



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

## **Minutes of the 136<sup>th</sup> Council Meeting**

**21 December 2006**

**By teleconference**

**Honolulu, Hawaii**

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

APPROVED BY COUNCIL

A handwritten signature in black ink, which appears to read "Frank McCoy". The signature is written in a cursive style and is positioned to the right of the "APPROVED BY COUNCIL" text.

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CHAIR: Frank McCoy  
Western Pacific Regional Fishery Management Council

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## **1. Introduction**

Council Chair Frank McCoy opened the meeting with a roll call of Council members participating in the meeting. Council members present were Ray Tulafono, Stephen Haleck Manny Duenas, Dot Harris, Ben Sablan, Ike Dela Cruz, Sean Martin, Ed Ebisui, Fred Duerr, Rick Gaffney, Dan Polhemus, Bill Robinson, Admiral Sally Brice-O'Hara.

## **2. Approval of the agenda**

Frank McCoy asked the Council to approve the draft agenda. This was moved seconded and passed unanimously. Chairman McCoy then asked Sean Martin as Hawaii Vice Chair to conduct the remainder of the meeting.

## **3. Fishing Within Main Hawaiian Islands Longline Exclusion Zone**

Sean Martin asked Council staff, Paul Dalzell to address the first issue. Dalzell summarized the issue Dalzell stated that the Council has received a request to allow the deployment of "basket-style gear" (traditional longline gear) in the longline closed area around the Hawaiian Islands. Basket gear was used in the Hawaii's flagline fishery, which was the precursor to the current longline fishery. This fishery began in 1917 in Hawaii off the Waianae coast with vessels evolved from wooden pole-and-line tuna sampans, employing longlines made from rope and fishing mainly within 2 - 20 nm from shore.

The request to the Council is to permit the use of seven miles of basket-style gear within the 25-75 mile longline exclusion zone around the Main Hawaii Islands (MHI). The Applicant making this request to the Council currently deploys individual one mile lengths of basket-style gear in the closed areas because lines of one mile or less are not classified as 'longlines' and can be deployed without a longline permit<sup>1</sup>. The Applicant's fishing vessels is about 80ft in length and is a multi-purpose vessel, employed for a variety of fishing in the coastal waters of the MHI. Although the vessel may make multi-day fishing trips, the Applicant typically does not fish at large distances from shore, even when deploying shortlines.

The Applicant has requested permission to join the sections for a continuous seven mile length of basket-style gear. Under existing regulations, a single seven mile longline will require a longline permit and be subject to all existing regulations for longline fishing which include exclusion from the MHI closed areas.

The MHI longline exclusion areas stretch to 50 to 75 miles from shore (depending on the specific area), with a seasonal reduction to 25 miles along the north coast of the MHI between October and January (Figure 1). Longline fishing is also prohibited in state waters (0- 3 miles from shore) around Hawaii.

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<sup>1</sup> . The State of Hawaii's Division of Aquatic Resources has classified these <1 nm lengths of longline as 'shortlines'.

Commercial fishing by small troll and handline vessels around Hawaii relative to the longline exclusion zone is depicted in Figure 1. As can be seen, the majority of troll and handline fishing occurs within 20 nm of the coast, with areas of the exclusion zone subject to relatively troll and handline fishing. Consequently, a limited amount of longline fishing beyond 20 miles from the coast within the longline exclusion zone would be expected to have little to impact on these small boat fisheries.

In summary, at this time the Applicant does not have a longline permit and wishes to use 7 miles of basket-style longline gear in the MHI longline exclusion zone. The task before the Council is to decide if they wish to accept this proposal, and, if so, by which process they will consider allowing the Applicant to fish as requested. Dalzell reviewed the alternatives which included:

1. No action
2. Community Development Program
3. Ad-hoc exemption
  - i. Hawaii limited entry longline permit exemption
  - ii. MHI longline closed area exemption
  - iii. Permit and area exemptions

Dalzell reviewed the pros and cons of each alternative and then finished by stating that the task before the Council was to decide which alternative it wishes to recommend as its preferred alternative, or suggest another alternative with respect to the Applicant's request.

There was considerable discussion of this agenda item. It was established initially in response to a question from Dam Polhemus that exemptions to the Main Hawaiian Island longline exclusion zone had to meet four criteria as follows:

- Currently owns a Hawaii longline limited access permit
- Before 1970 was the owner or operator of vessels that landed PMUS on longline in the MHI closed area
- In at least five calendar years (not necessarily consecutive) after 1969 was the owner or operator of a vessel that landed PMUS on longline in the MHI closed area
- In any one of these five calendar years was the owner or operator of a vessel that harvested at least 80% of its longline caught total PMUS landings (by weight) from the MHI closed area.

It was established the applicant, Mr. Leo Ohai, did not meet these criteria. Some

clarification on the CDP program was sought by Council members, i.e. that the requirement is there that there must be a community group involved, not an individual?

Council member Rick Gaffney voiced the opinion that the options that were being provided to the Council by staff do not include any mention whatsoever of charter, sports fishing or recreational fleets, and this was incorrect because there are over 5,000 small boats who are potentially going to be affected by any additional longlining in the same waters or more efficient longlining in the same waters. He continued that it was critically important that we recognize that those fleets exist and that those fleets were a major part of the creation of the exclusion zone. Dalzell noted that recreational fishing had been mentioned in his presentation

Council member Ed Ebisui sought clarification on the use of basket gear, and whether Mr. Ohai was currently fishing with lengths of line less than 1.0 nautical mile (nm) in length. Mr. Ohai answered that he had tried fishing with off Waianae with shortlines which has been problematical and was part of the reason for the request before the Council.

Council member Rick Gaffney sought clarification from NOAA general Counsel Silas DeRoma on the nature of the action before the Council, in particular was this a significant action that we should be considering economic, social, historical, cultural, or is this a somewhat less significant and, therefore, doesn't require us to consider all of the impacts?

DeRoma responded that the Council should give full consideration to all of the impacts that the Council deems relevant. The more consideration the Council gives to the particular question before it, the better the record that supports it. However, before fishing could begin, there would have to be an analysis under NEPA and the environmental impacts of permitting the activity and a Section 7 Consultation of the Endangered Species Act. DeRoma noted that the primary reason given by Mr. Ohai for consideration of the request, the primary reasons was hardship with retracting of the one-mile lines because they tend to scatter.

Manny Duenas thought that Mr. Ohai's request deserved to be considered seriously, given his many years of fishing in Hawaii and that he was a Native Hawaiian, which was the target of initiative like the CDP Program.

Council member Fred Duerr expressed concern about the impact on the fishery out there. he noted that we have seen a decline in the number of fish surrounding our islands. Certainly since 1991, when we had a problem then, and the problem is even greater now. Allowing one fisherman an exemption does open the door to other people coming in and wanting to do the same type of fishing. We have got more and more fishermen today, whether they're recreational fishermen or commercial fishermen. The charter boat people are considered commercial fishermen and they take out recreational fishermen. They have a livelihood, too, that must be considered. Dan Polhemus concurred noting that other potential applicants had voiced their desire to obtain exemptions.

Sean Martin then asked to move on to the next agenda item before talking public comment on this issue.

#### **4. Addition of Heterocarpus Shrimp to Crustacean MUS**

DeMello said that at the last Council meeting the Council discussed adding Heterocarpus to the Crustaceans FMP. At that meeting the Council recommended that Heterocarpus be added to the appropriate management plan to management unit species in order to provide for better monitoring of this fishery.

DeMello gave a brief background to the fishery. Heterocarpus is a deepwater shrimp that can be found on the outer reef slopes of Pacific Islands from around 300 to 1,000 meters. He showed a picture of Heterocarpus shrimp and said that people are fishing for Heterocarpus in Hawaii and the Northern Marianas Islands. But the data is not collected in the Northern Marianas, only through the State of Hawaii Commercial Marine Licensing Program. The Heterocarpus is also not included as any MUS under the Council's FMPs. So that's the issue that was brought to the Council.

DeMello then provided the Council with the current MUS list for the Crustacean Fishery Management Plan, which includes spiny lobsters, slipper lobsters and Kona crab. He presented the alternatives:

- Alternative 1, no action, to maintain this current list.
- Alternative 2 would add the Heterocarpus to the Crustacean Fishery Management Plan management unit species list.
- Alternative 3, add Heterocarpus to the FMP and require federal permitting and reporting. So just like in any of our other FMPs, with federal permits comes a requirement to report to the National Marine Fisheries Service and to apply for a permit from the Pacific Island Regional Office.

With that, DeMello concluded his report.

Martin asked if there were any questions. He called on Duenas.

Duenas asked if they catch any of this stuff in State waters, the shrimp? And do we have a reporting permit type worked out with the State keeping track of these guys?

DeMello replied that right now, only the State is collecting the data. through the Commercial Marine Licensing Program.

Polhemus said that he can provide some background. These guys show up periodically. It's a pulse fishery. They show up. They trap them, boats from outside of the State. They operate primarily outside of State waters, but they know sometimes they might stray inside three. So to cover themselves and be legitimate operators, they do buy commercial marine licenses from us and they report to us. So currently we are capturing the data for their landings through our Commercial Marine Licensing Program.

Duenas asked if they also have a buyer reporting program?

Polhemus replied yes, to the extent that they sell their catches here, then we also have dealer reporting as well.

Martin called on Duerr.

Duerr repeated that Polhemus said that the vessels fish for one to two years followed by five to seven years. Is that to give the fish a recovery time -- I mean, the shrimp a recovery time? Is that pretty much why they don't fish -- they all fish for two years and then they don't fish for five to seven years?

Polhemus replied that he was not quite sure the rationale for their periodic appearance and disappearance. It could be related to other fishing grounds that those grounds also frequent. It could be on years when those grounds aren't so good, they may come here. I don't know if you can see it, but here is the basic graph of the fishery on the PowerPoint. You can see there's just a few big peaks with some long area of lull in between. But as to the actual causality underlying that pattern, I'm not completely aware of what drives it.

Martin called on Gaffney.

Gaffney asked both DeMello and Polhemus if the only source of data on *Heterocarpus* in Hawaii CML? Or has somebody -- NMFS or somebody actually gone out and done research to look for this species all through the Main Hawaiian Islands?

Polhemus said that he was not aware of NMFS having studied this species, in particular. When we've gone out with the submersibles and the remotely-operated vehicles through the Hawaii Undersea Research Lab, primarily on bottomfish fishery independent work, we've encountered *Heterocarpus* fairly commonly and we've actually video-taped them, and such. I've got DVDs of *Heterocarpus* swimming around. I'll try to get a clip sometime and bring it into the Council if you'd like to actually see what *Heterocarpus* looks like, down at about 400 meters.

DeMello replied that there actually were some studies done by the Science Center from experimental trapping studies. In Item 4.A in your book, you can go through the reference list, and there is a bunch of different studies by King and Bob Moffitt over at the lab, Jeff Polovina. A lot of them are in CNMI, but they've also been done on the Hawaiian Archipelago, like Tagami and Barrows in 1988. There's also been independent studies by the original shrimp fishermen that were looking at creating an FMP off it in the '80s.

Polhemus said he stood corrected, but the bottom line is that if you go down in a submersible, or something, it's not uncommon to see *Heterocarpus* at appropriate depths.

Martin called on CDR Young.

CDR Young asked if there are indications that it's a pulse fishery related to the fact that the fishing effort makes it that way, that it's fished to a point of potential collapse and then it goes a period of years so it rebuilds, and then effort again causes it to collapse?

DeMello replied that they think that it's no longer economically feasible to be putting out all of that effort in the fishery, that's probably why they leave. But the shrimp life span is about a year, maybe eight years at the most. I've seen some for as long as eight years. So maybe that's why you have a five-to-seven-year window, because you're building a stock.

Martin called on Duerr.

Duerr commented that the information we have here is only Hawaii data. What about American Samoa and Guam? Do they have any?

DeMello said there were no recent data.

Eric Kingma agreed there were no recent data, but there have been fisheries in the past and there's been research in those areas, extensive research in the NMI Archipelago.

Dalzell said that most of these *Heterocarpus* shrimp are found throughout the Pacific. They're found at the depths that Dan Polhemus mentioned, the same depth as you find bottomfish. They're not like the native prawns that you get in shallow water, which have a very fast turnover and a biomass which can replace itself very quickly. These species of shrimp, they live a lot longer in relative terms than the penaeid shrimp. So their biomass doesn't turn over as quickly. So they have a higher natural mortality rate.

Also, particularly on island slopes, the actual habitat area is limited as it is for bottomfish. So it is possible to deplete these populations, as in fact that's why it's a pulse fishery. You fish it down. The population comes back. You come back a few years later and fish it down again. It will come back. So this is the reason why this fishery operates as it does, as a pulse. And as I say, the biology of these shrimp mean they turn over more slowly. They're living in cold water. Cold water animal. Their metabolism isn't as rapid as in the shallow-water tropical area, which is why penaeid shrimps -- again, you can fish these quite hard and they come back much faster.

Duerr then asked if the pulse, the two years followed by five years, is consistent in American Samoa as it is Guam and CNMI?

Dalzell replied that there hasn't been any commercial fisheries, as far as I'm aware, in American Samoa for quite a long time. NMI has a lot more seamounts and slope areas than Hawaii relative to its size. I think most of the fishing that has been done there has been primarily research. But there has been limited amounts of commercial fishing there. But, again, we don't have the same kind of records that we have here from the State. It hasn't been on a scale where I think you deplete the resource to the extent that it does get depleted here.

Martin called on Duenas.

Duenas wanted to touch on about Guam and CNMI. CNMI has more experience in that. But in Guam, we have the pulse fishery. As you say, we get the boats down from Alaska that come down for a year. By the end of a year, they end up trying to sell their boat for a few thousand dollars just to get back home. So that's the type of pulse fishery I think that we're looking at, is I think they're out of work in Alaska and they come down looking for the other gold mine and they can't find it and end up leaving their vessels.

Martin called on Polhemus.

Polhemus noted that at least in Hawaii, and it appears elsewhere in the Western Pacific, this isn't a locally-based fishery. The boats that have fished the fishery most recently in Hawaii come from the Pacific Northwest. So they're coming from some distance to here. They don't always make that trip. So as I noted, they undoubtedly have home fishing grounds in which they do presumably similar kinds of fishing that in certain years may obviously be more productive than others. So that may drive this to some extent.

Polhemus noticed that in the front of the Council's document, in the summary, they basically explain the answer to the question in terms of, deepwater shrimp fisheries have been sporadic. The reasons for this are, gear loss has been a common problem and made ventures unprofitable. Short shelf life and a history of inconsistent quality leading to fluctuating market demand. Fisheries generally experience local depletion on known fishing grounds leading to much lower catch rates. So, essentially, the operations are constrained by cost, markets and resource availability, and those all combine to lead to a pulse.

Martin called on Dela Cruz.

Dela Cruz mentioned that they have fishermen that have been doing some fishing on the Heterocarpus shrimp for the past six months. And the average catch is about 250 to 300 pounds per month. The other thing is that we would like to get an elaboration or clarification on Alternative 2. What does that entail, other than listing it as the Crustaceans MUS?

DeMello clarified Alternative 2 is just adding it to the FMP just so that if any future regulations were needed, then we could do it under the FMP. Otherwise, we will be back here trying to put it in the FMP, or maybe an FEP by then. The difference between 2 and 3 is that 3 requires permit and reporting. DeMello asked Dela Cruz if the Division of Fish and Wildlife there in CNMI collect any of the data that the fishermen have been Heterocarpus.

Sablan responded that Fish and Wildlife has not collected any of this data. But the data are available. I have Ray Roberto with me here, and he's ready to accept those data. But he's not mandated at this time to collect those data.

DeMello agreed and that Michael Tenorio from CNMI office reported that information to the plan team in 2004.

Sablan added that the data is not collected because it is not an MUS species.

Martin called on Gaffney.

Gaffney said he was curious about the biology of this species. Who eats them, other than us? What is their primary predator?

DeMello replied that from what is written, it says they are eaten by tunas and by snappers, bottomfish. There is no real information on what they eat. But some anecdotal information from our SSC was that they are found in swordfish, too.

Martin called on Polhemus.

Polhemus noted that the last time the boats in the Pacific Northwest showed up a few years ago and were cruising around exploiting this fishery off Kauai, the local fishers there were calling us up sort of concerned, because their feeling was that these shrimp are an important food for bottomfish. This isn't necessarily scientifically established, but it was their belief through traditional knowledge and their apparent observation of stomach contents, that these were important food sources for bottomfish and they were afraid that to the extent that they were depleted, it was further depleting the bottomfish fishery as a whole.

Martin called on Duenas.

Duenas commented regarding the capturing of data on Guam. The two or three vessels that did fish on Guam, they were selling it on their own. So there are no records at their point of sell of the volume they were catching. Just some reports from other fishermen, because they like to brag, they weren't doing too hot.

Martin asked for additional comments. Hearing none he moved on to agenda item 5.

## **5. Precious Coral Harvesting Around the Main Hawaiian Islands**

DeMello reviewed the first issue, black coral MSY. For those who don't know, we're talking about black coral MSY in the Auau Channel, which is a channel between Maui and Lanai. He showed a map of the Auau Channel, right in the center of the Auau Channel and said that in 1976 Rick Grigg estimated the black coral MSY for the Auau Channel at 6,174 kilograms per year. He also provided a more precise estimate for Kauai, but this action will deal with the Auau Channel. Again, in 2004, due to the rising threat of Carijoa, *Carijoa riisei*, an invasive soft coral, along with continued harvest and research, it revealed a possible decline in recruitment of black corals. Dr. Grigg proposed to reduce the estimated MSY by 25 percent. This reduction in MSY would provide protection for the black coral resources of the Auau Channel.

Another part of this issue is that the black coral bed in the Auau Channel is not defined as a bed under the FMP. Currently, we have established beds, which are those that have a good estimate of MSY and have been well researched. Conditional beds that have been researched, a lot of the MSY estimates are made from proxies of the Makapuu Bed, which is our only established bed. Then we have exploratory areas, which is where the black coral beds would be put because all of the other areas haven't been defined as established or conditional.

DeMello then reviewed the alternatives:

- Alternative A1, no action.
- Alternative A2 would establish MSY for the black coral bed in the Auau Channel. It's important to note that we do not codify the MSY into our regulations. But it is noted in our FMP for National Standard 1.
- Alternative A3 would establish the MSY for the black coral bed in the Auau Channel and define it as an established bed under the FMP.
- Alternative A4a would establish the MSY and define it as an established bed. Then it would set the MSY as a quota for the fishery for the whole bed.
- Alternative A4B, would establish the bed, establish MSY and set up quota for the federal waters only.

DeMello concluded his report.

Martin asked for questions. He called on Gaffney.

Gaffney asked for a bit of the history of the terminology, established bed? Where did that come from? Why was it determined that it was necessary to create this established bed terminology?

DeMello replied that when the FMP started, they created these different sub management areas because they knew a lot about the Makapuu Bed but not of the other beds. But as they were discovered, there wasn't enough research to tell what was going on in these other beds. Marcia Hamilton, Council staff added that it's just a terminology to differentiate them. Established beds have a known MSY and a quota.

Martin called on Robinson.

Robinson asked if the Council desired to establish MSY for the coral bed, but the last alternative, a quota for the federal waters, is there any method or data that would indicate what proportion of the harvestable corals are in federal waters versus state waters on which a quota could be based?

DeMello replied that right now there is a permitting process for the black coral divers in federal waters, and they should be reporting. Just off the top of my head, I would think you would split it that way. But previous harvests weren't known. So I guess you would have to look back at the commercial marine licensing reports or do a survey.

Martin called on Robin Lee for a question.

Lee asked the yield that you are talking about, you want to reduce, right, the current takes for the divers, but would that only be in federal waters, or state and federal waters, or total waters throughout the state?

DeMello said the MSY is on the whole black coral bed in the Auau Channel.

Lee said that wouldn't include, say, Molokai or the Big Island.

DeMello said no.

Martin called on Polhemus.

Polhemus commented on Robinson's question that the State is in fairly advanced stages of revising its black coral rules, and we have no problem working with the federal fisheries managers to try to establish a proper MSY for the entire bed as a defined bed. We would be glad to work toward that.

Martin called on Robinson.

Robinson addressed a question to Polhemus. If you were to establish a separate quota for federal waters, is there a basis in known data, survey data, catch data or other data calculating what the quota in federal waters would be? I presume it would be some proportion of the overall MSY.

Polhemus replied yes. It's an interesting question. I'd probably let my specialists in the fishery answer that. Actually, they're here so perhaps in the public comment period they can do that.

Martin called on Lee.

Lee asked if the federal government consider just paying us off for not diving anymore. That way, the scientists can have all of the black coral to themselves.

Martin replied that we'll pick that up in the public comment period. We're going to move through to the next presentation. Martin moved to the next precious coral item, gold coral.

DeMello gave a brief history on gold coral management by the Council. The Council's current gold coral aging estimates are based on the assumption that growth rings are laid down annually as in other precious corals, such as black coral and pink coral. With this assumption, Dr. Grigg estimated that gold coral grows at 6.6 centimeters a year. At the time, this was the best available science and actually the only science at the time.

In 1995, a paper was published by Druffel, et al. that estimated the age of large gold coral trees in the Atlantic to be over 1800 years old. This is a lot different than what Dr. Grigg

estimated, because if you just do some rough calculations, that tree would be over 120 meters, which it most likely wasn't. This past spring the Council learned of research being done on samples of Hawaiian gold coral using radiometric dating out at Stanford University. This research was just published on December 7th, and it shows that three samples collected from the Makapuu Bed and off the Island of Hawaii had an estimated axial growth rate of 14 to 40 micrometers per year, making the samples 450 to 2,740 years old. Because of this, the plan team was not confident that the gold coral growth estimates were correct in the FMP, and we have this issue today.

DeMello reviewed the alternatives

- Alternative 1, no action.
- Alternative 2 is to put a moratorium on the fishing of live and dead coral in the region.
- Alternative 3 is to put a moratorium on the fishing of live coral in the region.
- Alternative 4 is to reduce the harvest quota by 50 percent of gold coral in all precious coral beds. Right now we have a quota on gold coral harvest.

DeMello concluded his report.

Martin asked for questions. Hearing none he moved on to the third part of the coral presentation, Main Hawaiian Island Black Coral Limited Entry Program.

DeMello said that the black coral limited entry was something that the Precious Coral Plan Team mentioned that might be another option in managing this fishery. He showed a map of the Auau Channel. One of the ideas is to create a control date. But in discussions with the state, the State of Hawaii already has a control date that they could use for establishing limited entry in the black coral fishery. I believe it is 1999.

DeMello reviewed the alternatives.

- Alternative 1, No action
- Alternative 2 would be to issue a control date for future management.
- Alternative 3 would be limit participation in the fishery. This would be a limited entry program to the current black coral fishery participants. So, basically, whoever reported would qualify that have landed historically would be allowed in the fishery.
- Alternative 4 would limit the participation to a target number of participants. This would be any number that the Council chose, open to anyone who wants to join the fishery.
- Alternative 5 would establish a federal registry for all Western Pacific precious coral fishery participants.

DeMello concluded his report.

Martin asked for questions and called on Polhemus.

Polhemus said that on the first of the issues before us, which is maximum sustainable yield for the bed, say we reduced that down to a certain level, essentially created a total allowable catch. He asked what additional benefit would we derive from a limited entry

if we actually had a TAC.

DeMello said that is one of the questions and I think that's why Robin got to that question about just paying off the divers. A limited entry system was discussed by the plan team as an idea. But it might be just another layer of regulations on the fishery.

Polhemus asked DeMello if it would give us much additional benefit other than just further regulating the fishery? Because you already have MSY, and when you hit it for the year, presumably you're done no matter how many guys are in the fishery.

DeMello said that depending on how you set it up, probably not. I don't think there would be any benefit to it.

Martin called on DeRoma.

DeRoma said that when the Council takes action, they generally are responding to a need to regulate the fishery in some aspect. I know you said that the plan team has suggested a limited entry program. But do you know the basis for that suggestion so you can give the Council some idea as to why some actions are required so they can decide which action would be appropriate?

DeMello deferred to the Precious Coral Plan Team Chairman, Frank Parrish.

Martin called on Frank Parrish Precious Coral Plan Team Chair.

Parrish said that on April 18th, 19th of 2006 we had a workshop. You guys were all briefed on this. This was in one of your briefing books at one point or another, all of the things were there. One of the most important parts of the workshop was we had the divers there, they actually participated with us in the workshop. This was something that they had put on the table for us to look into and seeing what merits it would have.

When there was discussion about size structure issues, reducing the MSY, putting in some area closures, and with those things, the divers said they would like to have this limited entry type thing discussed. All of us on the planning team felt it was a little bit outside of our expertise to be able to discuss that, but we decided we would go ahead and kick it up the chain to people who had actually some experience with it. Black coral has never had a limited entry anything. So we figured it would be better to put it in an arena where people have talked about it for other fisheries.

Martin called on Gaffney

Gaffney noted that the Auau Channel is seven miles wide.

Martin asked for additional questions. Hearing none, he moved on to the public hearing portion of the Council meeting. Martin reminded that the audience that if they want to give public comment here in the Council offices, please fill out one of the yellow cards,

state your name and any affiliation. For those of you who are on the conference call, if you're where one of the Island Coordinators is, please coordinate with him so we can make sure we get your comments here and we know who you are. Any conference callers from the public who are just from the public, please clearly state your name. I'll take the comments in the sequence that cards are received or people speak up. I don't have any cards for any public comment folks here yet. So I'll ask if there are any public comments from Guam.

## **6. Public Comment**

Sean Martin announced the opportunity for public comments first by participants from Guam, CNMI and American Samoa. Hearing none, Martin asked if there were any comments from Hawaii.

Robin Lee, introduced himself as one of the black coral divers from Maui. He suggested the federal consider a buyout program for participants in the black coral fishery. He said the government should consider compensation for the average value of their annual harvest for the past three to five years or more. He said that he would prefer a buyout and shut down the fishery altogether rather than try to continue to operate under greater and greater restrictions.

Dr Rick Grigg of the University of Hawaii stated that based on the age structure and recruitment analyses of black coral, some reduction in the harvest would be in order. He noted that his calculations estimate that a 25 percent reduction from MSY may be needed to keep the fishery sustainable.

He added that this fishery has been well regulated since 1961, which is 45 years and suggested it is probably the best-managed fishery in the state. He emphasized that it has not been overharvested.

Grigg also said that reducing MSY by 25% would probably not affect the fishery at all because the fishermen have not been harvesting at MSY. However, he noted that it is just a more formal step to reduce the MSY in the event the fishery does increase in the future.

He said that he did not have specific comments on buyouts, but he felt it should be noted that Hawaii's black coral divers support a \$30 million dollar industry. He added that with red, pink and gold corals, Hawaii's precious coral industry is about \$55 million. This is a lot of jobs and income for the State of Hawaii.

Grigg also said that there is a NOAA project called Project Deep Reef which involves looking at the reproductive behavior of black coral in deep waters below 70m and also more work on gold coral.

Regarding gold corals, Grigg said a five-year moratorium is in order so that scientists can validate whether it is appropriate to use annual growth rings or radiometric techniques to

determine the age of gold corals. He said he is not confident with growth ring studies because he only looked at colonies up to Age 40. Based on this data we know that colonies, using growth rings, get up to 200 years in age. That's assuming linear growth. However, if they slow down with age, they could be as old as 800 years using growth rings, which in fact, agrees with a radiometric technique of Roark.

Grigg said that it would be difficult to divide the MSY between state and federal waters because the MSY is based on the whole bed which is about nine miles wide and sixteen miles in length. Scientifically, we've never divided it up into a federal chunk and a state chunk. But if one were to do it, MSY would probably be about 40 percent for federal and 60 percent for federal, and that's very cumbersome.

Martin asked Grigg if there was a reduction in MSY for black coral would you expect a corresponding market change? In other words, would you expect that the fishermen would be paid a higher price if there was a reduced MSY?

Grigg responded that his feeling is that the buyers have to recognize the reduced harvest the divers are now able to take because of the restrictions and the population dynamics of the fishery. The onus is really on the buyer to pay the divers a higher price. This stuff is worth at least \$50 a pound, and it's time to bite that bullet for the buyers and pay the guys what they deserve.

Lee said that in the past years, the divers have struggled to get more money from the buyers. Buyers bring in a lot of imported stuff from the Philippines that is sold in Hawaii as Hawaiian coral. When you get foreign imports disguising themselves as Hawaiian coral, that's what is keeping the price down.

Bill Robinson asked if the gold moratorium alternative would apply to live coral or dead coral or both?

Grigg responded that it would be for live coral only.

Tony Montgomery, State of Hawaii biologist said that Dr. Grigg was correct. Biologically, it probably doesn't make a difference to the stocks if one were to harvest the dead coral. But something that hasn't been discussed is the enforcement issue. While biologist may be able to discern live from dead gold coral, enforcement officers may need training to know the difference.

Montgomery also expressed sympathy to the black coral divers who have been helpful in the research aspects. He stated that the State of Hawaii actually wants to see this fishery continue and want to make sure that the regulations are in place to make it sustainable in another 25, 30, 40 or more years.

Frank Parrish said that based on the past seven years data, harvest of black coral has actually exceeded and that's one of the reasons why we discussed the MSY quite

extensively.

Manny Duenas stated that perhaps the State of Hawaii could compensate the divers for assisting with research.

Robinson noted that since it would be difficult to partition MSY values in terms of state and federal waters separately. He then asked if there is a need for additional measures such as quotas, to reduce effort and harvest?

Parrish said the measure to increase size limit to 48 inches merely closed the exemption that was provided to long time fishermen. As Grigg did his size frequency work, he found what he thought was a period of poor recruitment and he then proposed we should drop MSY by at least 25 percent.

When he started talking about doing a 25 percent drop in MSY, he actually phrased it 25 to 50 percent, but was saying 25 percent is what they should move on. This was verified independently by the work Tony Montgomery was doing.

Now, we have the Carijoa issue and we don't know if the big trees that are below what divers can reach are or have ever reproduced in the first place. But we do know now that better than 50 percent of them are covered with Carijoa.

So whatever reserve we had thought there was in this fishery is gone and the fishermen are fishing in the entire fish stock because the trees out of their reach are infested with Carijoa.

So, in summary, removing the exemption and reducing MSY by 25% may not be sufficient.

Dan Polhemus stated that Carijoa infestation at 90-100 meters is profound.

Tony Montgomery noted that between 1998 and 2004, harvest increased by almost 15 percent. So what that is indicating to me is that the fishing impact over the last decade has had more impact than over the prior two decades.

Mr. Brendan since publication of the radiocarbon dating paper, we have since age-dated three additional live-collected specimen of gold coral. The data which I showed to the Precious Coral Plan Team earlier confirms long ages and the very short growth years -- of growth increments per year on the order of around 35 microns per year.

Basically, what we are getting with the total of the 20 specimen that we have dated so far, an average radial growth rate range from about 10 to 85 microns per year, and those are on a wide variety of different size samples.

The reason why we don't do more live collection is because we know how old they are and we're loathe to collect samples that are clearly 800 to 2,000 years old. We're not --

for ourselves, we're not going to take part in that kind of work when there is plenty of dead ones that will suffice for the kind of work that we want to do.

Leo Ohai said that he would like to take issue with Mr. Polhemus statements and information pertaining to his personal commercial catch data submitted to the State of Hawaii.

Mr. William Aila, Harbor Master from Waianae said that regarding Heterocarpus, the Council should adopt Alternative 1 No Action.

He said that he knows a lot of individuals who fish for Heterocarpus. They fish until the stocks become uneconomical to fish and then they stop. It's a pulse fishery.

Regarding the longline exemption, he said he along with other small boat fishermen supports the no action alternative.

## **7. Council Discussion and Action**

Polhemus moved that the Council adopt Alternative 1, no action, on the first issue.

Gaffney seconded.

Martin said that it has been moved and seconded to adopt Alternative 1, which is the no action alternative and asked for discussion from the Council members. He then called on Ebisui.

Ebisui thanked the chair and said that he was speaking in favor of the motion for Option 1, which is no action. He continued by saying that we've heard all of the concerns. I have very similar concerns with gear conflicts, equitableness, fairness, potential proliferation of applicants. I can also assure Bill Aila that some of us also carry the scars from the late '80s and early '90s, some of us -- yeah -- some of us sitting around the table right here and some people in the audience. Those were extremely, extremely tense, volatile times. The Council did the right thing. The plan that was put in place, after having been worked out by consensus, has worked marvelously. The problems that we faced back then are no longer. So I think it's working very well. I do have much reservation about tinkering with that.

However, Ebisui continued, I do feel also that perhaps the concerns -- well, I do feel that perhaps Mr. Ohai's request should be looked at in a different context, and that is from the perspective of the Community Development Program, as we talked about around the table, if it can qualify for that. I'll tell you right up front, I have reservations about whether or not the technique and the gear is truly traditional. That's a real big stumbling block for me. But perhaps it may have some educational value. I do have concerns about -- if the stated purpose is for education, I certainly have concerns about training others to use gear that is prohibited under current regulations. So from a conceptual standpoint, I have problems with that. But I do speak in favor of this motion, but I also want to say

that I intend to follow this motion up with a subsequent motion bringing the examination under the CDP Program.

Martin thanked Ebisui and asked for further comments. He called on Gaffney.

Gaffney said that he was going to vote in favor of this motion, for all of the reasons that Ed just stated. He, too, was at least an observer of the process that resulted in the Longline Exclusion Zone. Gaffney continued by saying that a great percentage of my constituency is in the sports fishing charter fleet in the Hawaiian Islands and they too have dramatic reservations about any other commercial fishing being allowed in the zone where their fisheries, which have already been depleted to the point where they are no longer catching yellowfin tuna of the size that they used to or in the numbers that they used to in the Main Hawaiian Islands; they don't want any additional competition in that and they certainly don't want a door to be opened to extensive requests for exemptions to fish within this hard-fought zone of protection for that fishery and the rest of the small-boat fishery in the state. But the other thing I would like to state is that I don't believe the Council has any other choice but to vote for no action at this point, because I don't think we've been provided with the information necessary to recognize all of the impacts of this. What some people would characterize as a very simple change, it is a dramatic change. It's significant action. It's an action that would require our looking at the environmental impacts, the economic impacts, the social impacts, the cultural impacts of this change. We don't have the information to do that. So I don't believe we can vote any other way except no action. Gaffney thanked the Chair.

Martin then called on Duenas.

Duenas said that he was not in support of this no action. He said that No action is another 31 years of no action again on the CDP Program. He said that he prefers the recommendation made by Ebisui regarding investigating whether this project or program qualifies under our Community Development Program, which we hope to facilitate and develop after 30 years on the books and not giving it.

Duenas raised a concern that when he was on Guam one of the lead scientists at our marine lab told me, oh, Manny, you know, you Chamorros on Guam, you guys go back to weaving nets with coconut leaves, and everything. You guys can go harvest the resources of your reef, but using monofilament or modern technology, that's not traditional. So I guess Pacific cultures are the only ones exempted from using any technology or advancement in society. I mean, it was said that some fishing technique was only 300 feet or maybe 200 feet, as opposed to a one-mile longline. I guess as Pacific Islanders, we are to succumb to the fact that we cannot progress.

Duenas said that he really takes offense to the so-called use of the word tradition when there is not an archeologist or science person that at least deals with that kind of study in this room. I've discussed it with Craig Severance on several occasions, and he always calls me as a traditional practitioner. I was at the Puwalu for the last three days, and every one of them was a traditional practitioner. So I guess maybe we didn't ask the right

people whether that definition actually fits. He thanked the Chair.

Martin called on Robinson.

Robinson said that since everyone here has spoken to the issue of history and the conflict that history brought that he won't speak to that. He said that he does believe that the issue of impacts on protected resources, particularly green sea turtles, Hawaiian monk seals and possibly even false killer whales, would be something that if the Council moved forward would have to be examined very carefully, probably through Section 7 Consultation for Endangered Species.

Robinson wanted to touch on Community Development Programs, because he really believes in them. Everywhere I've worked, eight years in Alaska, we had Community Development Programs for Native Aleuts and Alaskans. In the Pacific Northwest we had Community Development Programs for Native American communities, tribal communities. We should have them here, and I'm surprised we don't have them here, actually. But I guess the concept of Community Development Programs -- at least, I'm familiar with -- there is a defined community. It's a village. It's a town. It's a group of affiliated people that are working together in some way. They had arrangements with a group of fishermen or a single fisherman who brought benefits back to that community. Whether it was brought food that was distributed, whether it was shared income, whether it was a business within the community, there were benefits to that community from the fishing activity, and that's my concept of community development. It just doesn't appear to me that what we've heard about this operation, that it really satisfies that kind of concept of what a Community Development Program is and should be. But I do think that we have an obligation here to support Community Development Programs and try to promote them wherever possible, and we probably do don't enough of that.

Robinson also wanted to point out that the three prior exemptions were restricted in the areas that they could fish based upon historically where they fished. There's no basis for doing that here because there is no historical fishing history to do that. Robinson said that he'll support the motion, as well. I just don't think the case has been made well enough to do anything other than no action at this time. He thanked the Chair.

Martin called on Duerr.

Duerr said that he was going to vote in favor of the motion. He said that he doesn't think there is anything else we can do because the application as submitted does not address those things that would qualify it for its educational value. I think it's a commercial venture. It's not one that we can read into it. I think that the applicant should reapply. If we vote on this application, he has an opportunity to come and reapply to qualify for an exemption in another way. Duerr thanked the Chair.

Martin called on Duenas.

Duenas commented that that was his whole point. He wasn't saying decide on Mr. Ohai

today. But, to him, taking no action makes it more difficult in the future to address these kinds of issues. He thanked Mr. Ohai for bringing and raising this issue to the Council, that we do not have a program to accommodate these types of requests.

Duenas added that he was not saying that at this juncture that we accept Mr. Ohai or approve Mr. Ohai's recommendation. All I'm saying is, let's create the parameters by which a person like Mr. Ohai or other people in the community in the Central and Western Pacific can apply and not be given another year before they can be given an answer through the Council process or through the adjudication process of NOAA.

Martin asked for other Council member comments and called on McCoy.

McCoy said that he agreed with what Duenas was saying and that they really need to take a look at the programs that we are proposing and we are putting in to effect. By and large, some of the actions that we take we disenfranchise our own indigenous population. I think we should look at that. I think we haven't met that criteria, ourselves, as a Council. I really think we seriously need to -- as Manny said, this is not in support of any one particular individual, but we should look at how we do this program as a whole so there are opportunities offered. McCoy thanked the Chair.

Martin asked for comments from other members. Hearing none, he made a comment. Martin said that he remember those days that Aila talked about. He appreciated what he learned out of those days. He said that he also has constituents who as well participated, not always willingly, in getting to where we are. Martin continued by saying that he thinks things are relatively quiet now. I think we've reached some kind of an equilibrium today. I don't look forward to that equilibrium changing any time soon. It is I think important that we recognize the situations that got us where we are. Martin said he was supporting the motion as well and asked for other comments.

Martin called on Harris.

Harris expressed her agreement with Council Member Duenas and Council Member McCoy's comments. Just to delineate between the discussion here, she said, one is with regard to traditional fishery. I believe the issue is indigenous access. I just want to make that distinction. She thanked the Chair.

Martin called on Ebisui.

Ebisui addressed Harris' comments by saying that what he was telegraphing earlier was that, if this motion passes, where we take no action on the application in terms of an analysis for exemption under the current longline rules, if the motion is approved by the Council, then I would follow it up with a second motion, essentially asking for analysis under the CDP Program of the same request.

Harris replied that she agreed with Ebisui.

Martin called on DeRoma.

DeRoma stated that the Council can amend the motion that's on the floor in place. He said that the Council can, to take no action on the individual exemption, add language modifying the motion recommending that the Council develop a CDP.

Ebisui explained DeRoma's comments for those that were on the teleconference. He said that what the discussion was, was General Counsel informed us that it would be appropriate, instead of having two separate motions, for us to amend the no action motion to include a follow-up with analysis under the CDP, and that's an appropriate procedure. So that's what is under consideration at this point.

Martin said that at this point they have to ask for consideration by the maker of the motion and the second, if they are agreeable to amending the motion. Polhemus said he would be agreeable to amending the motion.

Martin asked the second.

Gaffney said shook his head no.

McCoy asked Ebisui to repeat his recommendation.

Ebisui said that he would add to the original motion by Polhemus, which was seconded by Gaffney, and their motion was that no action with respect to any kind of exemption under the general longline rules that apply, and it would be amended by the following: That the Council staff prepare a Draft Community Development Program for pelagic fisheries in the Western Pacific Regions, and that the staff should begin by first drafting a Hawaii CDP, that among other options would also address the possible use of basket style gear, and present this at the next Council meeting. If I can just sort of summarize, that would be essentially analysis under the CDP Program of Mr. Ohai's request.

Martin called on Gaffney.

Gaffney said he had a point of order question and asked DeRoma if he had the right to reserve his approval of the amendment until he heard the amendment, as opposed to, does he have to approve prior to hearing what the amendment is?

DeRoma said that, strictly speaking, you can interrupt, if you make a motion on a main issue, you can interrupt with a motion to amend the wording of that motion. There is debate on the move to amend and a vote to amend. But as with all matters in the Council's procedures, the motions before the Council should be displayed so that all of the Council members can see them and the public can see them prior to a vote. So, yeah, I think there's no need to reserve a vote, but there should be a display of the proposed motion.

Gaffney revised his question and asked if the Chair has asked whether or not -- as second

of the original motion, whether he was willing to accept an amendment. He didn't understand that he needed to do that.

Duenas called for a point of order. Gaffney wanted an answer from DeRoma. DeRoma said that if Duenas has information that will shed light on this, he welcomed that. Duenas let DeRoma continue.

DeRoma continued that there is debate on the motion to amend and then there's a vote on the motion to amend. So it's an up or down on the amendment. But in order to vote on the amendment, it has to be displayed.

Martin called on Robinson.

Robinson said just to be more specific than Silas, who is absolutely right, but exactly to your point, I believe as the seconder that is being asked to accept or reject the motion to amend, you do have a right to hear the motion, to know what it is before you make that agreement, that's all.

Martin called on Polhemus.

Polhemus said that he agreed with Robinson. Simply, the question asked of me was whether I would consider allowing the motion to be amended, which we said yes, and he agreed.

Martin said that is what he asked. Polhemus added that they didn't know the form that the amendment would take. So that's still up in the air, and we haven't necessarily said yes to the amendment.

Martin concurred and called on Duenas.

Duenas stated Robert's Rules of Order which states anyone can make a motion so long as there's a second. A subsidiary motion, a second motion or an amendment to that motion can be made by another individual and seconded. Then it is voted upon as a secondary motion to amend the first motion.

Duenas commented that the only thing that was given to the original makers of the motion was the courtesy that you are going to amend that motion as a courtesy request. They do not need to give consent because it is by the body that consent is given.

Martin asked Council Staff to read the motion as amended. DeMello read: "In regard to a request for an exemption to the Main Hawaiian Islands Longline Exclusion Zone, the Council recommends taking no action on the request for an exemption under the General Longline Permitting Rules and for the staff to prepare a draft analysis on the original request under the Western Pacific Community Development Program."

Martin called on Simonds and Ebisui added that the recommendation should be region-

wide.

Simonds said that the recommendation should begin with under the Hawaii Longline Limited Entry Program, then the second part, I thought you said that you were asking the staff to develop a program for the Council to review for the entire Western Pacific Program -- for the entire Western Pacific, and that would include as one of the options an analysis of using the lines that he was -- the basket case -- the basket case. This is a basket case -- the basket gear option. It's one of the options that would be analyzed as well. But just one, because there would be several others. So that's a little different from that.

Ebisui replied that Simonds statement was more specific than his. He said that Simonds restatement of what he was trying to say accurately captures what he was trying to say. But he also needs to clarify that we are not taking action on this. The proposed program and the analysis will be presented to the Council at some later date as a draft and then the Council evaluates that and then acts on it.

Simonds added that the Council then decides on what they want to do. It will take about a year.

Duenas seconded.

Martin called on Duerr.

Duerr said that they are not trying to tailor-make a program for anyone. We are going to come up with, so I think the application is null and void. There will have to be a reapplication.

Simonds agreed. Ebisui added that this is taking no action on the request.

Duerr asked if the application had to be withdrawn?

Martin said that his application is being addressed with this recommendation, if it passes, and would not have to put in another application.

Duenas commented that if you look at the CDP Program, it says communities. So, therefore, we have no choice but to reject the application.

Martin agreed and said unless he's part of a community.

Duenas said that the program is what he wants.

Martin called on Gaffney.

Gaffney said that he needed more information on the Community Development Program. He said that he asked for it from Council staff and hadn't received it. He said he needed

it before they went further.

Simonds said that it is in the Magnuson Act that that the Council is authorized to develop the program and added that the Council has developed one for the bottomfish fishery in the Northwestern Hawaiian Islands.

Gaffney wanted to ask specific questions. He said that as he understands, the Community Development Program, as I read it, it requires an application from a community group. He said that they do not have an application from a community group here. We have an application from an individual. So we're mixing apples and oranges here. An individual has asked us for a permit exemption. We need to make the decision yes or no, we're going to allow the permit exemption. If the Council wants to proceed with developing a Community Development Program, it needs to have a request from a community group before it can proceed to do that, as I understand the Community Development Program. Now, if I'm wrong about that, please correct me.

Martin asked DeRoma and Robinson to shed some clarity for the Council.

Robinson said that he thinks we are mixing up Mr. Ohai's application for an exemption and Section 305 of the Magnuson Act, which authorizes the Western Pacific Council and the Secretary to establish a Western Pacific Community Development Program. It basically lists under Section 305 the criteria that have to be met to be eligible to participate in any such Community Development Program. It's my understanding that the program has not yet been developed and that the Magnuson Act provides guidelines for developing the program. So that's a separate issue from Mr. Ohai, because no current Community Development Program exists to compare his request against.

Simonds agreed.

Robinson said that his request needs to be considered up or down on its merits. Then the Council needs to embark, following the Magnuson Act, to develop a Community Development Program and then evaluate subsequent requests.

Martin called on Polhemus.

Polhemus asked Robinson if the motion before us on the screen now do what you've proposed?

Robinson said that he thinks that it comes pretty close, but you might cite Section 305 to the Magnuson Act, a Community Development Program according to, or authorized by Section 305 of the Magnuson-Stevens Act. I think that separates the two issues nicely.

Martin called on Duenas.

Duenas wanted a clarification if these were two separate motions.

Polhemus said it is one motion with two parts. Gaffney said that it should be two motions.

Gaffney said that is the basis of his point. I think we're mixing two things which are unrelated here. I think this amendment is inappropriate as an amendment. This amendment should be withdrawn and then we can vote on this whole new issue, basically, separate from the question of no action.

Martin called on Polhemus.

Polhemus said that, it would seem to me that if you want to do that, you should withdraw your amendment and reintroduce it as a separate motion.

Ebisui said that it was fine. We're quibbling about form and not substance. If it helps this body reach a decision sooner, that's fine. I'll withdraw it.

Martin said so at that point, are we back to the original -- Recommendation 1?

Martin asked if everybody in agreement? the seconder? The maker of the motion?

Polhemus asked if we're going to vote on no action, not amended?

Martin said yes. He then had Council staff read the motion for the benefit of those on the conference call.

DeMello read: **“In regards to a request for an exemption to the Main Hawaiian Islands Longline Exclusion Zone, the Council recommends taking no action on the request for an exemption under the Hawaii Longline Limited Entry Program.”**

Martin said that the motion has been made and seconded and would do a roll-call vote.

Manny Duenas? Duenas said yes.

Dot Harris.? Harris said yes.

Ray Tulafono? Tulafono said yes.

Stephen Haleck.? Haleck said yes.

Chairman McCoy? McCoy said yes.

Ed Ebisui? Ebisui said yes.

Bill Robinson? Robinson said yes.

Dan Polhemus? Polhemus said yes.

Fred Duerr? Duerr said yes.

Rick Gaffney? Gaffney said yes.

Ben Sablan? Sablan said yes.

Ike Dela Cruz? Dela Cruz said yes.

Martin voted yes, and said **the vote was unanimous**. He moved on to the second recommendation and called on Ebisui.

Ebisui said that the motion is in regards to Community Development Programs.

Ebisui read: "The Council recommends Council staff to prepare a Draft Community Development Program, CDP, authorized by Section 305.1(2)(a) of the Magnuson-Stevens Act for pelagic fisheries in the Western Pacific Region. Staff should begin by first drafting a Hawaii CDP that, among other options, would address the use of basket style gear and present this Draft Hawaii CDP to the Council for consideration at its March 2007 meeting."

Duenas seconded.

Martin said it has been moved and seconded as read and asked for discussion. He called on DeRoma.

DeRoma had a suggestion. The Council may want to limit it to instead of the specific citation in the Magnuson, just the Magnuson Act generally, in the case that perhaps the Reauthorization tinkers with Community Development Programs, then you're not limited to this particular provision. You can develop it in accordance with any provision that addresses community development in the Magnuson Act.

Ebisui and Duenas agreed to the change.

Martin reviewed saying that we've deleted the portion citing the specific portion of the act and it's just the Magnuson Act. He asked for further discussion and called on Gaffney.

Gaffney said that he can agree with the first half of the motion, the first sentence. But I think it's inappropriate that the second sentence should be there. We've had a lot of testimony written and oral today to the effect that any program to introduce additional basket style gear into the fishery here is inappropriate. I have no problem with developing the CDP Program to a much greater extent. But to specify that the staff focus immediately on something which I believe should be rejected I think is wrong. I would strongly recommend that the second sentence be removed.

Polhemus said that he was going to support Gaffney's comments, but for totally different reasons. I don't think we should be favoring any particular island or group of islands or region in the Western Pacific in regards to how we do this. Essentially, I think that it should be sort of evenly developed across the board. Guam could be first. Samoa could be first. It doesn't have to be Hawaii first. Therefore, I think it would stand better if you simply retained the first sentence and deleted the second.

Martin called on Gaffney.

Gaffney said he would like to make a motion that we amend the current motion to remove the second sentence so that the only thing that remains is the first sentence of this motion.

Polhemus seconded.

Martin said that the amendment is on the floor moved and seconded to remove the portion. He asked Council staff to read the amended motion.

DeMello read the amended motion: “In regards to Community Development Programs, the Council recommends Council staff to prepare Draft Community Development Programs, CDPs, authorized by the Magnuson-Stevens Fishery Conservation and Management Act for pelagic fisheries in the Western Pacific Region.”

Martin called on Ebisui.

Ebisui said that the amendment doesn't make sense because as the proposed amendment reads, it now says, staff to prepare Draft Community Development Programs authorized by MSA for pelagic fisheries in the Western Pacific Region. What does that mean? CDPs about what?

Gaffney replied that his assumption is that the staff can make that decision based on input from those communities as to the types of programs that they would like to see developed. I don't see any reason why we, as the Council, should be going out looking for people that want Community Development Programs. We should make them available to those communities. Maybe what the staff would come back with is, we need to advertise and market better that these are available to these communities and how they can access them. Maybe that's what the result of that would be. But I agree strongly that it's inappropriate to start the process with an ill-conceived program based on an application that didn't come from the community, that came from an individual.

Martin said that it was his understanding that we've dealt with the longline limited entry program. So that one is dealt with. I think you're suggesting that that's the foundation to move forward with the second motion. I think there easily could be other pelagics, as well as other programs, as you suggest.

Martin called on Duerr

Duerr said that he would agree to dropping the basket style gear, and all. I think what we need to do is direct the staff and give them broad enough latitude to come back to us with a program that would lay down the requirements, all of the requirements, whatever they are, without being specific. Because by being specific, you say, you shall include this.

Martin called on Duenas.

Duenas said that to him, that just makes what we're looking for a little more focused. It gives us something to look at, rather than be in general in speaking and in creating these parameters that the program is trying to set, and maybe Silas can be a lot more clear than I am in this process.

Martin called on DeRoma.

DeRoma said that under the statute, under 2.B.2, it does refer to criteria that are developed by the Council, and would have to be approved by the Secretary and published in the Federal Register, that would be an obvious first step towards defining. If the Council wanted to do it broadly, the first step would be developing the criteria.

Simonds replied that it had been done, and it took five years to do that.

Ebisui said that he is looking at the two motions in this subject area as two stand-alone motions. If you look at number two standing alone, what does it mean? It makes no sense unless it's linked to number one. But these are two motions now. That's why we attempted to amend, so that it's clear, the linkages between the two parts. I'm looking at it just from straight English construction. Read number two by itself without consideration of number one, and you tell me what that means. What kind of directions are we giving to staff?

Martin asked Council staff to read the motion.

DeMello read the motion: **“In regards to Community Development Programs, the Council recommends Council staff to prepare Draft Community Development Programs, CDPs, authorized by the Magnuson-Stevens Fishery Conservation and Management Act for pelagic fisheries in the Western Pacific Region.” DeMello continued by saying the motion would delete the following, staff should begin by first drafting a Hawaii CDP that would, among other options, address the use of basket style gear and present this Draft Hawaii CDP to the Council for consideration at its March 2007 meeting.**

Martin said the motion has been moved and seconded and asked for further discussion. Hearing none he called for a roll call vote and reminded those on the phone that they are voting on the amendment to the original motion.

Manny Duenas? Duenas said no.

Dot Harris.? Harris said no.

Ray Tulafono? Tulafono said no.

Stephen Haleck.? Haleck said no.

Chairman McCoy? McCoy said no.

Ed Ebisui? Ebisui said no.

Bill Robinson? Robinson said yes.

Dan Polhemus? Polhemus said yes.

Fred Duerr? Duerr said yes.

Rick Gaffney? Gaffney said yes.

Ben Sablan? Sablan said no.

Ike Dela Cruz? Dela Cruz said no.

Martin voted no. Martin said that the vote is **four in favor, nine against. Motion fails.**

Martin said that they are back to the original motion and it has been moved and seconded. He called for the question through roll call vote.

Manny Duenas? Duenas said yes.  
Dot Harris.? Harris said yes.  
Ray Tulafono? Tulafono said yes.  
Stephen Haleck.? Haleck said yes.  
Chairman McCoy? McCoy said yes.  
Ed Ebisui? Ebisui said yes.  
Bill Robinson? Robinson said no.  
Dan Polhemus? Polhemus said no.  
Fred Duerr? Duerr said no.  
Rick Gaffney? Gaffney said no.  
Ben Sablan? Sablan said yes.  
Ike Dela Cruz? Dela Cruz said yes.  
Martin voted yes, and said it the vote was **nine to four in favor, motion passes.**

Martin moved on to the addition of Heterocarpus shrimp to the Crustacean MUS and reviewed the three options: Alternative 1, no action; Alternative 2, add to the Crustacean Fishery Management Plan; and Alternative 3, add to the Crustacean FMP and require federal permitting and reporting.

Duenas made a motion to adopt alternative 3, add Heterocarpus to the Crustaceans FMP and require federal permitting and reporting.

Martin seconded. He said that the motion has been moved and seconded and asked Council staff to read the motion for the benefit of those on the phone.

DeMello read: "In regards to the Crustacean Fisheries, the Council recommends adding Heterocarpus species as a management unit species to the Crustaceans Fishery Management Plan and require federal permitting and reporting."

Martin asked for discussion and called on Robinson.

Robinson said that given what we heard from CNMI earlier about a fishery for Heterocarpus species also occurring there, I think adding them to the MUS and requiring permits and reporting is a good idea.

Martin called on McCoy.

McCoy said he supports the alternative. He said as we move into our ecosystem management plans, it will be that much more necessary and requires that we start finding data and collecting information on these fish.

Martin asked for more comments. No comment from Guam. Martin called on Sablan in CNMI.

Sablan said CNMI begs to differ from the motion earlier stated by Duenas, simply because we thought that Alternative 2 would be better for the CNMI in relation to the

distance from Honolulu to CNMI with permitting. We're experiencing difficulties in getting permits from here through Honolulu because of time differences and the complications of getting the permits. He said they were not in support in the CNMI on Alternative 3, that we would like to see other discussions on Alternative 2. Thank you.

Duenas asked Robinson if there is a problem with the permitting process, that we facilitate and ensure CNMI of a proper program.

Robinson said that he was not aware of any particular problems. If anybody on the staff here does- but we have people now in all of the territories and offices, and I don't see why we couldn't work out some means of having our people who are in the territories be middlemen and facilitate the permitting process. If the Council adopted a federal reporting requirement, it wouldn't have to all be done in Honolulu. We could set up something in the region.

Martin asked if that satisfied Sablan,

Sablan said no. I earlier stated that we have time differences. If it's Saturday here, it's Friday over here. Or if it's Sunday here -- or Monday here in the CNMI, it's Sunday over there. It begs that the differences in time can create a lot of problems with permits. I certainly understand that PIRO has representative here, but they're not readily available to issue permits locally on island. With regards to reports or data collection, the Division of Fish and Wildlife can continue to collect local data on the *Heterocarpus* species.

Martin called on McCoy.

McCoy asked if the permits would be daily permits?

Martin said no they would be at the very least an annual renewal permit. There would also be logbook requirements as well under this motion.

Martin called on Dela Cruz.

Dela Cruz said that they would like to find out more about these permitting requirements. We only have one shrimp fisherman here in the CNMI and he just started this year. In fact, he's been doing this for just about four months already. This requirement is going to cause him a lot of hardship. He is submitting data and cooperating with our creel survey team. So I don't think that at this time this is going to be convenient to his operation. Who knows, he may be exiting this type of fishing activity if it doesn't pay out.

Martin called on Polhemus.

Polhemus said that based on the comments, he wanted to make a motion to amend, and simply state that as the motion is written, add *Heterocarpus* species as a management unit species and federal permitting and reporting requirements, and then just simply add, in the absence of adequate state or territorial permits or reporting. In other words, you add:

if there's not adequate state or territorial reporting, then federal permitting kicks in.

Gaffney asked who decides what is adequate?

Polhemus said that we're already capturing it at the State of Hawaii level. It's largely duplicative to have the Feds do it again.

Dela Cruz interrupted with a point of information. Martin called on him.

Dela Cruz said he wonders what kind of cost this is going to entail. You know, CNMI is in a very difficult financial situation and we are trying to reduce as much cost to fishing here in the CNMI, because especially since this is a new enterprise. I wonder if anybody has that information for us?

Duenas replied that the permitting process is a federal thing, but it does not cost money. It's a free thing. The only effort you've got to put in is to make sure we get the data collected, and that is given to your representative. I believe Bill Robinson said he is going to assist you in every way possible for the one person who needs the permit to get his permit, and that's what we need. We need the information. On Guam, I especially need the information because these guys sell on the road. They don't go through any creel survey data collection point, or anything. So I need the information. I think that may be the case of other people. But the permitting process does not cost you anything.

Martin called on Robinson.

Robinson said that he recognizes there is a time difference between the territories and here. But with people from our office in the territories, they can be equipped with all of the proper forms and applications in the territories and can deal directly with an applicant and can get a permit issued within a fairly short period of time. We could set up that program in a fairly short period of time as well. Federal reporting doesn't always necessarily mean a federal report. It could mean federalizing a state reporting requirement, if that's the way we chose to go. But I don't think there would be a lot of cost and I don't think there would be a lot of delay. It might be that a fisherman can't come in and apply for his permit and get his permit an hour later, but I don't know many fishermen in Hawaii that can do that either. So I do think the program could work smoothly and without inconveniencing any of the fishermen in any of the territories.

Martin said there was a suggested language change by Polhemus that wasn't seconded, so its back to the original motion and asked Council staff to read the motion again.

DeMello read: **“In regards to Crustacean Fisheries, the Council recommends adding Heterocarpus species as a Management Unit Species to the Crustaceans Fishery Management Plan and require federal permitting and reporting.”**

Martin said that the motion has been moved and seconded and took a role call vote. Manny Duenas? Duenas said yes.

Dot Harris.? Harris said yes.  
Ray Tulafono? Tulafono said yes.  
Stephen Haleck.? Haleck said yes.  
Chairman McCoy? McCoy said yes.  
Ed Ebisui? Ebisui said yes.  
Bill Robinson? Robinson said yes.  
Dan Polhemus? Polhemus said yes.  
Fred Duerr? Duerr said yes.  
Rick Gaffney? Gaffney said yes.  
Ben Sablan? Sablan said yes.  
Ike Dela Cruz? Dela Cruz said yes.  
Martin voted yes, and said it there is **twelve yes votes, one no vote, and one abstention.**  
**Motion passes.**  
Martin moved on to precious coral. He asked Council staff to provide the options to the Council members.

DeMello said that there are five options: A1-No action alternative; A2, establish MSY for the black coral bed, which means we put it into the FMP even though it's not codified; A3, establish MSY for the Auau Channel black coral bed and define the bed as an established bed under the FMP; **A4a, establish MSY for the black coral bed in the Auau Channel, define it as an established bed under the FMP and set the MSY as a quota for the entire bed;** and A4b is establish MSY for the black coral bed in the Auau Channel, define it as an established bed under the FMP and set the MSY as the quota for the fishery for federal waters only.

Ebisui assumed duties for Martin who stepped out of the room and called on Polhemus.

Polhemus moved that the Council adopt Alternative A4a.

Duenas seconded.

Ebisui said that the motion has been moved and seconded and called for discussion. He called on Robinson.

Robinson said can I presume from the State making the motion that the State is willing to promulgate parallel or joint regulations, or whatever we want to call them, for a single quota?

Polhemus said yes.

Robinson said thank you.

Ebisui asked for comments from the other areas. He called on Duenas.

Duenas said that just for information, SSC supports a downward revision of MSY by 25 percent. Nonetheless, as a precautionary measure, the fishery should be regulated so that

the harvests do not exceed this revised MSY, and I think that is the recommendation of the SSC. So just to note.

Ebisui called on Robinson.

Robinson asked a question of the maker of the motion, was it the intent that the reduced MSY be the quota?

Polhemus said yes.

Ebisui said the motion has been made and seconded. Hearing no further discussion, he called for a roll call vote.

Manny Duenas? Duenas said yes.

Dot Harris.? Harris said yes.

Ray Tulafono? Tulafono said yes.

Stephen Haleck.? Haleck said yes.

Chairman McCoy? McCoy said yes.

Ed Ebisui? Ebisui said yes.

Bill Robinson? Robinson said yes.

Dan Polhemus? Polhemus said yes.

Fred Duerr? Duerr said yes.

Rick Gaffney? Gaffney said yes.

Ben Sablan? Sablan said yes.

Ike Dela Cruz? Dela Cruz said yes.

Martin voted yes, and Ebisui said the vote was **unanimous. Motion Passes.** He turned the meeting back over to Martin.

Martin moved on to gold coral issues and asked Council staff to review the alternatives.

DeMello reviewed the alternatives: The first alternative is no action; Second alternative is to establish a five-year moratorium for the harvest of fishing of live and dead gold coral in the Western Pacific Region; Alternatives 3, establish a five-year moratorium on the fishing of live gold coral in the Western Pacific Region; and Alternative 4 is to reduce the harvest quota by 50 percent of gold coral in all precious coral beds.

Martin called on Polhemus.

Polhemus made a motion to adopt Alternative B2.

Duerr seconded.

Martin said that it has been moved and seconded to adopt Alternative B2. He asked Council staff to read the motion for the benefit of those on the conference call.

DeMello read: "In regards to gold coral, the Council recommends a five-year moratorium for fishing of live and dead gold coral in the Western Pacific Region."

Martin asked for discussion and called on Duenas.

Duenas said that in light of having an SSC recommendation that expands this sentence to nearly a paragraph, I would like to offer this as an amendment: “Accompanied by a research program to determine linear/axial growth, recruitment/mortality.” I believe it's all in the SSC's recommendation. If we could just add that in, I would feel a lot more comfortable, rather than say we're going to have a five-year moratorium, thank you, good-bye. Sorry. I would appreciate the SSC's recommendation included into this.

Polhemus said that he had no objection to the amendment.

Duerr said that he had no objections.

Martin asked Council staff to read the motion as amended.

DeMello read: **“In regards to gold coral, the Council recommends a five-year moratorium for fishing of live and dead gold coral in the Western Pacific Region accompanied by a research program to determine linear, slash, axial growth, recruitment, slash, mortality and deterioration rates. The Council recognizes that there may be potential for the harvesting of dead gold coral and encourages development of methods for distinguishing harvested dead from harvested live coral and assessing the ecosystem functions of dead coral.”**

Martin commented that it is important that it's not just kind of left hanging, but there is work that can and needs to be done. He called on McCoy

McCoy said he was wondering why the inclusion of American Samoa. There has never been any research done here that I'm aware of it. I don't know. I'm trying to see where we're going with this.

Martin asked Council staff why it is region-wide and not specific to areas where there is activity.

DeMello responded that the gold coral research that has been done is all pointing towards a longer life span for gold corals both in the Atlantic and in Hawaii. According to our precious coral scientists on the plan team, there should be no reason to distinguish that the gold coral in Hawaii and in the South Pacific would be two different or would have substantially different growth rates. So making it a region-wide recommendation takes the precaution of protecting all gold coral known and yet to be known.

Martin added that we did hear that currently there are no active gold coral fisheries within the region as well.

DeMello said he is Correct.

Martin called on Robinson.

Robinson said he supported the motion. I think we heard about the difficulties distinguishing between live and dead. So the only comment I would make -- and I do support the need for the research, I'm just not sure who is going to do it and whether there is money to do it, but I certainly support it.

Martin asked for any additional comments from Council members? Hearing none, he called for the question through a roll call vote.

Manny Duenas? Duenas said yes.

Dot Harris.? Harris said yes.

Ray Tulafono? Tulafono said yes.

Stephen Haleck.? Haleck said yes.

Chairman McCoy? McCoy said yes.

Ed Ebisui? Ebisui said yes.

Bill Robinson? Robinson said yes.

Dan Polhemus? Polhemus said yes.

Fred Duerr? Duerr said yes.

Rick Gaffney? Gaffney said yes.

Ben Sablan? Sablan said yes.

Ike Dela Cruz? Dela Cruz said yes.

Martin voted yes, and said the vote was **unanimous. Motion Passes.**

Martin then asked Council staff for options regarding limited entry of the black coral fishery.

DeMello reviewed the alternatives: Alternative 1 is no action; Alternative 2 is to issue a control date for future management; Alternative 3 is to limit participation in the fishery to current black coral fishery participants; Alternative 4 is to limit participation to a target number of participants; and Alternative 5 is to establish a federal registry for all Western Pacific precious coral fishery participants.

Martin called on Polhemus.

Polhemus made a motion to adopt alternative 2.

Gaffney seconded.

Martin said there was a motion and it was seconded to adopt alternative 2. He asked Council staff to read the motion for the benefit of those on the conference call.

DeMello read: "In regards to black coral, the Council recommends a control date for future management of the black coral fishery."

Martin asked for discussion and called on Gaffney.

Gaffney suggested an amendment that the change would state, recommends that the

Council adopt State's control date for future management of the black coral fishery.

Polhemus said the State of Hawaii's control date is June 1999. I'm not aware of the exact date.

Martin called on Ebisui.

Ebisui asked DeRoma if they can do that, select a date today retroactive back six or seven years?

DeRoma said there are some problems with that. In addition to that problem, there isn't a record before the Council explaining why that date is the proper date to select.

Gaffney withdrew the motion.

Martin asked for additional comments and called on Duenas.

Duenas said, based on the SSC recommendation, you know we're supposed to be guided by our science. The SSC recommends that the Council study a creation of a limited access program for the Main Hawaiian Island black coral fishery. To establish a control date, I think, deviates from that study. There is no reference point as to when we are supposed to begin this control date and why, there is no justification for a control date to be issued to begin with.

Martin called on Ebisui.

Ebisui said it may be complementary, because we could establish today as a control date. Then if we do decide that a limited entry program or a limited access program or quota, or whatever, is applicable or appropriate, we could go back to today's control date.

Martin called on Duenas.

Duenas said he was just concerned that, like when Robin was speaking earlier, we were establishing all of these criteria, bam, bam, bam, without allowing -- whether the reduction is hitting the quota level or the 25 percent reduction of MSY, blah, blah, blah. We haven't allowed those activities to work and function. We haven't seen any scientific proof. We don't know if we can control the invasive species that are affecting the coral. We don't know if the divers are willing to go down there and assist to remove these invasive species to protect their industry. So there's a lot of issues and establishing a control date, to me, already says, well, we're going to shoot you already. So as a matter of fact, you best get ready for it. That's what I think Robin was saying, just buy us out and forget about it.

Martin called on Polhemus.

Polhemus said as far as a control date, it doesn't bind you to limited entry. It's simply a

tool that's a precursor should you determine that you wish to impose limited entry in the future. To that extent, I agree with Ebisui. It's simply complementary with what the SSC recommended, and it goes part way along that road. It simply gives you a foundation upon which you could use if you were to determine in the future that limited entry was of use. Remember, when we were having Council discussion on this earlier I questioned whether limited entry would be of any utility at this time given that we've just essentially voted to lower maximum sustainable yield in the fishery, which essentially is serving as a TAC. So at this time I'm not sure I actually would impose it, but this simply makes it easier to do so if and when you should decide to do so.

Martin called on Robinson.

Robinson said that in his experience, the purpose of a control date is to discourage new entry into a fishery why the Council is developing the criteria for a limited entry program. So it's usually the date when the Council makes its decision which the control date would be, for example, as of today. It says anybody who enters the fishery after today is at risk of not being included in the limited entry program if and when it is ever adopted. But it does not bind the Council to making that part of their criteria. The Council may develop whatever criteria of historical participation it so desires when it develops the program. But it's more or less just a notice to the public that after today's date you're no longer guaranteed any rights in this fishery if and when a limited entry program is developed.

Martin called on Duenas.

Duenas said with that explanation, I'll accept it. But can we add on the SSC recommendation to this sentence?

Polhemus said he would be fine with an amendment like that.

Martin called on Robinson.

Robinson suggested that the control date be set at December 21st, 2006.

Gaffney seconded.

Polhemus said he agreed with the amendment.

Martin asked Council staff to read the motion, as amended, for the benefit of those participating by phone.

DeMello read: **“In regards to black coral, the Council recommends establishing a control date for future management of the black coral fishery of December 21st, 2006 and directs staff to evaluate the creation of a limited access program for the Main Hawaiian Island black coral fishery.”**

Martin said that the motion has been moved and seconded and asked for any comments,

questions or comments. Hearing none, he called for the question by roll call vote.

Manny Duenas? Duenas said yes.

Dot Harris.? Harris said yes.

Ray Tulafono? Tulafono said yes.

Stephen Haleck.? Haleck said yes.

Chairman McCoy? McCoy said yes.

Ed Ebisui? Ebisui said yes.

Bill Robinson? Robinson said yes.

Dan Polhemus? Polhemus said yes.

Fred Duerr? Duerr said yes.

Rick Gaffney? Gaffney said yes.

Ben Sablan? Sablan said yes.

Ike Dela Cruz? Dela Cruz said yes.

Martin voted yes, and said it was **unanimous. Motion passes.**

Martin called on Robinson.

Robinson said that he would like to assure Mr. Dela Cruz and Mr. Sablan that PIRO will work with them to make any federal permitting or reporting requirements as painless as possible. Thank you.

Martin called on Duenas.

Duenas said the reason he enjoys the Council process so much, because it allows us to look at all of the questions and look at all of the answers to come out with a good decision. I'm glad we finally resolved Mr. Ohai's concern and put it behind us and maybe we can deal with it in another way in the future. But the thing that we've got to remember is that no matter what we do, it's not a simple answer. Every time we turn around, there are a lot of questions to be answered and a lot of questions that have answers. So we need to look at those questions and we need to look at those answers. So before we start to become a no action organization because we don't want to take a step, we need to investigate. As much as people like to investigate us, I think we should investigate our fishery, and we should stand by it. Thank you.

Martin said that this concludes the current business and asked if there was any other business.

## **8. Other Business**

Martin called on Ebisui for comment.

He said that he wanted to add on to what Duenas was saying. Oftentimes, when there is active discussion, sometimes that's taken as a sign of division or some kind of a divisive action. But, really, all of the discussion, all of the deliberation is part of a good process and it's appreciated. He said that they really ought to take into account all points of view before making our decision. Ebisui thanked the Chair.

Martin thanked Ebisui for his comment and called on Polhemus for comment.

Polhemus addressed the Executive Director regarding the recently reauthorized Magnuson-Stevens Act and asked for a short synopsis of how the provisions in the new act will affect the Western Pacific Region.

Simonds said that the biggest thing for the Council is the international section, because pelagics is the biggest fishery. She said that the two limited entry programs, for American Samoa and Hawaii, what it did was it made the Council a commissioner representing the United States. She said that was a hard-fought battle and the Council is named in the legislation.

The other thing about the international, Simonds said, is that also named in the legislation, which is important because you really can't trust government, is territorial participation. What it is, she continued, is that our three island areas also sit at the table, just like the territories of the other nations, like France that have territories. So that's in there. So they have a voice. They don't have a vote and they don't sign, but they have a voice at the table.

Simonds also said that another important thing is that there was an addition to our Community Development Program, our CDP and our CDP Program. There are three pages in here that calls for the Secretary of Commerce to work with the North Pacific Council and the Western Pacific Council on a pilot program to educate, train. Well, the bottom line is to take into consideration the traditional fishing of the Pacific Islanders and Hawaiians. So it gives us even another boost in the direction of supporting our indigenous people in terms of fishing opportunities, training observers, seafood. It's a very long list and it's very good.

Simonds reported that the Council assisted the governors of American Samoa and the NMI and Guam after their typhoons and cyclones in trying to get disaster relief for the fishing industry. She continued by saying that under the previous act, it had to be a fisheries disaster. Now there's a big long section in here that anything, if a disaster like that hits, if there is infrastructure damage, if there's fishing boat damage, if there's whatever, everyone can apply for disaster relief. So that was really good.

She also said that shark feeding was added to the Act, so there can be no chumming for sharks in the Western Pacific Region unless you are fishing for sharks.

Ebisui asked if that was for only around Hawaii.

Simonds said no.

Polhemus commented that it was useful because if the State's position was that you needed to get relief through federal statute would be the best approach, and it seems like the Act has done that.

Simonds said yes.

Polhemus said he commend that, because of course we don't permit it in our waters. So now you can legitimately not permit it in yours. So that's a good thing.

Simonds replied yes, that's right. No question, no talk, no whatever. Simonds continued by saying the biggest thing in terms of fisheries management is that the SSC will have to establish a total allowable catch for every fishery. So everybody will be subject to a TAC. We said that-when they first talked to us about this a year and a half ago-we don't operate this way and that is not the way we do our fisheries here. They go, what, don't you know what your biomass is, and all of this. We said, no. But we're just going to have to do it, by the seat of our pants, or whatever. If we don't have the information, we're just going to have to deal with what we have. So that will be the most difficult for us, I think. Those are the main things. You can add some other things, too.

Martin called on Polhemus.

Polhemus said, presuming that we've got TACs, that means we're going to have to have catch reporting, and I take it the TACs are going to involve TACs that are both commercial and recreational catches combined.

Simonds said exactly.

Polhemus said that it would have some pretty solid implications for licensing now, doesn't it?

Simonds agreed and said that she was surprised at how much activity goes on in the federal zone, actually. And I really don't believe that there are very many true recreational fishermen in Hawaii. There are subsistence fishermen. But a true recreational fisherman is some of these very wealthy boats, as I always point to Marcia Hamilton's JIMAR report when she went around talking to all of the fishermen, it's the fishermen who have a lot of money and they go fishing. When they catch something, they take friends out to eat it. But there's really not very much of that. Most everybody sells the fish.

Polhemus said from the State's standpoint, at least, some of us aren't entirely unhappy about the fact that we're probably headed toward registration and reporting. It's been a long road to get there.

Simonds said that the new Act calls for registration. So there will be federal.

Polhemus referred to the National Registry of Recreational Saltwater Fishermen.

Simonds replied that there is going to be a federal register of that. But as I said, the Council has already voted over the last several years to collect information from

everybody who fishes from a boat. So that's what is going to be implemented next year, all of the pole and line -- all of the fisheries will have to report.

Polhemus said the State will work with the Council in that they had proposals like that going forward for the bottomfish fishery anyway. They were at their AG, and he thinks this simply reinforces their rationale for doing that.

Simonds replied that if we followed your rules correctly and if we followed Magnuson, which says that if you sell one fish, you are a commercial fisherman. I mean, I think that's where we're all heading. So I think our recreational base will be much smaller than everybody thinks.

Martin thanked them and called on Duerr.

Duerr had a question about Federal Registration and who would administer it.

Simonds replied that the feds would administer it. Duerr asked if they would enforce it too, suggesting that the coast guard isn't going to be chasing down everyone. Martin replied that everyone would be pointing fingers.

Polhemus added that the State of Hawaii now has a Joint Enforcement Agreement with NOAA. So at least in Hawaii, DOCARE and OLE can work interactively across state and federal water boundaries. So essentially, enforcement is going to be everybody's job.

Simonds replied that the one thing that we all didn't get that we really wanted to have was an exemption from NEPA. But what they did do is to give the Feds deadlines on how we develop this -- what we're going to be doing, all of the councils and NOAA and the CEQ, are going to develop the process that we will follow, and that will be the process for the councils, that will be the NEPA process, whatever we come up with, and there is a two-year deadline on that so you know it has to be done. Polhemus commented that it was a lot of work.

Martin thanked them and called on CDR Young.

CDR Young asked Simonds if there was any further insight on the jurisdictional issue that might have been added to the Act.

Robinson said that they have it. Simonds said that the notification was put back in, but CDR Young was talking about the venue. Robinson said he thought that was in there. Simonds said she didn't see it in there and CDR Young agreed.

Simonds said that when we last discussed it with them, they wanted to talk to PIRO. So we gave him Mike Tosatto's telephone number. But we also suggest that they speak to the Coast Guard, because it really is a Coast Guard issue, not really a PIRO issue, and they did not call, as I understand from him.

Tosatto replied that they worked out language and had language forwarded to them.

Again, it's one of those that as it came down to the wire. Where it fell out, we have no idea.

Simonds said that they didn't follow through on that one, because it was the wee hours of the morning. Robinson said he saw it in it in the December 1<sup>st</sup> version so it must have fallen out in just the last few days. Simonds said if we can do it on something else, what about attaching it to the Appropriations Bill. So we'll follow up.

Martin thanked everyone and asked for additional business. He called on Ebisui.

Ebisui wanted a clarification on Robinson's letter to Peter Young about bottomfish, dated December 7<sup>th</sup>. He said that being the Bottomfish Chairman, and having always been the Bottomfish Chairman, there was a section in there or a sentence that kind of caused me to snap my head back. It said, fishing mortality needs to be reduced by 15 percent. Then you say in response, the Council recommended closure of the Penguin and Middle Banks, which are in -- parts of those banks are in federal waters. But then you go on and say, however, the ability of the closures in federal waters to accomplish the necessary reduction in fishing mortality relies on the State of Hawaii adopting and implementing complementary closures. My recollection was that it was the closed seasons that require consistent and complementary closures by the State. My recollection is telling me we got correspondence from NMFS saying, yeah, the closure of the areas in federal waters would achieve the 15 percent, and it was not dependent upon State action.

Robinson replied that if you look at the letter in the context of nothing more than 15 percent reduction, you're correct. So it probably wasn't worded as well as it should have been because I was looking beyond that to the total reduction we're going to most likely be required to meet, but it did not come out that way. Robinson said that his comment was correct.

Ebisui thanked Robinson and said that he just wanted to make sure it wasn't intentional in terms of my not understanding what had transpired. Robinson replied no, and that it could have been written better.

Ebisui said that he understands what you're saying, because the '04 -- I mean the '04, '05 data isn't in there.

Martin thanked them and called on Simonds.

Simonds said that the interesting thing about this is that -- and I did ask Bill that if Bill is going to write another letter about this Council, that he should really show us the draft or consult with us, or something, so that something like this wouldn't happen. Because as we went to your website, Dr. Polhemus, your website showed this letter and said, this is support for the State. Then it showed our old closures, our seasonal closure as the Council's recommendation. So something wasn't quite right there, and that is why we did want to bring it up. Because if you look at your website, that's what you did. This was juxtaposition with our old closure. So as we all know, we don't need your closures to do

the 15 percent mortality. Okay. It's when we start getting into other things, but that's not what we're talking about. That's not what our amendment is about. Because then we'd just as soon go in and look at another action. I mean, we can. There were several actions -- in fact, the fishermen, what they liked best was the limited entry program and each of them having a quota. This is for the highliners. So I just want to say that I wasn't too happy when I saw all of these things happening. The last question is, what did you have before your Board members? Did they have our old closures? Or did they have our new closures? Because is this not true.

Polhemus replied that what they had them was simply consideration of our new closures. That was what they were working on.

Simonds replied that this was on their website. Polhemus said that they received that letter in response to their Land Board submittal.

Martin called on Duenas.

Duenas said that he had just one quick comment. He suggested they send a letter to Senator Inouye asking him to make correction to the new Magnuson because it's missing another S, it's the Magnuson-Stevens-Simonds Act.

Marin called on Polhemus.

Polhemus wanted to wish everyone on the Council a Merry Christmas and a Productive New Year as we go into 2007.

Martin thanked Polhemus and said that if nobody else here has any further comments, I'll turn the meeting back over to Chairman McCoy.

McCoy thanked Martin, the members of the Council and the audience. He called on Dela Cruz.

Dela Cruz said that the Director of Fish and Wildlife, Mr. Sylvan Igisomar, has not been listed in the Council family on your list of our Council Member designee and asked to please have his name included in the Council family.

Simonds said it would be taken care of. Dela Cruz thanked McCoy wished everybody Mele Kalikimaka and the best of everything, Merry Christmas, Happy New Year and the best for the new year.

Simonds replied Feliz Navidad. Dela Cruz thanked the Chair.

McCoy said Merry Christmas and Happy New Year, until we meet again and officially closed the meeting at approximately 6:20 p.m.