs and MOUs for each of the sites and are contemplating possible new site evaluations.

New staff have come onboard, a new NOAA Corp Officer who joined the Regional Office in Honolulu, that's Dave Rathburn.

Tom will also be hiring a Regional Deputy. Nancy Daschbach will be moving to Oahu sometime this year to fill that position.

A new Administrative Assistant is coming onboard.

Another maritime archeologist will be brought on by full-time contract. For those of you who know, Kelly Gleason has taken that position.

More GIS support will also be hired.

Chow said more space is needed for the growing staff. Tom plans to expand the cultural programs.

He has a couple of new projects online, tele-presence and satellite enforcement.

The Sanctuary Program is strongly supporting tele-presence. It's very difficult to get people to appreciate the underwater world if they don't go there. So the idea is to project images to them. There are several sites in the program that have these pilot tele-presence exposures. One is in Monterrey Bay, which is actually projecting images to Mystic Aquarium in Connecticut.

There's also one in the Florida Keys Thunder Bay has their shipwreck in Alpena.

A pilot project is planned at HIMB. Reef 42 has a tremendous number of sea turtles. Cameras will be put in. Hope is the pilot will be up and running by Spring of 2006.

Satellite enforcement is a big challenge. Work is underway within NOAA to do remote surveillance of the Northwestern Hawaiian Islands.

The Pacific Regional vision is really to pull together a unified constituency. The Pacific

Region is geographically, politically and culturally unique. Its aim is to assist each site with coordinated programs and projects and really try to expand its mission to other insular islands and nations.

Chow wanted to leave the Council with the thought that Tom is developing relationships with several different partners. They really would like to consider future site evaluations in the program as a whole, but particularly within the Pacific Islands Region. Currently, there is a congressional language prohibition on this. So it's not happening anytime in the near future, but Tom would like to share with the Council that he's open to working with the Council to identify new sites for designation, perhaps under some kind of a contract with the Council.

There are no defined plans at this time, but he wanted to emphasize that this truly would be a bottom-up approach. He doesn't want some designation coming from some legislative mandate, but instead would like to work with communities through West Pac to identify candidate sites. Chow offered a short list of sites as possibilities.

Seman invited questions to Chow.

Duenas asked Chow how Tumon Bay got on the list of possible sites. Chow replied that she did not know the answer and asked if Simonds would like to comment. Simonds said the list is meant as a suggestion.

Simonds added that she and Tom have had discussions about the Western Pacific Region, not just the territories. The Council has invited him to different workshops that are coordinated with the FAO and the SPC. So discussions are always ongoing.

Chow said the take-home message of her last slide is that Tom is looking forward to working with the Council on this and has no set agenda of how it works, but just wanted to plant the seed with the Council now to be able to continue to work with the Council on it.

Sablan asked Chow if she was aware that the CNMI has islands that are now protected by laws and their constitution, such as Maug Island, Guguan Island, Uracas, and does she still foresee that the Northern Islands need a sanctuary. Chow replied she would like to avoid redundancy and, if anything, it may make more sense to do an exchange between sites and not actually have to do a designation.

Sablan said he does not want to create a whole lot of other political separations. Chow said that she's sure a lot could be learned from the way things are done in his area.

Having no further questions, Seman moved on. Seman introduced Ed Lindelof from the National Marine Sanctuary Program Office.

2. NOAA REVIEW OF COUNCIL'S NWHI DRAFT FISHING REGULATIONS

Lindelof thanked the Council for inviting him to speak on the Northwestern Hawaiian Islands Proposed Sanctuary.

Lindelof reported that a couple of weeks ago when the Council Chairs, Executive Directors and RAs met in Washington there was a presentation given by Craig McLane (phonetic) from the National Ocean Service talking about how coordination activities can be improved. There's a general feeling with all of the Councils and with the Sanctuary Program in general that better ways are needed to work together and that working relationships need to be formalized.

As a result, what's being worked on now and what was discussed at that meeting what is loosely referred to as a wiring diagram on how the Sanctuary Program operates, how the Magnuson Act operates with the Council structure, how NOAA Fisheries operates, and how to best integrate some of those things so that the Council is involved earlier on and more frequently in Sanctuary decisions and also so that the Sanctuary Program has a voice in those things that are related to Council business that's relevant to them.

Yesterday there was another revision done to the wiring diagram that all of the Regional Councils are going to be asked to comment on. Headquarters of NOAA Fisheries and National Ocean Service will be sending a request for comment on the wiring diagrams and coordination efforts.

Lindelof wanted to remind folks of the very real differences between the National Marine Sanctuary statute and the Magnuson Act. The National Marine Sanctuary statute is a resource protection statute that focuses on maintaining natural systems and long-term protection. The Magnuson Act, while it incorporates some of those provisions, in the end is about sustaining fishing and sustainable fisheries.

While there may be some significant overlap for certain activities, from time to time there are very real differences that are pronounced, and one should not assume that because the Sanctuary requires a higher degree of protection that there's anything wrong with the management under the Magnuson Act.

Councils and NOAA Fisheries have been doing an excellent job under the Magnuson Act, but may not provide the sufficient level of long-term protection that's really required under the Sanctuaries Act.

Lindelof directed attention to the copy of the findings made by the NOAA Administrator included in the Council's briefing book.

NOAA reviewed the recommendations West Pac provided on April 14th, which were in response to a request for the 304(a)(5) drafting of fishing regulations last September. NOAA did not feel that the recommendations provided fulfilled the goals and objectives of the Proposed Sanctuary.

One reason given was that there was a reliance on short-term moratoria and a future FMP. Under the National Marine Sanctuaries Act the long-term protection is a key effect. The short-term moratoria did not contain sufficient criteria to identify when those moratoria would be lifted so that the resources were continually protected.

The future FMP, while it's an excellent approach to doing some fisheries activities and fisheries management, it was not defined well enough as to what level of protection would come necessarily as a result of the FMP.

The other major area of concern was the level of bottomfish and pelagic activities. The number of permits that were proposed in those recommendations were higher than the Program felt were appropriate given the protection levels that were necessary for the Sanctuary. Also, there was not enough information given as to why those particular levels of permits would provide the kind of protection that was necessary.

The third major item was the lack of protected areas, or what is called Marine Zoning.

The Sanctuary's goals and objectives contemplate some extensive marine zoning as a tool to protect sensitive habitats, set up control areas, et cetera. In looking at the proposals from the Council, they were not sufficient to meet the level of protection required by the goals and objectives in the Sanctuaries Act.

The next step is the Environmental Impact Statement. Right now EIS alternatives are currently being analyzed and developed, at the same time writing the management plan and proposed regulations.

The DEIS Draft Management Plan is expected and needs to be out in June 2006. There will be a 60-day comment period. The Final EIS is expected to be out sometime in late 2006.

In early 2007, January/February time frame, probably more like February, for the Designation.

New information and the 304(a)(5) process has led to better alternatives in the EIS.

Lindelof presented a brief summary of the alternatives. He noted that all five of the fully analyzed alternatives allow for the continuation of bottom and pelagic fishing. Three of the alternatives continue it in perpetuity and the remaining two alternatives phase it out through attrition.

He reminded everybody that phasing the fisheries out through attrition means very clearly that it's phased out until the individual fishers who are currently there choose to leave. The NMSP wants to work with the Council to manage bottom and pelagic fishing under the Magnuson Act consistent with the proposed goals of the Sanctuaries Act and the Magnuson Act.

He said they're offering West Pac an opportunity to amend the Bottomfish and Pelagic FMPs to reflect catch limits consistent with the conservative optimum yield standards under the Magnuson Act and the proposed National Marine Sanctuary goals and objectives. He emphasized that he really wants to continue to work with NOAA Fisheries and the Council and the West Pac staff to figure out the most effective way to implement the fishery management regime, or any of the fishery management regimes under the alternatives, particularly the Preferred Alternative when that is finally decided.

They want to continue to work with West Pac and are looking at opportunities to do so. They would like bottomfish and pelagic fishing, if in fact that remains open, to continue being managed under the Magnuson Act.

Seman invited questions to Lindelof.

Robinson commented:

"Since I've been thrown in the middle of this process, one thing that I've observed is sometimes a lack of understanding -- I've seen it in the media. I've seen it in the public, I've seen even some in the Sanctuary Program staff -- as to the flexibility that the Magnuson Act provides.

I hear it over and over again from folks that, well, if you're managing under the Magnuson Act, you have to manage for maximum sustainable levels. I just think it's

important to note that that's really not the case, that the maximum sustained yield is a starting point.

We manage for optimum yield. Optimum yield is a downward adjustment from maximum sustained yield and that downward adjustment can occur for a lot of different reasons, as long as there's administrative record to support it.

It can be a downward adjustment for social reasons, for economic reasons, for cultural reasons. It can be a downward adjustment based upon a risk analysis and a desire to be more risk-averse in certain circumstances, depending upon the biology and the status of the stocks.

My only point is that I think sometimes out there in the public people that don't work with the Magnuson Act every day don't really understand the really high degree of flexibility that does exist under the Magnuson Act to take into account some of the other goals and objectives, such as those of the Sanctuary.

But it's my feeling that that flexibility does exist."

Ebisui said it is important for the Agency, NOAA, to take a position and explain the interrelationships and inter-workings between the National Marine Sanctuaries Act and the Magnuson-Stevens Act. There is a very prevalent perception out there that these two acts and objectives are mutually exclusive, and that is not true.

Based upon his reading of the National Marine Sanctuaries Act, it says that the Fishery Council is given first opportunity to draft the regulations for Sanctuaries. That needs to be clarified and it needs to be put to rest once and for all.

He noted another letter in the Council's briefing book addressed to the Pacific Council from four Olympic Tribes and Nation asking for clarification of this precise issue.

Ebisui asked if anybody knows whether or not the Agency intends to provide clarification. Lindelof replied that he has not actually seen the letter, but he knows of it and that one of the things that will help clarify this are the discussions that came out of the Council Chairs meeting a couple of weeks ago and the notion of the diagrams that shows the flow of the Sanctuaries Process as it relates to the Designation and the Management Plan Reviews, and then the concomitant flow of the Magnuson Act to see where the Council and the Sanctuary Office can better work together.

Lindelof agrees that the acts are not mutually exclusive, but there may be very different purposes from time to time and everyone needs to be cognizant and respectful of where

those differences are. He is sure that this so-called wiring diagram will help lead in that direction.

Simonds commented that at the Managing U.S. Fisheries Conference there was discussion regarding the differences between the two acts and how the two agencies could work together, because there has been a lot of frustration over the last several years dealing with sanctuaries. All the Councils together asked NOAA to review both of the acts and to try to come up with something that everybody could live with. That was the first option.

The second option was to go to Congress to decide how to do this. So what NOAA has done is they have provided a paper, which has been distributed to the Council members.

The Council Chairs told NOAA that three Councils volunteered to be on a committee, if that is how they were going to pursue this, to decide on some kind of a process that would help both acts. The three Councils are New England, Pacific Council and the Western Pacific Council, the three Councils with sanctuaries.

So far there has been no communication back, but she understands that NOAA is working on another draft and the Councils will be invited to review it. This may serve to help improve things in the future.

Seman invited questions.

Simonds thanked Lindelof for attending the Council meeting to discuss NOAA's findings on the management package. The Council is very, very disappointed that NOAA rejected the package. The Council has always supported the Sanctuary and has always felt that the Council should be able to meet together in small groups with interested parties to discuss things before final action is taken. The Council did try a couple of times to do this. She disagrees with the rejection and hopes something can be worked out in the future.

Ebisui said his personal take on the rejection letter is that it's not very clear. The Vice Admiral has said, we reject it because, and there are many references to, it didn't fulfill the purposes and policies of the NMSA, but there's no specifics given. Then it concludes by basically saying, but we want to work with you. We want to keep the existing fisheries going because these apparently have proven to be very clean fisheries that do not negatively impact the environment.

The fisheries were rated very highly by NMSP's document. It seems like the overall message is that while the Agency is going to reject the Council's recommendations, what they're offering back is exactly what was rejected.

Lindelof said he understands that particularly with the cover letter, as cover letters tend to be, there's always a problem in what do you say in a cover letter and what should the length of a cover letter be. But he thinks if one really looks at the findings, themselves, what has been done is they have basically gone through the key activities and resources; precious coral, shallow-water corals, shallow-water coral species, pelagic and bottomfishing, crustaceans, and on a one-by-one basis given more of a rationale on why they didn't feel comfortable saying that the recommendations met the goals and objectives.

The issue of bottomfish fishing and pelagics are still very much open on how that's going to be handled. To the extent that the fishery would still remain open, and it is still, which one of the alternatives NOAA is ultimately going to pick, or to the extent that bottomfishing or pelagics are still fisheries that are allowed under the Sanctuary, they would want to work very closely with the Council in developing the fishery plans for those.

Simonds said the term that was used when it was seen in Washington was that it was a very schizophrenic letter. Lindelof said that NOAA has some competing and balancing programs so that when you have fisheries and you have sanctuaries and you have other programs, sometimes it's a difficult balancing act. He didn't think she was the only one who was confused by that letter.

Martin said he looks forward to working together with the Sanctuary Office. From a very early meeting, the first Council meeting that Martin was actually a member, things got off on the wrong foot. The comment that really was pounded into the Council's head at that meeting when initially talking about Sanctuary things, the comments were, here's your goals and objectives, they're highly unlikely to change. That comment set a flavor in his mind that it was not working together, that the Council was being directed. He hopes everyone is on some other kind of a footing now where everyone works together to meet the needs of all of the different resource-users.

Simonds said the process needs to be changed because it's so odd that the Council presents draft regulations before the DEIS goes out. It really should be a part of the DEIS process, because when going through the DEIS process everything is on the table. People can make comments about the goals and objectives.

Lindelof didn't think there are very many people who would argue that the Sanctuary statute, the way it's constructed, gives a number of different activities that are supposed to be done prior to Designation and prior to actually releasing a Draft Management Plan and draft regulations. It doesn't really seem to be in sync with the way things should be operating. It's just a very difficult statute to work through and is particularly difficult when there are fishing issues. It really becomes problematic because of the way the statute is laid out, and also because of the way the Councils normally do business.

Simonds said there should be an opportunity to straighten things out without changing the statute.

Lindelof said they are working to identify more places early on where everyone can sit down and work with the Council. He thinks there's a lot of flexibility. There needs to be more of a semi-formal consultation up higher in the process.

Ebisui pointed out that in the advice and recommendation document that came out in September of last year there was included in that document proposed regulations. He asked Lindelof what is the statutory authority for the Sanctuary Program to propose regulations at that stage. Lindelof said they were not proposed regulations. They were very careful how it was termed. Those were model regulations. It was not a formal attempt at promulgating regulations.

Ebisui said he certainly perceived it that way. Lindelof said it was poor communication on their part, because it was really a guidance document for the Council.

Simonds said that the Council did not ask for a guidance document because the Council wants to prepare the document themselves. It has caused a lot of problems for the Council in the process. When the Council held public meetings, the public was confused. Everything was off balance and the Council looked like bad even though the Council was following the federal process. Lindelof said that was a regretful situation.

Simonds said people are still criticizing the Council to this day for that.

McCoy agreed with Ebisui's statements regarding the confusion. The confusion also served to give opportunity for those who would like to use misinformation to criticize both the Council and the process, and it affects relationships. Lindelof said hopefully as the process moves along it will be done better next time.

Having no further questions, Seman moved on.

I. HAWAII NWHI REFUGE and MHI MMAS

Young encouraged the Council and West Pac to include the State of Hawaii in all of the discussions relative to the Northwestern Hawaiian Islands. The State has been supportive of the Sanctuary Process. There is a co-managed Sanctuary already in the Main Hawaiian Islands with the humpback whale, and that's a working relationship.

Young is encouraged by the discussions held with the existing Sanctuary Process for the Northwestern Hawaiian Islands. The State is anticipating moving forward with NOAA for a co-managed sanctuary with the State and Northwestern Hawaiian Islands. He again encouraged the Sanctuary and West Pac to include the State in all discussions relative to the Northwestern Hawaiian Islands.

With respect to State waters, on September 29th the Governor and Young signed rules that created Marine Refuge for State waters in the Northwestern Hawaiian Islands, limited access, no extraction area, which ultimately was a result of a multi-year process with approximately 25,000 different separate public comment statements about what the State ought to do with its waters in the Northwestern Hawaiian Islands.

Young is a little concerned about the alternatives that are being discussed now for the Sanctuary, in that the State's stated position has been to encourage the federal agencies to also phase out in an organized way fishing and other extraction in the federal waters within the Sanctuary.

He noted that in the alternatives it speaks of attrition. He would encourage an alternative that would be subject to public debate and discussion on an organized phase-out that could include funding from federal or other sources to buy out existing fishers. The State thinks that if the fishing is phased out the fishers should receive fair market value for their permits. He went on to say that the State would encourage an organized phase-out of fishing in the Northwestern Hawaiian Islands in federal waters and believes that a phase-out could occur within approximately five years.

He also noted that the State of Hawaii is pursuing a World Heritage Site Designation for the Northwestern Hawaiian Islands. Discussions have been held with Interior and Commerce relative to this, as well as some informal discussions with representatives from UNESCO about the process. The State is going to be moving forward to first get on the tentative list that the United States would submit the area for designation, and then ultimately seek nomination and then ultimately listing it as a World Heritage Site.

With respect to the agenda item on Main Hawaiian Islands MMAs, the Department partnered with representatives from the legislature in 13 public meetings around the Main

Hawaiian Islands to discuss marine management, which would include Marine Managed Areas and Marine Protected Areas. Ultimately, that may lead to legislation, or at least proposed legislation this coming session. The State has partnered with the Water, Land and Ocean Resources Committee of the House and Water, Land and Agriculture Committee from the Senate in a series of public meetings around the State.

Seman invited questions to Young.

Duenas said when he was in D.C. last month for the Chairmans meeting there was an issue raised about Council Members being criticized for the hats they wear and pointed out that the only group that's always singled out in all the criticism has been fishermen. NGOs, government agencies, they still wear their hat to the meeting. The fishermen are the only ones criticized. He doesn't understand why fishermen are the only ones that are supposed to take off their hats.

Duenas continued:

"With that in mind, when the State of Hawaii decided to create this refuge, I haven't seen a letter from the State notifying the Council of its action. Nor do I remember a meeting -- like I said, maybe I'm always asleep at the wheel -- where it required a consultation with the Council on the State actions.

But now you're telling me you're requesting the State to participate in actions involving federal waters in discussion with NOS. It's not a two-way street, and that bothers me.

As far as the Sanctuary Proposal, this is a new designation to the world as a Sanctuary. I don't see a letter again to the Council out of courtesy or respect to this Council. You as a Council member should give us that courtesy and respect, to notify us of your future plans over whatever intent may be good or bad. Because we are your partners here.

I represent a very small commercial group and a very large subsistence group. I don't know which hat I'm supposed to wear. But when it comes to management decisions, when I walk into this room, I don't have a hat.

So please, bear with me when I get a little upset that when you tell me you want the Council to allow the State of Hawaii to participate in discussion with the Sanctuary people when you didn't allow us to participate in the discussion, and the only people that were invited according to the press release to the refuge designation by the State were always environmental groups. They're not the stakeholders. They're not the actual ones in that water, just like the Tumon Bay stakeholder interest."

Young responded:

"I don't know about your comment about blaming fishermen or having to blame fishermen on everything. I don't think anything in my comments had anything to do with placing blame on anyone. So I think that comment is very misdirected.

I'm a firm believer that impacts to marine resources are not just the cause of fishermen, it's a variety of other things. I can provide you with comments and statements that I've made in other cases so you can see that that has been a consistent statement. I have not blamed fishermen for anything.

With respect to the designation of the State waters, we conducted a series over a two-year period and received 25,000 different comments. I believe if it's a surprise to you that we were looking at fishing regulations in the Northwestern Hawaiian Islands, I'm sorry if we did not let you know that that process was ongoing. But that process had been going on for approximately two years.

I did speak at the last Council meeting of a concern I had about the fishing regulations that were being proposed for the Proposed Sanctuary. As you might recall, I voted against it. I did make some statements about the State's concerns.

If my position was not made clear then, I'm very happy to provide you with a written statement, if that's what you desire, about what the State's position is about use in the State waters.

I'm not sure if your jurisdiction, when you create a Marine Protected Area in your waters, whether that statement or action is brought before West Pac. I've been on this Council for a little over two years now, and I don't recall any specific statement from Guam about the creation of any new fishing regulation, the creation or discussion about any Marine Protected Area or otherwise.

Because what happens in Guam is a Guam issue. What happens in the State of Hawaii is a State of Hawaii issue.

Our fishing regulation and the creation of the marine refuge was only dealing with the State waters.

Now, with respect to our interest to be involved in the Sanctuary Program, we have already stated and we're clearly on record of seeking a co-managed relationship in the Northwestern Hawaiian Islands. As a co-manager, the State is an equal partner with the federal government in the overall sanctuary. So it's very appropriate for the State of

Hawaii, or any other jurisdiction that will potentially have a co-managed sanctuary near their jurisdiction, it's very important for that jurisdiction to be involved in the process.

As I noted before, and as I stated today, we are a co-partner at the Humpback Whale Marine Sanctuary. We are equal partners. The State of Hawaii has a co-manager and the Sanctuaries Program has a co-manager. We are seeking that process for the Northwestern Hawaiian Islands.

We have not made a final commitment on whether we will include State waters in a sanctuary in the Northwestern Hawaiian Islands because we're not sure what the final regulations are going to look like. But we have learned from the experience we have with the Sanctuary Programs that we can work well together and that we want to continue to work well together. So it's very appropriate for the State to seek to participate in any discussion on a Sanctuary in the Northwestern Hawaiian Islands because we're clearly on record of seeking a co-managed relationship. So it is appropriate.

I would like to make one comment relative to fishing regulations, and a concern we have about using strictly Magnuson Act as the guide, or Sanctuaries as a guide.

We clearly are seeking to have a place in the world where we don't take something. We believe it's our responsibility not only for our existing generations but future generations to have a place in the world where we don't take something. We have an opportunity in the Northwestern Hawaiian Islands to have that place for future generations to see what it's like.

The concern we have about fishing regulations under Magnuson-Stevens is that it's principled on the context of use and take. If it's set under that guideline, whether it's the maximum sustainable yield is what the fishing take is going to be or something less than that, it's still principled on the context of use and take.

While Sanctuaries are principled on the context of preservation, and that's the theme that we would like to go towards.

We would like to participate, and we think it's very appropriate to have the Fishery Management Council be involved in the fishing regulation rule-making process with Sanctuaries and the State of Hawaii. But we would prefer that the theme and the principle of the rule be based on preservation and not be principled on the theme of use or take."

Duenas said that he was confused by document regarding the Sanctuary principles that allowed fishing and the numerous designated zones. He's also confused when Young

speaks of consistency of the Sanctuary Program and the Admiral's letter speaks to it as being inconsistent. Young replied that he does not work for the Admiral so he can't defend the Admiral's statement or the presentations that were presented. The State would like to keep the fishing regulations simple in the Northwestern Hawaiian Islands in State waters and federal waters within the Sanctuary Program. The State has been very clear that they want it very simple, no fishing. The State would like to have a place to be viewed by others in the future about what the world used to be like. Because every place else, extraction activities go on. State fishing regulations are being amended because overfishing is going on in some areas. The State would like a very simple rule, you just can't take from it.

Ebisui asked to clarify if the State's position is absolutely no take by anyone. Young replied no, traditional and cultural practices are being taken into consideration.

Simonds asked, what is the definition of traditional and cultural practices. Young replied the State is working with Native Hawaiian people to come up with a definition and a permit system.

Simonds comment that having a definition would help the Council. Young said the State rules do allow for traditional and cultural practices consistent with State law and consistent with State's philosophy.

Simonds said the Council is looking for what those traditional and cultural uses are in the Northwestern Hawaiian Islands. Young said the State is seeking guidance from some of the identified representatives to help them understand how they can develop a permit system, as just the whole permit process is not a traditional practice.

Martin said he certainly understands the State's position on State waters in the Northwestern Hawaiian Islands, but one of the things that the Council is struggling with currently is the Main Hawaiian Islands and the bottomfishing overfished situation. If the prohibition on bottomfishing in the Northwestern Hawaiian Islands were to be implemented there's going to be a redirection of effort of the nine boats that fish presently and most likely it will be redirected to State of Hawaii waters. He asked if the State has plans to deal with the redirected area, considering the overfishing issue.

Young said the State shares the concern about what the impact may be in the Main Hawaiian Islands. The State has worked with an entity that is funding a study that will be done through the University of Hawaii, Manoa that will help to better understand the market that has existed for the fish that comes from the Northwestern Hawaiian Islands to track where the fish come from and where the fish ends up and the effect to the local demand for fish and the impact to pricing if the bottomfish from the area is no longer in

the Hawaii market. The study is ongoing. The draft should be available in the first quarter of 2006.

Martin thinks there will be some transferred effect with a change in the dynamics of where the fish come from for the local seafood market and hopes the State's study will follow the fish all the way through to the consumer.

McCoy asked what other activities the State would allow in the Northwestern Hawaiian Islands Sanctuary. Young replied that is being discussed. The State believes the area could serve as an important area for study and research.

McCoy noted that while all activity can contribute to degradation of the area, nature has its own way of recovering, as it has for hundreds of years.

Young agreed and said the State is approaching the non-extraction perspective from a philosophical rather than a management perspective, not looking to stop fishing because of any negative impact, but as the Sanctuary will be set aside as a place in the world where nothing is taken from it. This is an opportunity for such a place. The State believes it is their responsibility to do so. It's about philosophy. It's not about management. It's not about a concern that there has been any negative impact.

Ebisui said he has no problem with such a philosophy, but the Council does not have the privilege of making decisions based upon philosophy. There are many directives and objectives of the Magnuson-Stevens Act for the Council's decision-making.

Young noted Robinson's earlier comment regarding that the Magnuson-Stevens Act does not mean everything has to be at the maximum sustainable yield, that it can be variable. In Young's mind, that means the Magnuson-Stevens Act can ultimately call for a phase-out, and that's what the State is suggesting, an organized phase-out.

Young added that he firmly believes it's appropriate to fairly compensate all of the permittees in the Northwestern Hawaiian Islands for the fair market value of their permit either with federal or nonprofit funding. The State believes that they can be fairly compensated. The Magnuson Act does not have to be maximum sustainable yield, which ultimately could mean a phase-out.

Duerr said that, philosophically, in a true sanctuary any person that enters that sanctuary degrades it. Here the Council is suggesting that Native Hawaiians will be able to go in and practice what they've done in the past, which is fishing. He added that tour boats with people who just look at the fish also impact the environment. The Council should consider and represent all stakeholders.

Duerr added that if it's a sanctuary, it's off limits to everyone, perhaps with the exception of the people that have to monitor it to see that it's kept that way. But it's truly a place for the species that's there.

Having no further comments, Seman moved on.

J. REPORTS FROM PLAN TEAMS

Tibbetts reported that last month a Joint Plan Team meeting was held at which Makaiau presented the plan for the conversion from species-based to area-based management. The Joint Plan Teams came up with a series of recommendations for the Council.

The recommendations are as follows:

As the conversion from species-based to area-based is going to involve quite a bit of changes, the Joint Plan Teams support the multi-step approach to implement the ecosystem approaches to complement single-species and multi-species approaches to fisheries management in the Western Pacific Region and recommends the Council work with the PIFSC and other partners to continue to build the science and develop the tools needed to improve ecosystem management goals, objectives, programs and decisions.

The Joint Plan Teams recommend the Council continue to refine the Fishery Ecosystem Plan objectives that are appropriate for each FEP area. What may work for Hawaii may not work for the Marianas.

The plan teams recommend for Objective 6 be changed to read:

To conserve and appropriately manage and co-manage protected species, habitats and areas.

The Joint Plan Teams endorse the FEP boundary delineation approach identified in the Archipelagic FEPs and the Pacific Pelagic FEP.

The plan teams recommend Johnston Atoll be included in the U.S. Pacific Remote Island Areas FEP as opposed to the Hawaiian Island FEP. The reasons are that Johnston Atoll is geophysically separate from the Hawaiian Archipelago. The marine fauna of Johnston Atoll includes many species not found in the Hawaiian Islands. Also, Johnston Atoll is an uninhabited remote Pacific Island and is similarly managed as a National Wildlife Refuge.

The plan teams endorse the Management Unit Species designations as the current MUS believed to be present the boundary of each FEP.

The plan teams expressed concern about the establishment of a single Archipelagic FEP Plan Team and recommends the Council consider a layered approach to the structure and composition of the plan teams which corresponds to the Archipelagic FEPs and maximizes expertise and efficiency while minimizing logistical constraints.

The Joint Plan Teams further recommends that the Council include a specific goal to build greater local capacity. Examples of this may be where students and island residents can attend plan team meetings and learn about fisheries management.

The plan teams support the establishment of Regional Ecosystem Advisory Committees comprising federal, state and local government agencies, businesses and nongovernmental organizations.

The plan teams recommend that the Regional Ecosystem Advisory Committees be established in each island area, and whenever possible include representatives of similar existing advisory committees and utilize the findings of these committees to avoid duplication.

The plan teams support the Council's initiative to increase international coordination with SPC and SPREP nations whose EEZs are adjacent to the U.S. EEZ in the Pacific. Examples of this might be the Federated States of Micronesia, Kiribati and Tokilau, among others.

Based on concerns regarding politically weighted terms regarding the characterization of an ecosystem, such as ecological health and/or ecosystem integrity, the Joint Plan Team recommends the Council carefully consider their choice of terms and explicitly define these terms if they are to be used. To the extent practicable, the development of the definition should be based on a facilitated community-based and scientifically-informed process for deciding the desired state of the fisheries ecosystem.

Recommendations regarding the Mariana Archipelago FEP are as follows:

The Joint Plan Team supports the Community-based Pilot Project Initiatives and proposals to obtain fisheries data to augment the existing voluntary data collection program currently in place.

The Joint Plan Team recommends the Council ensure that local resource agencies are fully integrated in these Council community-based projects from the beginning.

Seman invited questions to Tibbetts. Having no questions, Seman moved on.

K. SSC RECOMMENDATIONS

Callaghan presented the SSC recommendations as follows:

With respect to the Fishery Ecosystem Plans in general, staff presentations indicated to the SSC that good progress is being made. There was considerable discussion and a wide range of constructive comments and suggestions were made by SSC members regarding the FEP objectives, boundaries, management unit species list and advisory structure.

At this point in time the SSC endorses the draft recommendations of the Joint Plan Team subject to the following modifications:

The Joint Plan Team Recommendation 3 regarding FEP Objective 6 should be reworded to read, to manage and co-manage protected species, protected habitats and protected areas.

The second suggestion regarding the Joint Plan Team recommendation is that the Joint Plan Team Recommendation 6 be reworded so that the FEP Management Unit Species are defined as the currently codified Management Unit Species recognized as endemic, indigenous or successfully introduced into the FEP boundary.

Moving on with Suggestion Number 2, the SSC recommends that Objective 8 of the Draft FEPs be reworded to read, to encourage and support compliance and enforcement with all applicable, local and federal fishery regulations.

The SSC also recommends that the local names appropriate to FEP areas be included in the listing of Management Unit Species.

Regarding the Mariana FEP Pilot Project, the SSC supports the Community-based Pilot Project Initiatives.

Regarding the Draft Coral Reef Ecosystem Annual Report, the SSC supports the progress made to date and encourages the future investigation of a range of approaches for determining baseline reference points for the coral reef fisheries in Guam.

Regarding the report heard earlier today entitled, Reconstruction of Reef and Bottomfish Catches in U.S. Pacific Islands, 1950 to 2002, the SSC recommends that the report be amended to specifically acknowledge in the Executive Summary the following wording:

This document attempts to reconstruct fish catches based on very limited data and does require broad interpolation of disparate data and relied on bold assumptions. The document does not consider other factors which affect the per capita catches of marine resources, such as extensive shoreline development and habitat alterations, environmental changes due to typhoons and ENSO phenomena, changes in life style and diets, the shift of preferences to western food sources and increased availability of cheaper seafood imports from foreign sources.

Additionally, the SSC recommends that the report be amended to include in an appendix the written concerns expressed by local resource management agencies and the Council's Scientific and Statistical Committee. This appendix should address the shortcomings of the report, including the lack of clear documentation of statistical methods, the incomplete literature search and the lack of appropriate communication with local jurisdictions to obtain accurate information.

The SSC further notes that the words "overfished" and "overfishing" have specific legal meaning under the Magnuson Act and are defined in the FMPs under the Magnuson Act. Use of these words in this publication does not conform to these legal definitions. As used in the report, these words are meaningless unless there is a proven relationship between estimated catches and abundance coupled with recognized fisheries analyses.

Callaghan added on more item which was discussed at the SSC at some length and did not appear in the dark bolded part of the report:

The SSC recommends that Objective 1 of the Draft FEP be reworded to substitute the words "biologically diverse" for the word "healthy." The issue here is that this objective has the word "healthy" in it. As scientists, members of the SSC have trouble defining what the word "healthy" means.

Seman invited questions to Callaghan. Having no questions, Seman moved on.

L. STANDING COMMITTEE RECOMMENDATIONS

After hearing the full presentation on Ecosystems and Habitat, the Standing Committee deferred action on recommendations to the full Council.

M. PUBLIC COMMENT

McCoy invited the public to comment.

Public comment is presented verbatim:

MR. DUENAS: ... I think it's still talking about the FEPs that was mentioned earlier. The FEPs that are being planned by the Council, for years we know that -- at least I'm talking as a Chamorro. You talk about from the land to the sea, the political side of it we have to contend with, we have to deal with. You have many agencies within the zero to three to contend with, and we have to contend with that also.

But we cannot set up a line of demarkation and say this is the Mason-Dixon Line, this is our business, this is your business, because it's continuity. For us to be ignorant and say it has no impact on each other, with how we do things on the federal side and how we do things on the local side, it's really ludicrous.

So yes, we're going to have to have consultation. This FEP program is just at its infancy stage.

We will have consultation. We had consultation with the mayors the other day and with the Governor of Guam. Your agency was well represented there. So there is consultation with the local government. As a matter of fact, the EPA was there. Randy Zabor (phonetic) was there. So we are having consultation.

We are not trying to overlap in jurisdictional issues. We are trying to address an issue that's been long ignored because of the political scheme of things. We need to address it from the mountains to the sea as we perpetuate it for the last 3500 years as Chamorros on this island, as indigenous people, and not let the western, the western, concept of zero to three is mine and three to two hundred is your business. Because if we're going to perpetuate like that, we'll never get anything done.

As a Chamorro speaking, as a Council Member, that is not how we do things on Guam, and you know that. Action speaks louder than words, and I think we've proven that to ourselves on this island, where we don't need -- we haven't needed any type of outside interference in how we take care of our resource.

We've created the 20 percent MPAs with the support of the fishermen. We've done all these feel-good stuff. Now we need to address the greater issue of zero to two hundred -- actually, negative whatever land mass we have to 200, and solve that problem once and for all, and that's all the FEPs are looking at.

I appreciate your concern. We appreciate your future participation in the process.

I'm speaking to you as the President of the Guam Fishermens Cooperative Association. As I mentioned earlier, I have two-thirds of my fishermen subsistence, one-third commercial. If you can call them commercial. They don't catch barely enough to survive with. I have no recreational fishermen in this area. I've looked high and low. I still haven't seen fishermen that can play with the fish.

But with that being said, I am a Chamorro, and rather proud of it. Though I say I am a Spaniard. But you've got to stick with the Conquistador.

But as a Chamorro, I look at the future. I look to the future. The thing that bothers me the most is every time you speak about a culture people tell you, oh, don't worry, we'll put some aside for you guys, we'll put some aside for you guys. But they don't allow us to progress. Since the 1800s we've had the whalers come into Guam. In the '70s we had the purse seiners come into Guam. In the '80s we had the longliners come into Guam, all foreign fleets. U.S., too, is foreign to us, because we're foreign to them.

If you ever notice when we arrive in Hawaii, where do we land? Foreign arrivals. We're foreign arrivals. So we're foreign to everybody. But they have come for hundreds of years and pillaged and plundered our oceans.

All I'm asking you guys to do is to give us a piece of the pie as a Chamorro.

Wait a minute. Does that mean I cannot participate, I can't participate in the global economy because I want to be a Chamorro? The only way for me to survive as a Chamorro is to get a piecemeal dedicated portion, such as the Hawaiians want. I'm surprised the Hawaiians only want to paddle their little canoes up to the Northwestern Hawaiian Islands for hundreds of miles to catch a few fish for subsistence. Oh, how generous the State of Hawaii is. How considerate.

If my government here on Guam offered me that same deal, I'll take it and put it where the sun don't shine. Excuse the French.

But the fishermen go up and apply for a CDP Program because we want to alleviate the pressure on our reef resources. We want to promote pelagic seafood on this island because we're seafood eaters. We eat most seafood in this part of the world, all Pacific Islanders. But our diets have changed. I love Spam. I love corn beef.

But I also need seafood. I'm a diabetic. I need that seafood to survive. So for me to have the same notion coming to Guam where Tumon Bay is going to be a National Sanctuary some day in the future, but just the idea of only Chamorros can fish there, but only for subsistence living, where's the economic value for me.

Why can't I be like you guys in Hawaii, with the longliners and the other boats. Or be like the purse seiners. You're denying me that economic advancement, and that's what bothers me.

Every time we talk native, oh, it's okay, don't worry, we'll give you your share, we'll park you in the little corner and you can paddle your canoes.

Because I was told one time by this gentleman, a marine biologist up at the Marine Lab, you know, you fishermen, all you do is wipe out the resource because you use nets. Yes, but what do you want us to use, we've been using nets for hundreds of years. Yeah, but if you go back to the weaving of the palm fronds, and all that, I can understand and allow it. Oh, but everybody else can use monofilament? So you want to stifle our growth and development because of all these management measures. We're not depleting our resource.

Like I said to the group last night, this island sustained 100,000 people. It sustained on its ocean resource. We harvested in 1950 what, almost over a million pounds of fish -- or 1.8 million pounds of fish in 1950. That's astronomical, because I think Adrienne calculated that to like 4,000 pounds a day for each person that lived here. Boy, we're healthy people. We must have been exporting or something.

But the bottom line is, that as a Chamorro I appreciate the fact that we're given a token share of the wealth, but that's not what we're looking at. We want to progress economically, progress globally with our resource.

It's our resource. I don't care where you're from. People always have this conception about stakeholders as being the guy from Idaho or Indiana or someplace, I have interest because it's a U.S. Territory. No, no, no. If you step foot in the water and you use that resource, you are a stakeholder. Because for all the years we've been here, we are not the problem. We are not the problem.

Because I'll guarantee you, if we have the same so-called primitive accommodations, you won't have this meeting here. You guys won't want to come to Guam. But no, we want to promote ourselves as a Second World Economy, so we do that. So we give up some of our resource, but don't take everything away from us. Thank you.

N. COUNCIL DISCUSSION AND ACTION

McCoy pointed out these recommendations are for final action and asked Seman to proceed.

Seman presented the Ecosystem and Habitat Draft Recommendations regarding the Draft Western Pacific Ecosystem Plans of the Council as follows:

One, endorses the SSC's recommendations and approve the adoption of place-based Fishery Ecosystem Plans and directs Council staff to prepare an amendment package to all Western Pacific FMPs to consolidate existing FMP fishing regulations and Magnuson-Stevens Act requirements under four Archipelagic FEPs and one Pacific Pelagic FEP with the following modifications:

Modification A, reword FEP Objective 1 to read, to maintain biologically diverse and productive marine ecosystems and foster the long-term sustainable use of marine resources in an ecologically and culturally-sensitive manner through the use of a science-based ecosystem approach to resource management.

Seman submitted the recommendation as a motion. Ebisui moved and Haleck seconded the motion. Seman opened the floor for discussion.

Robinson asked if the motion is to approve the adoption of the place-based Fishery Ecosystem Plans as drafted, how will the recommendations regarding moving Johnson Atoll from the Hawaiian Archipelagic FEP to the Pacific Remote Islands FEP going to be handled since it is not included in the present recommendation. Makaiau replied the language of the recommendation is to endorse the SSC's recommendations. Endorsing the SSC's recommendations includes the Johnston Atoll issue, and specifically modifying certain ones of those recommendations, which is A through E.

Robinson further asked for clarification as to if the Council is voting on moving Johnston Atoll from the Hawaiian Archipelago to the Pacific Remote Island Areas. Makaiau replied yes.

Young noted that the Hawaii plan has Chapter 7 in preparation with no text and Chapter 10 in preparation with no text; yet the way the motion is worded the Council is being asked to approve the plan. Young said he would prefer rather than the outright approval of the plan, the Council approve the concept of the planned draft, as further input is needed on the details.

Simonds asked Makaiau what were chapters are Chapters 7 and 10. Makaiau replied they are the local regulations from each of the island areas. Simonds then said the Council wouldn't be voting on the local regulations and perhaps the local regulations should be in the plan.

Young noted Chapter 7 is labeled, Integration of Ecosystem Approaches To Fisheries Management, which sounds like a pretty critical chapter. He offered that a simple solution is not to approve an outright approval of the plan, but approve in concept the level of the plan draft, but that it would still need further refinement before final approval.

Palawski noted that the plan as written does not recognize the National Wildlife Refuges and the boundaries outlined in the plan for the FEP conflict with Hawaii's refuge management regime, which is something that has been presented over and over again to the Council since 1998.

Young stressed he is supportive of place-based management and suggested that the boundary, especially for the U.S. remote refuges, be seaward of the National Wildlife Refuge boundaries for Midway, Baker, Howland, Jarvis, Kingman, Palmyra. Because the way the plan is now, it would potentially put fishermen in the position where they could be illegally fishing inside a National Wildlife Refuge, which is not fair to the fishermen. He added that it needs to be clarified in the plan.

Simonds agreed and was surprised, because the same language is used in all of the Council's FMPs all of the FMPs should be the same. She asked Kingma to address the issue.

Palawski noted that the Draft Programmatic Environmental Impact Statement is not included in the plans. He understands it is being released to the public tomorrow, and right now it is not representative of an agreement between the Council and NOAA Fisheries and Fish and Wildlife Service. Simonds agreed that it is not there.

Kingma said he was a little confused with that, because in the document staff has never presented that this approach would take control over anyone else's jurisdiction. The jurisdictional boundaries of the PRIA FEP of the Wildlife Refuges are outlined as well as in the Programmatic EIS. He asked Palawski what page he is talking about.

Palawski said that in Table 5, as well as every one of the tables, Boundaries of the Ecosystem, federal waters surrounding Howland, Baker, Jarvis, Kingman, Palmyra, the federal waters as defined in the document are from zero to two hundred miles and does not specifically exclude management within the National Wildlife Refuges. The document is worded that way throughout, but he feels it can be corrected. He's just pointing out to the Council now that it's an issue that will get corrected between now and the Final EIS.

Simonds asked Robinson if this is like a different approach, just talking about all federal waters and then in the FEP you actually go through what the jurisdictions are. She noted that when the Council do other applicable laws, a list of all the other applicable laws and boundaries are included and that people should contact Fish and Wildlife Service about their regs, which is Standard Operating Procedure. She asked if a different tact was taken with the Programmatic EIS where they just said, these are federal waters, but not delineating which agency has what kind of jurisdiction. Robinson replied that he would have to look at it very closely, but it would make a difference whether it's talking about defining the boundaries of the ecosystem versus defining the boundaries of jurisdiction within the ecosystem, which are two different things.

Simonds said maybe that's what the two staffs decided to do. She noted that if the words "agency jurisdiction" is used, then it needs to describe what that is.

Young pointed out the State received the plan one week out from the meeting and he knows his staff has not had adequate time to review the plan to provide substantive comment. He feels it is premature to hold a final vote on it as there has not been enough time to provide adequate comment, particularly when there's chapters missing. With the limited time they've had to review, literally a week, I'm just saying that's just not specific time.

Feder recommended that the Council identify the precise version of the document that is being voted on. He also voiced concern that if entire chapters are missing, they can't just be added in afterwards by Council staff. Every substantive part of an FMP adopted by the Council should be before the Council at the time the Council votes. So if it adopts the version before it now, it won't include the chapters that are missing.

He also pointed out that it is his understanding that the ecosystem plans make no substantive change to fisheries management regulations, which he pointed out to Fish and Wildlife Service. Simonds agreed, that it's just changing the approach, not making any regulations. It's approving changing the approach, which is putting the regulations, all bottomfish and all crustaceans for Hawaii into the Hawaiian Archipelago FEP. Feder said it should be clear in the document, itself.

Kingma pointed out that in the PRIA FEP document, page 4, there's a discussion of Fish and Wildlife Service National Wildlife Refuge boundaries and the jurisdictional issue. Nowhere does it say that the Council's new approach is going to take over any National Wildlife jurisdiction boundaries. So it is clearly articulated in the document.

Palawski said that the Fish and Wildlife Service will certainly comment on this issue, but

once Management Unit Species are identified for harvest and there's no delineation about where those species are or aren't, the problem in the past has been that it's unclear to fishermen that they are not allowed to fish within inside a National Wildlife Refuge. In the past environmental documents there's been a specific section related to other applicable laws, and he has not seen that section in this document yet. Preference would be that it is made very clear in the document. Simonds pointed out that it is in every other plan so it should not be a problem to be included in this plan.

Kingma said it is clearly articulated in the EIS as well.

Simonds asked if it is in both documents. Kingma replied that the prohibition on taking resources in the Wildlife Refuge areas is included in the EIS as well.

Young noted that there was some discussion before about including all waters. Following up on the Fish and Wildlife Service's concern, he asked if this change in jurisdiction would have an overlay of West Pac over State waters. Simonds replied no, all jurisdictions remain the same, the approach from species-based to an ecosystem approach is the only change.

Hamilton noted that with regards to Young's concern about Chapter 7 in the Hawaii FEP, that was a horrible mistake by the staff and it's a typo, as at the top of the page it talks about the Mariana FEP. All throughout the FEPs Chapter 7 is identical. So the appropriate words would be the same as in the others.

Young pointed out it is not included in Hawaii's plan. Hamilton said she would take responsibility for the omission. She suggested perhaps a motion to ensure that it is included.

Hamilton also pointed out that it's Chapter 9, the review of the local regulations, that is missing from each plan, which is not a substantive issue for the Council to vote on. Chapter 10 is the draft regulations for the FEPs which could not be written until the Council had taken its final action and she hopes it's been abundantly clear that there will be no new regulations included.

Feder said it would be preferable Council practice to have draft regulations before the Council and for the Council itself to adopt regulations in an FMP and implementing regulations.

Simonds said it has been done differently and is not a requirement.

Hamilton agreed it would be preferable, but not knowing how the Council is going to vote, several sets of regulations can be prepared but none will really apply and that is why it is not usually done that way.

She explained again that they would be the same regulations that exist now, just consolidated by area rather than by FMP.

Haleck asked that the Island of Anu'u be included in the list of islands in the American Samoa FEP. Simonds said it is already in the plan.

Young said he's uncomfortable approving the plans as written, but not uncomfortable with the process as he believes that the place-based process is the appropriate way. The State needs opportunity to provide some substantive comments to it and suggested potentially a compromised motion which would approve the concept and not approve the adoption.

He does not believe this is a time-sensitive issue and that the plans can be approved at a subsequent meeting, which would give an opportunity to review the plan and provide some substantial comments if necessary.

Seman noted there's a change in the language of the motion.

Hamilton noted that normally the Council votes on actions. The staff was asked to prepare the FEPs as prototypes of what the FEPs would look like with the regulations in place. The Council has never voted on adopting every word in the document. Her understanding is the documents are prototypes so that the Council would see what it would look like.

Young said if you add the words, prototype plans, it is a prototype plan, it's not the plan. Hamilton agreed, the Council would be adopting the boundaries, the MUS, the Council coordination, the regional coordination, the international management through the prototype Archipelagic Fishery Management Plans.

Young said that if it's prototype, then his understanding is that it means that not every word necessarily is going to be in the final plan, but it's the concept of the plan and the concept of how it's structured. Hamilton agreed. In the past the Council has trusted the staff to represent the motions that they did vote on to provide the supporting text and to transmit that to NMFS for approval.

Young said the way the motion was written, the Council was approving these plans. But with this adoption of place-based approach, yes, and these are prototype plans for that

approach. To him, that means there's further refinement, further opportunity for comment, and then he would be satisfied.

Hamilton asked Feder to explain the process, does the Council approve the wording of amendment documents or approve the measures contained in them. Feder replied, preferably both. But he thinks it's acceptable for Council staff to fix typos and/or background information in the documents. The most important thing, of course, are the description of the areas covered, Management Unit Species and the specific management measures, the necessary components of an FMP.

Feder strongly urged the Council to identify specifically which version is before the Council today which memorializes the concepts that are being adopted.

Young asked if the motion says "prototype" and does not say "adopt these plans," but adopt these as prototypes, that would allow for substantive change then. Simonds said they don't want any substantive changes, because it's talking about an approach. She asked Young what substantive approaches would be made to an approach. There will be substantive comments for each specific plans, but now the motion is for adopting the approach.

Young said it is not adopting the approach. The Council is asked to adopt these plans, and that's the concern, there has not been ample time to review the plans. If the plans are being viewed as prototype, and that this approach is what the Council is approving, then he would agree that this is an approach that the State supports.

He needs clarity on missing chapters. He wants an opportunity to do a more substantial review. There's only been one public hearing on these plans in the State of Hawaii, and that was just recently held. Yet, this plan says, by this approach we're going to have more community input.

Simonds pointed out that the Council has been doing this for a whole year. It has been voted on. The first vote took place a whole year ago.

Young agreed that he approved the concept. But the Council is now asked to vote on a document, not a concept. He added that the document was literally just handed out.

Simonds said there have been meetings where all the teams met, Fish and Wildlife Service attended, State staff attended. Everyone reviewed all of the plans.

Young said that is not what he was told by his staff. His staff said they did not review it.

Simonds asked for some wordsmithing for the motion.

Tuaumu said he was confused by the process today. He received the document about a week and a half before he hopped on the plane to come to the meeting. He was briefed by his staff who attended meetings talking about this plan. He does not understand how the State of Hawaii didn't have a chance to look at it when the plan has been discussed all year long. In American Samoa the plan was printed up and the staff recommended approval of the plan. He is ready to vote at this meeting.

The motion was withdrawn while a new motion was being articulated.

Robinson said that given the concerns raised by Council Member Young and the concerns raised by Palawski, he is not sure that he is completely comfortable with final adoption of the plans either. He suggested the Council initially adopt or tentatively adopt the four plans, instruct the staff to complete the amendment package in the proposed regulations, take one final look at the March meeting and give the final okay then. He would go for only tentative approval or initial approval at this time.

Young said that would be satisfactory to him.

McCoy noted a new motion. The motion was moved and seconded.

Duenas suggested holding the 130th meeting in January as an emergency meeting, to be held prior to the March meeting.

The previous motion was withdrawn.

A new recommendation was read as follows:

The Council endorses the SSC recommendation and tentatively adopts the four Archipelagic Fishery Ecosystem Plans; FEP for the Pacific Remote Island Areas, Version October 14, 2005; FEP for American Samoa, Version September 30, 2005; FEP for Hawaii, Version September 30, 2005; FEP for Marianas, Version October 3, 2005, and the Pacific Pelagic FEP, undated, version presented at the 129th Council Meeting, and directs staff to prepare an amendment package to all Western Pacific FMPs to consolidate existing FMP fishing regulations for four Archipelagic FEPs and one Pacific Pelagic FEP with the following modifications:

A, reword FEP Objective 1 to read, to maintain biologically diverse and productive marine ecosystems and foster the long-term sustainable use of marine resources in an

ecologically and culturally sensitive manner through the use of a science-based ecosystem approach to resource management.

Seman offered the recommendation in the form of a motion. Martin and Sablan seconded the motion.

After a brief discussion, the rest of the recommendation was read to be considered all together. The motion and second were withdrawn.

Seman read:

B, reword FEP Objective 6 to read, to manage and co-manage protected species, protected habitats and protected areas.

C, reword FEP Objective 8 to read, to encourage and support compliance and enforcement of all applicable local and federal fishery regulations.

D, for each FEP, Management Unit Species be defined as the currently codified Management Unit Species scientifically recognized as endemic, indigenous or successfully introduced within the FEP boundary.

E, use local names appropriate to the FEP areas to be included in the listing of Management Unit Species.

F, Chapter 7 of the FEP for Hawaii shall be the same as Chapter 7 of the FEP for the other three Archipelagic FEPs.

Young interrupted the reading to point out after looking at each Chapter 7 he noticed they are all different; one is appropriately numbered, one has a skip in numbering and one has a grid that's not included in the other two. The Mariana plan's Chapter 7 looked to be appropriately numbered and does not have a grid.

Seman said that is a typo.

Young pointed out that each Chapter 7 cannot be the same as stated in the motion because they are all different.

Hamilton said that she thinks the American Samoa one would be the preferable one and apologized for not being consistent.

Seman continued to read the recommendation with the modification:

F, Chapter 7 of the Archipelagic FEPs shall be the same as Chapter 7 of the FEP for American Samoa FEP.

G, Council staff are directed to make other necessary non-substantive additions and corrections to the documents prior to transmittal to NMFS.

Robinson suggested dropping the words, prior to transmittal to NMFS. There were no objections.

Seman continued to read the recommendation with the modification:

H, recommend adding the FEPs to the March 2006 Council meeting for final approval.

The recommendation was moved by Seman and seconded by Sablan. McCoy invited discussion.

Palawski suggested with regards to Item C, to reword FEP Objective 8 to read, to encourage and support compliance and enforcement with all applicable local and federal fishery regulations and to delete "fishery" and add, all regulations would be adhered to.

Young asked if by passing this recommendation if Johnston Atoll is not in Hawaii, but in the other remote islands. Robinson said that was his understanding.

Having no further discussion, McCoy called for the question. The motion was passed unanimously.

Seman read the next recommendation as follows:

Regarding the Mariana FEP Pilot Project, the Council supports the initiatives proposed by Guam and the CNMI communities and recommends Council staff work closely with the communities and the Guam and CNMI Government to pursue avenues to support these initiatives through funding and scientific expertise.

The motion was seconded by Sablan.

Young asked if by supporting this recommendation it would mean the Council is supporting an amendment to local MPAs, meaning some other people might be able to fish in the MPAs; and is the recommendation also suggesting a limited harvest of turtles. As he recalls, there were three items discussed, one of them was to amend local MPAs. He's concerned about taking any action on that, but more concerned about taking turtles.

Makaiau explained the emphasis is starting from the community level. Staff has asked the communities for their input, and this is what was identified. Highlighted is working with the communities and still working with the local island jurisdictions. If there are conflicts in law in local statutes or federal statutes, such as ESA, that obviously will determine whether or not changes to any existing regulations can be made. Makaiau reiterated that the substantive part of the recommendation is working with the communities, but at the same time recognizing working with the local government jurisdictions also.

Young agreed local communities ought to work together, but he will be voting against this recommendation because he does not think the Council ought to play into local jurisdictions' amendments to MPAs and he thinks it's inappropriate for the Council to support a recommendation that would call for taking of an endangered species.

McCoy noted Young's comments.

Loerzel pointed out that it should be, Guam and CNMI Governments. She added that to some extent she shares Peter's concerns. She added that she will abstain on this recommendation as it is regarding advising local agencies. She appreciates all the efforts the Council has made to work with the communities. She had a small concern that she's not entirely sure what segment of the community the Council worked with and there is a wider community that has not been included.

Robinson said that overall he thinks the FEP Pilot Project is excellent. But as the keeper of the ESA, he finds it impossible to support requesting a change in the law to allow a subsistence harvest at this point. He will vote no.

Sablan said he understands Peter's concern. However, because of the uniqueness of our agreements, the covenant between the Northern Mariana Islands and the United States, there is a venue where certain issues can be discussed that may be changed. He is not suggesting that ESA law be completely amended for their purpose, but if the United States agrees during 902 Section discussions to allow cultural take of green sea turtles, then this Council will really have no jurisdiction.

Ebisui said he did not perceive the recommendation as a request to violate ESA, but a request to see if it was possible to do some kind of an exemption or an exception under ESA. He personally is not offended by it.

Duenas said that he views this as the community's opportunity to be heard. He does not think that supporting the recommendation would be in violation of any federal regulation or local law, but would enhance cooperation between all involved parties.

Having no further comments, McCoy called for the vote. The motion was passed with Robinson and Young voting no and Loerzel abstaining.

Seman read the next recommendation as follows:

Regarding the Draft Coral Reef Annual Report, the Council supports the progress made to date and directs the Coral Reef Ecosystem Plan Team and the SSC to work with the Pacific Islands Fisheries Science Center and each local marine resource management agency to investigate a range of approaches to determine control rules and reference points for the coral reef fisheries for each island area.

Seman offered the recommendation as a motion, seconded by Sablan.

Having no discussion, McCoy called for the vote. The vote was unanimous.

Seman read the next recommendation as follows:

Regarding the report entitled, Reconstruction of Coral Reef and Bottomfish Catches in the U.S. Pacific Islands, 1950 to 2002, the Council recommends that the report be amended to explicitly acknowledge in the Executive Summary the following:

A, this document attempts to reconstruct fish catches based on very limited data and does require broad interpolation of disparate data and relied upon bold assumptions. The document does not consider other factors which affect per capita catches of marine resources, such as the extensive shoreline development and habitat alterations, environmental changes due to typhoons and ENSO phenomena, changes in the life style and diets, the shift in preferences for western food sources and increased availability of cheaper seafood imports from foreign sources.

B, the report be amended to include as an appendix the recent concern expressed by the recent resource management agencies and the Council's Scientific and Statistical Committee.

This appendix should address the shortcomings of the report, including the lack of clear documentation of statistical methods, the incomplete literature search and the lack of appropriate communication with local jurisdiction to obtain accurate information.

C, the words "overfished" and "overfishing" be deleted from the report, as the use of these words in the publication does not conform to the Magnuson-Stevens Act and FMP definitions.

Seman offered the recommendation as a motion. Sablan seconded the motion.

Having no discussion, McCoy called for the vote. The vote was unanimous.

Seman read the next recommendation as follows:

The Council directs Council staff to draft a point-by-point letter to Vice Admiral Lautenbacher containing the following recommendations:

A, that NOAA withdraw its October 24, 2005 Findings Document and establish a process whereby the Council and NOAA may work together to develop a scientifically and legally supportable fishery management program for the Proposed Northwestern Hawaiian Islands Sanctuary.

To facilitate the Council's participation in this process the Council recommends that NOAA provide a complete copy of NOAA's administrative record supporting its October 24, 2005 findings, including all internal and external communications regarding this matter.

B, that NOAA clarify to the Council how its development of the goals and objectives to subsequent rejection of the Council's April 14, 2005 draft fishing regulations and associated recommendations complies with the requirement of the National Environmental Policy Act.

C, that NOAA provide the Council with an explanation of why the Council's draft fishing regulations are inconsistent with the purposes and polices -- with the NMSA.

D, that NOAA clarify to the Council the process it has used to comply with the Data Quality Act in preparing its October 24, 2005 findings and associated documents, including the basis for any certifications made under the act.

E, that NOAA make timely and public corrections of information contained in its October 24, 2005 findings and associated documents in the event that such information does not comply with the applicable information quality guidelines.

F, that NOAA provide the Council with a definition of ecosystem integrity and include scientifically-based and quantitative methodologies to assess the impacts of human uses on ecosystem integrity in its Draft Environmental Impact Statement or other analytical documents on the Proposed Northwestern Hawaiian Islands Sanctuary.

G, that NOAA provide the Council with any policies or protocols developed to date that discuss how NOAA intends to evaluate fishery management proposals under both the NMSA and the MSA.

H, that NOAA convene a working group consisting of Council Chairs, appropriate congressional representatives and NOAA managers to discuss the formulation and contents of such policies and protocols regarding NOAA evaluation of fishery management proposals under both the NMSA and the MSA.

I, that NOAA engage in an open, collaborative process with Council to develop appropriate fishery management program for the proposed Northwestern Hawaiian Islands Sanctuary.

J, that Vice Admiral Lautenbacher and his staff meet with the Council to discuss the scientific and legal basis for NOAA's October 24, 2005 findings.

K, any other relevant clarification and explanation.

Haleck moved for the motion. Sablan seconded the motion.

Young strongly discouraged sending the letter. He pointed out that there is discussion about wanting to work with NOAA, but the letter creates a battleground rather than a way to work together. It is suggesting NOAA didn't do a professional review. Whether we agree or disagree with the findings of NOAA, the letter, if it's sent with all of these points, is going to do more harm than good. It will divide any opportunity for open, honest discussion between the Council and NOAA.

Ebisui said with all due respect to Young, he disagrees with him. He asked the staff to help draft this motion. It's important for the Council to respond to the Vice Admiral's letter. What it really asks for is to establish a process where they can work collaboratively, as well as provide an explanation and clarification.

Ebisui added that he thinks it's absolutely necessary to get clarification in order to move forward with fishing regulations for the Sanctuary under the Magnuson-Stevens Act. It

also asks to convene a working group. It asks to meet with the Vice Admiral. He thinks the letter is more conciliatory than adversarial.

Duenas voiced his support of the recommendation, as he feels uncomfortable in that the Admiral did not address NOS as well.

Robinson voiced full support for Items H and I. As for the rest, he think it's poking at an open sore. He does not support the recommendation.

Young stated again he does not support it, but if it were to pass, he said the State should be included as part of any working group since the State of Hawaii will be a co-manager of the Northwestern Hawaiian Islands Sanctuary.

McCoy noted support for sending the letter. He thinks the process should be kept open.

Having no further discussion, McCoy called for the vote. The recommendation passed with Robinson and Young voting no.

15. PROTECTED SPECIES

C. HAGGAN (TURTLE) WATCH PROGRAM

Gutierrez provided an overview of Guam's Sea Turtle Volunteer Program. The Haggan Watch Program was initially planned in November of 2004 after meeting with the U.S. Fish and Wildlife Service. The program was implemented in January of 2005, beginning with two presentations conducted at the Guam National Wildlife Refuge and the University of Guam. After the presentation, approximately 100 volunteers signed up for the program. Currently, there are 40 to 50 volunteers in the program.

Part of the program's mission is to record and monitor the number of turtle nests that occur in Guam. The two turtle species that live in Guam are the hawksbill and the green sea turtle. The hawksbill turtle is listed as endangered under the Endangered Species Act while the green turtle is listed as threatened.

Some of the threats to the turtles include habitat destruction, predators, incidental catch, poaching, debris and artificial lighting. Activities that disorient or appear to be barriers to sea turtles include human disturbance, physical obstructions and tire tracks, such as hatchlings getting caught in the tracks of the tires. There is data that indicates turtles nested in the Tumon area, but have not since 1975.

Some of the components of the program include nesting surveys and tagging.

In Guam, there are two turtle nesting seasons. In 2005, eleven nests have been reported through the program's activities, with seven false nests recorded. The hatchling success and the emergent success are fairly good, except for one nest that was disrupted by activities on military property.

Haleck invited questions.

Sablan asked for a definition of incidental catch. Gutierrez replied it is when a fisherman catches a species that he was not targeting.

Sablan asked what is the protocol under ESA regulations for handling incidentally-caught sea turtles. Gutierrez replied there is a Cooperative Agreement with the U.S. Fish and Wildlife Service and a permit through NOAA.

Duenas asked if there are plans for the program to expand. Gutierrez replied yes, there are plans for revamping the program to recruit more volunteers and have radio stations plugging the program to aid in identifying more nest sites.

Duenas asked if a closed area for nesting sites has been a consideration. Gutierrez replied they have not looked into that. Presently one nesting site is in a Preserve up north.

D. CNMI TURTLE WATCH PROGRAM

Seman reported that a preliminary assessment of sea turtle nesting activity for the southern inhabited islands of Saipan, Tinian and Rota was conducted from April 11th of this year to September 30th, which was made possible through a NOAA grant.

In the past, four sea turtle species have been identified in CNMI waters. The species include the green sea turtle, hawksbill, leatherback and olive ridley. The green sea turtles are the most abundant and are widely known to nest throughout the three southern islands. Hawksbill turtles have been known to nest on the islands, but no sightings have been made in recent time.

The startup for this turtle project was delayed due to a couple of natural disasters, primarily typhoons and the funding allocation setup.

On March 16th, 2005 the project was able to secure contractual assistance for the application of a NOAA and a U.S. Fish and Wildlife Service Sea Turtle Research Permit that would allow the CNMI to conduct tagging and sample collection activity from

foraging and nesting turtles as proposed in the grant agreement. DLNR is now awaiting issuance of such permits.

Additionally, National Marine Fisheries Service Pacific Islands Fisheries Science Center has provided required sea turtle research training to three of DFW's personnel involved in the assessment project. Two were trained in March of this year and one additional person was trained in May.

The assessment team conducted 89 surveys on eight known nesting sites on Saipan. A total of five green turtles were observed nesting on seven occasions, including three at LauLau Katan, which was last reported active in 1985.

Assessment on the Island of Rota from May 23 to 26th, 2005 revealed seven nesting beaches were visited and no nesting activity was observed. This is most likely a consequence of the survey occurring much earlier than the start of the summer nesting season.

The nesting assessment on the Island of Tinian was from June 6th to 9th, 2005, with six nests counted from two beaches out of the six beaches that were surveyed.

Haleck invited questions to Seman.

Sablan asked if there was a voluntary program for the CNMI Turtle Watch at this time. Seman said not at the present time but work is underway to bring the program back. Seman recalled Sablan was the Secretary of the program.

Sablan asked if there were any objections to bringing the program back. Seman said they look forward to working with Sablan's village, the turtle experts. Sablan said he definitely plans to put together some volunteers from the village.

F. SSC RECOMMENDATIONS

Callaghan provide the Council with the SSC recommendations:

The SSC was very happy with the recently-completed biological opinion. The SSC also expressed concern that the Council's conservation projects for turtles were not explicitly accounted for in the biological opinion's risk analysis.

Therefore, the SSC encourages the Council to fund projects that quantify the benefits of the Council's conservation measures, i.e., funding for projects that measure the extent of

the recovery of the turtle populations and the associated economic and social benefits that might accrue from the Council's projects.

Haleck invited questions to Callaghan. Having no comments or questions, Haleck returned the meeting to McCoy.

G. PUBLIC COMMENT

No public comment.

H. COUNCIL DISCUSSION AND ACTION

Martin noted in the State's opening address regarding the withdrawal of the Section 10 Permit for the Hawaii nearshore fisheries. He asked Young if he could share where he sees the request going. Young replied that the request is being evaluated without any final decision at this time.

Duenas moved to approve the recommendation. Sablan seconded the motion.

Having no further discussion, McCoy called for the vote. The SSC's recommendation was approved unanimously. **The Council encourages the funding of a study to quantify the benefits of the Council's turtle conservation measures (i.e., to measure the extent of impact or recovery of the turtle populations and the associated economic and social benefits that might accrue from the Council's projects).**

17. PROGRAM PLANNING

Simonds directed attention to Tab 17 which contains updates on all legislation. The Council's comments are contained within the Standing Committees. A draft of the Magnuson Act Reauthorization will be available in the near future.

McCoy invited questions to Simonds. Having no questions, McCoy moved on.

C. STATUS OF FISHERY MANAGEMENT ISSUES

Hamilton reported that at the 126th Council Meeting last March the Council directed staff to work with National Marine Fisheries Service to come up with timelines for the active amendment documents to ensure that they move through the system in a timely manner and implemented in a timely manner. Staff has been working hard on the project with some good news and some bad news to report.

Presently there are six active documents, two have reached agreed timelines with PIRO for the review of these documents. No agreement has been reached for agreement on the implementation timeline, but agreement has been reached on the review process for the black coral measures and the Guam 50/50 bottomfish amendment.

No agreement has been reached on the Main Hawaiian Islands bottomfish overfishing amendment. The outstanding issue is the NEPA document, whether it will be completed in time for the Council to review the public before their final action at their next March meeting.

Agreement has been reached on the review timeline for the bigeye and yellowfin overfishing document. Staff is still working with the State of Hawaii, the Coast Guard and OLE about the implementation of the federal permit and reporting requirements for all small commercial pelagic boats in Hawaii.

Action 5, management of pelagic squid, no agreement has been reached for a review timeline.

No agreement has been reached on the PRIA amendment timeline.

McCoy invited questions to Hamilton. Having no questions, McCoy moved on.

D. EDUCATION AND OUTREACH REPORT

Sylvia Spalding, Council staff, directed attention to Document 17.D in the Council's briefing book. Spalding gave a brief summary of the annual education and outreach report. Some items included are:

A 30-year annual report will be prepared for the 30th anniversary.

A handbook will be published on the Council process and a list of Council publications and contributions that appear in other publications.

The Pacific Island News will continue, which now has a circulation of 8,500.

Council has contracted to put out four quarterly articles in Pacific Magazine.

Hawaii Fishing News would like a monthly column, which staff will try to meet.

The Council is on the National Marine Educators Association Board in efforts to get marine education included as a national science standard, which would include a fisheries component to teach students about sustainable fisheries.

Efforts to have the island coordinators attend the Pacific Marine Educators Conference.

Spalding is working on Year of the Turtle with Irene Kinan.

Implementation of the Education and Outreach Plan that the Council developed in the late 1990s, such as U.S.-affiliated Pacific Islanders Internship Program.

Hawaii Outreach and Education, right now efforts are for a person to assist Spalding.

Work on twenty-six two-minute sound bytes for Let's Go Fishing.

In 2005 Council held a teacher's workshop in which 23 teachers were taken on a longline boat, a bottomfish boat, to the Fish Auction and then to a restaurant where they learned how to prepare the fish.

An update was developed to a curriculum called Fish Quest in 2002.

Efforts for a summer school program in Hawaii similar to the summer school program in Guam.

For each island area, Spalding is asking the island coordinators to come up with a directory of marine educators and the outreach people.

McCoy invited questions to Spalding.

E. REPORT ON STATE DISASTER RELIEF PROGRAM

Miyamoto presented an update on the State of Hawaii Fisheries Disaster Relief Program, a \$5 million grant that was appropriated by Congress in October 2003.

There were some restrictions that came back from PIRO regarding the funding; one, no vessel buy-back and no direct payments to fishermen with the caveat that unless there was specific approval by NOAA.

There are two parts of the program, the Fisheries Assistance Program and the Fisheries Grant Program.

The Fisheries Grant Program, which is approximately \$3 million, be handled in the form of a contract with the University of Hawaii at the Joint Institute for Marine and Atmospheric Research, JIMAR, specifically Pelagics Division. That contract has been approved by the DLNR Board and the Attorney General's Office. It is now awaiting approval from the Governor.

Once the approval is received, DLNR will be going out with an RFP to the fishermen and the scientific community for projects that will assist in mitigating impacts to the fishing industry.

With regard to the Fishers Assistance Program, approximately \$1.6 million, on August 14th letters of interest were solicited with three specific goals in mind: how many people may be interested in accessing these funds, what the potential amount would be and where the geographic location would be of these potential applicants. The deadline was September 16th.

The input received back represented three of the four fisheries with nothing from the Precious Corals Fishery.

Out of the 48 letters submitted, there were eight of them that had no funding attached. Out of the other 40, \$9.5 million was requested.

The Technical Working Group is assessing the letters to get back to the applicants to assist in strengthening the letters where needed.

The proposed RFP for that particular amount of funding has been drafted and is about to go to the ESC for review.

The Technical Working Group also came up with a screening and ranking criteria, which was approved by the ESC. It is being utilized to assess the letters of interest to give positive feedback or more constructive feedback back to the potential applicants. He presented a slide illustrating the screening ranking criteria.

Proposed timeline is early December when the RFPs will be solicited. A contract is planned to assist the fishermen in preparing the RFPs.

Proposal return is planned for the February time frame and distribution of funds begins in March of 2006.

McCoy invited questions to Miyamoto. Having no questions, McCoy moved on.

F. PUBLIC COMMENT

No public comment.

G. COUNCIL DISCUSSION AND ACTION

No Council discussion or action.

18. ADMINISTRATIVE MATTERS AND BUDGET

A. FINANCIAL REPORTS

Mitsuyasu reported with regards to all the Administrative Matters, the financial report, administrative report, upcoming meetings and workshops that all documents are available in Council's briefing book.

Action items in the Administrative Section include:

SOPP changes, which is a restructuring of the Council's Standing Committees. Document 18.D shows that the Executive Committee met this summer and looked at ways to consolidate or reduce the number of Executive Committees.

Advisory Group changes, which include a new appointment to the SSC from American Samoa, Karl Brookins, who replaced Doug Fenner.

John Sibert may be appointed back on to the Pelagic Plan Team, as well as Dan Polhemus as the HDAR Representative from Hawaii to the SSC.

Mitsuyasu is seeking Council endorsement for the changes.

Ebisui moved for endorsement.

Having no questions or discussion, McCoy moved for the vote. The vote was unanimous.

Ebisui read the next recommendation:

To accept the changes of the Standing Committee structure as presented in Document 18.D.

The recommendation was moved and seconded.

Having no discussion, McCoy moved for the vote. The vote was unanimous.

Ebisui read the next recommendation:

To direct staff with respect to MSA Reauthorization to ensure that the following issues are considered:

One, that one of the alternate commissioners on the WCPFC should represent the Pacific albacore fishery;

Two, that the word "hurricane" should be re-supplemented by the word "typhoon" to ensure a calamity in this region would be recognized by the federal government;

Three, that the appointing authority responsible for selecting the committee representatives and the recommendation mechanism are identified.

The recommendation was moved and seconded.

Having no discussion, McCoy called for the vote. The recommendation was passed, with Robinson abstaining.

11. BOTTOMFISH FISHERIES

E. BOTTOMFISH COUNCIL DISCUSSION AND ACTION

Ebisui read the recommendation as follows:

The Council recommends that the U.S. Coast Guard and NMFS OLE analyze each of the bottomfish overfished/overfishing alternatives with regards to enforceability and associated costs based on:

A, available enforcement assets to monitor and enforce the measures;

B, additional assets that may be required to monitor and enforce the measures;

Two, recommends that the Department of Land and Natural Resources, State of Hawaii complete its assessment of the effectiveness of the current reserve fishing

areas and provide the Council with their recommended modifications to the RFAs including the rationale and analysis of their effectiveness.

In addition, the Council requests that DLNR analyze each of the Council's draft alternatives with regard to enforceability and associated costs. The analysis should be provided to the Council by December 2005 to facilitate timely completion of the amendment document and allow for coordinated public meetings in January of 2006.

The Council recommends that PIRO ensure that the Bottomfish DSEIS is completely and publicly reviewed prior to the March 2006 Council meeting and that hearings are conducted throughout Hawaii during the public review period.

It is critical that the Council have available the completed DSEIS and all public comments on it prior to their final decision and that decision be made in time to allow completion and transmittal of the Council's bottomfish amendment document to NMFS before the statutory one-year deadline, which is May 27, 2006.

The recommendation was moved and seconded.

Robinson said the above request was made by writing of PIRO regarding completing the DSEIS and the comment period prior to the March Council meeting. He does not see the letter he sent in reply, but he replied to the Council Executive Director in writing that he felt that that was impossible, that it would require that DSEIS to be completed and filed with EPA in early January to get the full 45-day comment period in, that that was too short a time to complete a complete Draft Supplemental Environmental Impact Statement, especially given that it's a holiday season and people will be taking a little bit of time off with their families.

He did not see that it was necessary that final decision be made in March. The one-year statutory deadline ends May 27th. The June meeting starts two days later. It seemed perfectly acceptable to have the Council make its final recommendation at the June meeting, which would give time to complete the DSEIS by late February or early March, have the 45-day comment period and have the Council make its final decision in June.

He continued:

However, with respect to the Council's Executive Director's desire to make a final decision in March, he had indicated the DSEIS could be completed sometime in mid to late February, file it with EPA for public comment, but the Council would be making the

final decision while the public comment period was open and it might not have the full benefit of the public comments.

In that case, if there were public comments that would require the Council to reconsider, then they might have to have a subsequent meeting, which is why he favored the option with the final decision in June.

But the bottom line is he objects to the compressed timeline for producing a Draft SEIS by early January, particularly what he heard earlier from Dan Polhemus that some of the analyses by the State may not be done until December or January.

He is informing the Council now that PIRO is not prepared to compress the drafting into a time period which would risk producing a poor quality and substandard document. He objects to Item 3.

Ebisui said he understands his reservations but the attempt here is to try and accomplish things well in advance. So this is trying to make the process fit the existing Council meeting schedule. He asked Robinson to do whatever he could to meet this timeline, which would be great.

Having no further discussion, McCoy called for the vote. The recommendation passed, with Robinson voting no.

19. OTHER BUSINESS

A. NATIONAL PLAN OF ACTION ON FISHING CAPACITY

Hamilton presented a brief report on the NPOA on Fishing Capacity.

The National Marine Fisheries Service has an ongoing project regarding capacity assessment and management. In past assessments it has been found that because the objectives and methodologies were poorly defined, these were quite difficult to do.

NMFS has made two commitments. The first is to do a national assessment of fishing capacity and over-capacity. This is part of the National Plan of Action that was released in 2004. Because of the differences in the regional assessments they've already done, they can't aggregate those into a national assessment. So Headquarters is going to be doing that themselves.

NMFS has also made a commitment to a goal to eliminate or reduce capacity in one-quarter of the federally-managed fisheries by the end of 2009, and a substantial majority

of fisheries in the following decade. So that national assessment that they do is going to be important because that's going to provide the baseline by which they measure their success of reducing capacity in a quarter of all federally-managed fisheries. So the Council's input on that national assessment really is important and does matter. Although we're not directly participating in it, the input is really needed.

There is a document in the Council's briefing book that gives background on the workshop, including the agenda, also the comments sent in by the Council staff who attended the workshop following the workshop.

NMFS has requested input from the Council prior to their next meeting in February 2006. Hamilton is hoping the Council will establish a capacity committee to provide this input to them. The committee would consist of Council members, SSC members, AP members and other interested and hopefully knowledgeable people. She hopes the Council would support and approve the establishment of such a capacity committee.

McCoy read the recommendation as follows:

The Council recommends the establishment of a fishing capacity committee to provide input to NMFS on the evaluation of fishing capacity prior to NMFS February 2006 capacity meeting.

The recommendation was moved and seconded.

Having no discussion, McCoy called for the vote. The vote was unanimous.

Duenas asked Feder to place his reply to Duenas' earlier question into the record.

Feder said he checked with the staff in Silver Spring who works for the Fisheries Service on Council appointment issues, and they confirmed that this is not an interpretation of the Magnuson Act that they made on the fly for this particular set of nominations for the two Council vacancies on the Western Pacific Council, but this is a longstanding interpretation of the statute, and that it's applied across the board and across the country and has come up multiple times in different regions.

Feder said he could explain again, but he did not want to belabor the Council meeting for how the rollover process works because he thinks it is well understood.

Feder said he is comfortable that the interpretation of the Fisheries Service is not the only interpretation of the Magnuson Act, that it is an acceptable interpretation of the Magnuson Act.

Duenas said it is okay to inform our Governor of the new interpretation. Feder replied it is not a new interpretation, but it probably hasn't been clearly communicated to all the governors.

McCoy announced the next meeting will be in March in Honolulu.

McCoy read:

A Resolution in Recognition of Judson Feder, NOAA General Counsel, for his service and contributions to the Western Pacific Regional Fisheries Management Council, November 11, 2005.

Whereas in his capacity as NOAA General Counsel, Judson Feder has helped to conserve and manage fisheries resources in the Western Pacific Region, which includes the Territories of American Samoa and Guam, Commonwealth of the Northern Mariana Islands, State of Hawaii and the U.S. Pacific Remote Island Areas.

Whereas, during his reports to the Council Judson Feder was unnerving in his diction of the English language, never misusing or mispronouncing a single word.

Whereas during his review of Council recommendations and documents, Judson Feder often applied his wordsmithing skills on the anvil of his extensive grammatical and lexicological expertise.

Whereas Judson Feder's experience, knowledge and ability to speak Chinese and Japanese has qualified him to represent the United States at various international meetings, including the Multilateral High Level Conference and subsequent Western and Central Pacific Fisheries Commission.

Whereas Judson Feder was of great service to the Council in his role of successful negotiation of the American Samoa Longline Limited Entry Program.

Whereas Judson Feder was the first person we knew who successfully carried and juggled two cell phones.

Whereas, Judson's commitment and dedication to conserve NOAA's budget often landed him in hotels that booked rooms by the hour of the day.

Whereas Judson Feder has been culturally and socially astute in the Pacific Island ways by bearing gifts of wine at every reception hosted by Kitty and the Council.

Whereas Judson Feder's unique collection of aloha shirts and their color schemes would often cause vertigo to anyone who happened to look upon him, especially in the morning after a festive Council reception.

Whereas a true team player, Judson Feder participated in karaoke escapades during his early and formative years with the Council.

Whereas when visiting Aunti Grace (phonetic) in Samoa Judson Feder was received by Samoan Royalty, notably High Chief Jack, King of the Bar Flies.

Whereas Judson Feder also distinguished himself in Apia in the reckless sport of airport sandwich tossing regardless of the hazards of the Samoan Immigration and Custom officials.

Whereas he became the unofficial representative through his tireless dialogue during the Council's February 2003 meeting held in CNMI.

Whereas Judson Feder repeatedly insisted on removing the "Regional" from the Western Pacific Regional Fisheries Management Council, however he was wrong because that is the Council's legal name as stated in the Council's SOPP and published in the Federal Register in 1977.

Whereas the Council can't wait for the MSA to be reauthorized so he can finally give his tattered red book a proper burial.

Therefore, be it resolved, that the Council extends its most heartfelt gratitude to Judson Feder for his outstanding dedication and service to the Council and people of the U.S. Pacific Islands.

Be it further resolved, that the Council wishes him well in Lala Land of Los Angeles and bids him a fond farewell, god speed, aloha a hui ho, tofa malo fafafa, and best of luck in your future endeavors, Judson.

Gifts were presented to Feder.

Duenas thanked the Chairman and the Council on behalf of the people of Guam for traveling to Guam. Duenas presented Council Members with gifts as a token of appreciation for their presence.

McCoy thanked the people of Guam on behalf of the Western Pacific Fisheries Management Council and its partners for their fine hospitality and their kindness and going out of the way to make their stay comfortable and safe. He recognized and thanked Manny Duenas for putting on a nice feast and a nice reception for the Council, and especially appreciated the group of children that danced for the Council in the opening ceremonies.

(Chamorro Chant)

McCoy adjourned the 129th Council Meeting.