



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

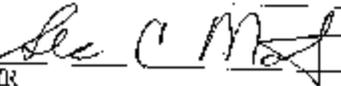
MINUTES OF THE 137<sup>TH</sup> COUNCIL MEETING of the  
WESTERN PACIFIC REGIONAL  
FISHERY MANAGEMENT COUNCIL

March 14-16, 2007

Ala Moana Hotel  
410 Atkinson Dr.  
Honolulu, HI 96814

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

APPROVED BY COUNCIL:

  
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CHAIR

Western Pacific Regional Fishery Management Council



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### **Wednesday, March 14, 2007, 137th Council Meeting**

Chairman Martin welcomed all to the meeting and called to order the 137th Meeting of the Western Pacific Fisheries Management Council.

He explained this meeting is important in that the new FEP, Fishery Ecosystem Plan, format will replace the FMP, Fishery Management Plan, format, and the process will contain some redundancy but will be refined as the process progresses.

#### **1. Introductions**

Dan Polhemus, State of Hawaii Designee for Council Member Peter Young; Stephen Haleck, Council Member, American Samoa; Ray Tulafono, Council Member, American Samoa; Rick Gaffney, Council Member at-large, Hawaii; Ben Sablan, Council Member, Commonwealth of the Northern Mariana Islands; Ignacio Dela Cruz, Council Member, Commonwealth of the Northern Mariana Islands; Frank McCoy, Council Member, American Samoa; Sean Martin, Council Chairman, Hawaii; Manny Duenas, Council Member, Guam; Edwin Ebisui, Council Member, Hawaii; Kitty Simonds, Executive Director; Judson Feder, NOAA, Office of General Counsel NOAA, Southwest Region; Dot Harris, Council Designee, Guam; Fred Duerr, Council Member, Hawaii; Bill Robinson, NOAA Fisheries, Pacific Island Region Regional Administrator; Sally Brice-O'Hara, 14th Coast Guard District; Commander Barry Compagnoni, Coast Guard Enforcement Branch; Craig Severance, Scientific and Statistical Committee rapporteur.

Chairman Martin introduced Jim Balsiger, Senior Policy Advisor from NOAA Headquarters.

Jim Balsiger offered the following comments:

It's a real and sincere pleasure to be here. I had an occasion to go to the North Pacific Fisheries Management Council's 30th Anniversary Party in Anchorage in December, and give a little talk.

Then, of course, I was able to participate, I guess it was Monday night, here at your 30th Anniversary. Even though I think the North Pacific has a lot to be proud of, they can't party like you guys can. That was a fabulous site. So before I move on, thank you very much for allowing me to do that. That was quite a treat to be a part of that celebration.

Dr. Hogarth would have liked to have been here, but he was required to go to the Boston Seafood Show, or somewhere like that. So I was able to travel on his behalf to make a few comments to you. I have a letter from him that he wrote, which I will read if I can have four or five minutes.

Dear Sean, I would like to take this opportunity on the occasion of your 137th Meeting to congratulate the Western Pacific Fisheries Management Council on the completion of 30 years of leadership and service to our nation and the people of the Western Pacific under the Magnuson-Stevens Fisheries Conservation and Management Act.

The Council has made outstanding progress in that time in achieving conservation and management objectives for U.S. fisheries in the Central and Western Pacific. The Council has shown ability to balance the need for conservation with the need to sustain economically healthy fisheries while promoting local fishery development through some of the first limited entry programs, including those for bottomfish, crustaceans and longline pelagics.

The Council has continually help evaluate and institute effective management measures, such as requiring logbooks and observers and pioneered the first vessel monitoring system to be implemented in the United States EEZ.

The Council has demonstrated its awareness of the needs and preference of the Pacific Island fishing communities and the benefits of incorporating community knowledge and history into the fishery management process, including formal structures to ensure such participation at the local level.

This awareness was clearly demonstrated in the Council's promotion to changes in the Magnuson-Stevens Act in 1996 to ensure the Pacific Island fisheries resources are managed with the benefit of indigenous people of Hawaii, American Samoa, Guam and the Northern Mariana Islands.

The Council has exercised continued leadership in preventing and mitigating bycatch of fish and nonfish species in U.S. Western Pacific fisheries, including undertaking projects to conserve and restore especially vulnerable species, such as sea turtles in their nesting habitat.

In 1986, the Council prohibited drift gill net fishing, bottom trawling and other nondiscriminatory and destructive fishing methods throughout its jurisdiction of one and a half million square nautical miles. It prohibited longlining to 50 nautical miles in areas of the Northwestern Hawaiian Islands to protect albatross and Hawaiian monk seals.

In 2004, the Council implemented measures to protect sea turtles and seabirds by requiring the swordfish fishery to use circle hooks, the first fishery in the Pacific to do so.

In addition, the Council has hosted numerous workshops and supported research with NOAA's National Marine Fisheries Service, environmental NGOs and the fishermen to understand and mitigate interactions between longline gear and seabirds, turtles and marine mammals, and to establish Hawaii as a world center for longline bycatch research.

The Council, aware of the critical need for international collaboration for the effective conservation and management of highly migratory species, has served as a leading force in the amendment of the Magnuson-Stevens Act to include tuna in the development of the Western and Central Pacific Fisheries Commission with participatory roles for the Council and U.S. Territories under this legislation for that Convention.

In further recognition of the international nature of Pacific fisheries, the Council has hosted

several international conferences regarding not only fisheries management, but seabird and turtles, fishing gear interactions with seabirds and turtles and marine debris.

The Council recognized early the need to apply ecosystem conservation principles and perspectives in fisheries management, and in 2004 developed the first fishery management plan using ecosystem-based principles with the coral reef ecosystem fishery.

The Council continues its leadership in the application of ecosystem-based principles and perspectives in its management of fisheries and related marine resources in developing archipelagic ecosystem fishery plans. These plans will incorporate innovative ideas, such as using regional ecosystem advisory committees, organizing local island communities to manage the resources using traditional methods and identify community projects that will strengthen natural resource management at the local state and federal levels.

I encourage the Council to continue to facilitate information flowing to its friends and partners so that we can all continue moving forward to achieve sound conservation and management of the nation's resources domestically and internationally for the next 30 years and beyond. Sincerely, Bill.

So that letter contains a lot of very progressive thinking and sound management things you should be proud of, but I helped draft this letter so you ought to know that we selected and chose from the accomplishments of this Council to make the letter this short. Everything you have done is not in here. So, as I mentioned on Monday night, this Council oversees, of course, the largest piece of water in the world and manages it effectively, has made great progress. You should be proud of yourselves. It's a great -- it covers a great diversity in fisheries and in cultures, and I'd like to give you a pat on the back. Again, thanks for letting me come, it was fabulous.

Chairman Martin thanked Jim Balsiger and extended appreciation to Dr. Hogarth.

Senator Judy Guthertz, Guam, offered the following comments:

Hafa adai from Guam. Ladies and gentlemen, what I'm going to present to you today is simply a little overview of what is happening on our island at this point in time. I'm sure our friends from the Northern Mariana Islands can identify with some of these issues, because you're experiencing similar issues.

We may be separated by the Pacific Ocean, but Pacific Islanders are one in spirit and we strive to work together to best preserve the interest of all of our people and our resources.

The title of my presentation is Status of Our Island, the SS GUAM.

The status of our island can be compared to the Boat SS GUAM floating upon the ocean. The wind is always strong and the waves are always high. The boat has thus far handled the tossing and turning, but it is merely drifting along and is not aimed at a real direction.

We on Guam have been stuck in this situation since the Ada Administration ended at the end of 1994. Governor Carl Gutierrez inherited an economy that was slowing down. He was able to float a bond to pay the deficit existing at that time.

However, the financial status continued to deteriorate due to many factors, such as the downturn in the Japanese economy and the impact of 9/11 on the island's tourism industry. Governor Gutierrez had to juggle funds to keep afloat.

Governor Gutierrez formulated a vision and plan for the future, VISION 2001, but was unable to follow it because of the cash shortfall.

Then, in 2002 our new governor, Felix Camacho, was elected, and the drifting continued and our boat has continued to drift until today. We have no overall plan or vision from the Camacho Administration to deal with our cash crisis. This is not his fault since we are existing day to day as cash is received.

Here are some areas of specific interest to bring you up to date on what the Guam situation is like. These points are intended to help you as you develop regimes to deal with our fishery resources and our environment in our territory.

Political status. This subject died in 1997 with the hearing at the U.S. House of Representatives. The Interior Department testified on the Guam Commonwealth Act, stating that the U.S. Administration objected to several points in the Commonwealth proposal that was developed by the leaders of Guam and voted on by the people of Guam in a referendum.

For some reason, the Committee has never taken that hearing, marked up the bill, and submitted it for consideration by the entire Congress. This is the normal procedure.

One reason may be that our Guam Congressional Delegate has an attitude toward the bill and to the Commonwealth that is not consistent with some of our concerns. She has stated publicly that she will do whatever the local government tells her to do, but will not act until asked by the government. She has stated publicly that she believes that the political status issue on Guam requires more consideration and discussion among the people of Guam.

The local government at that hearing in Congress testified in favor of the Draft Commonwealth Act, that should have set the marching orders for our delegate.

As you know, our delegate is now in charge of the Fisheries Subcommittee in the United States Congress. She's a wonderful lady, and we're trying to get her attention to support a renewed effort for Guam's political status.

On the issue of immigration, Guam shifted from being a Chamorro homeland to being a diverse, multi-cultural island in about 1990. This was a result of many non-Chamorros climbing into the Boat SS GUAM during the good economic times.

Further, once the Micronesia area of political status was settled, it permitted open migration to Guam from the Federated States of Micronesia, Palau and the Marshall Islands. Many Micronesians moved to Guam for the education of their children and healthcare for their families.

Now the Chamorros are a minority in their own island.

When the economy shrank in the 1990s, many Chamorros were pushed out of the boat to find jobs on the U.S. Mainland. Some even moved to Hawaii.

With the Federal Government controlling immigration and treating Guam as being within the limits of the United States for immigration purposes, the die was cast for Guam to become an ethnically diverse place in the sun.

Healthcare. Healthcare has always been marginal on Guam. Decades ago the Catholic Church gave up on the local public hospital, government run, and opened it's own hospital. Then when times became tough, U.S. Congressional Delegate Tony Won Pat arranged for the Government of Guam to buy the new Catholic hospital.

Under the Naval Administration, prior to World War II, a corpsman was posted in every village on Guam for health problems that could be handled locally. This was in addition to the naval hospital in Agana.

Why can't that be done today?

We have nurses in each school. Why not have nurses in each police station, firehouse or mayor's office. That would alleviate pressure on the public health centers on Guam and on our own civilian hospital.

We need more affordable healthcare insurance. Perhaps, if several healthcare insurance plans had links to St. Luke's Hospital in the Philippines or hospitals in Hawaii, we could save money.

Shouldn't adequate healthcare be a right of all people in the United States, not a privilege?

The United States Constitution states that every child has a right to a public education. The U.S. Congress has implemented President Bush's Education Plan, requiring that no child be left behind.

Why not adopt the same policy for healthcare in the United States, and include all of the territories and commonwealths of the United States?

On openness of the Government of Guam, during the transition period in 2001 for the Camacho Administration there was a Community Issues Committee that was created. None of its recommendations have ever been adopted.

One recommendation was for a duty person from the Government of Guam to be available with one cell phone number, passing the telephone from one duty person to duty person, who would be available for anyone in the public to contact with questions for local government. It was recommended that all Deputy Directors and Directors of Government of Guam agencies rotate this duty.

As it is right now, the public has no way really to contact officials of the local government after normal working hours or on weekends and holidays.

As proposed, these duty persons would check in with the government to report on what has happened overnight or over the weekend.

Another recommendation of that committee was the establishment of a Civil-Military Committee, which would meet monthly with a regular standing agenda and minutes of prior meetings, such as committees and other activities needed to be discussed among those who participate.

Our friends in the CNMI have such a committee.

On Guam, we have what we call Civilian-Military Task Force that is limited in scope and is too large for effective action.

The reason this is important is because of the proposed increase in the military presence on Guam, which is going to start in the next two years.

In the area of education, just like in Hawaii, we have our problems. The perception is that the quality of education in the 1970s and 1980s on Guam was better than today.

We are throwing many more dollars in education with about the same number of students, 32,000 in our public schools, compared with 20 and 30 years ago. We need to check with the Department of Defense schools on Guam, called the DODEA Schools, to compare the two systems, including funding and curriculum.

The military schools around the island are not using Direct Instruction, yet their SAT scores are higher than the public schools, which uses DI at the elementary and middle school level.

Why? Perhaps, we should place the Guam property tax revenue under the School Board, like most other jurisdictions do in the United States. If necessary, the School Board should increase taxes to pay for public education on Guam.

In the area of government discipline, while we are in a real financial crisis in the Government of Guam, our governor has really characterized it as a serious, serious problem. We have agencies still hiring people and granting pay raises.

The University of Guam has agreed to two percent pay raises for the faculty each year for

the next three years. The Guam Public School System has just awarded a fourteen percent increase to all certified personnel, including teachers, counselors, assistant principals and principals.

How does this fit in with austerity measures that are now being proposed by our government?

These are problems that we experience, and I'm sure some of you have in your own jurisdictions.

A big issue on Guam is privatization. It's very controversial, the privatization of government services.

The press to privatize services in the Government of Guam are coming from the media and the Guam Chamber of Commerce and special interest groups. The pressure is very great.

However, in reality, privatization only saves money when the number of employees are reduced and the pay scale is also reduced. But doing so, would also reduce the number of middle class taxpayers on our island who bear the brunt of the taxes on Guam.

Further, often public services are also reduced when privatization occurs.

For example, two years ago on October 1, 2005, our small mass transit buses on Guam were operated by a private contractor on behalf of the local government. They did not run that day because the contract was not yet signed for renewal. It was known that it would be signed on the following day, yet there were no buses running that day.

To add insult to injury, there was no notice given by this private bus company to the patrons that they would not have any service that day.

This is the kind of privatization that we have seen on our island, and it is very bothersome to our people.

In terms of public works, this is a very large agency in the Government of Guam in terms of work accomplished and contracts issued.

In terms of our commercial port, as I'm sure some of you may know, this agency is actually a moneymaker for our island. But it must be run completely free of political hiring and influence.

Right now there are special interests that want to take over the port, operate it and in fact own it. There is division in the community with respect to this.

In terms of large retailers, a few years ago we saw Cost-U-Less and K-Mart come to Guam. They put a lot of small businesses out of work, and the employees of those businesses.

We also expect that in the next few months, at the end of the year, the opening of Home Depot. We anticipate the small, family-owned hardware stores in our island will likely be affected, and eventually close as a result.

Gambling. This seems to be an issue in our community. It comes up every two years in election in the form of a referendum. There are special interests on the island that are promoting gambling, slot machines, or casino gambling on Guam.

Right now, we do not allow this.

It seems like the current company that owns the Guam Greyhound Raceway Park still wants to put in slot machines and is promoting an initiative to occur in our next election.

As our island becomes more diverse, the churches on Guam are losing influence. We think that perhaps there may, in fact, be legalized gambling on our island. This is a very sad thing for many of us because it will change the culture, the traditions and the family life of our people.

In summary, the Island of Guam is changing right under our eyes. It is losing the special tone and life style that existed when the Chamorros were the vast majority of the population.

The only thing that the Chamorros control today is the Government of Guam. They do not control the private sector and are really not well represented in the significant areas of the private sector.

We on the SS GUAM are speeding across the waters in the direction of the global amalgamation of culture. Blue jeans, disrespectful youth, crime, family violence, sexually-transmitted diseases, corruption in government and special interest with strong political connections are taking the special place in the sun out of the lives of the people of Guam.

For example, the University of Guam recently reported that Guam ranks third of all U.S. states and territories for the STD Chlamydia. Is that anything to be proud of?

The emphasis on gaining material success and personal power is gaining over the spiritual aspects of life and the cultural traditions of the island and it is distressing our community.

Someone has labeled the current generation as the Me Generation on Guam.

Will our boat, the SS GUAM, arrive in safe harbor? Today, of course, like everyone else in the Pacific, we need leaders with vision, compassion, patience and charisma to help steer our boat. However, the constant financial management crisis of our government has made it very difficult to pay for our obligations. Thus, preventing many of our dreams from occurring.

As the saying goes, it is hard to remember that your objective is, for example, to keep your near ocean areas pristine when snakes and sharks are nipping at your heels.

Now, the overview I just presented may seem a little distressful, and of course it is for those of us, particularly, who grew up on the island. But I believe we can overcome these problems.

For you folks here in the Council, and members of the Council family, when you look at the issues that come before you dealing with fisheries and ecosystems, please remember the impact of your decisions on the culture, on the social aspects of the people of the Pacific Islands that are part of the Council. These islands are very vulnerable. They need to be treated with great care and understanding. There must be a commitment to the social culture and customs of these islands so that they do not lose their identity and they are not overwhelmed with over-westernization.

Chairman Martin thanked Dr. Guthertz, adding that many of the problems in her presentation resonate not only throughout the areas of Council jurisdiction, but throughout the Pacific Islands, and the Council has a strong incentive and need to continue to focus on the importance of the cultural heritage that exists around the Pacific Islands.

## **2. Approval of Agenda**

Chairman Martin asked for approval of the 137th Council Meeting, which was moved by Sablan, seconded by Duenas and unanimously approved.

Admiral Brice-O'Hara read a letter:

Dear Council members, on this the 30th Anniversary of the founding of the Western Pacific Fisheries Management Council, please accept my greatest appreciation for your dedicated service and recognition of your tremendous accomplishments in protecting the precious natural resources of the Western and Central Pacific Ocean.

Throughout the past 30 years you have worked tirelessly to preserve and sustain our marine ecosystem. Your accomplishments have been widely recognized throughout the United States in your progressive approach to our marine resource management.

Of particular importance, your leadership on several issues has been instrumental in shaping the nature of how we protect these valuable resources, specifically by successfully promoting national legislation under the Magnuson-Stevens Conservation and Management Act to protect the indigenous rights of Native Pacific Islanders and to ensure that Pacific Island fishery resources are managed for the benefit of indigenous people by implementing the Western Pacific Community Demonstration Project Program, by prohibiting drift gill net fishing, bottom trawling and other nondiscriminatory and destructive fishing methods throughout the Council's jurisdiction, by pioneering a satellite-based vessel monitoring system, by developing the Coral Reef Ecosystem Fishery Management Plan, the nation's first ecosystem-based fishery management plan, by

implementing the use of circle hooks and seabird mitigation measures in the Pacific swordfish fishery resulting in a significant decrease in sea turtle and seabird interactions.

The United States Coast Guard strategy for living marine resources protection is built upon four pillars; productive partnerships, sound regulations, effective presence and the application of technology. I am proud to say that it is obvious from the Council's long history of significant achievements that our efforts complement and reinforce our mutual commitment to the health of the Pacific resources.

Bravo Zulu on your historic achievements.

Chairman Martin thanked the Admiral.

### **3. Approval of 135th & 136th Council Meeting Minutes**

Sablan moved to approve both minutes. Duenas seconded. Minutes were approved unanimously.

### **4. Agency Reports**

#### **4.A. National Marine Fisheries Service**

##### **4.A.1. Pacific Islands Regional Office**

Robinson reported:

Northwestern Hawaiian Islands Monument - on December 8th, 2006 an MOA was signed between the State of Hawaii, the Department of Interior and the Department of Commerce that set forth a policy agreement to guide the trustees and to share management decision-making throughout the Monument, which a Monument Management Board.

Members of the Monument Management Board include representatives from the State of Hawaii, DLNR, HDAR, Division of Forestry and Wildlife and the Office of Hawaiian Affairs.

NOAA has representatives on the MMB from both the NOAA Fisheries and Sanctuaries Program and the U.S. Fish and Wildlife Service, representatives from the Wildlife Refuges and Ecological Services Groups.

First Lady Laura Bush announced the Hawaiian name for the Monument of Papahānaumokuākea.

Regulatory actions - on November 2nd, 2006, the Federal Register published a final rule implementing Amendment 9 to the Bottomfish FMP prohibiting large vessels, 50 feet or longer, from fishing bottomfish within 50 miles around Guam, establishing federal permitting and reporting requirements for the large bottomfish vessels.

On January 16th, a proposed rule to permanently remove the seven-day delay in effectiveness when closing the Hawaii-based shallow-set longline fishery was published, with the comment period ending on January 31st. Over 1,000 comments were received in support of the measure.

On February 26th a final rule to implement the regulatory change was published. The new regulations will be effective on March 28th, 2007.

The Emergency Rule that eliminates the seven-day waiting period expires on March 19th. Robinson feels it is unlikely the turtle caps will be reached during the ten-day period.

Amendment 14 to the Pelagics FMP is currently undergoing Secretarial Review. Notice of Availability was published, with public comments due by April 16th. Projected date for a Secretarial Decision on the amendment is May 14th.

On February 21st a proposed rule to amend regulations to allow the optional use of electronic data reporting was published. The public comment period on that proposed rule ends on March 23rd.

On February 23rd a notice that announces the annual harvest guideline for the commercial lobster fishery in the Northwestern Hawaiian Islands at zero was published. On March 12th NMFS published an Advance Notice of Proposed Rulemaking recommended by the Council at its December conference call meeting to inform persons who enter the black coral fishery in the Au'au Channel after December 21st, 2006, which is the control date. Comment period ends on May 1st.

Notice of Intent to Prepare an EIS to Analyze the Impacts of Proposed New Regulations Addressing Interactions Between Humans and Spinner Dolphins in the Main Hawaiian Islands was released. Five public meetings were held in October and November. A scoping report is being prepared and will be released in March, to be posted on the NOAA website.

NMFS and Hawaii Department of Land and Natural Resources are working together on development of alternatives to be analyzed in the EIS.

On November 1 a Biological Opinion and Incidental Take Statement for the U.S. Western and Central Pacific purse seine fishery was published. The BO concluded the fishery is authorized by the Treaty and the High Seas Fishing Compliance Act was not likely to jeopardize the continued existence of threatened or endangered marine mammals and sea turtles.

Information is currently being gathered on the fishery and biological information in preparation for Re-initiation of a Section 7 Consultation on the American Samoa longline fishery. Last year the fishery exceeded the existing Incidental Take Statement for interaction with hard-shelled turtles.

Permit action - the shallow-set longline fishery reopened on January 1st with 2,072 longline shallow-set certificates issued for 2007, divided by 148 permit shares, 14 certificates being issued for each permit share.

As of March 9th, 364 shallow-set certificates had already been used and submitted with their logbooks, about 18 percent, used on 21 trips by approximately 20 vessels.

2006 permits for the longline fishery will expire March 2007. Renewal notices were mailed in December 2006. As of March 9th, 114 Hawaii longline permits have been renewed and four Western Pacific general longline permits. However, American Samoa longline limited entry permit holders are valid for three years and don't need renewal.

On March 9th, a notice soliciting applications for permit upgrades for American Samoa was published.

As of mid February 2007 nine Pacific Remote Island Area, or PRIA, troll and handline permits, seven PRIA bottomfish permits and one new precious coral Hawaii exploratory permit were issued.

Northwestern Hawaiian Islands Hoomalu and Mau Zones - seven permits have been renewed, four for the Hoomalu, three for the Mau. The final Mau Zone permit is pending renewal because of vessel ownership change.

Protected Species Workshop for Hawaii longline vessel owners and captains have been held on a biweekly schedule through January and a weekly schedule through February. Completion of the workshop is a requirement for renewing the annual permit.

For 2007, 222 fishers have been certified. In American Samoa, 73 captains and owners attended the workshops and has been certified since August.

An online interactive Protected Species Workshop is nearing completion.

Assistance - being provided to the Science Center, Fisheries Monitoring and Socioeconomic Division, on working on a community-based marine protected area socioeconomic assessment and monitoring project.

A University of Hawaii graduate student in resource economics is being mentored.

Continuing to assist Council staff on reviving Draft Programmatic EIS, converting to fishery ecosystem plans and are very close to being completed and filed with the EPA for a 45-day public comment period.

International activities - informal meetings of the South Pacific Tuna Treaty parties were held in San Diego. Staff is currently in Vanuatu attending the formal consultation of the South Pacific Tuna Treaty.

The third regular session of the Western and Central Pacific Fisheries Commission met in Apia, Samoa from December 11th to 15th. Robinson attended as Head of the U.S. Delegation. There was strong Council participation in the meeting. More will be covered by Paul Dalzell.

Agreement was reached on a second conservation and management measure for yellowfin and bigeye tuna, but falls short of what the science recommendations are.

The Commission also reached agreement on a Commission-based VMS requirement on conservation and management measures for seabirds and sharks, conservation and management for South Pacific swordfish and striped marlin and adoption of high seas boarding and inspection procedures.

The U.S. Congress adopted implementing legislation for the WCPFC, and foresees the U.S. becoming a full member of the Commission by the end of 2007.

Robinson anticipates working with the Council and the North Pacific Council over the next few months to develop an MOU that address Council participation in the WCPFC Delegation and meetings.

The first joint meeting of the tuna regional fisheries management organizations met in Kobe, Japan from January 22nd to 26th covering issues of common interest among the five major tuna RFMOs, including conservation and management measures, monitoring, control and surveillance, improvement of data collection for bycatch and stock assessments. A working group was established to advance some of the technical issues that arose during the joint meeting, and the respective chairs of each of the RFMOs agreed to follow up on policy issues in 2008.

A second joint meeting was scheduled for January and February in 2009 to be hosted by the EU in Europe. A performance review for an agreement that all five RFMOs would review their own performance was adopted.

The Second Intergovernmental Meeting took place in January in Busan, Korea on management of high seas bottomfish fisheries. The U.S. participated, along with Korea, Japan and the Russian Federation, to develop new mechanisms of protection of vulnerable marine ecosystems and management of high seas bottom fisheries by vessels operating in the Northwestern Pacific. Participants agreed to an interim measure that limits fishing efforts in bottomfish fisheries on the high seas to existing levels, prevents expansion of bottomfish fishing into areas where now bottomfish fishing is currently occurring and promotes a precautionary approach to bottom fisheries and supports scientific research and scientific-based management decisions. The next meeting has not been scheduled.

Robinson reported he also participated in meetings of the IATTC, as their work is closely linked with that of the WCPFC, as well as participated in the Council-sponsored International Pacific Marine Educators Conference.

A meeting was held with the Hawaii Department of Land and Natural Resources to discuss sea turtle conservation priorities with the State of Hawaii. High priority actions include evaluating interactions between State fisheries and sea turtles and protecting hawksbill turtle nesting sites from impacts on shoreline development.

Through the Endangered Species Act Section 6 Agreement there is hope of strengthening an alliance with the State for sea turtle conservation in the islands. A new grant was just approved under the new Section 6 Agreement with the State that will provide \$153,000 for development of conservation and management plans for sea turtles and marine mammals.

Observer coverage - 2006 ended with 21.2 percent coverage of the Hawaii deepset longline fishery, with 275 out 1300 trips observed.

As of mid February, the deepset fishery coverage was low, under 20 percent. Robinson noted that normally is the case at this time of year because the swordfish fleet requires 100 percent observer coverage, which is priority.

There have been 38 swordfish trip departures so far in 2007 with the take of eight loggerheads and two leatherback turtles.

Coverage of the American Samoa longline fishery during 2006 was 8.1 percent, with 10 out of 125 trips observed. Those 10 trips represented almost 25 percent of the total effort, as measured in sets and hooks deployed.

Those observed trips documented the take and mortality of two green sea turtles. There was one nonlethal interaction with a hawksbill. There have been no observed interactions with marine mammals or seabirds by the fishery to this date, although there has been only one completed observer trip through the end of January.

Presently a review of the need to update and improve the Observer Health and Safety Regulations is ongoing. Robinson cited the continuing problem with bedbug infestation on many of the vessels. Some observers are quitting the program because of the infestation and presently are looking at a whole variety of ways, working with the fishing industry, to try and resolve the problem.

Robinson added if the issued is not brought under control, down the road, he wouldn't be surprised if there were some type of further regulatory proposals to deal with it, such as requiring boats to be bombed before an observer going onboard.

Robinson again highlighted that it's a continuing issue and is not really getting any better and is an issue of concern.

He also noted reviews of some of the ongoing regulatory actions as noted on the last page of his report, which will be touched on by Council staff later in the meeting.

Ebisui asked for more information on the two Western Pacific lobster permits for the Main Hawaiian Islands that have been issued.

Alvin Katekaru replied two permits were issued for the Main Hawaiian Islands, Permit Area 2. Adding the two are local fishermen who applied for the permits.

Ebisui further asked if the permits were for commercial operations. Katekaru replied in the affirmative.

Chairman Martin asked for clarification of Permit Area 2. Katekaru replied Permit Area 2 consists of the Main Hawaiian Islands.

Ebisui asked if the permits posed any limitations, such as gear restrictions, numbers of, pots or observer coverage.

Katekaru replied he was not sure because there permits are rare for the Main Hawaiian Islands. Although, he added that there is no observer coverage. He said he will research the answer.

Simonds added that the staff is also checking on this.

Duenas asked Robinson if the press release from KAHEA is an unfounded accusation, as there is no public oversight in the closed-door meetings.

Robinson responded that the Monument Management Board does not have public meetings as they're an inter-agency group that is struggling with developing draft management plans for the different activities within the Monument and struggling to put together a joint permitting process to allow activities to go forward. The Monument Board is also working on determining the public process for the future, but at this point the meetings are working meetings, working toward developing infrastructure for the Monument.

Duenas asked if all of the work underwent during the Sanctuary Process will be utilized or if the Board has to start all over again.

Robinson replied that all of that work is not going to waste. During the Sanctuary development process, Draft Sanctuary Management Plans, with a lot of input from various groups, were developed and those plans obviously are the starting point for the Monument plans. Robinson assured Duenas the work will not go to waste.

Duenas expressed his desire for the Council to be allowed to be at least observers at the Board Meetings.

Polhemus asked for clarification of the Northwestern Hawaiian Islands bottomfish fishery permits.

Robinson said he can get Polhemus the information.

Chairman Martin asked for clarification if the eighth bottomfish application had applied already.

Robinson answered, yes, seven have been reissued and have the application for the eighth but the permit will not be reissued until there is a vessel to attach to the permit.

McCoy asked if the transit regulations have been altered to remedy the present situation. Robinson said the transit issue will be addressed during the Hawaiian Archipelago portion of the agenda. He added that not much has changed since the last meeting with regard to that process.

Chairman Martin, on behalf of the industry, thanked the Council and the Agency in expeditiously making the changes to the methodology for closing the shallow-set fishery upon reaching the incidental take cap. He added they also look forward to the interactive workshops utilizing more efficient technology.

Chairman Martin also pointed out the bedbug problem is not unique to the Hawaii longline fishery or isolated to fishing boats. The industry has been very cooperative in dealing with the situation. It is not an easy problem to solve, but is confident that working together a solution will be found, but is skeptical how regulations would work.

Polhemus followed up, from the State of Hawaii's standpoint, that obviously if bedbugs are present on the boats there's a potential for other potentially invasive species to be on those vessels as well, and could be indicative of a bigger problem of transport of biota between various locales. To that extent, the State would be concerned.

#### **4.A.2. Pacific Island Science Center**

Sam Pooley reported:

The Science Center is continuing a cooperative project attaching depth recorders onto the longline gear to research where the gear actually goes, which is important, in part, to give the fishermen a sense of what their gear is doing so they can catch the fish they're trying to catch and, secondly, in other cases, avoid interaction with the species they don't want to interact with, like turtles.

Jeff Polovina's group is continuing to provide weekly maps of the 'Safe Fishing Area' for fishermen's use to designate the area where turtles are more likely to be caught. The map is also available on demand to fishermen.

The Coral Reef Program has invented new gear, including such things as an ecological acoustic recorder, instruments to do a full suite of environmental measures in an artificial reef setting and Botcam research.

Pooley continued to point out a chart of fishing success of various fishermen in Guam and a project promoting the use of barbless circle hooks in the Main Hawaiian Islands to shoreline fishermen, primarily for the ulua shoreline casting.

Pooley went on to a meeting of the Monk Seal Recovery Team met in November. He noted an apparent stabilization in the population around the 2000 time period, then the population fell in two consecutive years, to a point of now being a crisis, primarily having to do with the failure of yearling and juvenile monk seals that thrive at French Frigate Shoals, which is the largest population there in the Northwestern Hawaiian Islands.

Pooley also noted the budget mess, still no budget for this year and the Science Center has not issued any grants, canceled one research cruise entirely, postponed several more and shortened some. The Coral Reef cruise to the Marianas is still planned, but delayed almost a full month and will bypass the PRIAS.

Issues with permits and information access are still ongoing, which was brought up at the SSC meeting. Pooley noted the need to get some resolution, and commended Co-Trustee Mike Tosatto for having done a great job of representation.

Pooley noted the SETTE moved to Pearl Harbor.

Also, shift in personnel, Chris Boggs will be the International Science Coordinator, as Bob Skillman retired. The international meeting attendance will be shared between Chris Boggs, Keith Bigelow, Gerard DiNardo and Sam Pooley.

Rick Gaffney asked Pooley the purpose of the barbless circle hook in the ulua project. Pooley responded the purpose is for the bycatch of turtles and monk seals.

Duenas asked if the Botcam is causing more harm than good in the Artificial Reef Program. Pooley responded that his group is trying to come up with a neutrally-buoyant camera system, and the Botcam is only one of the techniques used. Pooley added the Botcam is still a tremendous advance.

Duenas asked Pooley how the light of the cameras might potentially harm the animals found in deep depths.

Pooley responded that in terms of an assessment tool, the whole issue of light and the bait release and how that affects the ability of the device to provide an accounting mechanism is a significant validation issue. The Science Center is presently working with the State Disaster Relief Funds on validation of the Botcam with other techniques, such as fishing and the HURL submarine, and also getting into passive acoustic attempts to count bottomfish as well.

Duenas requested a more detailed report on the Botcam is deployed and the information obtained from the Botcam.

Pooley replied in the affirmative and suggested having a presentation by Danny Merritt and Rusty Brainard at the next Council Meeting.

Duenas asked if the cruise to the CNMI and Guam will be able to respond to some of the requests made by the Council, such as shark stock assessments.

Pooley replied the Center recently had an external program review of the program last week, and one of the comments came up about the importance of doing additional work in Samoa, Guam and the Northern Marianas. The Coral Reef cruise priorities are set by National Ocean Service, Coral Reef Conservation Program and they are coral reef related.

Pooley said:

But Rusty Brainard, the head of our Coral Reef Program, made what was such an obvious point, and probably you made it a year ago, and it occasionally takes a while to sink in, is as long as the ship was going to go all the way to the Marianas, why doesn't it stay there a little while, like CROMWELL did in the mid '80s for three years, and do additional things, like -- well, whether it's looking at shark assemblages or deepwater snappers and groupers again. That's something we would be quite interested in following up on.

The dilemma is the HIIALAKAI, which is the ship that goes out there, isn't our ship. Technically, all of the NOAA ships belong to NOAA, but in reality it's the Sanctuary Program ship that's designed primarily for the Northwest Hawaiian Islands and, secondarily, Coral Reef cruises in the Central Pacific. So adding a month on to a cruise is something of an issue. But, nonetheless, we're going to follow up on that.

Duenas asked Pooley of the potential effect of the lasers on bottomfish.

Pooley said the hope is that the whales and fish aren't looking up at that time the laser is pointed downward.

Duenas inquired of the CPUE study based on Guam's offshore banks conducted ten years ago and would like to see the final report.

Pooley replied Dave Hamm will appear in the meeting later in the week and it was his group who worked up the final report.

Sablan asked if the NASA satellite pictures of the oceans and thermal properties for swordfish together with the sea turtles would be closely related to the Mariana ocean for temperatures and perhaps aggregations of swordfish.

Pooley said the maps would not be uniform across the world and the interpretation into oceanographic information requires additional processing. The University of Hawaii provides ocean models for the Central Pacific Ocean that can integrate the data together. Pooley added that he will check on it and get back to Sablan by the end of the week.

Sablan asked if refuge tires around the Marianas, Saipan, Guam and Tinian would be suitable to be used as artificial reef.

Pooley replied that although he's not an expert, he's read recently that people were beginning to look a little less favorably on tires as artificial reefs because of the petroleum aspect of them, and maybe even potentially for the artificial reef aspect. Pooley offered to also follow up on this point.

Polhemus added that the State has been using the Botcam at Penguin Banks, which uses ambient light, and the project has gone very well. There are plans to use the Botcam in '08 to obtain baseline information on most of the State's new Bottomfish Restricted Fishing Areas across the state.

He added that the State's Artificial Reef Program does not use tires on the artificial reefs, but rather concrete blocks.

Ebisui asked how is the Botcam retrieved.

Polhemus answered with the use of a pinch puller.

Ebisui asked if the Botcam technology has been used in the existing State closed areas.

Polhemus answered only in the Penguin Bank existing closed area.

Ebisui asked if there had been any equipment loss.

Polhemus replied, no, not to date.

Ebisui said he had read recently about an artificial reef project in the Southeast United States where tires were lashed together to form an artificial reef and had broken loose and heavily damaged the reef and washed up on the beach, which ended up to be an ecological disaster.

McCoy inquired about mapping that was done in American Samoa last year and asked when they might be available for the public to see.

Pooley responded that because of concern by some parts of the Government of American Samoa about the release of that information before there were management measures to control access to newly-identified areas, an agreement was arrived at to delay the release of the mapping to the public for two years.

McCoy asked Tulafono about the reasoning for the nonrelease.

Ray Tulafono said it was his department that asked Sam's Center to withhold the information because most of the area involved is within the three-mile limit. His department needed the two years to develop management measures to avoid

overexploitation for the newly-identified areas.

McCoy ask how far along is the development of the management measures.

Tulafono replied the measures are almost complete.

Polhemus suggested putting the whole question of bathymetry and its uses or potential withholding before the SSC.

Ebisui offered the following:

I do see some irony in this situation. Because I think if the information were released, and people became aware of more grounds to fish, it may affect whatever proxies and analysis criteria you folks use in determining whether or not overfishing is or isn't occurring. Because my experience is that -- especially with respect to bottomfish, people tend to be creatures of habit. They keep going back to where they caught before. But between their home port and the grounds that they transit to, there's a lot of grounds in between, a lot of fish.

Pooley added the fish-finding tools are becoming better and better is another aspect.

Dot Harris asked if there is any coordination with USGS.

Pooley some information goes into Notice for Mariners. But the process is still being worked out with regard to adding the information to the official NOAA hydrographic charts.

Polhemus said he believes the USGS has or is in the process of largely privatizing its mapping division.

Chairman Martin pointed out with regard to the Turtle Watch Program, fishermen might find it useful if a timeline showed the 65.5 Degree temperature line, and how it moves.

Chairman Martin also asked if there have been any swordfish sets south of the line.

Pooley said he had inquired on that and the provider of the program was not up on it at all, and it's the kind of thing that the Center would like to put together more on a real-time basis, the fishing information, the observer catch information, the swordfish information, the oceanography. But it is something they will work on.

Chairman Martin asked about the dispatch reliability of the OSCAR SETTE, if it is significantly better than the CROMWELL.

Pooley said the SETTE is certainly better than the CROMWELL. Operationally, it turned out to be better than expected for almost all operations. But the vessels were built by the Navy with 15-year lives. This is Year 19 for the SETTE. It's already beyond its Navy

lifespan. It is breaking down increasingly. All of the TAS vessels that are run by NOAA are breaking down more frequently.

Pooley added they are working with NOAA on the design of a new vessel for Hawaii so that it will have hopefully a 15 to 25-year lifespan, which is budgeted for some time in 2012.

#### **4.B. NOAA General Counsel Report**

Judson Feder reported:

Magnuson Reauthorization Act - signed by the President on January 12th of this year. The Office of General Counsel is working very closely with supporting the Fisheries Service in the implementation of all revisions to the Magnuson Act and other acts that are incorporated into the Magnuson Reauthorization Act.

New requirements in Section 103(c) of the Reauthorization Act - that annual catch limits be established for all managed fisheries, and those annual catch limits not exceed recommendations by each Council's Science and Statistical Committee, SSC.

Section 119 of the Reauthorization Act prohibits feeding of sharks in the entire Western Pacific Region EEZ, except for when fishing for sharks or in the case of federally-funded research.

Section 107 of the Reauthorization Act establishes a one-year deadline for development of newer procedures with the incorporation of environmental assessment, NEPA-like assessments, in the Fishery Management Council process that would then supplant in the fishery management context the ordinary NEPA processes.

Section 406 of the Reauthorization Act provides a different procedure in case of overfishing where the overfishing is caused by excessive international fishing pressures.

Title 5 of the Reauthorization Act is implementing legislation for the new Western and Central Pacific Fisheries Commission, which he expects to be ratified in the very near future.

Trans World Marine case - the Fisheries Service won the case at the District Court level in Southern California, and at the Ninth Circuit earlier this year. He expects that is the end of the case.

NOAA General Counsel personnel change - effective May 1st, Jim Wolfall (phonetic) resigned. Feder has not heard of any plans for a replacement.

Gaffney asked is if longline permits were involved in the Trans World case. Feder replied the case involved longline permits established for the Hawaii longline limited entry program.

Sablan asked Feder:

"In one of our Standing Committee reports I heard you mention the demise of the CNMI with respect to the three-mile state water versus the adjudicated case from Submerged Lands and Marine Sovereignty Act. I understand you have made that statement official, that according to Magnuson, the CNMI has three nautical mile state water and that the enforcement will be enforced according with the regulations that have been established in the CNMI.

What I don't necessarily understand at the moment, Judson, is that the case law have effectively repealed the Submerged Lands Act and effectively repealed the Marine Sovereignty Act in CNMI.

Now, that case law should then also repeal whatever Magnuson Act has prompted us to manage or not manage the three nautical miles.

In your opinion, expert opinion, can you just elaborate a little bit on that so that my colleague and I can certainly leave happily and then manage with regulations our three nautical miles state waters?

DeRoma was supposed to give an opinion at this Council meeting, but unfortunately, he cannot make it. So I'm asking you now, and I want it in writing, if you will, please."  
(Laughter)

Feder responded:

"Well, maybe Silas will put it in writing. But I think I can answer the question. It's been a longstanding position of the Federal Government that the EEZ around the CNMI begins at the coastline; that from the perspective of the Federal Government, the decisions of the District Court and the Ninth Circuit are no surprise and represents no change at all, except that there are those two CNMI bills that you referred to that were preempted by the courts.

Under the Magnuson Act, each state and each commonwealth, including CNMI, has continuing authority to regulate vessels that are registered in that state or commonwealth within the EEZ. So it doesn't stop at three nautical miles, it extends throughout the EEZ."

Sablan asked if there is no recognized state water around the CNMI. Feder replied according to the Magnuson Act.

Sablan asked according to the Magnuson Act or case law, or both. Feder replied both.

Feder added the Territorial Submerged Lands Act never included the CNMI.

Sablan asked:

"So, essentially, we have no state water from the very beginning of the existence of the Commonwealth?"

Feder said that was correct, that is the position of the United States.

Sablan added:

"Essentially, we have been instituting regulations that is really not worth at all instituting regulations for state waters regulating fisheries?"

Feder replied:

"The CNMI has authority to regulate fisheries to the extent those regulations do not conflict with Magnuson Act regulations."

Sablan asked:

"Could you put that down in writing, please? Would you, Judson, please, put that down in writing for us so we can take it over to our Governor. Our Attorney General doesn't seem to know what is happening, and we would like to finalize it, make it rest so we can go out and harvest turtles."

Bill Robinson said that was a conflict.

Feder said he will pass it on to Silas as it is Silas' area.

Ike Dela Cruz explained:

"Before we became a commonwealth, we were a part of the Trust Territory Government. Under the Trust Territory Government, we were operating under a 12-mile territorial water limit. Historically, that's the truth.

Now, presently, what you are saying is not definite, you know. Because this is still subject to negotiation under the 902 talk.

Now our Governor is pushing for a nine-mile territorial water limit. Now, that's three miles less than the twelve miles that we were operating under the Trust Territory Government, historically. So I think this is still subject to finalization."

Harris commented what section addresses penalizing domestic fishers versus foreign fishers.

Chairman Martin added the Reauthorization is taking strides in the right direction, although it is still a long ways from having it nailed down.

Simonds pointed out the purpose of that section was so U.S. fishermen would not be

marginalized.

Feder speculated the Congress intended the action to protect U.S. fleets.

#### **4.C. U.S. Fish and Wildlife Service**

Don Palawski reported:

A cooperative effort with the United States Coast Guard and NOAA Office of Coast Survey entailed a biologist onboard the Cutter KUKUI on one of its mission to the Central Pacific Remote Insular Areas and included a NOAA representative to continue work on referencing the position of the remote islands. These endeavors will clarify the 200-mile EEZ boundary and help with enforcement. So far, the crew have experienced some rough weather.

Shipwreck at Rose Atoll - removal of metal for the next two weeks, which should be the completion of the project, which began in 1995.

World Heritage status for the Northwest Hawaiian Islands - a program run by the United Nations Educational, Scientific and Cultural Organization has requested applications for sites. Applications will be submitted for the six remote uninhabited refuges in the Central Pacific Ocean, all low-reef islands or atolls which began as volcanoes along the East Pacific Rise near South America over 70 million years ago.

In reply to Duenas' comment about the Monument planning process, Palawski commented his agency will be working with co-trustee partners to incorporate the Refuge Comprehensive Conservation Planning Requirements into the Monument Management Plan via the NEPA process.

Duenas asked if sports fishing is allowed at Midway.

Palawski replied the Monument banned all fishing. The Midway tourist operation will reopen but no recreational fishing will be allowed.

Duenas asked if the U.S. Fish and Wildlife Refuge in Guam is an MPA, and if thrownet fishing is considered trespassing, as a fisherman was recently arrested for casting from shore and Duenas would like to avoid incidents of such interactions in the future.

Palawski said he was not aware of the specific case. He added refuge brochures and information to delineate exactly where things are allowed or prohibited would help that situation and will check with the Refuge Manager.

McCoy thanked Palawski for the work performed at Rose Atoll, and asked if local contractors were employed.

Palawski replied he felt without the local Samoans actually doing the work in the way that it was done the project would not be as successful as it is and it is a great tribute to the American Samoan people.

McCoy asked if any funds were recovered from the owners or insurance for the cleanup.

Palawski replied since it was a Taiwanese fishing vessel, there were no funds recovered. The money was acquired from the Coast Guard's Liability Trust Fund, which is a U.S. fund to use to restore areas affected by oil spills. He further explained efforts to secure recovery funds from the Taiwanese vessel were pursued via the Department of Justice but the vessel did not appear to have any assets.

Sablan inquired of the U.S. Fish and Wildlife's plan of action to remedy the ongoing bombing of FDM as the endangered Mariana megapode resides on the island.

Palawski replied the issue is complicated and complex, as they cannot even get to the island, but are looking for creative solutions.

Gaffney asked to be brought up-to-date on the status of the Draft Interim Visitors Plan for Midway.

Palawski replied the comment period closed on February 7th. Over 6,000 comments were received on the plan. A final document is being prepared. The EA is projected to come out in June.

Ebisui asked Palawski to summarize what is happening with the eco-tourism activities, and also what the co-trustees are doing in terms of trying to mitigate invasive terrestrial and aquatic species at Midway.

Palawski responded the eco-tourism activities are part of the Visitor Use Plan. A phased approach is outlined, providing for a fairly low number of visitors. Aircraft right now are not large enough to take a large number of visitors at a time. Strict protocols have been instituted for cargo.

Ebisui expressed concern regarding ballast water, algae, seeds.

Palawski said the Monument Proclamation has very strict rules about discharge of water inside of the Monument area, which includes the refuge areas. A strict quarantine procedure has always been enforced in all activities going on in the refuge.

Tulafono echoed McCoy's gratitude regarding the cleanup at Rose Atoll, but would appreciate being in the loop of such activity, as this is the first he or his department was aware of the recent work.

Palawski apologized for the miscommunication.

Harris commented:

"But the Ritidian Point Preserve, as you well know, that is a very controversial designation of this area and there continues to be access problems, I think even questions regarding the taking of the property from the original landowners, and you're well aware of these issues. Since they are so very important, specific to this preserve, I think it's important also for me to continue to state it for the record, and that simply is my comment."

Palawski responded the Guam National Wildlife Refuge will be going through a planning process relatively soon, which will be an opportunity for all issues to be presented in a public forum, be analyzed and addressed as part of the planning process.

Duenas expressed concern regarding recreational scuba divers in the area may have a detrimental impact on habitat.

Chairman Martin asked for clarification on how World Heritage site boundaries are identified.

Palawski answered boundaries are identified according to the marine refuge boundaries which are included in the applications; Palmyra/Kingman, a 12-mile boundary, Baker, Howland and Jarvis, three miles, and Rose Atoll, three miles.

Chairman Martin cautioned the Council should be very diligent in paying attention to the potential designation of World Heritage sites because those are areas where fisheries under Council jurisdiction are active and are oftentimes within 12 miles.

Palawski added World Heritage Designation does not change any existing management regime. So if Magnuson-Stevens applies, it always will.

McCoy asked how could the Rose Atoll site cleanup occur without notification to Tulafono's Department.

Palawski apologized again.

McCoy asked that a better protocol be instituted to avoid such lack of communication in the future.

Stephen Haleck asked Palawski how Rose Atoll has been monitored as a refuge to date.

Palawski explained his agency is very dependent on partner agencies, NOAA and Coast Guard. Cleanup has been accessed annually via a chartered vessel, NOAA Coral Reef Project inventories every two years.

He acknowledged that although the coverage has not been good, they are hoping with the improvement of technology there will be some remote surveillance tools eventually that will aid in monitoring.

## **5. Mariana Archipelago**

### **5.A. Island Area Reports**

#### **5.A.1. CNMI**

Dela Cruz commented:

"Aloha, talofa, tirow, hafa adai, good morning, (speaking Carolinian). I bring you all Council members and ohana family, and to the great people of this Aloha State warm greetings from our Governor, the Honorable Ben Fitial, and our Lieutenant Governor, the Honorable Tim Villagomez, and from your brothers and sisters of America's Pride of the Pacific, America's youngest family member, the Commonwealth of the Northern Mariana Islands, where the nation's day always and proudly begins.

Governor Ben Fitial, Lieutenant Governor Tim Villagomez, CNMI Senate President Joseph Mendiola, House Speaker Oscar Babuata, Saipan Mayor Juan Tudela, Rota Mayor Joseph Inos, Tinian Mayor Jose San Nicholas, Northern Islands Mayor Valentin Taisacan, warmly congratulates this West Pac Council on its 30th year since its inception.

With an overflowing sense of appreciation they thank, recognize and congratulate the Council's eminent, most efficient and very effective Executive Directress, the one and only Kitty Simonds, for a job not only well done, but exceedingly well done and the expectations over all these many productive, shining and oh, so wonderful years.

Thank you, Kitty, for being a great navigator and for your excellent stewardship and for your wise and successful guidance of the Council. Our very warm congratulations go to you, Kitty Simonds.

The CNMI leadership would also like to thank and recognize all the Council Chairs from past to present, and all the Council Members from Day One to this day, for all good things and all good deeds and contributions wrought over these many years to reasonably and prudently and effectively and efficiently manage, protect and serve, as we serve Pacific fisheries and ocean resources so that future generations of Americans, especially of our Pacific American Islanders, are left and assured of a legacy for which they can all take pride and partake of the abundance and richness and the vast resources of our ocean and Pacific fisheries. Mahalo nui loa."

Dela Cruz reported:

Fisheries funding - Division of Fish and Wildlife Fisheries Research Section received notice of approval for a grant on the 13th of February 2007 from U.S. Fish and Wildlife Service Dingell-Johnson Sportfish Restoration Act, after release from NMFS Pacific Island Regional Office, Protected Resources Division. The DJ Fisheries Research grant underwent an extensive and protracted 90-day NMFS-PIRO Section 7 Review Process for endangered species and scientific survey activities.

As a result, five months of fiscal year 2007 remain largely inactive due to lack of money to purchase fuel for trucks and boats, purchase operational and capital items and to route professional services contracts to meet the goals and objectives as outlined in the Dingell-Johnson-funded fiscal year 2007 grant agreement, as well as the first year of the new Dingell-Johnson-funded five-year plan.

Technical assistance - assistance was provided to the Director of the Division of Fish and Wildlife regarding the Luen Thai Fisheries request for longline fishing of pelagic resources and other ocean resources in the CNMI Federal EEZ waters.

Life History Project - DFW Staff continues to collect data from the Fisheries Research Section Life History Collection Program emphasizing soldierfish for fiscal year '07 and fiscal year '08.

Marine Sanctuaries - sampling of the Managaha Marine Conservation Area commenced in January 2007, but has been impeded due to lack of funding for fuel and operational costs. Completion is anticipated in March.

General Ichthyological Research - species continue to be added to the checklist on an opportunistic basis.

Fish Aggregation Devices - Fish Aggregating Devices were monitored by Fisheries Research Section Staff for maintenance and species composition during November and December of last year. DFW Offshore Creel Survey obtained data on FAD use by fishermen from interviews that will be incorporated into the DFW FAD Annual Reports to the U.S. Fish and Wildlife Service.

Ecosystem and Habitat, AP meeting - Council staff visited the CNMI last month, February, to conduct a series of meetings, including an AP meeting on February 3, 2007. All but three AP members were in attendance, as two were off-island and one was still out fishing in the Northern Islands.

Regional Ecosystem Advisory Council Meeting - Council staff also conducted a meeting for the newly-formed Regional Ecosystem Advisory Committee for the CNMI. The meeting was held on February 6, attended by members representing a cross-section of the community, both public and private, as well as NGOs. The participants also heard presentations from the Tanapag Action Group, the Saipan Fishermen Association and the Division of Fish and Wildlife.

Before adjournment, the members raised several issues to be addressed, ranging from more education and training to incorporating cultural and traditional practices in future fisheries plans.

Non-commercial fishing tournament - Saipan Fishermen Association was going to hold its Third Mahimahi Fishing Tournament on March 10th, but due to the inclement weather it

was postponed for another two weeks.

Western and Central Pacific Fishery Commission appointment - Mr. Sylvan Igisomar, Director of Fish and Wildlife Division, has been appointed by our Governor Ben Fitial to serve as a Commissioner of the Council.

Other issues - Fishing Co-op - after meeting the conditions of the grant award, the Saipan Fishing Association finally received \$75,000 of their \$150,000 total award to begin purchasing needed equipment and supplies for the Saipan Fishing Co-Op Project. The fishing co-op, which will open its doors for business next month, April 2007, will greatly benefit the indigenous fishermen who now go fishing during the day to sell their catch, going house to house at night.

Northern Islands Remote Fishing Station Project - project is located on Alamagan Island and is now operating on its own. It is self-sustaining and fishing, processing, which is the drying process, and marketing of the fish products to Saipan will continue. Currently, the project is placed on hold because the fishermen are still on Saipan awaiting for their return to Alamagan Island to live and work there as originally planned.

## **5.A.2. Guam**

Duenas reported:

Department of Aquatics and Wildlife Resources - no report submitted.

FAD Program - missing FADs have not been replaced for the last year and a half in the waters around Guam. Fifteen FADs were deployed with only four online. Fish and Wildlife Service is requesting a sea turtle mitigation study be done.

MPA - this is an area in Guam where 75 percent of business activity goes on. It's called Tamuning, Tumon, Harmon, three villages located under one municipality.

Access to MPA - shoreline access, signage is not readily accessible or seen by the general public.

Pathway maintenance - access to the beaches are not maintained by the hotels along the shoreline. Signage is confusing as well as obstructed by businesses storing equipment in public pathways.

Parking - public parking facility is being utilized by hotel employees.

MPA - excessive business is conducted in Guam's MPAs, up to 90 watercraft in the water, to include jet skis that travel in and out of the reefline.

Seems MPAs are only for eco-tourists, not for the local population and exists on Guam's

major fishing sites. Question posed, are the efforts put forth by the Coral Reef Initiative Program regarding this MPA crating havoc for the local community or provide some assistance and support in the enforcement of the MPAs. Staghorn coral population is 10 percent of its normal population, as 1.2 million tourists are estimated to visit annually.

A request has been made to the government to review the Coral Reef Initiative MPA Program because of all the other activities.

Duerr said the same signage is used for beach access in Hawaii, and asked if the public are allowed to complain regarding the public access to aid in resolving access problems.

Duenas responded the issue was brought up in the REAC Group, but everyone blames everyone else as to who's going to be responsible and ultimately restrictions and access issues went back to the MPA issue, and thus the request for more funding from the Coral Reef Initiative, to actually help provide access opportunities for the residents of the island, as the major fishing areas have become more restricted.

Harris added to the Guam Report:

Relocation of Marines from Okinawa to Guam - an anticipated \$10 million expenditure, which is going to be the largest, single-most expenditure ever in the history of the Department of Defense, for an estimated 7,000 active duty personnel are expected to be relocated, which will result in Guam's population to grow to over 30,000 and there are a number of socio-cultural, economic and environmental concerns.

Notice of Intent by the Department of Defense to conduct an Environmental Impact Statement for the proposed DOD developments associated with the buildup was expected to have been announced in January and will forward the information to the Council when it occurs.

Haleck asked Duenas asked if there was any enforcement in the MPAs, noting the slide showing the refueling of a jet ski in the MPA.

Duenas responded the enforcement officers do not work on weekends and the Coast Guard only gets involved with large spills, 5,000 gallons or more, and stressed the Federal Government through the Coral Reef Initiative should provide enforcement for MPAs.

Tulafono offered congratulations to Duenas on the Guam Fishermen's Cooperative 30th anniversary and the progress they've obtained. Duenas thanked Tulafono, as the Cooperative has almost 200 members and consists of commercial, recreational and subsistence fishermen.

Sablan echoed his congratulations to Duenas also.

## **5.B. Enforcement Reports**

### **5.B.1. CNMI Enforcement Agency Report**

Sablan reported:

Enforcement Agency Report - one coral reef violation for a tour boat anchoring without using a mooring buoy with a potential penalty, for disturbing or breaking coral, \$100 to \$1,000, and also the discovery of turtle carcasses.

Local enforcement agreement funds - some money was received to assist with conservation and enforcement.

Educational outreach - officers visit schools frequently to educate youngsters on the importance of regulations and conservation.

### **5.B.2. Guam Enforcement Agency Report**

Harris reported:

Bottomfish Fishing Vessels - Federal Register Notice came into effect for bottomfish vessels larger than 50 feet on December 4, 2006 and the prohibitions are listed at 50 CFR 665.62. Final rule is in the Federal Register of November 2, 2006.

Marine Preservation Areas - covered earlier by Duenas.

Duenas added recent legislation was passed to limit bluefin trevalley takes to more than six inches in any MPA and is concerned that may lead to a problem with apex predators.

### **5.B.3. U.S. Coast Guard Enforcement Report**

Commander Compagnoni reported:

Several patrols were conducted in the Guam and CNMI area with no significant enforcement activity.

Duenas asked if illegal longline sets inside the EEZ are becoming more common and if the VMS Program engaged in cooperative type reporting to assist in the enforcement effort.

Compagnoni replied the Coast Guard works hand-in-hand with NOAA OLE via VMS or any other sources and there is typically no efforts such as he described.

Chairman Martin asked if "smoothing of the Monument boundary lines" would help to reduce the incursions.

Admiral Brice-O'Hara said she thinks part of the problem is the perception that maybe nobody has been watching very carefully, and that there's now been a lot more attention paid to the Northwest Hawaiian Islands, in particular, because of the Monument Designation. Also, it's lucrative. She added a better understanding of regulations would help with self-policing.

Chairman Martin added:

Lucrative, I would struggle with that.

If people aren't paying attention to the Monument or protected species boundaries, which that area has effectively been closed for many, many years, but we, as an industry, don't have any ability to know how closely monitored the VMS Program is because it's in RCC, and it's proprietary information. So I guess from an industry perspective, I would always make the assumption that somebody is attentive to it. So I would make that statement, I think that generally the industry thinks somebody's always watching.

Furthermore, I think there's - because I happen to have the same exact program in my facility that tracks some of my boats, and I know it has the ability to save information for months and months and months at a time.

So those are a couple of the arguments.

But as I said, I don't have any clear indication of why those violations occurred, or alleged violations, whichever they are at this point. Maybe it is an educational deal. Although, I happen to know that all of the captains that were involved in these violations have many, many, many years of experience here, and several Protected Species Workshops where it's clearly stated, as well as I think having the regulations onboard. So I don't know if somebody fell asleep at that switch, or whatever.

Admiral Brice-O'Hara added:

Without going into a lot of the details, I will just tell you that at least one of those was well aware they were inside, that it was wrong and that they were busted.

Duenas suggested the Council address removing the "rotten apples from the crate."

Admiral Brice-O'Hara said she did not disagree, bottom line is the Coast Guard wants the law followed to protect the species and if it takes education and outreach, then she's for that and asked the Council to help find the right solution.

Duenas said the blatant incursions should be addressed.

Admiral Brice-O'Hara added, which we're doing.

#### **5.B.4. NMFS Office for Law Enforcement Report**

Jeff Pollack reported:

Guam and CNMI - investigative efforts are continuing in all areas, in particular, in regards to sea turtle poaching and enforcing the Shark Finning Prohibition Act.

Sablan asked if any turtle poachers have been apprehended in the CNMI.

Pollack said he is not aware of any in CNMI in recent time that has been apprehended, but believes a partner agency, the Fish and Wildlife Service, have in the recent past apprehended some poachers and is looking to build efforts in this area.

Ebisui asked if there had been any inquiries made to the OLE regarding the recent shark viewing legislation.

Pollack replied no.

#### **5.B.5. Status of Violations**

Feder reported:

Related to Guam - Marshall Islands flagged purse seine vessel was caught fishing illegally in United States EEZ around Howland/Baker without a valid U.S. permit. A complaint for forfeiture of that vessel was filed. The purse seine vessel was hauled back to Guam, and the case was filed in the District Court in Guam. The vessel has been released after posting bond for \$2,950,000. The litigation is ongoing.

Simonds asked the amount for such a fine.

Feder said he did not know the answer, but it appears the vessel was forfeited.

Simonds pointed out that in the newly-Reauthorized Magnuson Act, enforcement actions in the PRIAS and Hawaii, the fines are all dumped into the Council's Western Pacific Fisheries Sustainable Fund, and this is the first time this has occurred.

Harris asked why the vessel was towed all the way to Guam as opposed to the nearer port, Honolulu.

Admiral Brice-O'Hara answered, the way the law is structured, any enforcement action that occurs outside of the Main Hawaiian Island EEZ are processed through the U.S. Attorney in Guam. She is hoping for an amendment to the language to give the Coast Guard some discretion.

Simonds added this issue was raised at the October Council meeting and was conveyed to committee members, but it fell through the cracks in the Magnuson Reauthorization and

may be attached to another appropriate act in the near future.

Rick Gaffney asked where the vessel was flagged.

Admiral Brice-O'Hara responded it was recently flagged out of the Marshalls, a joint venture through the Government of the Marshall Islands.

### **Lunch break taken**

#### **Guest Speakers**

Nick Ralston, a scientist from North Dakota, Selenium and Mercury Interactions in Seafood.

Ralston presented results of research conducted regarding health aspects of mercury exposure. He began with the take-home message:

That in order to understand the mercury issue, you have to understand the interactions between selenium and mercury. If you don't understand selenium physiology, you flat-out do not understand mercury toxicity and there's no way you possibly could.

Before 1957 selenium was known only as a toxin because, like everything, too much of it is bad for you. But 50 years ago, selenium was recognized as an essential trace element.

In the mid 1970s, a lot of research was going on in the mercury/selenium interactions, but were stopped because all of the researchers went into anticancer research, as selenium is very effective in limiting some types of cancer.

Ralston said the media, the regulatory agencies and the public didn't realize the battle got won back then, and now we're back fighting it again even though we pretty much know the way that the interactions occur.

There are many concerns about mercury toxicity, and there are definite needs for control. But the question is whether or not there is an issue as far as ocean fish exposure from mercury. There's growing evidence that selenium has protective effects against mercury toxicity. He pointed out the Japanese, who eat ten times more fish than we in the United States generally tend to, have no sign of mercury toxicity. However, there are frequent FDA and EPA advisories for pregnant women, nursing mothers and young children to avoid or limit fish consumption during pregnancy. Ralston said the doctors are confused by the advisory.

He noted two major studies done, the Faroe Islands study did find subtle effects, subtle harms from mercury exposure, which has been used to develop the EPA/FDA advisory. However, the Seychelles Islands study did not find adverse effects.

In the Faroe Islands study the seafood that was consumed was not fish, but pilot whale meat, and quoted an article regarding the study:

The major finding of this study is that mercury exposure of this population comes from eating pilot whale meat.

In the Seychelles study the study was conducted with the consumption of ocean fish exclusively. The children that were born to these mothers had as much mercury exposure, but there were no harmful effects in the fish eaten, but there had been harmful effects in the people that were eating pilot whale meat and fish. It wasn't that they were not eating fish in the Faroes, it was just that mercury in the pilot whale was so high.

He cited an article that recently came out in Lancet that was pointing out that in a British study, a recent and much larger study, which found that larger fish consumption was not associated with harm. In fact, what was harmful was avoiding fish consumption. The more fish the mothers ate, the better the children were performing.

Ralston gave a brief discussion of chemistry involved which highlighted the following facts:

Selenium's protective effect against mercury toxicity has been demonstrated again and again and again.

The original paradigm of selenium-dependent protection against mercury toxicity was mutual detoxification.

Selenium binds with mercury and keeps it from causing harm to important molecules in the body.

If a person is getting more selenium than mercury, like with ocean fish, there are health benefits. A diet rich in selenium is highly effective protection against mercury toxicity, in preventing as well as treating mercury toxicity.

Ocean fish tend to have a lot of selenium. Ocean fish, therefore, does not appear likely to be associated with the cause of mercury toxicity, but actually could be involved in preventing and reversing it.

Whereas freshwater fish are not uniformly rich in selenium and accumulate more methylmercury.

Maternal avoidance of ocean fish appears to be causing far more harm than benefit.

Ebisui asked if there are any studies comparing the selenium levels of wild fish versus aquaculture fish, same species.

Ralston said he had no knowledge of such a study.

Gaffney asked if it is known how ocean acquire the selenium. Ralston answered, all selenium enters the biological cycle by being taken up by plants.

Gaffney said, presumably, aquacultured fish in the ocean that are being fed 99 percent of artificial meal does not have access to the same selenium sources. Ralston said, but it still should be good and will be an interesting thing to look into but right now there isn't very much information regarding that.

Duerr added selenium could be supplemented, same as people. Ralston agreed, and added there are selenium-rich and selenium-poor areas of the globe.

Sablan asked if the fact that deer have large antlers in Saipan and Tinian, it might indicate there are high levels of selenium. Ralston replied it is possible and would be a fun study.

John Kaneko presented results from a survey regarding selenium and mercury in pelagic fish. He highlighted the following points:

Mercury is perhaps the most important seafood safety issue today.

There is growing evidence that selenium has protective effects against mercury and selenium should also be considered when assessing the health impacts of mercury.

All fish were collected from longliners locally and sampled at the auction, consisting of 15 different species; four tunas, swordfish, marlin, blue marlin, striped marlin, spearfish, mahimahi, opah, ono and the monchong, escolar and a couple shark species.

Total mercury content and total selenium content were analyzed on a per weight basis.

Results were:

Yellowfin, mahi, skipjack, spearfish, wahoo, albacore, bigeye, monchong, the striped marlins and even the blue marlins have a healthy excess of selenium.

Opah, escolar, thresher shark also have an excess of selenium to mercury.

Swordfish, no net delivery of selenium and no net delivery of harmful mercury.

Mako shark, had an excess amount of mercury to selenium.

Pilot whale meat, according to data from the Faroe Island study, contains far higher levels of mercury.

Eating fish is healthy for humans, but eating contaminated fish and eating pilot whale is a problem.

Kaneko went through results of molar ratios between mercury and selenium. The selenium was in molar excess of mercury in 13 of the 15 species.

Skipjack was very low in mercury, but very rich in selenium.

Blue marlin has a healthy selenium/mercury relationship. Kaneko said more work is needed here.

Swordfish had close to a one-to-one ratio of selenium to mercury. Kaneko feels each individual fishery should be analyzed as he suspects there are differences.

Shortfin mako had an excess of mercury over selenium and would not expect any selenium benefits.

In looking at the USDA published values of food containing selenium in the American diet, 17 of the top 25 sources in the American diet of selenium actually come from seafood.

Livestock feed manufacturers supplement with selenium.

Most fish being caught in Hawaii and Central Pacific are healthy, delivering selenium, and are far more likely to prevent mercury toxicity. Pelagic fish are generally rich in selenium, therefore, much more likely to prevent mercury toxicity than contribute to causing it.

The pilot whale meat is high in mercury, but not in selenium, and may contribute to mercury toxicity.

Gaffney asked the sample size of blue marlin and the mean weight. Kaneko answered the sample size was 50, with a mean weight of 216, up to 700 pounds.

Gaffney asked if higher levels were found in older fish, larger fish. Kaneko said, yes, in general.

Sablan asked what countries catch and eat pilot whales. Kaneko was not sure, but suggested maybe the Japanese.

Dela Cruz asked if the mercury and selenium contents are uniform in pelagic fish found in different areas and if he will be doing testing in the Guam, CNMI and American Samoa areas. Kaneko responded it is not known yet, but there is indication that it is not uniform and he proposes to expand their sampling to those areas, looking primarily at the tuna species.

Harris asked about his statement regarding a certain misconception about toxicity of selenium, how is it possible and under what circumstances.

Ralston responded that most of the mercury/selenium toxicity were noted in animal studies, although, humans also suffer consequences such as hair loss, loose fingernails and toenails.

McCoy asked if Kaneko tested samples of canned product, canned tuna. Kaneko replied no, because he really think it's important to know where your fish come from, exactly what species and the size.

Duerr voiced his concern regarding imported fish, and felt it would be interesting to check the mercury content of imported fish. Kaneko agreed and said they will be advocating that eventually to go to a selenium/mercury molar ratio standard as opposed to a level based on mercury, alone.

Ebisui asked if there have been any similar studies on the molar ratio of swordfish from the Atlantic. Kaneko said there is only limited data, but there is reported excess selenium over mercury. He feels because there is a difference indicated, there may be other differences that should be investigated.

Chairman Martin noted he found it encouraging that albacore has a high ratio. Kaneko noted those are the large fish as opposed to juvenile-caught fish.

Gaffney asked if Kaneko had talked to the offshore cage aquaculturist in Hawaii. Kaneko had not.

Gaffney suggested the two operators in Hawaii would be glad to give samples to be tested.

### **5.C. Micronesian Challenged**

John Calvo reported:

The Micronesian Challenge is a project with the Nature Conservancy presented at the Micronesian Executive Meeting at which time six million dollars was pledged. All participants at the meeting signed the Challenge; the Republic of Palau, FSM, Guam, CNMI and the Marshall Islands.

The project was to put under effective conservation 30 percent of the marine area and 20 percent of the terrestrial area by 2020.

Since the signing, there has been a back-pedaling by the Nature Conservancy of both Guam and CNMI to provide the six million dollars. The representatives basically said that can come from CRI, which is the Coral Reef Initiative funds, which are already being utilized for other projects.

Calvo illustrated a map of marine areas accessed in Guam, which are already extremely limited.

Calvo asked:

"Basically, as it says, primarily because the project wants to put 30 percent of the marine

and 20 percent terrestrial, but on an island of about 160 to 170,000 people with basically one-third of the island controlled by the military, one-third controlled by the government, where are the people going to go. We already have very limited access to the coastline. With so much limited access, basically that's quite effective conservation, the fact that people can't go there."

Duenas asked Robinson for information of his participation or your agency's participation in the Micronesian Challenge, as he had concern with their top-down approach.

Robinson replied that some NOAA funds go into supporting baseline and other assessments, but is not aware of the Challenge being an agency initiative or supported financially in any way by the agency. One member of PIRO's staff accompanied the Guam Delegation to the meeting at the invitation of the government and as an expert on coral reef ecology, and if not invited by the Guam Government, would not have attended.

Calvo added the trip was paid for by CRI funds.

Duenas added he was just curious, because the list of participants included Evangeline Lohan, Ramona King and Bob Brown (phonetic), which are all employees of NOAA or contractors of NOAA.

Duenas said:

I'm just curious, if the grant program allows for all of this type of top-down approach rather than the bottom-up approach, I'm just wondering if it is justified by the program. Because, again, CRI money, I believe, was used to pay for this excursion to Palau. I'm very disappointed in the CRI Program, because when they came to Guam and had their meeting, they were excited about getting on the plane the very next day. Instead of staying back to listen to the concerns of the community, every one of the NOAA people and everybody else were excited about going to Palau to go scuba diving. So that's why I'm very upset, that we are spending more federal money when you guys tell me, the agency, you're broke.

Robinson clarified the CRI funding goes through NOS.

Calvo added at the Micronesian Challenge meetings on Guam they refused to entertain the map which he illustrated in his presentation.

Severance, speaking as a member of the Council's Marine Protected Area Working Group, reminded Council members of the existing policy, which the Council already approved, the statements:

The Council-developed MPAs have to consider the requirements, privilege, rights and cultural needs of the native people and to consult with the involved and affected user groups from the beginning so they participate, bottom-up.

Severance fears the Micronesian Challenge initiative may create a bigger wedge between

the governors and the national governments who have signed on to this with enthusiasm and the local people who will defend aggressively their customary tenure rights, at least in FSM and Palau and the Marshalls.

Dela Cruz asked how to rectify the about-face threat.

Severance responded he had no clear answer to offer.

Polhemus said he attended a briefing on the Micronesian in Honolulu and it was clear that, at least in the view of the FSM stakeholders, that effective conservation as laid out in this proposed program did not mean strict no-take MPAs.

Jack Ogumuro had nothing to report regarding the Micronesian Challenge.

#### **5.D. Guam/CNMI Bottomfish Assessment**

Moffitt reported:

The data is broken down into archipelagoes, which West Pac FIN expanded the landings by species. He and John Brodziak took various miscellaneous categories; miscellaneous jack, miscellaneous emperor, and tried to determine the component of BMUS as opposed to non-BMUS, the management unit species. They looked at years when the identification of the species was quite good, and used percentages and applied it to years when it was less good to get an idea of total landings of management unit species, as well as other pieces of information, to arrive at an estimate of biomass.

After further lengthy explanation of the process undertaken, the bottomfish complex in Guam and CNMI is in very good condition as far as both biomass and fishing mortality.

He added:

"Again, 99-plus for biomass being in good shape and very little chance that overfishing is occurring. This is the look through time, where we would be on our status. The bottom right is where you want to be, totally unfished virgin situation would be right there at the 2.0 on the bottom.

As you go up past the red line and to the left of the 1.0 value is when you start getting into the overfished and overfishing areas. So all throughout this time the stock status in Guam has been good, with the exception of the year 2000 when it would have been suggested perhaps that overfishing was occurring.

For CNMI, again, particularly in the more recent years, looks real good. I suspect that the '83 value, we should look at that a little bit better. It still would have been safe, both in terms of biomass and fishing mortality status, but I think there's probably some other reasons why it's that low. Starting a fishery, you would expect catch rates to be a little bit lower.

So that's what I have. Essentially, what we're looking at, is both good news for both Guam and CNMI in terms of status of the bottomfish."

### **5.E. Mariana Protected Species Update**

Robinson had nothing to report with regard to Protected Species.

### **5.F. Mariana Community Initiatives**

#### **5.F.1. Report on Marianas Advisor and Regional Ecosystem Advisory Committee Meetings**

Ogumuro reported:

The Council family traveled to the CNMI in early February to conduct a series of meetings regarding the Mariana Archipelago Fishery Ecosystem Plan, as well as the Pacific Pelagic Fisheries Ecosystem Plan.

The Advisory Panel members came up with several recommendations regarding the Marianas Archipelago Fishery Ecosystem Plan and Pelagic Fishery Ecosystem Plan. They recommend:

That the Council, State Department and NMFS initiate discussions with the Luen Thai Fishing Company regarding the potential PIAFA;

That DFW properly mark FADs to make them easy to locate for use by fishermen, as well as for safe navigation;

That seasonal runs of rabbitfish be exempted from MPA regulations;

That the Council continue with education and outreach efforts and CDPP efforts to stimulate interest by young people in fishing and traditional methods or knowledge;

That the Governor of CNMI hold forums with local fishermen regarding the Micronesian Challenge;

That the CNMI Government and Council work with the Tanapag Village on their proposals to be allowed to use traditional nets on a seasonal basis.

A second meeting was held to update members on the two FEPs and included members of the Council, Advisory Panel, Statistical and Scientific Committee and Plan Teams. A third meeting was held for the Mariana Regional Ecosystem Advisory Committee, a newly-established group in the CNMI, which resulted in the following recommendations:

Regarding education and outreach, the Mariana Archipelago Regional Ecosystem

Advisory Committee recommends:

Educational initiatives for hunters and fishers on local regulations be undertaken;

The Council continue its education and outreach programs, as well as CDP and CDPP, to help educate Carolinians and Chamorros on the value of sustainable ecosystems to perpetuate their customs and traditions;

The Council continue its efforts to record and document traditional knowledge so that it may not be lost, but that the Council uses proper protocols;

That the Council consider, when making regulations, that the implementation of any western regulations can be viewed as an erosion of traditional indigenous culture.

Regarding regulatory issues, the Marianas Archipelago Regional Ecosystem Advisory Committee recommends:

The Council work with the CNMI Division of Fish and Wildlife to reduce the overharvesting of sessile invertebrates, like sea cucumbers and trocus;

The Council explore potential exemptions to the Shark Finning Prohibition Act if shark carcasses are being used legitimately for bait in normal fishing operations;

The CNMI Government review its regulatory programs to make them more business friendly;

The appropriate agencies adequately monitor nearshore pollution and its impacts on coral reefs and fisheries;

The appropriate agencies work with farmers to properly use collected waters for irrigation;

The CNMI Government continue to operate as if it has authority to manage nearshore, that's zero to three, marine resources. However, clarification from the Federal Government regarding marine resource management authority is needed.

Gaffney asked what kind of fishery uses shark carcasses for bait. Ogumuro replied shrimping. Duenas clarified it was for the deep bottom shrimp, and the shark must be used within 24 hours of harvest.

Duerr asked for clarification of traditional nets, as to nets made with traditional material, not using monofilament. The National Park Service requires use of natural and traditional materials, as use of a monofilament net in a traditional style could end up on the reef.

Duenas replied the method is traditional, the gear is modern.

Dela Cruz said he thought the surround nets used were a rope-like material, but not nylon.

Ogumuro replied, yes, that's another fishing net that we used in the olden days, made out of coconut leaves tied together to make a big net.

### **5.F.2. Report on Guam Advisor and Regional Ecosystem Advisory Committee Meetings**

Calvo reported:

On February 7th, 2007 an Advisory Panel meeting was held on Guam. The outcomes were as follows:

Recommends that local Chamorro and Carolinian names for bottomfish be included in the bottomfish log sheets.

Supports development of alternatives to allow longline fishing within the longline prohibited area around Guam, and to consider various alternatives.

Recommends to approach Representative Bordallo to request the Congress provide \$10 million in funding for the Community Demonstration Projects Program, \$5 million to the Fishery Loan Program, and exempt the Territories and the Commonwealth from the Dingle-Johnson/Wallop-Breaux funding requirements.

Disagreement was expressed in the manner in which the Micronesian Challenge has been implemented in the region and recommends that the Council send a letter to the Governor of Guam expressing the sentiments of the AP and requesting the Governor to explain his understanding of this initiative.

Calvo pointed out to Polhemus that of the five marine preserves on Guam, only one allows take, Tumon Bay.

The Regional Ecosystem Advisory Committee for Guam met on February 9th, including representatives from the community, both government and private, as well as NGOs. Calvo noted the recommendations had been handed out to Council members.

### **5.F.3. Report on Guam Voluntary Data Collection Program**

Report not given

### **5.F.4. Legislative Actions**

Calvo reported:

The Legislature is currently still undertaking items from the previous year.

Ogumuro reported:

Most of the actions were land-based activities, such as appropriations for equipment, work at landfill areas, appropriations for road repairs, drainage, sewage systems, and money was appropriated for two fishing derbies.

### **5.G. SSC Recommendations**

Severance reported:

The SSC listened with interest to the presentation by Jarad Makaiau and looks forward to the final reports with recommendations from the Northern Mariana Islands and Guam community meetings.

The SSC commends Dr. Bob Moffitt for his insightful presentation on insular stock assessments using a Bayesian state-space modeling approach.

### **5.H. Standing Committee Report**

Chairman Martin reported:

There were no Standing Committee recommendations, as they were referred from the Advisory Panels and REACs to the entire Council for action.

### **5.I. Public Comment**

Public comments are included as verbatim.

Keiko Bonk commented:

My name is Keiko Bonk. I am here today as a concerned citizen and a Director of the Northwestern Hawaiian Islands Network, an organization of nonprofit groups concerned with conservation of the Northwestern Hawaiian Islands, as well as the Boating Association, a Native Hawaiian cultural group and two science-based organizations, NCBI and TOC.

I have a formal presentation to make today directed to the Council. Therefore, I'm going to be reading it because I didn't have enough copies to give to everyone.

I'm writing to formally complain about Council staff actions related to certain meetings held on March 13th at Ala Moana Hotel that were associated with the 137th West Pac meeting in Honolulu.

I request that you investigate my complaint and take appropriate remedial actions to bring West Pac staff actions into the light of day and to ensure that similar actions do not recur.

This memo first outlines the facts relating to those meetings yesterday, and then provides specific request for investigation or remediation.

Facts:

West Pac held meetings with certain fishermen at the Ala Moana Hotel. Personal observation. That's my personal observation.

West Pac paid for tickets and hotel rooms for participants. I received that information via a personal communication with West Pac Puwalu meeting participant.

West Pac paid for meeting rooms. That was another personal communication with, in this case, Ala Moana hotel staff and management, as well as a West Pac receptionist and a West Pac SSC member and Chair, Dr. Craig Severance.

These meetings were not noticed to the public nor announced in advance. Topic of the meetings was to discuss among the participants ways to support three bills before the Hawaii State Legislature related to fishing. This was also something that I received through one of the participants.

On the morning of March 13th I was there Ala Moana Hotel for their 137th Council meeting and became aware that the meeting described above was being held at the hotel.

I asked West Pac Economist, Marcia Hamilton about the meeting. She denied that she knew anything about this meeting that was taking place.

I subsequently found the room in which the meeting was being held. Upon trying to enter this room, I was told by West Pac staff that I could not enter the room.

Because the meeting was being paid for by public funds and its topics were of interest to me, I entered the room despite West Pac's staff's statement that I was not permitted to do so.

Once inside, I saw 20 people - approximately 20 people. I recognized about half of them from the December 2006 Puwalu Policy Meeting, which I attended.

I was then confronted by West Pac Staff Consultants Leimana and Bob DaMate, who asked me to leave. I was told by these staff consultants, West Pac staff consultants, that this was a private spiritual meeting, and those are in quotes, and I was not invited to this meeting.

I said I understood it to be a West Pac organized and funded policy meeting and, therefore, it must be open to the public.

The DaMates denied it being a West Pac meeting and repeated that it was, in fact, a private, spiritual meeting. Rather than escalate an already tense situation, I exited the room.

I was not the only member of the public asked to leave this West Pac meeting. Tina Owens

was also asked to leave.

My complaint is, West Pac is a public entity operating with public funds. Its meetings are required to be noticed and, in nearly every circumstance, fully open to the public.

West Pac is also prohibited from lobbying at either the state or federal levels.

West Pac's staff on March 13th appeared to violate these rules. I, therefore, request that you, Sean Martin and the members of West Pac, formally investigate:

The circumstances that led to these meetings, including whether they violated anti-lobbying rules and regulations;

And two, West Pac staff actions related to the funding and organization of these meetings and the exclusion of members of the public from these meetings.

I also ask you to publicly release the results of your investigation, including whatever disciplinary or remedial actions you take in response to this complaint.

This week is Sunshine Week across the United States of America. As front page stories in Hawaii papers today talk about transparency in government and is central to the health of our democracy, it is ironic that yesterday I was so blatantly excluded from what was apparent to me to be a West Pac meeting.

Chairman Martin, you're the leader of this organization, West Pac, and as such, I ask you to exercise your leadership responsibilities to expose West Pac staff action to the sunlight and ensure that they do not reoccur.

Manuel Mejia commented:

Hello. My name is Manuel Mejia from the Nature Conservancy Hawaii.

Just for clarification, I just wanted to clarify a few things about the Micronesian Challenge presentation.

First of all, it's not led by TNC. It's led by five jurisdictions that have signed on to the Micronesian Challenge. TNC is not a lead. So it's not a top-down approach, it's really the national governments that have signed on to this.

TNC's contributions is three million dollars, not six. Conservation International is another. So on those two things, I just wanted to clarify as to inaccuracies. Thank you.

Mr. Wintner commented:

Aloha. I also would like to thank you for your time. I've heard many, many referrals today to conservation and to ecosystem management, and I want to thank you. It warms my heart.

I think that we all share the same love for the ocean. It's probably not identical in its manifestations, but we all feel something a little bit unique when we see the ocean and we ponder its resources.

I want to make a request, also a formal request for the record, Chairman Martin.

I have here a copy of the 2007 budget for West Pac. Anybody who needs a copy, I'll be happy to provide it to you.

The subtotal I'm looking at here is 953,000, and I'm looking at a fringe benefits line item of 352,000.

Now, I'm in business, and this is the only explanation I have, and because - it's already been pointed out that this is a public agency run by public funds, this is a 40-to-45 ratio in fringe benefits.

What troubles me, because we all have the same love, and we want to see our resources applied most effectively, is this article - and I can also provide copies of this to any members who need in Cascadia Times, that points out in the Executive Director Kitty Simonds, is now at a salary level of \$187,000.

For starters, that's more than the Secretary of Commerce.

So I have to question how much higher it goes from 187,000 when we look into the fringe benefits.

What are those fringe benefits.

Now, this budget is incomplete. It only refers to Task 1. I'm not clear on how many other tasks there are. I think there are three or four.

Is there the same ratio of fringe benefit to operating expenses on the other tasks.

These are vital questions. I'm formally requesting that you, Mr. Chair, look into this.

I have a second topic I would like to review, and again I appreciate your time. That's just the spirit of aloha, since we are in Hawaii.

I want to make reference to the meeting that was held last night. I want you all to know that I wanted to come to this meeting for a long time, and I just couldn't make it.

So why am I here? Because I got a phone call late last night that there was a meeting, a Kewalo meeting, and Kitty Simonds informed all of the guests here, most of whom were Hawaiian that the evil source who was leading the gill net struggle in Hawaii is Snorkel Bob. I thought, gee, that's me.

I flew over. I'm a busy guy. I've got lots of employees. I flew over to say, Miss Simonds, I'd like for you to say that to my face. Can you do that?

Simonds replied she did not know what he was talking about.

Wintner continued:

I think I was accused -- and I will grant that I heard it secondhand, and that's true, we've never met. And that's why I was surprised and flew over.

Because we're all in this together to protect and manage our resources. I spent almost, I would say, 95 percent of my time and my money on conservation in Hawaii, and that's volunteer. I'm not a federal employee.

I'm touched by what many people say. Manny says that there shouldn't be eco-tourism diving up in Midway. I agree. I look forward to working with you on that. I agree with you on many things.

But it's important to me on a personal basis that I don't stand indicted before this group. Thanks very much and aloha once again.

## **5.J. Discussion and Action**

**Duenas moved the Marianas Advisory Panel/REAC recommendations be forwarded to the Council. Tulafono seconded. The motion was passed unanimously.**

## **6. American Samoa Archipelago**

### **6.A. Island Area Report**

Tulafono reported:

Community-based Fishery Management Program - three additional villages joined since the last Council meeting.

Key Reef Species Program - the report of 2005 findings has been approved for scientific publication to come out on the 64th Volume of the Pacific Science Journal.

Environmental Monitoring Program - all data has been recovered and is being processed into a draft report. All otolith slides were also recovered.

Coral Reef Monitoring Program - two coral biologists, Douglas Fenner and Ben Carroll, completed their annual coral reef monitoring fieldwork during this period.

Biodiversity Conference held biologists in New Caledonia was attended by Fenner.

Another biologist traveled to Australia looking for a dive boat for use by the Department. The Department is in the process of getting a bid out for a boat that is suitable for our use as a diving platform for use in Manua, Swains and Rose Atoll.

FAD Program - deployed four FADs in the Manua Islands, one deepwater, three shallow.

Marine Protected Areas - staff gathered the rest of the spawning stock data during the biological reconnaissance dives in seven different locations in American Samoa. Data were entered and analyzed.

A local video production agency was contracted to film a TV commercial for the MPA Program to be aired in local television stations starting February of this year. Department staff also coordinates with vendors in Fiji to translate a series of MPA posters into Samoan and get copies printed. MPA Program staff member traveled to Fiji upon an invitation from the SPC for fisheries stock assessment training.

Inshore creel survey - an Inshore Supervisor Biologist was hired in December of last year.

## **6.B. Enforcement Reports**

### **6.B.1. Agency Enforcement Report**

Tulafono reported:

A private attorney was hired to assist in drafting up of Community Fisheries Management Program Regulations. Draft has been completed. A press conference was held Monday morning with nine different media representatives in attendance to ensure the information is made available to the public.

A public hearing will be held if at least 25 people express interest in holding a public meeting. If less than 25 people express an interest, the Department will proceed to the Secretary of State to register the rules and regulation with the Lieutenant Governor. After 10 days, they will be submitted to the Secretary at the Legislature to be registered. After ten more days, the rules and regulations become effective under the Community-based Fishery Management Program.

A new National Marine Fishery Service Law Enforcement Agent was hired, Kevin Painer (phonetic), and Tulafono is looking forward to working with him.

Robinson noted agreement with Tulafono regarding Painer, and is looking forward to seeing good things happen with him on the job.

### **6.B.2. U.S. Coast Guard Enforcement Report**

Compagnoni reported:

Coast Guard currently has CUTTER KUKUI in American Samoa and will be conducting Aids To Navigation Surveys and work with Fish and Wildlife, as well as doing some law enforcement monitoring.

Duenas inquired if any progress has been made on past requests to Commander Young regarding safety equipment regulation requirements and the logistical problems of obtaining the equipment in American Samoa. Compagnoni agreed to look into it and provide comment.

McCoy noted the problem is keeping supplies available that has valid expiration dates.

### **6.B.3. NMFS Office for Law Enforcement Report**

Jeff Pollack reported:

One Lacey case in American Samoa for the reporting quarter.

### **6.B.4. Status of Violations**

No Status of Violations to report.

### **6.B.5. U.S.-Cook Islands Longline Fishing Access**

Robinson reported:

At the WCPFC meeting in Apia in December, the Cook Islands asked for a bilateral meeting to talk about issues of mutual concern. An informal meeting was held. Concern was expressed regarding a U.S. vessel that was seized illegally fishing in the Cook Islands and had a desire to work with them to place observers on longline vessels that are flagged to Cook Islands but fishing out at Pago and never appear in Rarotonga, to do such things as sharing logbook data from vessels that fish in both jurisdictions, establishing a relationship with NMFS and American Samoa enforcement agents, and sharing VMS data as well.

Several boats have reflagged to Cook Islands. So their desire is to place observers and collect logbooks and that there are non-U.S. Cook Island flagged boats landing in Pago that never show up in Rarotonga. The Cook Islands are sensitive to being labeled a Flag of Convenience Country, and are interested in having some control over those vessels. The possibility of doing an MOU or an MOA with them was discussed and it was suggested they layout their desires in an MOU to be considered in the future.

There is concern with some of the U.S. vessels reflagging, as to the difficulties and consequences as pertaining to their U.S. documentation, which the Coast Guard expressed concerns as well.

Duenas asked if the longliners are included under the Tuna Treaty, there is no dilemma.

Robinson responded:

"Correct. They're also subject to all of the terms of that treaty if they were under that treaty, and the treaty would have to be renegotiated with the Pacific Island States, and I'm sure they'd be looking for some payment for access from the longliners. There would be other conditions as there are on our purse seiners. But your premise is correct, that if they were included under the South Pacific Tuna Treaty, they would have access to the waters of the other nations and there would not be any reflagging issues."

Gaffney asked if the Cook Islands are members of the WCPFC and what is the current relationship between the Cook Islands and New Zealand. Robinson replied they are members, but deferred to Dalzell regarding the current relationship.

Paul Dalzell replied they are in free association.

Duenas asked if with regard to the Southwest Pacific Tuna Treaty, is there any chance working together to figure out a way to help the vessels to the south and also pointed out the issue regarding the Cook Island/New Zealand quota for swordfish and the Southwest Region Lab's concern of the Eastern Pacific stocks were not considered.

Robinson explained:

"The issue was the EU took issue with the Australian stock assessment, which was based upon the stock closer to Australia and wasn't based upon the full range of the stock, and the EU is fishing further to the east than where the stock assessment occurred. So they actually had quite a tussle over that issue in negotiating a swordfish conservation and management measure."

McCoy asked if there have been efforts to modify logbooks to be more consistent among the different parties. Robinson replied there are fairly sensitive issues to deal with, such as confidentiality requirements and jurisdictional issues.

Haleck asked Robinson if the process regarding the return of a U.S. flagged fishing vessel can be available to inform the vessels as staff is planning a trip to the islands in the near future. Compagnoni responded the process can be provided.

Simonds asked for clarification of his statement regarding the observer/jurisdictional complications.

Robinson replied:

"Basically, they're fishing under the jurisdiction of the Cook Islands. So the observer is not protected from sexual harassment, for example, or assault, or things like that, when they're a Cook Island-flagged vessel fishing in the Cook Islands, because they're no longer a U.S. vessel fishing under U.S. laws. So that's an example, I think, of something like that.

There are other ways that we can't control. We can't control the activities of the captain and how they treat the observers, and things like that, if they've reflagged and are fishing in other waters. We can't allow that to happen. So, basically, right now our policy is we will not put an observer on a boat that is flagged to the Cook Islands."

Chairman Martin asked if the vessels have to shed their American Samoa longline permit when they reflag.

Robinson replied:

"It's a real sticky issue, and we have not worked through the issue yet. But, I mean, in order to be registered with a longline permit, it has to be a U.S. flagged vessel.

And if it's not a U.S. -- you know. So obvious questions, the minute it reflags to the Cooks, is it no longer legally -- can it no longer be registered to a longline permit and does it have to be re-registered when it comes back.

I can't tell you the answer to those -- those are the questions we're asking ourselves right now. That's why I said it's a complicated issue and we'd like to sort of work through it logically and to the benefit of our fishermen. I mean, we want to try and do as much as we can for them.

But on the other hand, there are vessel documentation and licensing regulations that have to be followed."

### **6.C. Status of Products from American Samoa/Samoa MOU**

Fini Aitaoto reported:

The Memorandum of Understanding between the DFWR and Western Samoa's Department of Natural Resources and Environment deals mainly with terrestrial and wildlife issues, such as fruit-bats and indigenous plants, and has little to do with fisheries. The general goal of this MOU is exchange of technical information, expertise and sharing of resources to facilitate the conservation of wildlife common to both Samoas.

The general activities are maintenance of wildlife populations and maintenance of terrestrial biodiversity. The activities that have been undertaken by DFWR and the people from Western Samoa are mainly joint research initiatives and information exchange.

As to the updates, through this MOU:

They are providing financial support to do surveys, tissue sampling and photo identification of humpback whales in both Samoas.

They have devised a project that provides financial support for audio recordings of sounds

on Samoan birds. They've also provided financial support for training in sound recordings and also provided support for a rat eradication program in Western Samoa.

#### **6.D. Status of Fisheries Development in American Samoa**

Dalzell reported:

After a brief timeline and history of the Council's efforts, he noted American Samoa, Guam and NMI fall into the same category as the independent nations, themselves, from the perspective of the new fishery commission, the Western and Central Pacific Fishery Commission. In the middle of last year American Samoa Senator raised the issue of minimum wage in the canneries, suggesting it should be raised from \$3.26 to \$5.00 an hour.

Last year a workshop was held on South Pacific Albacore targeted by longline fisheries and was surprised to discover found that with the exception of French Polynesia, every other country in the Pacific, including Australia and New Zealand were sending fish to the American Samoa canneries, which emphasized the importance of the canneries to the region.

In Apia last year, Kitty and the Council members discussed the possibility of the longline fishery being included in the South Pacific Tuna Treaty with the U.S. Tuna Foundation in an informal conversation. They indicated that they had no objections to the inclusion of U.S. longliners in the U.S. South Pacific Treaty. He added, of course, that there's a long way to go before that ever happens, but there seems to be no barrier, at least from the industry side.

December 15th, the WCPFC did not modify the existing longline management measures for bigeye tuna. So the provisional 2,000 metric ton quota is still in effect. He predicts an increase in joint venture and charter fishing arrangements in Pacific Island Countries.

At the end of December last year a two-year extension of the tax credit was signed by President Bush.

This year the Minimum Wage Bill considered the situation of the Marianas and also American Samoa, but particularly the Marianas with its garment industry, and this became kind of a knock-on issue for American Samoa. At present there is consideration of having a Wage Review Board for American Samoa and NMI included in the final version of the Minimum Wage Bill, which would allow setting a separate minimum wage from the national standard.

This information was taken forward to develop Terms of Reference for an economic study relative to American Samoa and other island areas and sent out to a list of different contractors, individuals, recommended by the Forum Fisheries Agency and others. Several expressions of interest have been received. But in the end, only two firms provided reports, which were then asked to be reviewed by the Science Center and also Mike

McCoy.

Both of the proposals scored very highly, except one didn't indicate the methodology that they would use. As of this time, the methodology details will be asked to be provided before a final evaluation.

#### **6.E. Protected Species Update**

Robinson reported:

In 2006, eight percent coverage of trips and about twenty-five percent coverage of the number of hooks and number of sets, that is ten trips out of 123 total trips, longline trips out of American Samoa. There were two green turtle takes, both mortalities, and one nonlethal interaction with a hawksbill turtle, which exceeded the incidental take limit for hard-shell sea turtles, which was a take of six.

Thus, a Re-initiation of Consultation was triggered, which is still in the information collection stage and consultation with the Science Center on sampling levels.

One observed trip has been completed with no encounters with protected species.

Chairman Martin asked if the re-consultation will be on all turtle species.

Robinson replied it will pertain only to the American Samoa longline fishery and to the extent there is enough information to develop an opinion on a species basis has yet to be determined.

Tulafono noted the good news is he met with the Vice President of Operations of Star-Kist Samoa based in American Samoa last week. The cannery is now preparing for an increase in production of fish pouches.

#### **6.F. American Samoa Bottomfish Stock Assessment**

Moffitt reported:

The findings were very similar to the earlier report, likelihood is that the fishing mortality is above the threshold for fishing mortality. Essentially, the complex is not overfished and overfishing is not occurring.

Harris thanked Dr. Moffitt for taking on the challenge of working with the various models and providing the data to give a level of comfort in regards to the state of the stocks.

McCoy added there is very little effort concentrating on bottomfish now due to lack of marketing opportunities.

## **6.G American Samoa Community Initiatives**

Aitaoto reported:

Four or five meetings are planned for the first week of April to include the Advisory Panel Orientation Council Family Meeting, a Longline Fishery Permit Workshop, Fishery Ecosystem Plan Regional Ecosystem Advisory Committee Meeting and the American Samoa Fishery Ecosystem Plan Meeting, which will include fishery data review.

The Council staff also plans to meet with the government and members of the fono to help in the ecosystem approach to the management of fisheries. Contact has been made with MPA representatives, recreational fishermen, longline fishermen, NGOs and the public.

## **6.H. SSC Recommendations**

Severance reported:

The SSC commends Dr. Bob Moffitt for his insightful presentation on insular stock assessments using a Bayesian state-space modeling approach.

## **6.I. Standing Committee Recommendations**

McCoy reported:

The Standing Committee discussed the status of products in American Samoa, the status of fishery development and the American Samoa bottomfish stock assessment.

McCoy thanked Dr. Moffitt for his fine work.

The American Samoa Community Initiatives, the Council will hold its meetings in April in American Samoa and include such issues as introduction to Council processes and Magnuson-Stevens Act, review of American Samoa Bottomfish Annual Report and Fishery Ecosystem issues. Council reps will also meet with governmental officials, NGOs, MPA representatives, fishermen and the general public.

There are currently no legislative actions pending in American Samoa.

## **6.J. Public Comment**

No public comment.

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

Stephen Haleck suggested the Coast Guard be included on the list of participants for the upcoming meetings. Simonds noted they are on the list. Compagnoni said they'd be happy to attend.

Duenas suggested recommending the Government of American Samoa send a letter to the appropriate agency to include American Samoa, to ensure that the longliners are included in the South Pacific Treaty.

Chairman Martin made a few logistical announcements and adjourned the meeting for the day.

**Chairman Martin opened the meeting for Thursday, March 15, 2007.**

**7. Hawaii Archipelago**

**7.A. Island Area Report**

Polhemus reported:

"In keeping with the collegial spirit of this meeting, on behalf of the people of Hawaii we'd like to send greetings of aloha and offer our congratulations to West Pac on the occasion of its 30th anniversary. The Western Pacific Regional Fishery Management Council is charged with recommending policy for management of fisheries spanning a vast region of federal waters in the Exclusive Economic Zone surrounding the Territory of American Samoa, the Territory of Guam, the State of Hawaii and the Commonwealth of the Northern Marianas Islands, as well as the U.S. Pacific Remote Island Areas. This area is over 1.5 million square miles. It's an enormous and complex task.

Over the years the Council has sought to protect fishery resources while maintaining opportunities for commercial and recreational fishing at sustainable levels of effort and yield. We appreciate their efforts to effectively manage both Hawaii's and throughout the Western Pacific's marine life, and we extend our best wishes for all continued success."

A copy of the recent new rules regarding laying gill nets was provided. He briefly summarized the rules regarding stationary gill nets used in State marine waters:

Nets must be registered with the Department, each net must have four permanent identification tags and must have at least two surface buoys bearing the registration number of the net.

Net dimensions are constrained to 125 feet long, seven feet high, with a minimum stretched mesh of two-and-three-quarter inches.

Fishers may fish with only one net at a time, minimum distance between lay nets set in the same general area of 250 feet, except for certain exceptions for West Hawaii.

Nets may not be used at depths deeper than 25 feet unless fisher possesses a commercial marine license, in which case can reach depths up to 80 feet.

Nets may not be set for more than four hours at a time, must be inspected two hours after being set and they may not be left unattended for longer than 30 minutes.

In addition, fishers may not fish again with a lay net for at least 24 hours after having fished with such a net.

Banned areas for use of these nets include a number of banned zones on the Big Island of Hawaii and West Hawaii, the entire Island Of Maui, three zones consisting of the central part of Kaneohe Bay, the Kailua Bay area from the Mokapu Peninsula to Wailea Point, and the Maunalua Bay and extended area beyond that from Portlock to the Reef Runway.

In December 2006 the State Board of Land and Natural Resources approved a new set of 12 restricted fishing areas for bottomfish in the Main Hawaiian Islands. The areas will be implemented July 1, 2007. Details will be covered in a later presentation.

This winter the nearshore waters of Hawaii were very productive with numerous recruits of juvenile fish, including oama, large quantities of juvenile moi and varied runs of aholehole and halaulu, bigeye scad.

Northwestern Hawaiian Islands - on December 8, 2006 Governor Lingle and the Secretaries of Commerce and the Interior signed a Memorandum of Agreement creating a cooperative conservation regime for the entire region between the three co-trustees, which included the creation of a Monument Management Board. The respective agencies have been working primarily through inter-agency working groups on a new joint permitting process, revising the draft management plan that was originally written for a NOAA Sanctuary Designation and working on evaluating applications for additional scientific work.

FAD Program - moderate activity from September 2006 to now. Work was approved to replace and recover missing FADs and perform lightpack maintenance. Details are provided in the report.

Artificial reefs - an additional 2,348 concrete z-modules are scheduled to be deployed in Maunalua Bay artificial reef, which lies in 70 to 110 feet of water off of East Oahu.

Subsistence and recreational fishing - Uluu Tagging Project is now in its eighth year. Project leaders have decided to restrict angler participation in this project after December 31, 2007, at which point, no new anglers will be recruited. Tags will be distributed only to those anglers currently participating. There are hopes of including other popular species of fish to gather similar information.

Anuenue Fishery Research Center - the rearing and tagging release of moi is ongoing. To determine how successful the stock enhancement efforts are extensive DNA analysis using fin clips is being undertaken.

Fishery reporting systems - starting in March of 2006 renewal of commercial marine licenses to fishers who are over twelve months delinquent in their catch reporting will be refused.

NOAA Fishery funds - via the Federal Inter-jurisdictional Fisheries Act will be used to develop and implement an online fishing report system for commercial fishers.

Duenas asked if a turtle impact study is being conducted with regard to FADs. Polhemus replied he was not aware, but could relay the question to Paul Murakawa.

Duenas asked if the fin clip samples were for deep bottom species and, if not, are there plans to include the Deep Seven species in the future. Polhemus replied at this time, the only species the fin clips are for moi. Although, Brian Bowen is doing DNA analysis, looking at connectivity questions between the Northwestern Hawaiian Islands and the Main Hawaiian Islands.

Duenas added the U.H. asked Guam fishers to provide fin clips from four different deep bottom species, which were sent approximately six months ago.

Robinson asked if there has been any potential interest or activity related to DOCARE and enforcing the 30-day provision for submitting catch reports by CML holders, and would possibly the New Joint Enforcement Agreement that the State has with NOAA Fisheries formally offer some potential for some joint enforcement of those provisions. Polhemus responded in the affirmative.

Ebisui asked if Polhemus thought that the culturing of moi off of the Ewa side has any effect on recruitment or if the market size is below reproduction. Polhemus replied that so far, they don't know but hope to find out as a result of the DNA analysis being conducted.

Ebisui commented, from personal observation, a lot of moi have been observed while deepwater fishing for opakpaka.

Polhemus added an oversight in his report, regarding Main Hawaiian Islands bottomfish, a number of initiatives have been funded, including a baseline study to cover twelve restricted areas over the next fiscal year, including proposals for using acoustic monitoring of this fishery and a proposal for larval transport modeling within the Main Hawaiian Islands.

Duenas commended State of Hawaii on the Ulua Tagging Program and is glad it is an ongoing project.

Gaffney reported:

Pelagic fishing in the Hawaiian Islands - unusual year so far, no large ahi in the pelagic catch, spearfish and striped marlin run has not yet started and blue marlin have been available year-round in fair numbers.

Chairman Martin reported:

Aquaculture program off of Ewa Beach - right now, no broodstock is available but there's a significant investment being made to develop a hatchery out at Barbers Point and looks as if they're working towards independence in providing their own broodstock. A significant influx of capital into the project will help the project to grow.

Pelagics and longline activities - longline fleet has experienced 'consistent fishing' over the last year and a half. Some exceptional runs of bigeye for a short period of time east of the Big Island were experienced, straddling the line between the Eastern Pacific and the Western Pacific, the 150 Degree longitude line, something like 100 tons taken out of the Eastern Pacific at this point,

Catches are generally good for all species in the longline fleet and the market continues to be good.

Good prices seem to be continuing.

Chairman Martin speculated final numbers for '06 were 3,700 or 3,800 tons of bigeye in the Hawaii fishery.

Gaffney added:

Kona Blue Water - there is concern relating to the application to expand their cages. Their operation is hugely successful and the majority of their product is sold on the Mainland.

Pelagic sport fishing - an increasing number of people are fishing at night for pelagic species, including thresher shark, which are released. Gaffney wondered if the newly Reauthorized Magnuson Act amendments would apply.

Feder clarified that there is no prohibition in the Magnuson Act if one catches or harvests a shark and releases it. He added he would get back with the answer after further research.

Chairman Martin added the Hawaii longline swordfish fishery is ongoing, with turtle interactions standing presently at two leatherbacks and eight loggerhead takes. Boats are moving south, catch rates are quite good and the market has been quite strong. Load averages have been around 25,000 to 30,000 pounds of swords, with prices at the \$3 to \$5 per pound range.

Duerr commented, having recently returned from the Mainland, he has noticed far more fish on menus, which may have something to do with the better prices.

## **7.B. Enforcement Reports**

### **7.B.1. Island Agency Enforcement Report**

Polhemus reported:

Enforcement - Division of Aquatic Resources was provided an attorney sent by the Attorney General's Office to help pursue civil cases regarding resource violations, with two cases currently active. The attorney will also investigate certain fishing violations in the Main Hawaiian Islands and research violations in the Northwestern Hawaiian Islands.

### **7.B.2. U.S. Coast Guard Enforcement Report**

Commander Compagnoni reported:

Coast Guard assets have dedicated approximately 1,085 hours to domestic fisheries enforcement and 368 hours to foreign fisheries enforcement for this period.

Significant activities to date, as contained in the report:

The 21 November 2006, one vessel made a longline set inside the Main Hawaiian Islands Longline Exclusion Zone north of Kauai. The case was documented and forwarded on to NOAA OLE.

On 10 January 2007, another fishing vessel set several longline sets inside the Northwestern Hawaiian Islands Marine National Monument in the Protected Species Zone. Coast Guard C130 responded, followed up with a Coast Guard boarding, and the case was provided to NOAA OLE as well.

On the 15th January 2007, another vessel made longline sets inside the Northwestern Hawaiian Islands Monument in the Protected Species Zone detected by a Coast Guard C130 and then followed up with a boarding. The information as provided to NOAA OLE for further action.

Items not contained in the report include:

On the 17th February 2007, a Coast Guard C130 identified two Ecuadorian purse seine vessels operating in the Central Pacific, one just outside the Howland/Baker EEZ to the southeast and one approximately 80 miles inside the Howland/Baker EEZ, indications of fishing inside the Howland/Baker area. That information was provided to NOAA OLE.

Later in February another Ecuadorian purse seine vessel was located approximately 80 miles inside the Jarvis Island EEZ. A C130 was able to communicate with the Vessel SAN ANDREAS and order the master to cease fishing. The case was provided to NOAA OLE for further action.

Ebisui pointed out the Council prohibited purse seine activity in the EEZ back in the '80s.

Duenas asked if there is any cooperative enforcement with respect to VMS monitoring. Compagnoni deferred to NOAA OLE for comment.

### **7.B.3. NMFS Office for Law Enforcement Report**

Barylsky reported:

NOAA OLE has opened at least twelve Magnuson Act violations consisting of shark finning, ability to adhere to seabird mitigation measures, false reporting and recordkeeping and a longliner in a closed area north of Kauai and the Northwestern Hawaiian Islands.

ESA incident and investigation - an investigation continues to determine whether one or more vessels will be charged in an approach issue with humpback whales.

Lacey Act - a case has been opened for a U.S. flagged vessel illegally fishing in the EEZ of Kiribati, and then landing the catch in Honolulu.

Duenas asked who monitors VMS and how do you tell that the VMS equipment is working or functioning. Barylsky deferred to Ian Chun, NOAA VMS Program Coordinator, for a more technical answer. NOAA OLE has access, as well as the U.S. Coast Guard and can set different vessels on alert if they enter a closed area if they're working. It is a violation if a vessel does not activate its unit upon leaving port.

Duenas asked the gross tonnage of the purse seiners. Commander Compagnoni replied 1,200 metric ton capacity.

Admiral Brice-O'Hara emphasized the Coast Guard is searching for innovative ways to step up awareness of what's happening in the maritime domain so that then they can get enforcement aircraft or surface vessels onscene to take action.

Duenas commended the Coast Guard for their efforts in monitoring the remote island areas and made note of the vast capacities of the purse seiners, in that purse seiners can catch in one trip the amount that a longliner will catch in a year, and the number of purse seiners is increasing as well.

Harris also pointed out purse seining is one of the most indiscriminate forms of fishing.

Robinson noted the issue of illegal fishing is also being addressed at the Commission and the United Nations level. At the RFMO meeting in Kobe, one of the purposes and desires was to move forward in all of the Tuna RFMOs development of positive lists, vessels that are authorized to fish legally on the high seas, and IUU lists, a negative list and for the RFMOs to develop consequences for being on the IUU list.

Simonds pointed out these incursions sound like a violation of the Exclusive Economic

Zone Notification in the newly Reauthorized Magnuson Act.

Barylsky agreed, but explained the difficulties and complications when political measures through the State Department in dealing with Ecuador are involved.

Commander Compagnoni added that it had taken them five days to relocate the vessel, at which time it had exited the U.S. EEZ. Request for boarding was denied by the Government of Ecuador.

Admiral Brice-O'Hara added, "We still have a case, but a case is always stronger when you have that boarding."

Duerr suggested that perhaps the penalties aren't stiff enough to deter these people from entering close zones.

Admiral Brice-O'Hara offered:

"I would say it's probably the enforcement has not been there to the degree to discourage them. So we see them taking risks, and it's a matter of the Coast Guard continuing to work with NOAA Fisheries and international partners to again get that awareness of what's happening in the maritime domain. If we're cued by good information, then we'll get the asset onscene and take the necessary action. But it's the information cuing the intelligence-building that's the key piece. I can't afford to just send resources out when it's taking me a week to get a ship to the fishing grounds. I have to have information that it's worth that investment. So we're working on a number of innovative partnerships, including with the Forum Fisheries Agency. I'm very optimistic. We have come a long way just in the last six months or so, and I see that there are more opportunities that we can take advantage of in the future.

I've just come back from quadrilateral discussions with Australia, New Zealand and the French, and I have bound together a much tighter relationship with each of those. They all have common interests here in the oceaia region, and are routinely on patrol. We've agreed that we're going to start sharing information, again, to help one another, because none of us want to see this pressure and this illegal fishing."

Duenas asked if a portion of the \$60 million requested by Senator Inouye for the Monument can be used to help the Coast Guard provide enforcement of the Monument regulations.

Admiral Brice-O'Hara replied at the present time there are no plans for additional Coast Guard assets in the Hawaiian Islands. She recommended any investment look first at how technologies can help, whether satellite coverage or other technologies, for enforcement in the vast distances in the Pacific Region, the Monument and all of the other remote areas.

Polhemus reiterated and agreed with the Admiral's comments and congratulated her on her increasing success.

Barylsky added the purse seine vessel and its catch bonded out for \$2.9 million and seeking penalties in that range of \$3 million.

#### **7.B.4. Status of Violations**

Feder reported:

First case involved the use of longline gear in a longline prohibited area around the Main Hawaiian Islands. A penalty was assessed for \$10,000.

Second case filed with respect to the Fishing Vessel JULIE IRENE, penalties assessed totaled about \$43,000, involved incursions into Protected Species Zones around the Northwestern Hawaiian Islands and incursion into the Longline Prohibited Zone around the Main Hawaiian Islands and various logbook violations, and an alleged violation of harassing an observer.

Third case reported involved Fishing Vessel TIM TOM, a Lacey Act violation for importing in or transporting fish in foreign commerce taken in violation of the laws of Tokelau and also for fishing on the high seas without a valid permit issued under the High Seas Fishing Compliance Act.

#### **7.B.5. Automatic Identification System Pilot Project Report**

Eric Kingma reported:

AIS Technology Small-Vessel Tracking Pilot Project - partners are the U.S. Naval Pacific Missile Range Facility on the northwest shore of Kauai, the Council, U.S. Coast Guard and Oceantronics, Incorporated.

Oceantronics has finalized the configuration of the units that are going to be used for the pilot project with a corporation from Washington. Delivery of those systems should occur in March for the eight vessels participating in the pilot project. The vessels will be Northwestern Hawaiian Islands bottomfish fishermen and fishermen around Kauai.

This pilot project uses technology based on VHF systems, which is radar-based. The Coast Guard allowed installation of an antenna on Kokee, which will increase the size of the recognition area of the pilot project.

None of the information on the pilot project is going to be used for any type of enforcement purposes.

A more detailed report will be provided at the next Council meeting or at the October meeting.

Gaffney asked for clarification of the system as well as the range. Kingma responded that it involves radio transmissions, with no transmission costs, as opposed to VMS which uses satellite-based systems which do have transmission costs, with a range of 50 miles, depending on conditions. He added that one of the objectives is providing cost-effective and market-available technologies that are now being developed across the country and throughout the world.

Simonds asked for an estimate of the cost of the equipment. Kingma replied around \$5,000 to \$7,000 when the Coast Guard presented the system information a year ago, but depending on the market and technologies being produced, that could go lower. The units to be used in the pilot program cost approximately \$1,000 presently, even less when buying in bulk.

#### **7.B.6. NMFS Vessel Monitoring System Policy**

Ian Chun reported:

A copy of the policies with respect to data dissemination of VMS data was provided on the back table.

The primary emphasis is the VMS data is considered confidential information mainly used for law enforcement purposes. A certain group of authorized individuals exist that can have access to the data, such as employees of the NOAA Fisheries Service, the NOAA Office of General Counsel, the U.S. Coast Guard Enforcement Operations and Regional Fisheries Management Council. Any contractor would be allowed to have nondisclosure agreements.

The data is not being made publicly available.

The Program Policy was published in June 2006 by Dale Jones, which includes an attachment detailing the program.

Harris asked if the accessibility of the information on AIS is transmitted much more broadly. Chun replied in the affirmative.

Chairman Martin requested an update on the VMS replacement units, as vessel operators presently have no way of knowing whether or not the VMS unit is functioning, as well as the current VMS units replacement parts are unavailable.

Chun agreed the equipment is old, as it's been in place since the '90s, and Headquarters has been briefed on the situation. There are plans for refreshment with the new systems that are available, which are Tran and Tran (phonetic) 302060 NMFS model units (phonetic), which has added capabilities. Chun also suggested setting up a VMS check when the vessel is getting replacement units and perhaps put in place a 72-hour leave time notification period as a little bit of collaboration between the parties, the people receiving

the signal and the people transmitting the signal, can verify whether the VMS is functioning or not.

Chairman Martin suggested the 72-hour notification requirement for departure in both the deep-set and shallow-set fisheries collaboration might be suited to either the PIRO Office or through the observer program.

Chun said he will brief Headquarters and ask them whether this is something that needs to be made through either the Fisheries Service or with the Council.

Haleck asked the status of the VMS system requirement for American Samoa. Chun replied that Class C and D vessels are required to carry a VMS system, and a number of boats are permitted, with about 30 ships in that class. There is one vessel's unit in need of repair.

### **7.B.7. Electronic Logbook Reporting**

#### **7.B.7.a. Electronic Logbook Proposed Rule**

Robinson reported:

The Proposed Rule was published in the Federal Register on February 21st, with the comment period ending on March 23rd.

#### **7.B.7.b. Electronic Logbook Software Certification Program**

Karen Sender reported:

The project was to develop NOAA Fisheries Guidelines for certifying electronic logbook software applications for use in Pacific Island fisheries, in this specific case, for the longline fishery, is in the Proposed Rule Review stage, which is the first step in the project.

The two phases of the project consist of developing guidelines for what data is required; what formats are required, as well as other details, and formulating a process to take those requirements and test an application to make sure it complies through the certification and approval process.

The technical specifications include:

- Electronic signatures process;
- Approval and testing process;
- A change management process, for use in updates in management regimes;
- A process for vendors to improve their product; and
- Monitoring.

Sender illustrated a sample outline of what a document would look like.

The Regional Administrator will sign off on the approval process.

The FIS funded the project in their '06 budget. Funds were released late last year.

Sender said a project plan is built and is waiting for products from the Fisheries Policy Office. Once the information is received from the Policy Office, the project could be completed in as little as a month and have the first documents for review 90 days thereafter.

Some key issues are the use of unique identifiers for fishers, litigation of fraudulent reporting, data transmission and policy and procedural guidelines for electronic signatures.

The Electronic Reporting Professional Specialty Group held a workshop last May to address concerns in coming up with a certification process, which resulted with a very long list. One key issue was coming up with a less arduous way of doing electronic signatures, but be strong enough that Council, Coast Guard and Law Enforcement are comfortable so that that document is legal and binding and the fishers are protected.

Sam Pooley and others have been very involved in trying to send feedback to the Policy Office. It's not clear when the resolution is going to happen, though the Directors of the Policy Office are working on the issues.

Sender suggested efforts be undertaken to develop a regional solution to try to satisfy the experts, getting advice from the FIS Professional Specialty Group and feed that back to the Policy Office and the CIO's office.

Robinson commented he became aware just in the last day or so of the holdup out of the policy shop on electronic signatures. Both Sam Pooley and he have a face-to-face Leadership Meeting with Office Directors next month back in Headquarters and will take this issue back and try to get it resolved and try and get a policy or directive out of the policy shop. Or alternatively, if that fails, come back and work on the Regional solution, and take that forward.

## **7.C Protected Resources**

### **7.C.1. PIR Turtle Program Update**

Brandy Gerkee reported:

Sea Turtle Recovery Program - the over-arching objective is to recover sea turtle populations in the Pacific to a level where the protections of the Endangered Species Act are no longer needed for the green, olive ridley, loggerhead, hawksbill and leatherback turtle.

Species Threatened - green and loggerhead turtles, as well as individuals from both threatened and endangered olive ridley populations in the region.

Species Endangered - hawksbill and leatherback turtles.

There is a broad geographic focus because of the vast migrations, as some of these turtle species utilize virtually the entire Pacific Ocean.

The approach to bringing about recovery for the sea turtle populations is through implementation of the recovery plan for the Pacific populations of these species. Within those plans, it outlines the elements and activities that need to occur to bring about recovery.

These activities can be broken up into management actions, research that needs to happen in order to understand the population status, as well as develop effective management. Also, there needs to be ongoing monitoring to see how the populations are recovering.

Gerkee illustrated the elements as conservation, research or monitoring activities. Gerkee's office partners with many different agencies, as well as the Science Centers within the National Marine Fisheries Service, to conduct the research, as well as with other divisions to conduct monitoring.

Hawaiian green turtle population - currently, green turtles are listed under the Endangered Species Act. In order for the population of this species to be declared recovered the entire species would have to fulfill the criteria in the recovery plan simultaneously in order for it to be delisted.

Although, there are provisions under the act through a 1996 policy which allows for the designation of distinct population segments, populations that are genetically distinct and geographically separate from other populations in the species can be listed independently of other populations and evaluated independently.

Recently a paper which compiles all of the evidence which suggests the Hawaiian green turtle population should be evaluated as a distinct population segment was submitted to NMFS Headquarters, as well as to the author, who is compiling a five-year status review on the global population of green turtles. The paper argues the recommendation should be made to evaluate the Hawaiian green turtle population as a distinct population segment. This is the first step in being able to evaluate the Hawaiian green sea turtle independently of other populations in the Pacific.

Gerkee added it is common knowledge that the intentions of the Endangers Species Act have been very effective in restoring the numbers for the Hawaiian green turtle population. She is hopeful that this process can move forward to recognize the success of the Endangered Species Act in bringing about recovery in this population if it's appropriate to do so.

Interactions with sea turtles in the nearshore fisheries in Hawaii - PIRO and DLNR have staff dedicated to increasing effort to make progress in understanding the impact of the nearshore fisheries on the Hawaii green and hawksbill populations. More staff will be

brought on with funds made available through the Section 6 Process. She predicts things will ramp up in the near term with collecting information and addressing the information gap.

Section 7 Consultations - major focus has been on fisheries consultations on the Hawaii deepset longline fishery, as well as the Western, Central Pacific purse seine fishery and now the American Samoa longline fishery. The heavy workload continues.

Regional sea turtle projects - federal grants are provided throughout the region to conduct research on sea turtle populations. Each project is unique to its region's efforts. She pointed out overall objectives include:

To collect baseline information about their green and hawksbill populations and start to develop a baseline similar to how Hawaii has done for the Hawaii green turtle population.

Determine the genetic and geographic population structure for their region's green and hawksbill population.

- Identify nesting areas and foraging habitat.
- Research threats to turtle resources.
- Conduct outreach to enhance conservation.

The projects received funds recently.

Some of the achievements include:

- Staff training on sea turtle research techniques.
- In-water capture and tagging.
- Research permits have been acquired.
- Extensive nesting beach monitoring in all areas has been conducted.
- Genetic samples have been collected and sent in for analysis.
- Pilot studies have been indexing or cataloging sites and trying to determine nesting seasons.

The next steps for these projects include:

- Refining methods and focusing on index sites to establish baseline trend information.
- Continue collecting information on the population size.
- Deploy satellite tags on turtles.
- Continue outreach efforts and build capacity.
- Identify threats and work towards reducing threats to turtle populations.

Gerkee pointed out that she thinks everyone has the common objective of recovering populations and getting them to the point where the intervention of the federal government is no longer necessary.

Gaffney asked if there is any interaction with the local dive industry on their capacity building and outreach efforts. Gerkee replied some governments are working with the dive

industry and agreed it is a good avenue for their efforts.

Chairman Martin commended the progress made on the Section 10 application process made by PIRO and DLNR.

Polhemus said the State of Hawaii realizes the incidental take of turtles and monk seals by the nearshore fisheries is an extremely serious issue and has been working firmly but gently to communicate this to the legislature, in particular. Currently there are two positions aimed at incidental take issues still alive in the budget. He added it is a continuing obligation and the State should not rely on the federal government for funding.

Duenas acknowledged Guam's community voluntary turtle monitoring program, which is providing information to DAWR. He asked if the genetic work is being conducted throughout the Western Pacific. Gerkee replied the goal is to define the various populations throughout the Western and Central Pacific.

Duenas asked if dead turtles found floating by fishermen would be helpful with the genetic work. Gerkee replied she will look into provisions regarding collection of this type.

Duenas asked if there was an established reporting program for fishermen that observe turtles while fishing inshore. Gerkee replied she did not think there were in-water sighting forms.

Polhemus followed up, that many times the turtles fishermen come upon already floating dead in the ocean usually does not have sufficient DNA to be useful for analysis.

Ebisui said he has no doubt that the turtle population in Hawaii has recovered just by observing the amount of limu that washes up today as compared to in the past, as well as a noticeable lack of herbivores. He wondered if the effects of increased turtle population on the reef ecosystem should also be researched. Gerkee agreed this would be a good question from an ecosystem perspective.

Tulafono voiced concern on the lengthy process for obtaining permits from the U.S. Fish and Wildlife Service for America Samoa's efforts, which took over a year, and pointed out the money is funded by fiscal year and had to request for an extension for the funding.

Tulafono requested:

"So I'd like to be on record to request the U.S. Fish and Wildlife Service, if there's any way that they can streamline their process in order to get the permit sooner so we can do our work. Thank you."

Polhemus pointed out with regard to limu and herbivorous fish, the herbivorous species comprise 41 percent of the lay gill net catch and that catch has increased fivefold in fifteen years. He also added that because turtles are known to eat invasive algae, the turtles are depressing the density of grazing fishes doing a lot of ecological favors.

Dela Cruz inquired as to CNMI's request for at least one and preferably two turtle biologists to be permanently stationed in the CNMI to help in efforts of augmenting the turtle population to have it removed as a listed species. Gerkee replied there has not been anyone identified yet to join the staff in CNMI, but is very glad to hear the CNMI is open to such an option.

Sablan suggested sending candidates from CNMI to Hawaii to be trained and then returned to CNMI to conduct the efforts.

### **7.C.2. Monk Seal Fatty Acid Study**

Charles Littnan reported:

The work has been ongoing for the last ten years. The project was undertaken to pursue other avenues of research and other techniques that could complement scat analysis.

In the marine environment, there are several fatty acids that are unique and, therefore, potentially valuable as dietary tracers. By using a fingerprint of the species that the monk seal is eating and the fat from the monk seal a very complex model can be developed to estimate what composition of fish is likely making up the diet of the seal.

The study has covered the entire archipelago, with sampling starting in 1997 through 2000. A total of 248 monk seal blubber samples have been analyzed, which is an extremely large database of prey items. There are 3,300 specimens from 186 different species.

Beliefs and conceptions of monk seal foraging behavior has evolved during the study process. It was first believed they foraged mainly within atolls, but since have learned the seals target much broader habitat, within 500 meters of depth and 200 to 250 kilometers of the colony.

Littnan acknowledged some gaps in samples, such as excellent coverage in shallow depths, but decreasing coverage into the deeper depths.

The qualitative analysis review:

The fatty acid makeup of the seals, similar to a blubber fingerprint, is useful for, among other things, looking at difference in diets between groups or locations. Thus, if there are differences in the fatty acid profiles it likely means there are differences in diet.

When grouped statistically, there is obvious separation between adults, juveniles and subadults, which was expected. But what was not expected was the apparent pattern of the differences in diet as you move across the chain. Here is where qualitative fatty acid work comes into play.

A summary of the diet was illustrated in a graphic slide, pointing out some key issues:

Lobster, which was the major driver of starting the fatty acid study, for a population based on samples collected over seven years, slipper or spiny lobster don't appear to be very important and does not send a very strong signal for any age class.

Surprisingly, the extremely deep fish species appear to be very important to monk seal diet across all age classes, especially a couple deepwater snappers. The signal is fairly uniform across the chain, but varying in proportion between Lisianski and French Frigate Shoals, the more shallow-water species appear to be of greater importance. By and large, the key species are the same across the range.

One conclusion from the two tables shown is the pattern of adults and juveniles separated out by geographic gradient, which showed there is not an extreme difference in diet, but based probably more than likely on the proportions of those prey.

Unfortunately, there is no smoking gun species that would define why juveniles aren't doing well, but two or three species that only juveniles were focusing on, highly variable between years or more particularly nutritious. All age group classes are diving in both shallow and deep, targeting a whole range of prey, only varying on proportion.

A take-home message Littnan offered is when looked at in finer detail, no individual possessed the average diet. Basically any diet made up from the prey selected, some animals probably eats it a lot, some animals won't eat it at all. Every individual has its own individual pattern for diet, which makes it very difficult to try to determine what is affecting monk seal survival and/or coming up with a management plan.

He illustrated this point by displaying the results of the analyses when the same animal was caught twice and tested. Results indicated a narrow-focused diet upon the first capture of mostly deepwater shrimp, and on the second capture a diet consisting mostly of deepwater snapper and other deepwater species. This illustrates the difficulty of arriving at solid conclusions for the fatty acid analysis.

Basic conclusions:

That these animals target deepwater species to a much higher degree than previously thought, though consistent from records and Crittercam work as to what portion of the diet was actually coming from those species.

There is a lot of variability. There's change over both time and geographic range which needs to be explored.

Individuals need to be sampled on multiple occasions.

Currently, this phase of the fatty acids study has been completed. It's in internal review at NMFS. Two external reviews have been conducted and there are also some additional validations being conducted.

Also, review of the profiles of dive behavior obtained from the satellite tags deployed. So far they have dives from four to forty meters. This work is ongoing.

Because they don't have full coverage of the prey species for deepwater prey groups, the model will be refined. The model is limited by how many prey groups can be used. Regroups of some classes and elimination of others is planned in the refinement of the model.

Future collections will focus entirely on deepwater species. Criteria is being developed for collection strategies. Examples of the strategies will include buying some samples from market, utilizing bottomfish fishermen, sub time and travel to foreign ports.

Most of the hardware, in terms of building this model, which took an incredible amount of time, is basically a technique that was being developed at the time the study started.

Polhemus asked if prey utilization correlates with prey density. Littnan replied he was hesitant to talk directly about the Main Hawaiian Island results because it's only based on 15 samples. He is expecting to see something dramatically different, but is waiting to see the results of more sampling.

### **7.C.3. Marine Mammal Advisory Committee Recommendations**

Dalzell reported:

The Council's Marine Mammal Advisory Committee met in February 2007, which was formed as a response to the fact that interactions with false killer whales in the Hawaiian longline fishery elevated the fishery under the Endangered Species Act to the most serious category of risk threat to false killer whales.

The first meeting was held in 2005. This meeting was held to review the progress on the recommendations from the 2005 meeting.

The meeting agenda contained such things as:

Short summary of the Pacific Science Review Group, November 2006 meeting.

Review of a white paper prepared by Protected Resources in PIRO on various mitigation measures and observations of depredation on experimental fishing vessels.

Report of a symposium that was held recently on fishery depredation by killer and sperm whales in Alaskan bottom longline fisheries.

Review of recommendations from the Atlantic Take Reduction Team.

Fishers' perspectives on depredation reduction methods, as cetacean depredation has a very

strong economic component which serves as a strong incentive for fishermen to minimize interactions. Council Chair, Sean Martin, and the Managing Director of HLA, Scott Barrows, attended the meeting to provide real practical experience and observations from the fishery's perspective.

One mitigation option which looks hopeful is the idea of dividing up the longline set into two individual pieces rather than one continuous mainline set. One fisherman is already doing this in Hawaii. This emphasizes that all of these mitigation measures actually stem from fishermen's own observations and experience, an analogous situation is the side-setting and blue-dyed bait mitigation measures being utilized for seabirds.

Also, research reports were reviewed, including Robin Baird and Geoff McPherson.

Dalzell presented the twelve recommendations resulting from the Marine Mammal Advisory Committee meeting. The SSC also viewed the presentation and supported the recommendations.

## **7.D. NOAA Updates**

### **7.D.1. Humpback Whale Sanctuary Five-Year Plan**

Naomi McIntosh reported:

The Hawaii Humpback Whale Sanctuary was designated by Congress in 1992. In 1997 the Sanctuary became official when the Sanctuary Management Plan and Regulations were presented and accepted by the State of Hawaii.

Part of that agreement included a five-year review of the Sanctuary Management Plan, at which time the State of Hawaii has authority to accept or reject provisions occurring in State waters.

The last five-year review was in 2002. The Sanctuary Management Plan and its regulations will be reviewed by the State of Hawaii by September 2007. At the same time, a process has begun to consider adding other resources to the Sanctuary, which is mandated as a part of the five-year review. Whales, dolphins, monk seals, sea turtles, maritime heritage resources and archeological resources are being considered presently during Phase I.

After consideration, the findings will be summarized and made available to the Governor and the public by September 2007. At that time the Governor will be asked whether she supports a community-based process to review and potentially revise the Sanctuary Management Plan to further address threats to humpback whales and consider additional resources, identified as Phase II.

McIntosh displayed a slide with upcoming dates. Advisory meetings are scheduled for April and June.

## **Lunch break taken**

### **7.E. NWHI Monument**

#### **7.E.1. Hawaii Longline Transit Notification in Northwestern Hawaiian Islands**

Robinson reported:

Nothing new to report on the Hawaii longline transit notification. The provisions of the Proclamation in the regulations require 72 hours advance notice before transiting the Monument and 24 hours, or a certain period of time, after exiting the Monument once transiting. A call-in number has been set up.

Staff has been working on proxies for notification, such as use of VMS. The Monument Management Board has been absorbed with trying to mesh the permitting processes from the three co-trustees and issue research permits for 2007, as well as other permits and developing Monument Management Plans. Notification requirements will be reviewed during work at the Tier 2 level.

Summary of the fleet has been updated and posted on the NOAA website.

Co-trustees have been working on a proposal that addresses transit of foreign vessels through the Monument. NOAA has been working on a proposal to amend the International Maritime Organization Convention on the Safety of Life at Sea to include the Northwestern Hawaiian Islands as a PSSA, Particularly Sensitive Sea Area, and within that PSSA to identify additional areas.

There are six areas identified as areas to be avoided by maritime traffic. The areas include:

The area from Kure to Pearl and Hermes, leaving a corridor for ship traffic between Pearl and Hermes and Lisianski.

Areas between Lisianski and Nihoa.

A maritime corridor between Necker and Nihoa.

Also, NOAA is developing a proposal to implement a mandatory ship reporting system beginning ten nautical miles outside the outer boundary of the Monument to report upon entry or exit. This proposal will be presented in some form at an IMO subcommittee meeting in April.

Duenas asked if the IMO process is the same as the International Heritage Designation, as spoken about earlier in the meeting. Robinson replied it is a different process.

Duenas asked if the VMS will be used for the entry and exit reporting requirement for the

Monument. Robinson said he is only aware of the aforementioned phone number.

Duerr asked if there are military exemptions for the reporting requirements. Robinson replied in the affirmative.

## **7.E.2. NWHI Bottomfish**

### **7.E.2.a. Heleuma “Anchoring”**

Makaiau began by noting that Council has been aware of some of the unintended consequences to NWHI fishermen as a result of Monument Proclamation, such as the prohibition on anchoring for bottomfish fishermen, and the closure of historical bottomfishing grounds contained in the Special Preservation Areas and Ecological Reserves.

At its 135th meeting the Council asked staff to prepare a regulatory amendment to alleviate some of the problems for NWHI bottomfish fishermen by developing options that would allow them to access both the Hoomalu and Mau Zones for the remaining years allowed under the monument. He noted that when the Council created the zones, the Council had intended on continually reviewing the management program to see if they were still warranted.

Given that fishermen have only four more years to fish in the NWHI, perhaps now is the time for the Council to review the bottomfish management zones and determine if they are still necessary.

After a lengthy review of the regulatory history of the bottomfish FMP, Makaiau presented the two options:

- Option 1 would be to do nothing. Under this option, the regulations would continue to prohibit NMFS from issuing to a vessel, a permit for both the Hoomalu and Mau Zone, simultaneously.
- Option 2 would be to allow federally permitted NWHI bottomfishers access to both the Mau and Hoomalu zones until the fishery ends in 2011.

Makaiau presented a lengthy explanation of the pros and cons of each option.

Robinson provided NOAA’s position on the issue. He said following its initial adoption in October, the question of whether the Proclamation plain language allows the latitude to change the areas to which the permit applies was reviewed by NOAA Fisheries, NOAA and the CEQ.

Our response to that and the result of that review is 7.E.2.B.2, a letter which I’ve signed that basically concludes that the plain language of the Proclamation only allows fishing conducted in accordance with a valid bottomfish fishing permit issued by NOAA that was

in effect on June 15th, 2006, and subsequently renewed pursuant to NOAA regulations at 50 CFR.

Basically, the permits that were in effect on June 15, 2006, those permits limited fishing to a single management subarea, i.e., four were issued for the Mau Zone and four were issued for the Hoomalu Zone. Therefore, it's our conclusion that to issue either Hoomalu Zone or Mau Zone permits and allow the owners of those permits to fish in areas outside of where those permits were issued for would be an outright violation of the Proclamation. So we don't believe we can approve such a recommendation if the Council would make it.

That's entirely separate from the issues of user conflicts between the two groups of fishermen or biological issues involving overfishing or local depletion."

Duerr voiced concern that it is conceivable that the allotment would be reached in the Mau Zone and would preclude the smaller boats from traveling the greater distance to the Hoomalu Zone. Thus, he favored Option 1.

Polhemus added concerns expressed from the State of Hawaii, given there is severe localized depletion within the Main Hawaiian Islands, the Council would be ill advised to risk another zone of localized depletion in the Mau, even if only for five years, given that deepwater assemblages are easy to deplete and hard to recover.

#### **7.E.2.b. Hoomau Hookahua “Combining” (ACTION ITEM)**

Makaiau presented a brief background on the second issue, the Northwestern Hawaiian Islands bottomfish subarea, which includes the entire Exclusive Economic Zone.

Current MSA regulations specify that no one can fish for bottomfish without a Mau Zone or a Hoomalu Zone permit. Monument regulations effectively prohibit NMFS from issuing any Mau or Hoomalu Zone permits forever. The combined effects of these two regulations, essentially prohibits any US citizen to obtain a federal permit for in the NWHI EEZ, even areas outside of the Monument area.

At the last Council meeting the Council asked for options to remedy the problem.

The options included:

- Option 1, do nothing. Under this option, MSA regulations will not be amended and when combined with the existing monument regulations, it will be prohibited to fish for bottomfish within the entire EEZ surrounding the NWHI as NMFS may not issue an Mau or Hoomalu zone permits.
- Option 2, consider conforming the outer boundary of the bottomfish limited access program to be consistent with the boundary of the Northwestern Hawaiian Islands Monument. Under this option, the permit conditions associated with the issuance of Hoomalu and Mau zones would be limited to the area within the NWHI monument

Makaiau again presented a lengthy discussion on the pros and cons.

The SSC looked at this issue at its 96th meeting and supported re-defining the geographic boundaries to be consistent with the Monument.

Feder asked Makaiau to clarify his comment regarding no biological impact on the stocks. Makaiau replied that bottomfish is currently assessed as an archipelagic wide stock. Makaiau clarified that conforming the bottomfish zones to the boundary of the monument would result in minimal impact to the stock.

Feder cautioned Makaiau to be careful before allowing opportunities to increase fishing effort outside of the monument, and this should be worked in to the overall plan to end overfishing, as the Council is under a deadline to end overfishing. He urged extreme caution, and to deal with the two issues together.

Polhemus commented it looks as if a third zone has been created and asked if the Council has any idea what the MSY is for bottomfish in this zone. Makaiau responded in the negative, as there are no individual, bank-specific MSY estimates. He noted that bottomfish MSY has been estimated for the entire Hawaiian archipelago, with separate MSY for the main Hawaiian sub-area and the NWHI sub area which includes the entire EEZ surrounding the NWHI. He added that through the monument, over 95% of the known available bottomfish in the EEZ surrounding the NWHI would be no-take zone within five years and fishing opportunities in the NWHI would only be allowed in less than 5% of the known habitat. He noted that the science of MPAs suggest that 90% is more than an acceptable level to ensure protection of the bottomfish stock in the NWHI EEZ.

Polhemus raised the point once again of the possibility, given that bottomfish are getting scarcer around the Hawaiian Islands and fewer places to fish them, of localized depletion of isolated seamounts and urged the Council to develop a proper management strategy for the proposed new zone.

## **7.F. Status of Hawaii Bottomfish Overfishing Actions**

### **7.F.1. State of Hawaii Bottomfish Action**

Polhemus reported:

A set of previously defined closed areas for the State of Hawaii were set up in 1999. Over the following seven years the State made efforts to perform multi-beam mapping of the area.

After going through a wide variety of analyses, holding 15 public meetings and receiving 600 comments, a set of 12 new Restricted Fishing Areas were developed.

Michael Parke has done a detailed analysis of both former and current areas. Polhemus deferred to Parke's presentation.

Polhemus added that he feels the new areas are equitably distributed around the State, contain high-quality habitat, unlike some of the previous closed areas, and should be sufficient to meet the 15 percent mortality reduction for which they were designed.

Polhemus presented a PowerPoint presentation which repeated his prior presentation on the State's closed areas.

Ebisui announced that at yesterday's Standing Committee meeting there was concern brought forth by public comment having to do with a statement relative to the West Hawaii Fishery Management Areas and its efficacy. The Council will ask the SSC to have researchers present results from the studies on these management areas at the next SSC meeting.

### **7.F.2. Bottomfish Habitat Mapping**

Michael Parke reported:

An attempt to quantify the area of bottomfish habitat in the sites set aside by the proposed State closure areas was undertaken to link the commercial bottomfish catch data from the State of Hawaii Reporting System with the Potential Bottomfish Habitat Proposed Restricted Fishing Areas.

Many assumptions had to be made about both suitable habitat and the catch data reporting and location accuracy in order to do the analysis.

The results were displayed in a series of maps and tables.

For habitat delineation, some of the methods used included:

High resolution, multi-beam, sidescan bathymetry and backscatter data collected over the last few years by both the University of Hawaii Mapping Research Program, the Benthic Habitat Mapping Research Group and the Hawaii Undersea Research Lab.

GIS to derive potential habitat from three criteria; depth range from 100 to 400 meters, a slope qualification of greater than 20 degrees and a hardness that was a derivative of the backscatter values. The intersection with those areas that met all three criteria were considered suitable habitat, Parke noting he would use quotation marks around suitable.

The catch reporting system was self-reported and the data are limited in how well they're filled out. The accuracy of the reporting is questionable, especially for location.

The bottom line for the habitat analysis is:

"Within the Modified Essential Fish Habitat -- and I call it Modified Essential Fish Habitat because the legal definition of Essential Fish Habitat is different than the definition we

adopted for this exercise -- the hard bottom suitable habitats, all of those combined are called suitable habitat.

The Modified Essential Fish Habitat is 5736 square kilometers.

The hard bottom within that Essential Fish Habitat, again 100 to 400 meters as opposed to the shoreline to 400 meters, which is the definition legally, within that Essential Fish Habitat, you have 1,000 square kilometers of hard bottom and then that which also meets the slope criteria, if you limit it even further.

The total suitable habitat within the total EFH area surrounding the Main Hawaiian Islands is 240 square kilometers. Of that, 212 square kilometers are in the existing State BFRAs, 26.9 kilometers are in the proposed BFRAs and now adopted BFRAs, the ones that the State will be implementing quite soon.

Suitable habitat within the proposed WPFMC RFAs is 20 square kilometers.

The combined habitat, if you take the new State BFRAs and the WPFMC-proposed BFRAs, is 42.4 kilometers, and that's slightly smaller than adding the two together because there is some overlap at Penguin Bank."

Parke displayed examples of different island areas.

Polhemus commended Parke on the analysis. Polhemus asked if Parke assumed site fidelity between the fish and the habitat. Parke replied the assumption was there were areas most likely targeted, which raises the issue of access.

### **7.E.3. Bottomfish Potential Effort Relocation**

Jon Brodziak reported:

Model analyses were conducted on potential impacts of instituting Bottomfish Restricted Fishing Areas, using Michael Parke's analysis and the same modeling assumptions used in Parke's assessment to maintain consistency.

After a brief description of the methods and process undertaken, Brodziak displayed a graph showing the effect of the closed areas under the conditions of compliance and fraction of effort redistributed outside of the closed areas which demonstrated that if compliance is good, 10\_percent noncompliance, or even perfect compliance, you can see that there is a certain robustness to the graph and the reduction of fishing mortality is going to likely meet the required amount.

For high noncompliance, there is a much better chance of not meeting the target reduction required. Thus compliance is an important feature, as well as how much the fishing effort changes.

Polhemus commended Brodziak on the analysis and noted that the closed areas appear to work with regard to effort redistribution and modestly well in terms of noncompliance estimates.

Duenas asked if the closed areas create more harm than good by causing heavier effort to shift to other habitat. Brodziak replied that is the next step in the analysis. He added that it's a great question because if the effort goes away versus being redistributed, then the closed areas will have some good effects in terms of conserving fish biomass.

Duenas expressed concern for the weekend fishermen with smaller boats who will not or cannot travel long distances to the open areas.

Gaffney commented the Council needs to take into consideration the impact from the SuperFerry which is scheduled to begin operation in July.

Chairman Martin also pointed out potential increases as a result of developments in harbor facilities.

Polhemus said he believed DiNardo may have relinquished funds for the Hawaii Bottomfish Research, Monitoring and Compliance Plan Project back to the Fisheries Disaster Relief Funds.

#### **7.F.4. Hawaii Bottomfish Research, Monitoring & Compliance Plan**

#### **7.F.5. Federal Actions (ACTION ITEM)**

Mitsuyasu presented:

A review on the status of bottomfish overfishing since the Council received notification in '05 of overfishing in Hawaii's bottomfish fishery and the amendment plan which staff has developed over the last year to address overfishing.

Last March the Council adopted a Preferred Alternative of a four-month seasonal closure from May to August, but because the State would not implement parallel regulations the Council moved to an alternate alternative, which was closure in federal waters, Penguin and Middle Bank.

Since then, new information has become available, as well as other events out of Council's control happened, such as:

A problem arose with regard to the information from the recreational fishery.

An additional year of fishery data was assessed. Because of this, the reduction target

increased from 15 percent to 24 percent.

The State modified their area closures last summer.

Completion of the State's bottomfish habitat mapping,

Parke's and Brodziak's work, which was just presented to the Council.

The Council is waiting approval from the Attorney General on the State's management proposal to capture recreational information.

Also, the Magnuson Act was reauthorized and contained provisions for all federally-managed fisheries to move toward a quota-based management or total allowable catch by 2011, state and federal fishery management should be consistent, and also effort to capture the recreational sector of fisheries and the Northwestern Hawaiian Islands Monument called for the phaseout of the bottomfish fishery by 2011 with anticipated effort to be transferred from that fishery back down into the Main Hawaiian Islands.

The alternatives developed by staff include:

- Alternative 1, the Council's previously Preferred Alternative, a seasonal closure from May through September to apply to the commercial and noncommercial segments with federal permit and trip reporting requirements.

Alternatives 2 through 6 are alternatives which look at using total allowable catch or a quota-based management approach, ranging from:

- Alternative 2, a fleet-wide TAC.
- Alternative 3, a commercial TAC and recreational trip limits.
- Alternative 4, a TAC with limited access and recreational catch limits.
- Alternative 5, commercial IFQs and recreational catch limits.
- Alternative 6, commercial TAC with seasonal closure and recreational catch limits.
- Alternative 7 is an area closure of Penguin and Middle Bank to both commercial and recreational sectors.

Mitsuyasu summarized the pros and cons of each alternative.

Mitsuyasu also briefed the Council on efforts staff has undergone to get a handle on the recreational fishery.

Duerr expressed concern the number of participants with regard to the recreational fishery

is conservative at the present time because of the good economy.

Polhemus expressed concern with regard to the method used which applies the same numbers for analysis of the commercial fleet and fleet-wide.

### **Brief break taken**

## **7.G. Hawaii Community Initiatives**

### **7.G.1. Ho'ohanohano I Na Kupuna Puwalu III Report**

Charles Kaaiai reported:

Under the Magnuson-Stevens Conservation and Management Act, the Western Pacific Regional Fishery Management Council is developing Fishery Ecosystem Plans, FEPs, designed to incorporate the ecosystem-based approach to management of fisheries in federal waters surrounding Hawaii and the other U.S. Pacific Islands.

The U.S. Commission on Ocean Policy, the Pew Oceans Commission, United Nations and many other organizations have promoted the ecosystem-based approach as the most effective and appropriate method for fishery conservation and management. This approach mirrors the method of resource management by traditional native islander cultures.

The Council has been hosting the Ho'ohanohano I Na Kupuna Puwalu, Honor Our Ancestors, Conference Series, to provide the Hawaiian people a forum to discuss their traditional ahupua'a practices and to facilitate the incorporation of this information into our core educational systems and into the framework for resource conservation and management in Hawaii.

Kaaiai briefly summarized the three meetings, Puwalu Ikahi: Laeula; Puwalu Elua: Ke Kumu Ike Hawaii for Educators, and Puwalu Ekolu: Lawena Aupuni, which took place in 2006.

The proceedings from these three conferences are being developed and will be in final review in April 2007. Puwalu Eha is being planned for April to discuss the aha moku structure.

### **7.G.2. Report on Development of Hawaii CDP**

Kaaiai reported:

At the last Council meeting in December, the Council discussed the request by fishermen for an exemption to the longline closed area. The Council directed staff to develop alternatives for this request.

The letter sent to Mr. Ohai regarding his request was provided to the Council members. Kaaiai hopes to finish the process by the next Council meeting.

### **7.G.3. Report on Hawaii Community Meetings**

Kaaiai reported:

Community meetings over the last two years have been held with the Ka'u Kakou Cultural Committee, the Association of Hawaiian Civic Clubs, the three puwalus, the Tanapag community in CNMI, the Kauai Anahola community.

The Hawaii REAC meeting is scheduled from April 16th to the 20th. The next community meeting in American Samoa will be April 2nd to the 5th.

### **7.G.4. Legislative Actions**

Polhemus reported:

Two Aha Moku Council bills, SB 1853 and its House companion. In the House, the bill moved forward largely unamended through the respective communities. In the Senate, the bill was amended fairly heavily to send this process back for a year or so to an Advisory Council to sort out exactly the processing, goals and authorities that would be involved with the Aha Moku Council. Both bills have crossed over.

SB 1093 proposes to bring together stakeholders to develop and implement common approaches to marine resource issues, a University of Hawaii initiative is still alive and will be heard again on Friday.

HB 1848, similar to the New Jersey Freedom to Fish Act Bill, is expected to be heavily amended. It is scheduled for hearing next week.

HB 1499, an Administrative Inspections bill, has been lightly amended and has crossed over. Polhemus feels this bill has a fair chance of being passed.

Polhemus is uncertain of the future for a bill related to opihi and banning the commercial sale of opihi.

Gaffney also pointed out an important bill which would allow gasoline distributors in the State to distribute nonethanol-treated gasoline to marinas, alone. There have been many reports regarding the damage ethanol does to marine engines. He also felt the Administrative Inspections bill will be very important considering the SuperFerry beginning operations. Severance reiterated Gaffney's comments with regard to ethanol, House Bill 791 HD1 as amended.

McCoy asked if the Coast Guard was asked to comment on the ethanol legislation as he

sees it as a safety-at-sea issue. Commander Compagnoni replied in the negative.

Gaffney volunteered to write a letter to the Hawaii Congressional Delegation saying the West Pac Council feel there's a safety-at-sea issue for all of our gasoline-using fishermen.

## **7.H. SSC Recommendations**

Severance reported the SSC recommendations as follows:

Regarding Protected Species, the SSC supports the 12 recommendations of the Marine Mammal Advisory Committee and looks forward to reviewing results from those recommendations.

Regarding the Monk Seal Fatty Acid Study, the SSC commends the fatty acid research team for their work and looks forward to updates of results from continued advancement of this project.

Regarding Precious Corals, the SSC recommends that another survey be undertaken in 2008 to monitor any long-term trend in the *Carijoa riisei* infestation in the Au'Au Channel. The SSC further notes that the alien status of *Carijoa* remains unresolved.

Regarding Crustaceans, Northwestern Hawaiian Island lobster research, the SSC strongly supports continuing Northwest Hawaiian Island long-term ecosystem surveys, particularly lobster research.

Regarding the Northwestern Hawaiian Islands Bottomfish Program, with regard to permit applicability, the SSC notes that it had previously supported Option 2, which was then adopted as a Council recommendation. After further discussion on the implications of partitioning a total allowable catch for the Northwestern Hawaiian Islands, the SSC reached no consensus on this issue.

With regard to the geographic boundary of the Northwestern Hawaiian Islands Limited Entry Programs, the SSC supports Option 2, to redefine the geographic boundary of the Northwestern Hawaiian Islands Bottomfish Limited Access Program to be consistent with the outer boundary of the Northwestern Hawaiian Islands Monument.

With regard to habitat mapping, the SSC reiterated its long-held view that catch data should be geo-referenced, at a minimum, to the minute rather than by coarse spatial grids. A GPS minute is meaning to a minimum of one nautical mile.

Regarding closed area bottomfish dynamics, the SSC recommended research on the dispersal behavior of bottomfish is needed to improve the modeling initiatives on stock status.

Regarding Main Hawaiian Islands bottomfish overfishing, the SSC believes that a 24 percent reduction in fishing mortality might be insufficient to end overfishing in the Main

Hawaiian Islands, especially given that recreational fishing mortality hasn't been taken into account in any previous stock assessment. So the SSC believes that a combination of measures are needed to reduce fishing mortality by more than 24 percent.

Hence, the SSC recommends that with respect to the statutory requirement to achieve a 24 percent reduction in fishing mortality, the SSC recommends that the Council adopt Option 6, which comprises a commercial TAC with May-to-August seasonal closure and recreational fishing trip limit, in addition to the current State area closures.

Further, the SSC notes that the Council may need to adjust its management regime to achieve a greater than 24 percent reduction in fishing mortality to get to FMSY. Consequently, the SSC recommends that the Council consider management target reference points that are more precautionary than fishing mortality at MSY and biomass at MSY.

### **7.I. Standing Committee Report**

Ebisui reported:

The Standing Committee viewed the same presentations as the Council heard. The Committee received two public comments, one relating to Council process and the other to do with regard to the West Hawaii Fisheries Council closed area.

### **7.J. Public Hearing**

Public comments are included verbatim:

Gary Dill commented:

Thank you, Mr. Chairman, Council Members. I'm Gary Dill. I'm a commercial bottomfish fishermen and I fish both the Northwestern Hawaiian Islands, as well as the Main Hawaiian Islands. I would like to comment upon both areas briefly.

First area is combining of the Hoomalu Zone and the Mau Zone in the Northwest. I authored a letter co-signed by Bill Wakefield from the Big Island, a Mau Zone permittee also, which I hope you've all got.

I've also collected and sent along with it a letter from Joe Hurd, co-signed by Errol Lanning, and the other two Mau Zone fishermen fishing out of Kauai. Those stand on their own merits, and I don't need to comment upon them now.

What I would like to comment upon now are three statements in this handout that argues in support of combining the zones. I can read these to you.

The first one says that if the zones are combined, although the Hoomalu Zone fishers have years of bottomfishing experience, it would likely take several years to acquire the skills

and knowledge to effectively fish in a new area, meaning the Mau, and it is likely that few of these Hoomalu Zone fishermen would opt to use the limited time to learn a new location when they currently possess specific knowledge of fishing locations in the Hoomalu Zone. Not so, period.

These guys, all of them, have extensive experience in the Mau Zone dating all of the way back to the '80s, and even to this day take the opportunity to tease me by talking about his trips coming back from the Hoomalu Zone through the Mau Zone, and how he found that great big pile of onaga there at Necker and, boy, he can make a whole trip out of that if he could only get in there one more time.

Take it from me, as a fisherman who knows the other fishermen, they know what it is, they have got the technology to do it and they will from the get-go. The very first day that those two zones are combined, those guys will be in the Mau Zone, guaranteed.

Second statement, if the zones are combined, this option would allow them to -- for the Mau Zone fishermen, this option would allow us to further distribute our effort into the Hoomalu Zone area. No way. Just, no way. None of the boats currently in the Mau Zone have the fuel capacity to get beyond French Frigate Shoals. You can't fish French Frigate Shoals. It goes Nihoa, then Necker, then French Frigate.

Well, that's now an ecological zone in the Monument. So we can't touch that. So we've got to go all of the way beyond French Frigate Shoals. No way. We can't do it. So there is no option.

There is a possibility that I could invest a quarter million dollars in a new boat and pay it off in three years, sure. I don't think so.

So we're not going to get anything out of it at all, not the Mau Zone guys. And the Hoomalu Zone guys are very definitely going to.

The last one that is brought up in this -- and Dr. Polhemus there, too, as far as the technicalities of the maximum sustainable yield and effects of stock upon even occasional Mau Zone boat usage of the Mau Zone.

It says, there won't be any long-term localized depletion of bottomfish stocks in the Mau Zone.

Well, there would be, I believe, and this is a gray area here. This is a pure gut thing.

What you've got to remember is that when the guys are writing this, they are thinking about the complex, the complete wrap of fish there. The heart and backbone, I guess, really, of the Mau Zone fishery in the last several years has been the uku fishery. The vast majority of our money comes from uku fishing. And that's precisely what the Monument, in its devilish way, took away from us.

So they're trying to starve us, of course, by taking away that which is the bread and butter of the Mau Zone.

Now, consider the Mau Zone with three of the boats in there depending heavily upon the uku fishery, now being forced to fish the deep slopes.

Okay. Now, add on to that, four more big Hoomalu Zone boats.

So you're not putting four more boats into the Hoomalu Zone. You're putting them into the very, very squeezed and very, very thoroughly already fished deep-slope fishery.

So I really question the assertion here that localized depletion would not occur.

So on these grounds, I hope that the Agency's surmise is correct, that this idea is bound for a coffin upon which the lid can be slammed with nails such as yours and yours and mine, and lost forever. I don't think it's good for us.

The other comment is upon, you also face today the Main Hawaiian Islands bottomfish fishing problems.

I have appeared here before this Council before in committee meetings and made comments. I attended all of the State DAR scoping sessions and hearings on proposed changes, and so forth. I've got really nothing new to add to my prior statements, except to repeat for them for those of you who have not heard me before.

But within the Main Hawaiian Islands bottomfish fishery, we do have some problems, some real serious overfishing occurring.

It has always been my contention, despite the fact that at times I have been misunderstood or misconstrued or even misquoted, but it has always been my contention that the BFRA concept of marine preservation areas simply has not worked in the eight or nine years since they've been around.

It isn't working today, and it's not going to work, not the new one, not the old one, not the expanded one. They're simply not going to work.

There are a variety of reasons, but the main thing is, as I said the last time I addressed this Council, our advice, the fishermen's advice to this Council is to keep plugging, keep at it, what Manny was talking about earlier, addressing effort. Because the fishermen know that the only way you are really going to control harvesting is by controlling effort.

Area closures simply don't work, not in this fishery, not for these fish. Maybe someplace they work, not here, not now.

So please continue your perseverance. I'm at a loss to suggest any other sorts of things you could possibly do to persuade the State to see the way.

But I urge you, on behalf of the fishermen of the state, to keep up the good work.

Keiko Bonk commented:

Good afternoon, everyone. Thank you for allowing me to speak again to the Council.

My name is Keiko Bonk, and I'm here today as a concerned citizen and a representative of the Northwestern Hawaiian Islands Network.

Last night I attended West Pac Fishers Forum where I listened to a report from Charles Kaaiai on the development of West Pac's educational projects and efforts to incorporate fishermen's traditional knowledge as policymaking -- into policymaking.

Mr. Kaaiai reviewed the recent development of three West Pac Puwalu Meetings held from the summer of 2006 to December of 2006.

I paid to attend the December meeting because I heard through the political network in Hawaii that this was going to be a policy meeting being steered by West Pac to recreate and rally support for the Freedom or Right to Fish Bill that died in the 2006 legislature.

I heard that a new Native Hawaiian strategy was being designed to reintroduce the 2006 legislation in 2007.

As someone who is from a long family lineage of farmers and fishermen, as well as being a formally-educated historian and cultural practitioner, myself, I appreciate educating and creating a better society from the best practices of the past.

I am, however, deeply concerned that West Pac is using the grace of traditional cultural knowledge as a culture card in a game to obtain private industry goals through State legislation, and that the lobbying that is going on in this case from staff is not legal.

I would like to introduce at this time a letter that was written by -- let's see, I'm sorry. I have it right here.

A letter that was written by William Hogarth, Ph.D., Assistant Administrator for Fisheries, Department of Commerce, to our former Representative Case, stating -- as an answer to his question of whether the Fisheries Management Councils were allowed to use federal funds to influence State legislation.

This was the response:

OMB -- and it's just one portion, I'm not going to read the whole thing.

OMB Circular A-122 sets forth cost principles for nonprofit, federal grants use and prohibits the use of federal grant funds to -- I'm skipping one and two, but number three

says:

To attempt to influence the introduction or enactment of federal or state legislation through contact with legislators or their employees.

Number four says, to attempt to influence the introduction or enactment of federal or state legislation through contact with legislators or their employees through grass-roots publicity or propaganda.

Number five says, to carry out activities such as gathering information regarding legislation or analyzing the effects of legislation when they are carried out in knowing preparation for an effort to engage in unallowable lobbying.

I would like to introduce this document to the Council.

I have been active pretty much throughout my life in both electoral politics and community-based development. I think I can recognize the difference in these models, the change.

The Puwalu I attended in December did not resemble in any shape or form a community-based meeting. It was a well-run, highly-sophisticated, facilitated and directed meeting where your staff was in charge of the day and where West Pac money paid for professional facilitators and people managing that event.

I was given quite a beautiful package upon entering. This was the binder that I was given, and a beautifully stencilled, color-coordinated bag filled with a wonderful gift, and a great lunch and many PowerPoint presentations that came from your staff, as well other people that were invited from the conservation community and the fishing community.

We all got to take a lovely picture together. I'll show you how many people were at this activity. These are the people that were there, myself included, along with Senator Kokubun and a lot of the people that are hearing 1848 at this time in the legislature. Clayton Hee. I think Pono Chong was there for most of the day.

There is Mrs. Simonds.

Toni Lee, the former head of the Civic Club.

I personally know a lot of the cultural practitioners that came from the Big Island from what used to be my district of fishing villages in Milolii and Kau and Puna.

I'm standing here, myself, as a participant in this, and there's no way that I know that Uncle Buzzy, myself, Uncle Walter Paulo, people from Milolii, had consensus on these legislative initiatives that are now moving through the State legislature.

I was never at any time consulted on these bills. None of these people were.

If you take away West Pac's staff from this picture, and the legislators, and those people that I know who oppose these bills, you're stuck with a handful of people that you're saying made the initiatives possible.

I'm sorry. Attending community-based leadership workshops do not resemble this kind of workshop I attended.

Community-based leadership workshops usually pinch pennies. They would probably not spend money on the kind of packaging I have been talking to you about.

I do want to say that I do recall when the aha moku section of this session, the panel came up for the session in the session, the three people on that panel were West Pac people. The three names are Charles Kaaiai, Bob DaMate, who I believe is a consultant hired by you, and one of your Council members, Ed Ebisui.

It was in this panel that the aha moku concept was introduced to that group that I showed you the picture of.

Every community-based development meeting I have attended has always focused on checks and balances.

Three large meetings of different constituencies may be a good start, but not enough time to write legislation that has true consensus from participants in a diverse base of constituents.

Six months to develop community development is not classically possible, unless you are having meetings every day.

I hear that much pilikia is developing from the Civic Club meetings that took place that were steered by West Pac last summer. I got a call this week from Kau saying that people are leaving the Kau, Puna and Laupahoehoe Civic Clubs because they're disgusted and stressed from some of the issues that arose from this puwalu.

The signs are not good when you hear things like that about grass-roots organizing and consensus building.

One kupuna fisherman told me that he was deeply concerned that they were inventing this term, they meaning the DaMates, Hawaiian Science.

He told me that he wonders if the DaMates were planning to bring back the death penalty for violations in the kapu system as part of their new plan.

Last night Mr. Kaaiai confirmed my assumption that Puwalu 3 generated the new Right to Fish industry bill, 1848, and two other related bills.

I'm concerned that a federal agency that has an abundance of public funds available for Native Hawaiian cultural practices and economic development would choose to spend it in this way.

It would seem more democratic to first reach out to the already great community-based programs throughout the state that have been engaged in these same initiatives that they say they support for many decades.

It would be more appropriate to do a fair call-up for grant proposals to steer truly grass-root programs, where federal funds are disbursed to the most experienced and credentialed cultural leader to steer community development and empowerment.

West Pac's staff should not micro-manage and choreograph meetings such as Puwalu 1, 2, 3 and possibly 4 that happened two days ago.

Mr. Kaaiyai confirmed that your staff has developed these puwalus, and from that came legislation to enhance private industry. I take that from here, which is a West Pac-generated summary. I take that from here.

I'm sorry to be going on. I'm almost done.

Two days ago when I was kicked out of the community building meeting, I call it Puwalu 3 and a half, for myself, because I never finished it. I couldn't help thinking of the irony here.

I find it absurd as I left the Damates/West Pac meeting and entered the West Pac Council meeting, there was not one Native Hawaiian sitting on this very influential and powerful agency Council. If you are truly dedicated to empower native leadership, there are Native Hawaiians who are scientists, resource managers and fishermen who have applied to be on this Council and have not succeeded to get on.

This is a powerful agency that needs more diversity in representing resource management in today's world. Please empower Native Hawaiians with real power this way, instead of using them to lobby without their full understanding of the consequences of their actions.

I remind you and ask you one more time to please investigate the circumstances that led to these meetings, including whether they violated anti-lobby rules and regulations, and to investigate West Pac's staff actions related to the funding and organization of these meetings and the exclusion of the public from these meetings.

Joe Dettling commented:

There are two here. There's another one on the Big Island.

I have printed out something which you guys passed around here. And I want you to pull up your presentation. I'm going to ask Jarad to pull up the second half of his presentation.

Okay. Well, what I really want to talk about here is, I've talked privately with Bill about the Salmon Bank situation, when, Sean, you told me what the Council did at previous meetings.

It was interesting what Dan said as his presentation was coming out, we're creating a third fishing area, which is absolutely true, we are. I'm glad -- I'm surprised Dan would even pick that one up.

But the issue here is, for a couple of years I've been talking about discarded bycatch because pelagics trollers fishing in Northwestern Hawaiian Islands for ono and ahi trolling are catching a huge amount of bycatch.

If you look at your bottomfish over there, you see in the upper left, the kahala and then the uku, and of course, I've complained about the rainbow runner, which is not listed as a bottomfish, more than probably 70 percent of your pelagic trolling in the Northwestern Hawaiian Islands would consist of those three fish.

The problem I was faced with as a troller, after Clinton signed his order -- previous to Clinton's order, the uku we caught trolling, we just sold it.

I mean, nobody considered them bottomfish. In fact, I didn't realize it was a managed species previous to the Clinton order.

Subsequent to that, now of course with the order put out by Bush, it's a big issue. Today, I was happy to find out that the bottomfish fishermen of the Northwestern Hawaiian Islands are really pelagic trollers for uku, which is what I was doing, and more than half of their catch was generated by trolling.

Now, we all know the difference between trolling and bottomfish fishing.

So I went back to the SSC a couple of years ago and said we need to reclassify our fish, we need to separate trolling fish from bottomfish. It's not -- these fish aren't considered management bottomfish in the Main Hawaiian Islands, but they are fish.

So that's a little history on the thing.

So now we've got to the point where we are looking at Option 2, we're going to conform the outer boundary. Okay. So suppose we do that.

So what have we done? We've opened up a zone 50 to 200. As I told to Bill, what are we going to do, are we going to invite the whole world to fish there?

In the first place, you guys have no idea what is there. You are going to close the bottomfish fishery and you're going to take all of the effort and put it on 1.2 percent of the area, which is the Salmon Bank, which I will troll.

My problem is, I have to throw away 70 percent of what I catch as a troller there. So that was my request for reclassifying the fish. So I don't know what the real solution here is.

But here's what I suggest, you take the bottomfish fishermen that are going to be kicked out in four and a half years. You close the 50 to 200 and they still have that spot to bottomfish. That's fair, don't you guys think?

But I still have the right to troll there. Well, they do, too. They won't be on a 180,000 quota for pelagics.

If you're going to go up there and bottomfish, you are going to catch everything. There's not going to be a quota. So it doesn't make sense to shrink the boundary and not have a limited entry program.

Now, how many people are bottomfish fishing now? How many people had pelagic trolling rights inside the Monument granted by Clinton and taken away by Bush? Well, one or two guys had pelagic trolling rights. If there's another one, I don't know who he is. But for sure, it was me. So it's real easy.

When you look at the Salmon Bank, some guys, of course, aren't going to fish there. That's way further than French Frigate Shoals. But I will fish there. My sons will fish there.

You should issue a general permit limited to those people that were either given pelagic trolling rights or bottomfishing rights to fish there. End of story on that.

The other thing is, you've got to understand you are only looking at bottomfish down, what, 200, 400 meters, right. To 200 fathoms. You have no assessment of the resource below that depth for what fish is there.

You don't know, for instance -- the monchong fishery, for instance, outside the Monument zone, but inside the 200. This is a white meat that may become extremely valuable in the future. We see it this year as high as 4.50. Two weeks ago I got 3.70. I just made a 3600 pound landing of monchong, along with other pelagics.

A guy named Ed I think about two years ago took information from a report that Dave Itano gave you guys to show that we actually have a separate developing fishery distinct from longlining, but using a reel and mono gear. This is a fishery for deepwater white meat fish, the walu, the alfonsin, the monchong and a lot of the things that are down there that we haven't assessed yet.

Before we make a stock assessment and know what we're doing, should we shrink the boundary and not limit the number of people that can fish there.

Once you assess what is there, if you feel the resources can take the pounding, then expand the number of permits.

You can say, look, the resource is fine, let's expand the permits. That's kind of how I see that issue.

The problem I see when I go fish up there, I've got regulatory discarded bycatch.

Now, if I was going to write 11 commandments and give them to Moses, there would be 10 and there would be one more, if you kill it, eat it. See, and you take that away from me.

It's a guy named -- who was it? Mike McCoy was at a meeting in the South Pacific when this President of the IGFA came down to these islanders. He was talking to them about tag and release. He went through this whole big deal.

And then someone said, well, yeah, but you know what, we don't play with our food. That's the point.

Manny gets it, because I heard what he said in the Ohai thing, we aren't allowed to progress.

In other words, the essential issue here is the food resource that you guys all hold in trust for the people in the Pacific to eat, and we've reached the point -- I mean, there's overfishing everywhere. We've reached the point where we don't want to open up 50 to 200 to the whole world until we actually know what is there and we can assess the level of fishing.

So that's my take on the whole deal there, and I hope you can figure out some solution that I can actually go there and fish.

I guess there's this what, Office of Environmental Quality, who has prevented the reclassification -- maybe Bill knows, the reclassification of true trolling, pelagic trolling fish out of the bottomfish fishery in the Northwestern Hawaiian Islands. So I mean, I don't know what the solution is there, but I can only tell you that's how I see it. Don't play with the fish.

There is something that you hold in trust, and until you know what is there, take the fishermen that already have the right there, give them exclusive limited entry permits to fish the Salmon Bank, basically, until we find other areas.

Maybe there is a lot of fish in 300 fathoms outside the 50, and we just don't know it yet, but we'll find out. When we go up there we'll start looking for them. That was one point.

Now, on the handout I have for you. I want you to look at the first three pages on the handout. This was some e-mails that I went back and forth with John Sibert and Dave Itano. I put the last one from Dave on top.

I talked to you guys for a couple of years about yellowfin restoration. I could give you the 45-year history of the yellowfin fishery, and it's going to take one minute.

It was expanded with state loans by the State of Hawaii on the Big Island in the '60s and '70. According to this document from the State, and I'm using -- that's page 3, you can look at 1987 when the documented landings of that fishery for all tuna exceeded the longline landings.

So we had a fishery that was expanded on the Big Island, and for a bunch of reasons, overfished and it collapsed. That's our local yellowfin fishery.

Dave's letter -- now, we know it's collapsed, but we don't know why. And I'll tell you -- you guys don't know why, I'll tell you why.

You modified the habitat and you allowed overfishing to occur. You modified the breeding grounds and you allowed overfishing to occur.

I suggest you listen to what Dave and I suggest in these e-mails. Even John -- of course, John Sibert doesn't believe you guys are capable of doing anything, unfortunately, but I still have hope.

If the State, even on its own shoulders, Dan, would go into a yellowfin restoration project, here's what you could do. You could clean all of the FAD devices off the Kona Coast and when the spawning school of yellowfin came in, you could have a closure to allow these fish...

So follow this advice, what you've got to do is Dave's project to put the case -- to nail this subpopulation of yellowfin down, he was going to do this analysis on the otoliths. He was very upset this project didn't get funded, and so was I.

This otolith project would identify where a yellowfin was its whole life, every day. So we could prove conclusively we have a local subpopulation. Once we prove we have a local subpopulation, then we restore the native circumstances for its habitat by removing these FAD buoys, which are bad for the spawning behavior of the fish, and we need a spawning closure when they're on the Kona Coast so we can restore the stocks. Thank you.

Pat Tummons commented:

Thank you, Council Chair and Council Members. I just had a procedural comment, and that was on the pace of the meeting.

As you have just seen, there are people who attended here today thinking they might have a chance to comment on Pelagics. There were people here earlier who thought they might have a chance to comment on some of the other subjects that were on today's agenda, but because this just dragged on and on a lot of them have gone now.

I just would like to say that if you have so much to talk about that you can't possibly get everything that you hope to accomplish accomplished in one day, then revise your agenda

early in the day so people can plan more. Or revise it earlier in the planning process so you have a more realistic agenda.

I know it's been a great inconvenience to a lot of us, myself included. I'm not going to be here and watch the Pelagics Discussion, which I eagerly anticipate, and I'm very disappointed in that. So I would just like to see future Council meetings try to keep a little more on schedule. Thank you.

Tina Owens commented:

I would like to thank all of the members of the Council. I've had a very long day and I appreciate your listening to us. You're going to really like me because I just have a really short thing to say.

Actually, what I have, I have one statement and two questions. When I was originally filling out my card, I just had one thing to say.

First of all, since I handed in my card Dr. Severance gave the SSC recommendations that had come out of last month's meeting. I was a little concerned, because I had kind of a different memory of one of the recommendations. I've checked with several other people, and that was involving the joining of the Hoomalu Zone and the Mau Zone.

The way I clearly remembered it was that there was a consensus that was taken at the SSC that said that they would not join the two zones.

I checked with several other people that I know were there and they said, yeah, they said they weren't going to do it.

So I'm sorry if we have a difference in memory on that, but I was quite clear on remembering that they said they were recommending not joining the zones.

My other two remarks are quick questions.

I was sort of horrified to hear, and unfortunately now I've heard it now about four times in your presentations, that the bottomfish in Hawaii has been in a state of overfishing since the early '80s. One of your presenters came up with that earlier.

I would like to know, does anybody have a reason as to why nothing was done about it until now? Chairman Martin said, typically, the Council does not answer questions during public hearings.

Polhemus replied:

"The State of Hawaii -- before I was here -- took action on this in the late 1990s. They realized that by that time they had a problem. So at least in State waters -- and actually in cooperation with the Council, because the Restricted Fishing Areas that went in were a

joint state/federal initiative that they allowed us to essentially take the lead on, that is the management that has gone into place. But albeit, it didn't go in until the late '90s, and I don't have an explanation for why it might have taken that long."

Owens further commented:

Because I was under the impression that West Pac was sort of the be-all and end-all authority and source for finding out whether fisheries are overfished or overfishing or what state they're in. For that to go on for 15 years before anything happens, I find extremely strange.

My other -- my last question -- and I'm kind of disappointed that Miss Simonds isn't here, because I think this question is for her.

In the meeting that was held in the other room, the room across the hall there on Tuesday morning, several of the participants told us that -- I believe it was Miss Simonds said -- told them that there was a new provision in the Reauthorized Magnuson-Stevens Act that exempted them from the prohibition from lobbying and exempted them from the prohibition of holding -- having to hold -- the prohibition of holding a closed meeting under federal monies that were being used to hold the meeting.

I looked in the Magnuson-Stevens and I couldn't find it. I would very much like to know what that source is so I can look it up.

Chairman Martin noted her comments for the record and will be addressed in the record.

Linda Paul commented:

Thank you. It's short, too. I just wanted to take off a little bit on the Puwalu report.

I am a little concerned about this whole process and its implications. I have long been an advocate for community-based management. In fact, I think I spoke to you some years ago about a community-based management bill that I was trying to get through the legislature that was actually opposed by this Council.

I see community-based management as something that's a state matter and it's under state jurisdiction.

The last time I looked, ahupua'as and mokus were inside the three-mile limit. And, frankly, I really don't understand why this Council is troubling itself with this part, which is essentially state business.

Last night Charles said that the Magnuson-Stevens Act was the basis for the Puwalu Initiative.

I've looked, too, and I didn't see in the MSA that it authorized a federal advisory committee

to make state policy -- marine policy development its business, and it doesn't authorize expenditure of federal money on doing such activities.

As near as we can all tell, federal dollars have been spent on staff time, West Pac staff time, it's been spent on contractors, it's been spent on meeting room rents, airplane tickets, hotel bills and catering services, all to develop prospects that has absolutely nothing to do with this Council's business.

The bills that Charles said last night came out of the Puwalu 3 process, none of them pertained to matters under the jurisdiction of this Council.

One of them, the Aha Moku Bill, again, is clearly a state matter.

Two, the second one preempts the lay gill net rules which just went into effect about a week ago.

The third one preempts marine protected area development in State waters.

Some of you may have read the paper on Tuesday, there was a Supreme Court decision against the City Prosecutor Peter Carlisle for misuse of City money.

I'd like to read to you what the Associate Supreme Court Justice said about the matter. He said:

The problem with this case is that Carlisle's conduct went far beyond providing information to the public on how the criminal justice system can be improved. He became a partisan advocate leading a battle campaign using public funds and other resources to tell voters how to vote, the opinion written by Associate Justice James Duffy.

I would venture to suggest that is what's happening here, and I would urge this Council to put a stop to it.

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

Ebisui reported:

Two action items were presented, which Kingma read:

In regard to permit applicability for the Northwestern Hawaiian Islands, the Standing Committee recommends that prior to this Council taking any further action, the Council seek clarification from the Council of Environmental Quality on its position as to whether allowing fishermen to fish in both zones is proscribed by the Proclamation and joint regulations.

The motion was seconded by Duenas. The motion was passed, with two abstentions by Robinson and Gaffney.

Kingma read:

Regarding Main Hawaiian Islands bottomfish management, the Council directs staff to begin analysis of the management options detailed below for Council consideration at the June meeting:

Relating to coordination and information collection:

One, that the State of Hawaii Division of Aquatic Resources, DAR, commercial marine license and reporting system be used as the primary tool for capturing commercial bottomfish catch and effort information with the following changes implemented by October 1st, 2007:

A, a bottomfish reporting form be developed to allow reporting of longitude and latitude position information to the nearest minute or one nautical mile. Catch location data will be held confidential and not used for enforcement action. Reporting form be filed on a per-trip basis, not on a monthly basis.

Two, that DAR seek to implement a seafood dealer licensing program to supplement the seafood dealer reporting program. In addition, the dealer reporting program should be modified to allow the tracking of bottomfish from origin/source to retailer.

Three, that the National Marine Fisheries Service implement a federal permit and reporting program to capture catch and effort information for all Bottomfish Management Unit Species harvested in recreational fisheries and landed in Hawaii.

Recreational trip report forms will be consistent by allowing per-trip basis with commercial catch reporting forms and filed after each trip.

Four, that the Council, State, National Marine Fisheries Service and the U.S. Coast Guard conduct a comprehensive education and outreach program in coordination with the implementation of new permit and reporting programs and fishing restrictions and in anticipation of total allowable catch limits.

Five, the Council staff reconvene the Bottomfish Working Group to facilitate coordination of the above, as well as scientific monitoring and enforcement activities.

Relating to establishing state and federal regulatory programs in 2007:

One, that the Council and National Marine Fisheries Service develop and implement a Federal Recreational Permit Program by October 1st, 2007, followed by a trip reporting program no later than February 15th, 2008.

Two, that DAR seek to implement an improved State Commercial License and Trip Reporting and Seafood Dealer Licensing Program.

Three, that a five-month seasonal closure be implemented through state and federal emergency rulemaking in federal and state waters for onaga, ehu, gindae, opakapaka, kalekale, lehi and hapuupuu, the Deep Seven Bottomfish Species, harvested around the Main Hawaiian Islands from May 1st through September 30th, 2007.

Four, that a total allowable catch limit based on commercial catch data be implemented in 2007 with the fishing year to start on October 1st, 2007, based on reducing commercial fishing mortality by 24 percent relative to 2004 commercial fishing mortality.

The Pacific Islands Fisheries Science Center, in consultation with Council advisory bodies, will develop a commercial TAC for consideration at the June 2007 Council meeting. The TAC will apply to Main Hawaiian Islands Deep Seven Bottomfish Species.

Once the commercial TAC is reached, both commercial and recreational fisheries in the Main Hawaiian Islands will be closed. Recreational TAC will be developed in the future based on information collected through the new recreational permit and reporting program.

Five, that DAR recreational bag limits be modified to include the Deep Seven Species, which is currently only for onaga and ehu.

Relating to establishing state and federal regulatory programs by 2008 and beyond:

One, that a four-month seasonal closure be implemented in federal and state waters for onaga, ehu, gindae, opakapaka, kalekale, lehi and hapuupuu, the Deep Seven Bottomfish Species, harvested around the Main Hawaiian Islands from May 1st through August 31st in 2008.

Two, that a TAC limit, based on commercial and recreational catch data, be established annually beginning in 2008, with the fishing year to start on September 1st annually, to meet the FMP's overfishing control rule, and based on the best available scientific information.

Three, the Pacific Islands Science Center, in consultation with Council advisory bodies, will calculate a TAC for consideration by May 30th each year for Council consideration. The TAC will apply to HMI Deep Seven Bottomfish Species. Once the TAC is reached, all fishing for Deep Seven Bottomfish Species will cease.

Four, once the recreational bottomfish fishery is managed under a TAC, the recreational catch limits will be removed.

The motion was moved by Ebisui and seconded by Duenas.

Polhemus moved to amend. The proposed amendment was to add under the second set of clauses relating to establishing state and federal regulatory programs by 2007, a new item three with the other items to be properly renumbered that simply says, item three, that the

DAR implement its newly-approved network of area closures.

Gaffney seconded the amendment.

Ebisui did not agree with the amendment as the motion does not in any way affect the State's ability to move forward with its new areas or keep the existing areas.

Polhemus said he suggested the amendment because the State area closures are a combination of state and federal waters and, therefore, represent a joint management action and probably should be acknowledged in the context of the overall management scheme.

Duerr questioned the Council directing the DAR to implement something, saying that it's a State issue and the Council shouldn't be telling the State what to do.

Robinson offered wording the amendment to the effect of the Council acknowledges that DAR intends to implement.

Ebisui said he doesn't think the amendment adds anything constructive to the motion.

A roll call vote was conducted on the amendment. The motion failed eleven to two, with Gaffney and Polhemus casting yes votes.

Robinson moved to add the words, seek to develop and implement October 1, 2007 and February 15th, 2008, or as soon as practicable thereafter, as he did not want to pass a motion with an absolute deadline and chance having the whole regime collapse. Duerr seconded the amendment.

Ebisui felt the amendment would cause a slowdown in the process.

Polhemus suggested adding a few word changes to clear up ambiguity. Robinson did not agree to the changes.

Simonds asked Robinson if there is a penalty for not meeting the date and wanted the date to remain the same. Ebisui said the date can be pushed back if it looks like it will be needed.

The motion to amend failed with a vote of nine to four, with Martin, Polhemus, Gaffney and Duerr casting yes votes.

Polhemus moved to amend the motion as: DAR seek to modify its recreational bag limits to include. Gaffney seconded the motion to amend and added the words, all of the Deep Seven Species.

Ebisui pointed out the motion will require an Emergency Rule by the Secretary. Robinson expressed support for the motion but reminded the Council members he is under instructions from the Secretary of Commerce to vote no on Emergency Rule Proposals to

preserve the discretion of the Secretary to decide one way or the other.

Ebisui spoke in favor of the motion.

There were no objections to the amendment.

Gaffney offered two other housekeeping changes, that recreational trip report forms will be created consistent with commercial catch reporting forms for each trip. Duenas seconded the motion to amend. There were no objections to the amendment.

Gaffney further proposed adding the words, by at least 24 percent. Polhemus said the wording is consistent with the SSC.

The motion to amend was seconded by Duenas.

Ebisui did not agree with the amendment as there is the closed season element to consider.

Polhemus pointed out the closed seasons will only be implemented for a couple of years as interim management.

Robinson voiced support for the amendment as the percentage reduction may increase in the future.

Duenas said he did not support the amendment as it pertains to only the commercial data.

Pooley spoke to the issue of providing the Science Center with a sense of the ranges involved when they are developing TACs.

Robinson pointed out the TAC will always be based on more recent or the latest stock assessment and the numbers will change.

Gaffney withdrew the second amendment for the sake of expediency. Duenas withdrew his second.

Robinson asked for clarification of the two-year sunset clause on the motion. Ebisui said it assumes they will have a handle on the recreational take by that time.

Polhemus asked for clarification as to whether this will be considered initial action. Simonds answered in the affirmative. Robinson agreed, adding the final action will be at the June meeting, and the Emergency Rule will go forward.

**The motion passed, with Robinson casting the only no vote.**

Gaffney moved to have the Council send a letter to Hawaii's congressional delegation informing them of the safety-at-sea issue involved with the inclusion of ethanol in gasoline. Ebisui seconded the motion.

Polhemus suggested having Gaffney draft the letter overnight and to defer action until then.

**Brief break taken**

Makaiau read:

Regarding Protective Species, the Council supports the 12 recommendations of the Marine Mammal Advisory Committee and looks forward to reviewing results from those recommendation.

Regarding Monk Seal Fatty Acid Study, the Council commends the Fatty Acid Research Team for their work and looks forward to updates of results from continued advancements of this project.

Regarding Precious Corals, the Council recommends that another survey be undertaken in 2008 to monitor any long-term trend in *Carijoa riisei* infestation in the Au'Au Channel. The Council further notes that alien status of *Carijoa riisei* remains unresolved.

Regarding the Northwestern Hawaiian Islands lobster research, the Council strongly supports continuing the Northwestern Hawaiian Islands long-term ecosystem surveys, particularly lobster research.

Regarding closed area bottomfish stock dynamics, the Council recommends that research on the dispersal behavior of bottomfish is needed to improve the modeling initiatives on stock status.

Regarding bottomfish overfishing, the Council requests the National Marine Fisheries Service Pacific Islands Fisheries Service derive target reference points for the Hawaii bottomfish that will provide alternative conservation buffers relative to the current overfishing reference points for the fishery by the next SSC meeting.

The motion was moved by Ebisui and seconded by Duenas.

**The motion was passed unanimously.**

Makaiau read:

With respect to the geographic boundary of the Northwestern Hawaiian Islands Limited Access Program, the SSC supports Option 2, to redefine the geographic boundary of the Northwestern Hawaiian Islands Bottomfish Limited Access Program to be consistent with the outer boundary of the Northwestern Hawaiian Islands.

The motion was moved by Ebisui and seconded by Gaffney.

**The motion was passed unanimously.**

Chairman Martin adjourned the meeting for the day.

Chairman Martin opened the meeting for Friday, March 16, 2007.

Council Member McCoy was excused for the morning.

Robinson reported he received a letter from the State on coffee break yesterday, which is addressed to Aulani Wilhelm, Monument Superintendent, which is the last step for him to authorize anchoring in the Monument with regard to bottomfish fishing.

## **8. Pelagic & International Fisheries**

### **8.F. Hawaii Longline Fishery and FAO Code of Conduct**

John Kaneko presented:

Results for a Hawaii Seafood Project, NOAA funded study by PacMar, which is a scorecard of a Responsible Fisheries Assessment of the Hawaii Pelagic Longline Fishery using the FAO Code of Conduct for Responsible Fishing. One objective of the project was documenting and quantifying the compliance of the FAO Code by the Hawaii Longline Fishery, focusing on the management system, to address growing consumer and market concerns regarding the sustainability of seafood.

He noted his belief is Hawaii fisheries are well-managed, but plagued by negative press and competition from foreign imports.

The FAO Code of Conduct was written and adopted in 1995. A brief history of the Code and the Code's articles were described.

The steps of the project included:

- Code review.
- Informed the FAO of the project and application of the Code.
- Initial assessment and attempt to identify pertinent references.
- Received feedback from the Agencies and revised the scorecard accordingly.
- Draft assessment was submitted December 2006.
- Scoring system was developed by using a question format.

- Informed FAO of the outcome of the study.

Kaneko illustrated a sample scorecard.

FAO also conducted three case studies similar to this project, which consisted of the Gulf of California Mexico fisheries, Hawaii longline fisheries, and the British Columbia Geoduck and Horse Clam Fishery.

Feedback from FAO from Dr. John Caddy, Father of the Code said:

Your application is the most complete as far as referring the management measures in place to the questions in the code, and this makes the Hawaii study very helpful to other potential users.

A 14-page summary of the scores were provided to the Council members, which will be submitted for the Council's library, as well on CD format.

A summary of results follows:

The score percentage, 93 percent, or 262 out of 282 possible points of the pertinent articles that were scored. This included fishing operations, fisheries management, research, integration of coastal zone management and post-harvest practices and trade.

- Fisheries Management scored 96 percent.
- Fishery Operations scored 93 percent.
- Integration with coastal zone management scored 71 percent.
- Post-harvest Practices and Trade scored 95 percent.
- Fisheries Research scored 91 percent.

The case study for the Gulf of California Fishery was never completed.

Kaneko believes there is opportunity now for the Hawaii fishery to develop some quantitative indicators for sustainability, and has notified the FAO that is the next step planned.

Tulafono thanked Kaneko for the study and felt this was long overdue and will lend credibility to the Council as well as the longline industry.

Ebisui encouraged Kaneko to publicize the report. Kaneko said the report is filed at the Science Center. It has been distributed. He is waiting for the FAO to complete their Code Ten Years After Report. He also plans to add the quantitative indicators and it needs to be updated whenever there is a change in the fishery.

Gaffney agreed with Ebisui and suggested some avenues could include some national fishing-related conservation organizations, such as the Marine Fish Conservation Network, National Coalition for Marine Conservation, CCCA, the Billfish Foundation, et cetera.

Chairman Martin also thanked Kaneko for the project presentation. He thought the publicity would be a positive reflection that a relatively small fishery in the scope of fisheries around the world, which is also an economically viable fishery, yet is responsibly conducting their activities, and is a strong message not only in other U.S. fisheries, as well as longline fisheries in the U.S., but in the international arena that it can be done.

Harris added that the results would also serve as encouragement to other governments in the Pacific.

Ebisui asked Kaneko if he had any idea how the Northwestern Hawaiian Islands would score. Kaneko replied he did not.

Dela Cruz asked if longline fishing is not sustainable, how can it be made sustainable. He also asked for a copy of the report on a CD. Kaneko replied to make it sustainable, indicators and benchmarks need to be set up and the mandates need to be followed to prevent overfishing.

Kaneko added at some point people will be trying to make a value judgment about the sustainability of using the resource for a canned product versus a high-end, high-value fresh product in the adult stage.

Duenas commended John's report and the FAO Code of Conduct and recommended copies be more widely available. Duenas suspects the Main Hawaiian Islands bottomfish fishery would likewise receive a high score. He asked for a short paper of advice on how the different agencies can interact to obtain favorable scores.

Ebisui pointed out when management actions result in the import of fish from elsewhere who are less regulated, it's a bad message which ignores the big picture.

#### **8.D. American Samoa and Hawaii Longline Reports**

Dave Hamm reported:

Number of vessels active last year was 127, which is the highest number on record since 1991. There were 120 vessels active in the fourth quarter. Total tuna trips decreased, but were higher than the fourth quarter of last year because of the swordfish fishery closure on March 20th. The EPO bigeye fishery was also closed early July last year.

Record number of hooks set last year, a little over 35 million hooks, 52 percent of the hooks set outside of the EEZ and 33 percent set inside of the EEZ. A record of almost 11 million hooks were set in the fourth quarter last year, all of it targeting tuna, with half in the Main Hawaiian Islands and 28 percent of it outside of the EEZ.

Bigeye tuna catches have been down for last year, with about 50 percent caught outside of the U.S. EEZ.

Billfish catches, striped marlin, 46 percent caught outside of the U.S. EEZ and 92 percent of the swordfish caught outside of the U.S. EEZ.

Swordfish, first quarter peaked because the swordfish fishery was closed down. Only seven trips discarded swordfish for regulatory purposes, which equaled 17 swordfish.

Hamm displayed graphs displaying CPUE between the fisheries.

Shark catches slightly declined, 50 percent caught outside of the EEZ. Mean weight of makos appear to be getting bigger. Thresher shark CPUE fairly stable for the shallow-set fishery, but lower for the swordfish fishery.

Miscellaneous catch; mahi, wahoo, moonfish and pomfrets, no remarkable notes.

In summary, for the fourth quarter:

- 120 vessels active, record since 1991.
- Almost 11 million hooks set, a record for a quarter.
- WCPO quota, about 4,000 metric tons, below the quota for last year, but a substantial catch.

Polhemus pointed out that although the number of vessels does not increase much, number of hooks has been increasing steadily within the fleet and catches of the smaller components in the overall fishery, such as pomfret, opah, ono, et cetera, are rising steadily throughout the period. He asked Hamm if he felt eventually the ceiling of sustainability will be reached in some of the fisheries. Hamm replied he had no idea when it might taper off. Catch and effort has continued to go up, but the catch per unit of effort will give a better picture.

Pooley pointed out that the U.S. fleet is roughly two percent of Pacific-wide landings of tuna and that is, presumably, the case for secondary pelagics as well. The Center will conduct an experimental stock assessment on opah this year. Although, one problem is lack of comprehensive information on secondary species, some ecosystem models suggest some secondary species may actually thrive in the absence of other top predators. All of this represents a work in progress.

Polhemus pointed out the SSC has expressed concern repeatedly about the gradual upward number of hooks in this fishery, even though the number of vessels have leveled off. Pooley added, hooks are just hooks and, from the theoretical perspective, mortality on the stock quite often is the conservation issue, which is ambiguous at the moment.

Chairman Martin raised a few points:

It's not surprising when the shallow-set fishery closed somewhat early that the effort shifted. That was expected.

Last year a couple of things happened. Bigeye tuna catches in the fourth quarter were higher, near all-time highs for the quarter, which is indicative of increase in effort. The fourth quarter and part of the prior year had the highest ex-vessel prices for the 23 or 24 years. A combination of good fishing and good prices probably got more people away from the dock than what is typically seen.

Chairman Martin predicted that rises in overall hooks in the future will be due to an increase in vessels.

Polhemus said that, essentially, some of these secondary pelagics, quote/end quote, may not be as pelagic as tunas and there are steadily rising multi-decadal trends of catch of these, and wondered where the upper bound might be. Chairman Martin pointed out the fishery he was speaking to was not a longline fishery, by definition.

Hamm reported with regard to the American Samoa longline fishery:

- Least number of boats on record since 2000.
- Number of sets increased, the third highest in time series.
- Number of hooks reached almost an all-time high.
- Total catch recovered with second-highest catch of albacore and has increased three years in a row.
- Yellowfin, skipjack and bigeye tuna incidental catches; skipjack most commonly caught, although catch rates are sustainable.
- All species, except sharks, have increased the last couple of years. Sharks have been going down for the last four years in a row.

On the quarterly graphs:

- Number of vessels were lower in all quarters last year.
- Longline sets were higher than last year in the first two quarters.
- Number of hooks were higher in all four quarters last year than they were the previous year, near all-time record highs.
- Total catch was the highest in the first quarter of last year, and was higher in all four quarters.
- Albacore set a record in the fourth quarter of 2006, but remains below the long-time average.
- Bigeye tuna catch hit a record in the fourth quarter.
- Yellowfin tuna catch rate below the long-term average.
- Skipjack was unremarkable.
  
- Mahimahi catch remains below the long-term average.
- Wahoo catch rate above the average, but not setting records.
- Billfish catch is below the all-time average, but higher in all quarters last year than the year before.
- Last year the American Samoa longline fishery had targeted swordfish trips.

- The shark catch for last year was above the long-term average for the entire year.

The longline fishery has expanded. Several of the large vessels have access agreements with the Cook Islands and fishing possibly in other EEZs. There is some high seas fishing occurring.

Facing quotas and TACs are likely in the future. Some vessels could be upgraded. There are some unused permits. Vessels could be retooled and could become active. The fishing area has expanded to other EEZ and the high seas. Hamm pointed out the people of American Samoa are very resilient and resourceful people.

### **8.B. International Longline Shark Study**

Eric Gilman presented:

Results of a study on shark interactions in the Pelagic longline fisheries. A study sponsored by the Fishery Council, United Nations Environment Program, the Moore Foundation and New England Aquarium was conducted on shark interactions of the pelagic fisheries.

In some pelagic longline fisheries shark interactions pose substantial economic, ecological and social problems. Information on new strategies for shark avoidance may benefit sharks as well as fishermen who want to reduce their shark interactions. Improved understanding of longline history attitudes and practices towards shark interactions may also provide fishery management authorities, as well as industry, with fundamental information that they need to improve the management for the interactions.

Information was collected from twelve pelagic longline fisheries in eight countries; Australia, Fiji, Chile, Italy, Japan, Peru South Africa and Hawaii in the United States. The information included range of attitudes by the longline industry towards shark interactions, methods identified that are currently in place to reduce shark depredation and unwanted bycatch and identified promising new concepts to help fishermen avoid shark interactions, as well as improve their handling and discard practices.

Interviews were conducted of 149 fishermen and other industry representatives at 22 seaports. Some available observer and logbook data was also analyzed.

Shark interactions create large economic problems in some fisheries. Sharks comprise a large proportion of total catch in most pelagic longline fisheries. For instance, sharks are more than a quarter of the total catch in the Australia longline tuna and billfish fishery and from the Fiji longline tuna fishery. Sharks comprise about 32 percent of the total catch of the Hawaii longline fishery.

In U.S. fisheries, the cost from shark interactions exceed benefits from revenue. Some of the costs from shark interactions include depredation, damage and loss of gear, reduced catch of marketable species when hooks are occupied by sharks or terminal tackle is

removed by sharks, risk or injury to crew and reduced fishing efficiency.

A large proportion of caught sharks are retained, close to 100 percent in some of the fisheries. Sharks are an important target species seasonally or in certain fishing grounds that are near to ports where there are demands for shark products where they're always an important incidental catch species.

Shark longline interactions also pose ecological problems. Their life history characteristics make them particularly vulnerable to over-exploitation and are slow to recover from large population declines. There's also a social issue over waste from finning practices and discarded bycatch.

Gilman gave a brief summary of the effects of legislation which is current in the eight countries of the study.

The main results include:

- The fisheries have very high shark catch rates.
- Since the finning restrictions came into effect in 2002, very few sharks are now retained.

The regulation has caused a sharp increase in discarded bycatch of sharks. Over 89 percent of sharks caught in the swordfish gear and 93 percent of the sharks caught in the tuna gear are alive when the gear is retrieved.

Some crew may change their behavior when observers are onboard, sharks that are alive when hauled to the vessel are released alive and a very small proportion are killed or die before they're discarded.

Some management implications from these results are:

Equipment could be developed to improve the post-release survival prospects, as well as to help reduce the loss of terminal tackle and improve crew safety.

Practices to retrieve terminal tackle that result in high shark injury and mortality and intentional killing of sharks could be discouraged or prohibited to further reduce shark fishing mortality.

Changes in fishing method might reduce the proportion of sharks that are dead when they're hauled to the vessel, such as reducing the time that the sharks are in the water.

There's a demonstrated need to continue monitoring trends and retention levels of sharks in case demand for shark meat increases in this fishery.

An electronic copy of the project report is available on the Fishery Council and UNEP web

sites. There are plans to hold a session on shark interactions in longline fisheries at the Fourth International Fishers Forum, which will be held in Costa Rica in November, being hosted by the Fishery Council.

Chairman Martin acknowledged and welcomed Don McIsaac, Executive Director of the Pacific Council.

### **8.A. Pelagic TAC Framework, Action Item**

Dalzell reported:

The Pelagics FMP Framework Process is being revised to implement tuna catch limits due to increasing restrictions from management regimes in the Western and Eastern Pacific.

At the 135th Council meeting, the Council directed staff to prepare options to revise the framework process for the Pelagics Plan established under Amendment 7 of the FMP to allow for the timely administration of quotas for highly migratory species. The framework mechanism was implemented in Amendment 7 to avoid the need for a lengthy rulemaking process for measures which have previously been analyzed. Currently, any new management measures through the framework process require a minimum of two Council meetings. Unfortunately, quotas and allocations were rejected alternatives for inclusion in the framework process at that time.

This amendment will, therefore, revise the framework process to include the implementation of tuna catch limits or harvest guidelines stemming from the Pacific Tuna RFMOs via a one-meeting process.

Currently, the Hawaii longline fishery has a quota of 500 metric tons in the Eastern Pacific, shared with longline fisheries on the West Coast, which may increase over time. The Council may need to take action to set a quota for the Hawaii fishery based upon division of that quota between Hawaii and the West Coast, which is one of the reasons for the measure.

The two alternatives included:

- Alternative 1, no action.
- Alternative 2, modification of the framework to include and analyze implementation of tuna catch limits or harvest guidelines promulgated by Tuna RFMOs.

Dalzell pointed out the key is the established measure will need to be analyzed first in order for timely implementation. Dalzell briefly described the analysis of the option, including the provision for Guam, American Samoa and NMI 2,000 metric ton quota for 2006 to 2008.

After presentation to the SSC, the recommendation was to endorse Alternative 2, to modify the framework process in the FMP. They endorsed the approach used by the Council to assess the impact of changes in quotas on the catch, noting that it would include the disaggregation of observer and fishery data.

Robinson asked if there would be a need for consultation between the councils involved. Dalzell replied he is sure that is on the top of the agenda for the Executive Directors of the Council involved.

Duenas recused himself due to conflict of interest with regard to Agenda Item 8.C.1.

## **8.C. Longline Management**

### **8.C.1. Guam Longline Area Closure, Action Item**

Dalzell reported:

A 50-mile area closure for longline and purse seine vessels around Guam and its offshore banks was actually implemented back in 1992 through Amendment 5 to the FMP. The Council also implemented a control date for that longline fishery, but it has long expired.

In 2006, the Fishermen's Cooperative started longline fishing through a CDP grant.

With the growth of the domestic longline fishery, questions were asked:

Is there a need to maintain the current area closures for longlining?

What are the views and perspectives of Guam's fishermen, particularly the troll fishermen?

The Council may wish to consider modifying these closures to facilitate growth of longline domestically in Guam.

The Fishermen's Co-op has a relatively small boat. Currently, they have to go 100 miles offshore to fish. The primary goal of the vessel is a training vessel. Maybe a more modest closure might still offer a measure of protection to the troll fishers and also still allow the longline boat to be able to operate.

Seven alternatives were developed:

- Alternative 1, no action.
- Alternative 2, implement a Community Development Program, which is the program by which the Guam Cooperative acquired this vessel.
- Alternative 3, issue an exploratory fishing permit, with sunshine clauses attached.
- Alternative 4, reduce the longline exclusion zone to a uniform 25 nautical miles around Guam.
- Alternative 5, modify the existing longline area closure to exclude only vessels

over a certain size class.

- Alternative 6, a seasonal reduction, November to March, which are the months that issue the highest number of weather advisories.
- Alternative 7, remove the area closure all together.

After a lengthy presentation of analyses of the pros and cons of each alternative, Dalzell presented the SSC recommendation, which supported the continuing development of the longline closed area in Guam, including the locally-designated White Tuna Banks. The SSC also recommended investigating the establishment of longline closed areas of local consent to troll fishermen in Guam and NMI.

The SSC also pointed out there may be interest in longline fishing in the Northern Mariana Islands and the possibility of a PIAFA.

Dalzell reminded the Council that staff has been directed to begin the process of developing longline closed areas for the NMI in anticipation that longline fishing may expand into the EEZ around the Mariana Archipelago, and such closed areas may include restriction of longline fishing within a three-mile radius around FADs in NMI. Staff has looked at the potential for mapping out the current pelagic fishing in the Northern Mariana Islands, the troll fishery and information contained in the West Pac FIN database.

Questions posed to the Council were:

- Conduct an analysis for impacts to Guam to include small boats;
- Or expand the analysis to include the whole of the Marianas Archipelago, which would include more public hearings in Saipan.

Gaffney asked if any research has been conducted on availability of larval species around Guam. Gaffney also pointed out that he suspects a lot of the sports fishery catch is probably not reported because of the fish being consumed onboard. Dalzell agreed both these areas need further investigation.

Chairman Martin asked what is the timeline if the CNMI were included. Dalzell guessed six months.

### **8.C.2. Hawaii Swordfish Effort Limit Modifications, Action Item**

Dalzell reported:

The Council received a letter from the attorneys for the Hawaii Longline Association outlining a request to modify the current management regime that is in place for the swordfish segment of the fishery.

The fishery operates under a limit of 2,120 sets divided amongst people who indicate an interest in fishing in the subsequent years and divide accordingly. The fishery requires the use of circle hooks, 18/0 or greater, 10-degree offset, mackerel bait and an annual hard

limit for loggerhead and leatherback turtles.

The HLA petition wanted the Council to consider eliminating the current shallow-set limit, all of the measures will stay in place for the shallow-set swordfish fishery and will continue to use the 18/0 circle hooks, mackerel bait and 100 percent observer coverage. The HLA petition laid out its estimate that by removing the set limits, they estimated effort in the fishery would be as high as 3.5 million hooks set by 30 Hawaii-based longline vessels. This would result in an estimated 46 loggerhead interactions with four mortalities, and 18 leatherback turtles with two mortalities. The mortalities were inferred mortalities.

If this initiative went through, NMFS would have to do a biological consultation, which would have a three-year life span rather than a one-year span. Thus, it would operate as the Hawaii deepset longline fishery currently operates with a three-year take rather than an annual one.

After review by the SSC, the SSC felt that it was too early to take any action on this and recommended waiting for at least the completion of the third full season of this model swordfish fishery before considering changes to the current regs. The SSC also requested Council staff and Science Center to conduct an analysis of the impact of the removal of the set limit on turtle takes. The analysis can begin immediately, but should ultimately incorporate the final results of the current fishing season.

The SSC would also like the opportunity to examine all of the relevant documentation on market transfer effects and recommended the studies cited by HLA be submitted for peer review or published in primary literature.

### **Brief break taken**

#### **8.C.3. NMI Potential PIAFA**

Dalzell reported:

There may be interest in foreign fishing vessels fishing out in the far west of NMI by a Chinese fishing company, Luen Thai, based in Hong Kong, which would have a four-vessel operation in the Northern Mariana Islands based out of Saipan. There has been discussion with PIRO regarding joint ventures, chartering operations or possibly even establishing an office in Saipan to become a domestic company and fish under U.S. law and get a permit if they're a U.S. enterprise. This is presently still in the discussion stage.

Simonds asked if the Luen Thai Company approached the Government of the Northern Mariana Islands. Dalzell replied in the affirmative. The company also participated in the Council's bycatch meeting and there is also a Luen Thai Company in Guam, Palau and the Federated States of Micronesia and Marshall Islands.

Simonds pointed out Luen Thai also has the U.S. Mail contract from Honolulu to American Samoa and back, and has spoken about carrying fish on the flights. She asked Dela Cruz

where things stand on this issue in CNMI. Dela Cruz replied the process is in beginning stages, adding the Governor is inviting any and all fishing type operations at this time and has great interest in generating tax revenue.

Simonds suggested also exploring the joint venture arrangement, as that could be a quicker process.

Chairman Martin added the Luen Thai representative gave a presentation at the Bycatch Consortium. The company is owned by Tan Holdings, which has a long history in the CNMI and has fleets operating in the Philippines, which is conducting circle hook work as well.

Duenas added that he applauds Luen Thai as being one of the first foreign groups to ever address the mitigation of sea turtles and seabird in the fishery.

### **8.E. South Pacific Tuna Treaty and U.S. Longliners**

Dalzell reported:

After a brief background of the South Pacific Tuna Act was presented, at the 135th Council meeting a recommendation was made to support conservation measures, such as limited entry programs for longline fisheries across the Convention Area and to continue to require CCMs to the Commission to support development of pelagic fisheries in the U.S Territories.

Also, given the reduction of the U.S. purse seine fleets in the Western Pacific Region and the inclusion of the U.S. longline fleets in the South Pacific Tuna Treaty, the Council recommended that the Department of State amend the treaty to include participation of U.S. longliners in the EEZ of parties to the treaty, and that given the lack of fishery development in the U.S. Territories, some of the funds from the treaty be distributed to the territories.

Dalzell illustrated a graph showing the purse seine fleet reached a peak of about 50 vessels in the early '80s, and has since declined to presently only eight that are active.

Positive responses were received from PIRO and Department of State, indicating a willingness to work with industry and Council on longline inclusion, but noting that this is a fairly significant change to the treaty and a lot of work has to be done.

The 19th Treaty Consultation is occurring presently in Port Vila, Vanuatu with sidebar discussions occurring.

Also, the U.S. purse industry indicated at this point they don't see any impediments to the U.S. longliners being included.

Simonds added the State Department Representative, Bill Gibbons-Fly, will be attending the June Council meeting. The U.S. purse seiners are planning to increase their number to

25.

## **8.G. International Fisheries Management**

### **8.G.1. WCPFC III**

Dalzell reported:

The Commission held its third meeting in Apia in December last year. Dalzell displayed a slide which included resolutions arrived at the meeting.

Dalzell noted the tuna and bigeye resolution, which was the subject of much discussion and deliberation, the result was nothing has changed with regard to the longline catch for the next three years, still operating under the 2005 provision, which is just over 4,000 metric tons of fish to be caught by the Hawaii fishery, with a 2,000 metric ton provisional catch limit for the three territories.

Dalzell added that any subsequent development from 2006 to 2008 in the territories and, in fact, in all of the Pacific Island Countries, would need to be taken into account when new catch levels are then estimated in the future.

Dalzell reported briefly on some of the other resolutions.

After briefing the SSC on the list of resolutions, the SSC's perspective was extreme disappointment that yet again the Commission chose to ignore the advice of its Science Committee. A reduction of 40 percent in both bigeye and yellowfin fishing mortality is needed. Yet, the Commission has not heeded the advice of its science providers.

The SSC recommends that the Council reps to the new Commission heed the advice of its own scientists regarding the necessity to reduce effort on bigeye and yellowfin.

Dalzell pointed out that if these stocks become overfished, there may be severe adverse consequences for U.S. fisheries, including some form of a rebuilding plan, even though the U.S. is a minor part of the problem.

### **8.G.2. Tuna RFMO Meeting, Kobe, Japan, Report**

Robinson reported:

The Government of Japan hosted the first joint meetings of the five Tuna RFMOs from January 22nd through the 26th, 2007 in Kobe, including participants from some 54 member nations and cooperating nonmembers from all five Tuna RFMOs; the IATTC in the Eastern Pacific, the Western and Central Pacific, the Atlantic ICCAT, the Indian Ocean Tuna Commission and the Commission for Conservation of Southern Bluefin Tuna. It was also attended by seven inter-governmental organizations and seven nongovernmental organizations, as well.

During the first session, participants underlined the need for a stronger cooperation and coordination among the Tuna RFMOs on all issues, particularly the unification of the vessel registers as well as the IUU vessel list, data sharing among the RFMOs and establishment of harmonized regulations for transshipment.

The second session was addressing fishing capacity, fishing effort and compliance. It was agreed, in general, that global fishing capacity for tunas is too high and should not increase and should be reduced as appropriate, while still recognizing the aspiration of developing states, particularly small island developing states and territories, for the development of their own domestic fishery industries.

The third session was on responsible actions to address concerns raised by the international community. The principal focus was on the need for the Tuna RFMO to review their performance against the international standards and against the standards and criteria they've set for themselves. There was some discussion whether that should be an outside review by an organization, such as FAO, or whether it should be a review from inside with outside help, but basically conducted by each RFMO.

The preference was for the RFMOs to do a self-review, but with the addition of outside experts for credibility and objectivity so that each RFMO can use the results of the performance review to improve their practices.

As a consequence, 14 key areas were adopted and challenges for them to work on. Out of those 14, there were four areas that they decided to proceed with joint technical work via a Technical Working Committee that will be hosted by the United States in July of this year in conjunction with the ICCAT Intersessional Meetings. That Technical Working Group will focus on harmonization and improvement of trade tracking programs and development of catch documentation, including tagging, if required.

On the creation of the harmonized list, a global list of tuna fishing vessels that is as comprehensive as possible, including the possibility of unique identifiers, possibly an IMO number, as well as a creation of global lists of IUU vessels. In other words, a melding the IUU lists from the different RFMOs so there's a single list that covers the globe.

The results of the meeting were to be reported at the FAO COFI meeting, which was held last week.

There will be an ad hoc meeting of the Tuna RFMO Chairs in January and February of 2008 in the U.S. to discuss follow-up actions.

The next joint meeting of the RFMOs is expected to be in January, February of 2009 hosted by the European Community.

Harris asked if there was any conclusion as to which monitoring system is going to be accepted. Robinson replied at this point of agreement is all RFMOs will require VMS, but

the decision as to which units to be used will most likely be left to individual RFMOs based upon what is common practice. At the Technical and Compliance Committee Meeting in Brisbane minimum standards for VMS units were developed, and those minimum standards address those issues. Robinson added that he believes both the ARGOS and the IMARSAT units do meet those minimum standards.

### **8.G.3. Bycatch Consortium, Honolulu Report**

Eric Gilman reported:

The meeting was held on the 15th and 16th of February, hosted by the Fishery Council at the Council office attended by 19 participants representing 16 organizations, including longline and purse seine industry organizations, the IATTC and Western and Central Pacific Fisheries Commission, other regional fishery organizations and a major seafood retailer, Sainsbury's, which has a chain of retail stores in the U.K.

Gilman briefly reviewed the agenda and displayed the Mission Statement, which was included in the Council's briefing books. The over-arching mission of the new group is to have industry-led directions in addressing problematic bycatch in purse seine and longline fisheries operating in the Western and Central Pacific.

A brief list of the activities include:

- Conducting commercial demonstrations of promising techniques to reduce problematic bycatch in both purse seine and longline gear.
- Conducting directed research on new promising techniques.
- Addressing deficiencies in observer coverage.
- Looking more into sustainable seafood programs by retailers, looking at the criteria they use to identify fisheries that are producing seafood.
- Outreach and education.

One of the initiatives planned for the Hawaii longline fishery is to test a new promising safe lead produced by a company in the U.K. as a means of placing weights closer to hooks in gear that don't use wire tracers, which is just one example of the research initiatives that will be sponsored under the umbrella of the Consortium.

Duenas commended Eric and his group for the mitigation work done in conjunction with the fishermen.

### **8.G.4. IATTC BET/YFT Management Meeting, La Jolla Report**

Marcia Hamilton reported:

An ad hoc meeting was held in preparation for the June management meeting to review the background paper that was distributed and included in the Council's binders and for the attendees to give the IATTC staff a list of things they would like to have analyzed in

preparation for the June meeting.

One, is a proposal for analysis by the United States. Another is proposed by Mexico.

The United States proposal focuses on figuring out where juvenile yellowfin are caught in concentrated numbers and having a TAC for yellowfin. When some percent of that TAC is reached, the area would be closed where a lot of juvenile yellowfin are caught because of the concern for recruitment.

The Mexico proposal focused more on FADs.

Capacity measures were mentioned in the background paper and are still being pursued.

### **8.G.5. Other Meetings**

Dalzell reported:

The international dimension of pelagic fisheries management has increased by several orders of magnitude for the Council. Dalzell displayed a slide of the numerous meetings held each year that are of interest to the Council.

### **8.H. SSC Recommendations**

Severance reported:

With regard to the framework amendment to deal with proposed TACs from RFMOs:

The SSC endorses Alternative 2, to modify the framework process in the Pelagics Fisheries Management Plan. The SSC further endorses the approach used by Council staff to assess the impact of changes in quotas on catch.

With regard to the Guam longline area close issue:

The SSC supports continued development of longline closed areas in Guam, which would encompass the locally-designated White Tuna Banks. The SSC recommends investigating the establishment of longline closed areas of local concern to troll fishermen in Guam and CNMI.

With regard to the request on the swordfish fishery in Hawaii:

The SSC recommends waiting for at least the completion of the third full season of the model swordfish fishery before considering changes to the current regulations. The SSC requests the Council staff and Pacific Islands Fisheries Science Center to conduct an analysis of the impact of the removal of the set limit on turtle takes. The analysis can begin immediately, but should ultimately incorporate the final results of the current fishing season and should be completed as soon as possible after the end of that season.

The SSC would like the opportunity to examine all of the relevant documentation of market transfer effects and recommends that the studies cited by HLA be permitted for peer review or published in primary literature.

With regard to actions of the last Western and Central Pacific Fisheries Commission Meeting:

The SSC is disappointed that yet again the Western and Central Pacific Fisheries chose to ignore the advice of its Science Committee and its contracted science providers regarding bigeye tuna and yellowfin conservation. The SSC recommends that the Council representatives to the WPCFC convey the need for the Commission to heed the advice of its own scientists regarding the necessity to reduce F on bigeye and yellowfin.

There will be severe adverse consequences for U.S. Fisheries if either of these stocks becomes overfished. Severance added the consequences are somewhat unpredictable, and could have very severe socioeconomic consequences that ripple not only through the production side but the consumption side of the fishery.

With regard to the recent tagging study report by Dave Itano from the Bismarck Sea:

The SSC commends Dave Itano for his work on this project. The SSC noted the high, 15 percent, recapture rate and its implication for fishing mortality and the apparent lack of free-swimming tuna school unassociated with FADs in the Bismarck Sea compared to previous tagging studies conducted 15 years earlier. An increasingly high tag return rate is indicative of higher exploitation rates.

### **8.I. Standing Committee Recommendations**

### **8.J. Public Comment**

Public comments are included verbatim.

Scott Barrows commented:

I wanted to just make a short statement on the swordfish fishery regulation modifications that were being talked about.

Number one, I'd like to state that I'm the General Manager of the Hawaii Longline Association. I wanted to say that all of my members, I haven't heard anything negative about what we're trying to do from anybody, either sword fishermen or ahi fishermen.

I heard today that the SSC doesn't like the idea of going ahead with these changes yet. They want to go another season. I didn't hear why. I don't know what the reasoning is behind that, but I do know that the implementation of the changes would offset some of the

losses we've had in the past. It's been quite a substantial loss going through all of these changes in the swordfish fishery.

Also, they've had two seasons, I guess, where they got information from the fishery. I think there's also been three seasons on the East Coast where they were implementing circle hooks and mackerel bait. They have more information there to use.

That's basically all I had to say.

Leland Oldenburg commented:

Good afternoon. My name is Leland Oldenburg. I'm a longline fisherman here in Hawaii. I want to thank you for the opportunity to speak today.

I'd like to speak favorably for the proposed regulatory changes to the swordfish fishery also.

I recently attended two turtle symposiums. One was the 17th Annual Japan Sea Turtle Symposium. The other was the 27th Annual International Sea Turtle Symposium in South Carolina. I was told that I was the first fisherman presenter to these scientific bodies. So that was kind of a dubious honor.

Anyway, my subject was the new longline gear and technologies to reduce interactions with sea turtles in the Hawaii longline fishery. The presentation was accepted very well in both places.

In South Carolina, in the three days after my presentation I was approached literally dozens of times with high praise for the work that had been done here in Hawaii. One lady, who obviously was a pretty staunch environmentalist said that Hawaii was a shining star that should be held up as an example to the international longline community. So we had some very positive feedback there.

In Japan, after the symposium was over, I had the opportunity to travel with a small group of Mexican fishermen and some members of Pro Peninsula (phonetic), which is an organization that works with fishermen on the Baja Mexico Peninsula. We traveled to a community and met with fishermen and community leaders and discussed common problems that we had with interactions with sea turtles.

I saw firsthand the degradation of the nesting beaches. Almost all of the beaches I saw were armored with concrete fortifications to guard the erosion from typhoons. The fishermen told about the many encounters that they had with sea turtles and a high mortality rate. They also used pound nets there, which are just large fish traps. They had three mid-level enclosure pound nets up the coast from when I was there. When I was there in November, they had already captured and killed 206 loggerheads in just those three nets.

Then the Mexicans shared that they're having problems with their fisheries in Baja.

They're just fishing in small, open outboard boats called pangas. But there's approximately ten small fleets of boats there in Baja Sur. They had observer coverage of two of the ten fleets. The number of turtles that were killed at the end of one season was 900.

There were boats that had up to 20 dead turtles per day. The average of the season for those two small fleets was 3.4 dead turtles per day, and these were loggerhead turtles.

The reason I bring up the high mortality that is being experienced by our Pacific neighbors is to show how far ahead of the pack we really are. We've done a lot of work. We've made some real inroads.

We've decreased our turtle interactions by almost 90 percent. Shark catch is down 36 percent. All bycatch of tuna is down 50 percent. Mahimahi, wahoo and opah is down 34 percent. While at the same time, the targeted swordfish are up 16 percent. So that's a very positive thing there.

The proposed regulatory changes that we're looking at here don't really change a whole lot. All of the safeguards for the turtles are still in place. We still have all of the equipment on the boat to handle them. We still have 100 percent observer coverage. We still have a hard cap on the number of turtles that we can take.

When we say, turtle take, that doesn't mean mortality. We've had zero observed mortality since the new regulations have been in place since 2004. So there are quotas now in place in both the Eastern and Western Pacific for bigeye tuna.

Quotas for yellowfin are looming on the horizon. So there's never been a better time, a better opportunity, to shift some of this effort into the healthy swordfish stocks.

The effect is positive for both the deepset tuna and the shallow-set swordfish fishery because it allows increased and continuing research and development in not only our own fishery here, but it gives us the opportunity to export this technology to other fisheries around the world, hopefully, helping them also. Thank you.

Mr. Surbole commented:

I thought I would just give a quick impression from what I've gathered, and a couple of points that seem to stick out to me as a member of the public, from what you're doing here.

There are three points.

The first is you were discussing sustainability this morning. There was a statement that, it depends on how you define sustainability. I found that to be a strange comment. Because as far as I'm concerned, I understand sustainability to mean, you can keep on going at the same rate without the stocks being reduced, and the whole thing going down.

I am at a loss if there is any other way to define it. That seems like the only way to define

it. So that's the first point.

The second point was from yesterday.

My impression is that the regulations and the science that you guys use is all really good and it sounds like the actual regulations you are putting out are all very positive developments. But the impression I got is that the enforcement seems to be a problem, and that was from listening to Coast Guard presentations. They were sounding like, well, sometimes we do manage to see them by an overflying airplane, but even if we do, we have to pass it off to somebody else, then it needs to go to the State Department, and then who knows what happens after that.

So it sounds like your side of it is in order, but it's not being carried through at the higher levels. I don't know what you would do about that, but that seems like you would know better than I would.

Final point is that it's, again, on the management within your area seems to be very good. But my impression is that outside of the area it's a free-for-all. I don't know if that's actually correct. I'm sure there must be some sort of international agreement, and I haven't really heard it discussed.

But it seems like not only can people hop in and break the rules, and then hop out, and it's very tough to catch them and maybe they have a flag that doesn't allow them to be searched, or a flag that doesn't necessarily require them to have a satellite device, and so on.

But also, if they're outside of the area, they can do whatever they want, and then that also is affecting everything.

Again, I don't know what action you can take on that. But if anybody could take action, it seems like it would be you folks. So that's just my comments.

Severance responded to Scott Barrows' questions, speaking as an individual member, the SSC wanted a little longer time series to see how the model fishery is going.

### **8.K. Council Discussion and Action**

Duenas recused himself as the Chair for this portion of the meeting.

Ebisui moved:

With respect to the implementation of tuna catch limits for longline fishing, the Council endorses Alternative 2 to modify the framework process in the Pelagics Fisheries Management Plan.

The motion was seconded by Sablan.

Gaffney asked whether it was a Fisheries Management Plan or a Fisheries Ecosystem Plan. Ebisui replied that currently it's still an FMP.

**The motion was passed unanimously.**

Ebisui moved:

The Council supports continued development of a longline closed area in Guam, which would encompass the locally-designated White Tuna Banks. The Council staff should conduct further scoping for the establishment of longline closed areas of local concern to troll fishermen in the CNMI for consideration at the June Council meeting.

The motion was seconded by Sablan.

Gaffney asked to include recreational and charter fishermen of CNMI in the motion.

**The motion was passed unanimously.**

Duenas moved:

With respect to modifying the management measures for the Hawaii longline swordfish fishery, the Council endorses the SSC recommendation to wait for at least the completion of the third full season of the model swordfish fishery before considering changes to the current regulations. The Council further endorses the request that the Council staff and the Science Center conduct an analysis of the impact of the removal of the set limit on turtle takes. This analysis can begin immediately, but should ultimately incorporate the final results of the current fishing season and should be completed as soon as possible after the end of that season.

The Council would also like the SSC to examine all of the relevant documentation of market transfer effects and supports the SSC's recommendation that these studies cited by HLA be submitted for peer review or published in primary literature.

The motion was seconded.

Chairman Martin spoke in favor of the motion and appreciated the SSC's precautionary approach. Duenas voiced his agreement with Martin.

Ebisui also spoke in support of the recommendation, but pointed out the quotas are a limit and not a goal, and the further away the fishery stays below the limit, the better.

Martin agreed with Ebisui and looks forward to the continued collaboration with conservation and regulatory organizations.

**The motion was passed unanimously.**

Duenas moved:

The Council is disappointed that yet again the WCPFC chose to ignore the advice of its Scientific Committee and its contracted science providers regarding bigeye and yellowfin conservation. The Council recommends that the U.S. Delegation to the WCPFC convey the need for the Commission to heed the advice of its own scientists regarding the necessity to reduce fishing mortality on bigeye and yellowfin tuna.

The Council understands there will be severe adverse consequences for U.S. fishers if either of these stocks become overfished.

The motion was seconded by Polhemus.

Gaffney suggested using stronger language.

**The motion was passed unanimously.**

Duenas moved:

The Council supports the SSC's commendation for Dave Itano and his work on the new SPC-OFP tuna tagging project. The Council concurs with the SSC that the high, 15 percent, tag recapture rate and its implication for fishing mortality and the apparent lack of free-swimming tuna schools unassociated with FADs in the Bismarck Sea compared to previous tagging studies conducted 15 years earlier. An increasingly high tag return rate is indicative of higher exploitation rates.

The motion was seconded by Sablan.

Gaffney asked to clarify whether it is Itano's observation or Itano's conclusion.

**The motion was passed unanimously.**

Duenas offered a recommendation regarding the charter boat fishery on the Kona Coast which includes a control date.

Duenas moved:

The Council directs staff to investigate the biological and economic impacts of the anticipated expansion of charter and sports fishing slips in Hawaii for review at the next SSC meeting. The Council also recommends that the control date of March 14th, 2007 be published in the Federal Register for the Hawaii-based pelagic charter fishery. Persons who enter this fishery after the control date will not be guaranteed future participation in the fishery if the Council limits entry into the fishery or fishing effort.

This action does not prevent the Council to limit entry over any other date from being used. The Council may also use other criteria to limit fishing effort or participation in a limited

entry program developed in the future.

The motion was seconded.

Robinson posed a question to Feder as to whether there is adequate notice in the Federal Register to consider a control date at the meeting. Feder replied in the affirmative.

Ebisui asked if the motion is only to assess potential impacts of the scheduled development on the Kona Coast.

Duenas replied he feels this is an effort to get information for the future development of TACs for this segment of the fishery.

Gaffney said he does not have a problem with the apparent intent of the motion, but feels it is inappropriate to establish a control date without prior public notice. Another concern was with regard to the fact that private marinas will not have charter slips, and the determination of the uses of slips is decided by the State. Another concern were some legal terminology he felt was not appropriate. Gaffney suggested modifying the motion to open the door to starting to look at the issue, as the development is at least five years into the future.

Duerr recommended addressing the recommendation to all marinas as opposed to specific marinas, and currently charter boats have been reassigned to private marinas as the State's request.

Duenas asked Feder for his legal opinion on this motion. Feder replied the control date clause is standard language and the word 'persons' could be expanded upon, such as companies or entities.

Ebisui explained that with regard to establishing control dates, the Council still has the flexibility to make its plans effective no earlier than the control date, but it certainly can be later.

Gaffney voiced disagreement in the appropriateness of establishing a control date with no prior public notice and suggested to schedule it to be taken up at the June Council meeting.

Duenas said the Council has established control dates without prior notice in the past. He added the control date is not set in stone.

Duerr said he is afraid setting a control date would create a rush for people to get into the charter boat business while there are no slips available.

Ebisui said one of the functions of setting a control date is to prevent a gold rush mentality.

Gaffney moved to amend the motion to include the word 'recreational'. The motion to amend was seconded by Polhemus.

Gaffney explained his goal is to address offshore sport fishing.

Gaffney further explained:

"Well, the intent is that, as I see the expansion of slips in the Hawaiian Islands, the majority of them are going to go to recreational sport fishermen outside of the charter fleet. If we're going to study what the impacts are going to be on the biology and the socioeconomics of the communities involved, we need to look at who's really coming, not just focus on the charter sport fishing industry, because it's got a finite opportunity. There's only so many tourists available.

The charter sport fishing industry, I don't think it needs to be singled out here. I think we need to look at all offshore sport fishermen together."

With regard to Manny's comment about the TAC, we have to look at the TAC for the recreational sport fishery as well. It's not just the -- not just one segment of the charter sport fishery.

Duerr spoke in favor of Gaffney's recommendation.

Robinson said that given that the first part of the sentence is regarding the impacts of expansion that is supposed to be looked at, it seems reasonable.

Chairman Martin pointed out that he is not sure how one would anticipate what level of expansion will take place.

Ebisui pointed out that in Haleiwa slips are being taken up by tour boat operations, such as dolphin tours, shark tours, whale watching and sunset cruises.

Gaffney responded to Ebisui, saying that the maximum percentage for tour boats by law is 30 percent. In Honokahau Harbor, it is 50 percent. Gaffney also pointed out the expansion is not anticipated, but in fact is currently happening.

Duenas called for a role call vote to be taken on the amendment.

**The vote failed, six for and six against. Against votes included Duenas, Harris, Tulafono, Haleck, Sablan, Dela Cruz. For votes were Gaffney, Ebisui, Martin, Robinson, Polhemus, Duerr.**

Duenas called for a role call vote on the original motion.

**The motion passed by a vote of nine for, three abstentions. The for votes were Dela Cruz, Martin, Sablan, Duerr, Ebisui, Haleck, Harris, Tulafono and Duenas. Robinson, Gaffney and Polhemus abstained.**

## **Lunch break taken**

### **9. Program Planning**

#### **9.A. Magnuson Act Reauthorization**

##### **9.A.1. Environmental Review Process**

Kingma reported:

A congressional directive was included that directs the Secretary of Commerce in consultation with the Regional Fishery Management Councils and the CEQ to revise and update the Agency procedures for compliance with NEPA. The Agency procedures are NOAA 216-6 (phonetic). They are the procedures for NEPA, the National Environmental Policy Act for NOAA. They apply to all of NOAA's offices.

The draft procedures will be out by June '07 with a 90-day public review. The final procedures must be in place by January '08.

The new procedures shall conform to the timelines for review and approval of FMPs and amendments. It will integrate applicable environmental analytical procedures, including time frames for public input with MSA FMP actions in order to provide for timely, clear, concise analyses useful for decision-makers and public, reduce extraneous paperwork and effectively involve the public. Again, this will be the sole Environmental Impact Assessment procedure for MSA actions, FMP amendments, regulations, etcetera.

Kingma provided the National Marine Fisheries Service's set of ten questions to solicit public comment. The Council has agreed with the National Marine Fisheries Service Headquarters to conduct this session and also hold a public hearing regarding these questions and a draft review process. The public hearing will take place in the public comment period of this section of the agenda. Comments must be submitted by April 20th, 2007.

A working group has been meeting in D.C. consisting of National Marine Fisheries Service people and representatives from three of the Regional Fishery Management Councils. A draft proposed process has been formulated which includes a three-meeting process; incorporating scoping and developing alternatives in the purpose and need in the first council meeting, Notice of Action, the Notice of Intent or Notice of Scoping to be conducted in the traditional means in the Federal Register as well as newsletters, other types of ways to notice the public.

Kingma summarized the Revised Environmental Process and the new draft procedures as proposed by the Councils.

Simonds asked how much time is predicted by using the revised process. Kingma replied

potentially years and several thousands of dollars will be saved with the revised process.

Simonds added the North Pacific Council has been pushing for this process and while she was recently in D.C. the CEQ General Counsel said this has been done for other agencies for years.

### **9.A.2. Recreational Fishermen Registration**

DeMello reported:

The 2006 Magnuson-Stevens Reauthorization included a mandate, Section 201, called Recreational Fisheries Information, which was included because the Council will be looking at setting total allowable catches for federally-managed fisheries and creating LAPPS, Limited Access Privilege Programs.

The section reads:

The Secretary shall establish and implement a regionally-based registry program for recreational fisheries. It's free until January 1st, 2011. Identification of the fisher, contact information and possibly vessel information will be collected for fishermen who fish in the EEZ.

It exempts states that have programs that already collect this information.

Some possible potential problems raised at the Standing Committee include:

How does it affect out-of-state fishermen, tourists, that come here and fish.

Does it apply to the captain only or the whole crew.

What type of anglers are going to be registered.

Do they exempt other people, like the children and the elderly.

How is it going to be enforced.

Jurisdiction between state and federal.

DeMello noted Hawaii recreational fishing from shore would not be captured.

Gaffney asked how will the vessels be connected to the registration. DeMello replied that it is too early in the process for those details, and he is not sure the shoreline fishermen will be captured.

Harris asked what is the penalty for noncompliance. DeMello replied it is still too early in

the process to have that kind of detail.

Tulafono asked if the Territories will also be required to register their fleets. DeMello replied in the affirmative, but perhaps there could be an exemption.

Severance pointed out that this will make it easier to get a better handle on the recreational catch and Hawaii also needs to include visiting fishermen.

Polhemus commented that the way the Act is written, the requirement is to register those fisheries who fish beyond three miles.

Severance pointed out marlin are taken at South Point in rare events every year.

### **9.A.3. Western Pacific Stock Assessment Review**

Dalzell reported:

Stock assessments are a Magnuson Act mandate. The review process is a mechanism to promote more buy-in through constituent and stakeholder participation, and provide transparency.

DiNardo spent a lot of time researching the different processes, SEDAR, STAR and WPSAR, which are in place around the country. A SEDAR-like was chosen as the best fit for the region and approval was obtained from the Council, PIRO and PIFSC. A budget was developed and submitted for approximately \$300,000 a year. But because of Northwest Fisheries Science Center and Southwest Fisheries Science Center cost overruns, PIFSC ended up with no funding.

In '07, a new process was sought that was less costly with costs shared between the Council, PIRO and PIFSC. Again, Reauthorization of MSA requires a review process and specifies use in management. The options include:

The Center of Independent Experts process, which has no input from the Council, and the independent reviews will be conducted through the NMFS Office of Science and Technology.

The WPSAR, where the Council is involved in all aspects conducted collaboratively between the Council, PIFSC and PIRO, and provides a means of addressing local issues.

Dalzell summarized the two elements of the two processes for Council members.

Polhemus pointed out the cost differential between the two processes and the fact you get the benefit of a CIE expert in the WPSAR process.

Robinson offered that after having experience with both approaches, he felt that the

locally-sponsored with outside help stock assessment review process in the end gave a better assessment and will be quicker.

## **9.B. Report on State Disaster Relief Program**

Chairman Martin reported:

The Direct Financial Assistance Program, which consisted of about \$1.6 million, has been distributed very close to its entirety. The JIMAR Program has ongoing projects through the Science Center with time/depth recorder work, as well as several other projects.

Polhemus added one grant for \$250K got turned back and they are currently seeking to reallocate that.

Severance, speaking as a member of the Technical Working Group, said the work would not have been done as effectively without the help of Chris Boggs, who developed a spreadsheet and developed a fair and equitable scoring system and gave immediate feedback on the scoring systems. The Working Group gave a commendation to Boggs for his work.

Simonds commented to Polhemus that one option for the \$250,000 that is available could be used to purchase GPS units for the boats that are going to have to report longitude and latitude in the commercial fishery. Polhemus said they could take that under consideration.

Polhemus added that the State was hopeful that perhaps they could substitute PI to pick up the program as originally envisioned, because it also involved research fishing in some of the formerly closed areas that are going to be opened.

## **9.C. Council's Aquaculture Policy**

DeMello reported:

The Revised Aquaculture Policy was provided to the Council members.

Aquaculture, as defined by the Council, will include fish farming, fish culturing and mariculture, as well as ocean ranching.

The guidelines included the topics of Cultured Species, Habitat, Research, Location, Design and Operation, Water Quality, Indigenous Peoples Rights and Access, Permitting and Reporting, Enforcement and Protected Species. Fish feeding was also added.

In part, the policy read:

Aquaculture operations should employ feed that minimize impacts to wild fish stocks,

water quality and habitat. Feed should also minimize or eliminate the detrimental affects of contaminants, for example, mercury, PCBs, on fish stocks.

With regard to natural disasters, it read:

Aquaculture operations should develop an emergency plan that covers natural disasters, such as tropical storms, floods and hurricanes, to prevent escapes and other problems associated with such disasters.

The purpose of this act is to create a regulatory framework that allows for safe and sustainable aquaculture operations for fish and shellfish in U.S. federal waters. The act includes requirements to ensure that offshore aquaculture proceeds in an environmentally-responsible manner that is consistent with stated policy to protect wild stocks and the quality of marine ecosystems and is compatible with other issues instances of the marine environment. The Council will be consulted by the Secretary of Commerce when operations are applying for permits.

When the Secretary consults with the councils, he will be looking for a risk to and impacts on natural fish stocks and fisheries, risk to marine ecosystems, monitoring and reporting and species native to the geographic region. Having a policy by the Council would make facilitating this process with the Secretary a lot easier.

The Council will have a role in the future of offshore aquaculture in this act and a policy would be needed to provide guidance for environmental requirements for regional operations.

#### **9.D. Status of Fishery Management Actions**

Hamilton reported:

Document 9.D. was provided to Council members for their review.

Hamilton reiterated Kingma's earlier comments with regard to combining the NEPA/Magnuson Act process, as the processes need to be coordinated to become an iterative process. The time frames don't always match up on comment periods for the Draft EIS, et cetera.

The Council is making good progress on FMP permitting and reporting requirements for fishing vessels in the Western Pacific Region.

Hamilton pointed out Amendment 14 for bigeye and yellowfin overfishing would have federal permitting for the commercial pelagic small boats in Hawaii, but won't capture the recreational. The Council has not addressed other areas of the region and hopes to use the Hawaii effort as a model to move forward to the other areas, where appropriate.

Hamilton provided the project list in a matrix format for quick overview.

Robinson raised the point of the transitional process from FMP to FEP. Hamilton agreed, explaining the FMP amendment would become an FEP amendment when the change takes effect.

### **9.E. Education and Outreach**

Simonds reported:

The Council has received many, many letters of thanks and praise, as well as requests for more copies, with regard to the Moon Calendars. There are only a few remaining American Samoa moon calendars.

The International Pacific Marine Educators Conference was hosted by the Council. There were over 100 participants. A committee was formed to further the international network, chaired by Mr. Ben Namakin from Pohnpei. The proceedings will be printed in a special edition of the National Marine Educators Association Journal.

Sylvia Spalding has been asked to be on the Advisory Council of the proposed Center for Ocean Sciences Education Excellence - Hawaii.

The Council is also going to be sponsoring the Old Hawaii Segment of the Let's Go Fishing program, which is scheduled to begin airing on Channel 2 in the end of June. Staff is working on scripts.

A grant is being finalized for the High School Summer Marine Fisheries and Resource Course that was offered last summer and this coming summer in Hawaii so it can also be offered in Guam, the Northern Marianas and American Samoa in 2008.

Less expensive means of advertising Council meetings is also being researched.

### **9.F. Pelagic Fisheries Research Program Request for Proposals**

A Request for Proposal went out for socioeconomic projects, although the deadline has passed.

Simonds added that a copy of the Reauthorized Magnuson Act was provided to the Council members and to contact Feder or herself if they have questions.

### **9.G. SSC Recommendations**

Severance reported:

The SSC heard a report on the status of the U.S. Fisheries Report to Congress with the Fish Stock Status Index.

The SSC notes the utility of the FSSI within a region, especially the assemblage of the information used to generate the index. However, the SSC cautions that the sum of the FSSI index as a percentage of the number of stocks within each region could be misleading for cross-regional comparisons.

With regard to the Western Pacific Stock Assessment Review Process:

The SSC recommends that the Council develop a WPSAR-like process with the understanding that the Coordinator, along with the Committee Members, will have the option to send a stock assessment to the Center for Independent Experts for review, and will along with the Council be able to set the Terms of Reference for that review.

With regard to the Small Social Science Indicators Workshop, the SSC suggested that as a next step the Council convene its Social Science Research Committee, review the workshop report to identify key questions, indicators and data needs, and make recommendations for conducting surveys or other activities to obtain the information.

The SSC listened with interest to the presentations by Paul Dalzell and Ed Glazier, and looks forward to the final report of the Ecosystem Policy Workshop.

#### **9.H. Public Comment**

No public comment.

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

John Calvo read:

Recommendation for the Council to direct staff to send a letter to request that NMFS/PIFSC to include local Chamorro/Carolinian names for bottomfish on bottomfish fishing log sheets.

The motion was moved by Sablan and seconded by Duenas. **The motion was passed unanimously.**

Calvo read:

Council direct staff to send a letter to Representative Bordallo to:

In response to her inquiry, suggest that \$10 million would be an appropriate funding level for the CDPP.

A \$5 million fund be made available to assist sectors other than just recreational fisheries, including a fishery loan program to assist the development of U.S. sustainable pelagic longline fishing in Guam.

In response to her inquiry, also suggests that in the Territories and Commonwealth that the DJ-WB funds be made available to sectors other than just recreational fisheries.

The motion was moved by Sablan and seconded by Ebisui.

Gaffney asked if it was possible for DJ/WB funds to be used for other than what they're designed for. Simonds replied the three island areas received approval from Fish and Wildlife Service to be exempt from the matching fund provisions as applied to NMI, Guam and American Samoa as the fisheries are not separated as to recreational or commercial harbors.

Gaffney said he would be surprised if the funds could be used for other than the originating legislation's intention. Simonds pointed out that is why an exemption is being requested.

**The motion was passed, with no votes cast by Gaffney and Polhemus, Robinson abstained.**

Calvo read:

Direct staff to send a letter to the Governor of Guam to consider Dr. Paul Callaghan to serve as the principal State Official of Guam on the WCPFC and express strong disagreement with the manner in which the Micronesian Challenge has been implemented in the region and request clarification on this initiative;

Request that the registration of recreational fishermen should initially be conducted locally. However, federal funds be sought to contract out the development of the recreational register.

Also, to request that the proposed ecosystem permit process for marine reserves be fully implemented because of user conflicts involving jet ski operations, other watercraft, mechanical and nonmechanical, fishers, windsurfers, et cetera.

Request the contract and/or Qualified Certificate Program to specifically require all permit holders to maintain proper shoreline access, public notifications and adequate parking at all access points.

To reactivate the Recreational Water Use Management Plan.

The motion was moved by Sablan and seconded by Duenas.

**The motion was passed, three abstentions were cast by Polhemus, Gaffney and Robinson.**

Calvo read:

Direct staff to send a letter to request of the Department of Agriculture Division of Aquatic and Wildlife Resources to:

Follow up on its commitments to the Mayor of Malessso concerning the permitting activities in the Malessso MPA and to other municipalities on island.

Document traditional fishing practices, i.e., moon phases, weather, tides and currents, and to include those in their analyses of inshore and offshore creel survey data.

Convene a workshop to review information on studies to determine the effectiveness of Guam's MPAs with participation from agencies, fishermen and other members of the public.

Study the impact of nonfishing activities on water quality, fish populations, fish habitat and other resources within the MPAs.

The motion was moved by Sablan and seconded by Duenas.

**The motion was passed, three abstention votes were cast by Robinson, Polhemus and Gaffney.**

Calvo read:

Direct Island Coordinator for Guam to identify and provide to the Council at its next meeting the names of Government of Guam Agencies responsible for the planning and proper maintenance of public shoreline access, as well as agencies responsible for enforcing shoreline access permit compliance.

The motion was moved by Sablan and seconded by Duenas.

**The motion was passed, with abstention votes cast by Robinson, Polhemus and Gaffney.**

Calvo read:

Direct staff to send a letter to the U.S. Navy requesting that the Environmental Impact Statement that is being developed to address the military buildup on Guam includes scoping meetings in every Guam municipality to address the impacts of the increased military presence on Guam's fisheries and the fishing community.

The motion was moved by Sablan and seconded by Duenas.

**The motion was passed unanimously.**

Calvo read:

Direct staff to develop and conduct a forum or workshop to discuss fishery techniques, technology and marketing on Guam.

The motion was moved by Sablan and seconded by Duenas.

**The motion was passed unanimously.**

Calvo read:

Direct staff to work with local agencies and organizations to develop wide ranging education and outreach programs to be established for various user groups, fishermen, tour operators, beach-goers and the general public on programs, regulations, policies of government agencies and translated into various languages of the residents and visitors of Guam.

The motion was moved by Sablan and seconded by Dela Cruz.

**The motion was passed, three abstention votes were cast by Robinson, Polhemus and Gaffney.**

Calvo read:

Direct staff to include the topic on activities including, but not limited to, development and recreational activities that affect coastal fisheries, habitat and other resources in the Mariana Archipelago REAC agenda.

The motion was moved by Sablan and seconded by Duenas.

**The motion passed unanimously.**

Jack Ogumuro read:

Regarding the CNMI, the Council directs staff to raise with the Council Coordination Committee the issue of allowing the shark carcasses to be used as bait in normal fishing operations under the Shark Finning Act.

The motion was moved by Sablan and seconded by Dela Cruz.

Gaffney clarified they are only talking about one fisherman. Duenas replied in the affirmative.

**The motion was passed, two no votes were cast by Duerr and Gaffney.**

Ogumuro read:

Direct staff to send a letter requesting the CNMI Department of Land and Natural

Resources, Division of Fish and Wildlife to:

Adequately mark and maintain Fish Aggregation Devices to make them easy to locate for use by fishermen as well as for safe navigation.

Exempt the harvest of seasonal runs of rabbitfish from MPA regulations.

Develop and implement education outreach initiatives regarding local fishing and hunting regulations.

The motion was moved by Sablan and seconded by Dela Cruz.

**The motion was passed, abstention votes were cast by Duerr, Robinson, Polhemus and Gaffney.**

Ogumuro read:

Direct staff to send a letter requesting the Governor of CNMI to consider:

Holding forums with local fishermen regarding the Micronesian Challenge.

Requesting appropriate agencies to adequately monitor nearshore pollution and its impacts on coral reefs and fisheries.

Assign relevant CNMI agencies to work with farmers to manage irrigation runoff to better conserve the marine environment, especially fishery habitats, including coral reefs.

Support the newly-organized Fishermen's Cooperative to help assure its success.

Directing appropriate CNMI agencies to engage in more aggressive outreach to the public and fishing communities in particular, explaining relevant marine conservation measures and policies.

Task staff of relevant CNMI agencies, such as DLNR and/or the Department of Commerce to work with Council staff to develop and implement a local fishery management program appropriate to local conditions and consistent with applicable federal fishery's regulations.

The motion was moved by Sablan and seconded by Dela Cruz.

**The motion was passed, abstention votes were cast by Robinson, Polhemus and Gaffney.**

Ogumuro read:

Direct staff to coordinate a meeting with the CNMI Government, State Department, NMFS, PIRO and Luen Thai Fishing to initiate a discussion regarding foreign fishing under Pacific

Insular Area Fishing Agreement.

The motion was moved by Sablan and seconded by Dela Cruz.

Robinson asked if the CNMI Government and Luen Thai are in favor of this action. Dela Cruz replied in the affirmative.

**The motion was passed unanimously.**

Ogumuro read:

Direct staff to continue the Council education and outreach efforts and Community Development Program efforts to stimulate interest by young people in fishing and traditional methods, knowledge and to help educate Chamorros and Carolinians on the value of sustainable ecosystems to perpetuate the customs and the traditions.

The motion was moved by Sablan and seconded by Dela Cruz.

**The motion was passed, abstention votes were cast by Robinson and Polhemus.**

Ogumuro read:

Direct staff to provide assistance to the CNMI Government and the Tanapag Village on their proposals to allow traditional net methods on a seasonal basis.

The motion was moved by Sablan and seconded by Dela Cruz.

Gaffney commented:

"I think Fred brought this up earlier, and I'd like to repeat it now.

We have made a provision in the West Hawaii gill net rules to allow for the use of traditional nets, and we did that because we felt that it guaranteed that the knowledge, the kupuna's knowledge, for how to make traditional nets and how to use nets in traditional form would be perpetuated in the areas that we allowed. I'd be real comfortable with this one if we were talking about nets made of traditional materials.

But if it's just the use of nets and they're machine-made monofilament nets, then I think we're supporting the use of fishing equipment which has been proven to be detrimental in nearshore areas."

Duenas commented:

"I had an opportunity to visit the village and the village chief there and was the one that brought up this issue. I think they have a very good management regime set up in their village community, where nothing happens without the village chief or the elders involved

and I -- this use is just a request that the CNMI Government I think at one time banned the use of these nets, and they just want to apply it on a more traditional method.

Correct me if I'm wrong, Ben. This is your village."

Sablan commented:

"You're correct, Manny. What our village chief wants us to do is to meet with the government heads of the Government with Dr. Dela Cruz and Mr. Igisomar to communicate about our tradition and our culture. In harvesting fish, we do not use the traditional ropes and all that stuff today. But we wanted to practice -- we wanted to encourage our youngsters to do a lot of this fishing methods as we've done in the many, many hundreds of years. So we were asking again to meet with them and to allow us on a seasonal basis or have an open and closed season. The Chairman of the Tanapag Action Group came on this REAC meeting and then presented his case. We thought that was good for the Village of Tanapag.

Any questions? I'd be more than happy to answer."

Dela Cruz asked if another group should request the same privilege, will it need to be presented to the Council again. Sablan replied the motion is to direct staff, but the decision is made by himself and Igisomar.

Duenas further explained that within the REAC and the Advisory Panel, when it's raised as an issue it will be brought to the Council as an issue under the FEP.

**The motion was passed, abstention votes were cast by Duerr, Robinson, Polhemus and Gaffney.**

Ogumuro read:

Direct staff to continue efforts to record and document traditional fishing and ecosystem knowledge of the CNMI.

The motion was moved by Sablan and seconded by Dela Cruz.

**The motion was passed unanimously.**

DeMello read:

Number one, Council supports the development of a WPSAR-like process with the understanding that the Coordinator along with the committee members will have the option to send the stock assessment to the Center for Independent Experts for review and, along with the Council, will be able to set the Terms of Reference for that review.

The motion was moved by Sablan and seconded by Ebisui.

Robinson said he thinks the PIFSC should be involved in setting the Terms of Reference for the review.

Sablan accepted adding PIFSC to the motion.

**The motion was passed unanimously.**

DeMello read:

The Council recommends that the Social Science Committee convene to review the Social Science Indicators Workshop Report, identify key questions, indicators and data needs, and make recommendations for conducting surveys or other activities to obtain the information.

The motion was moved by Sablan and seconded by Duenas.

**The motion was passed unanimously.**

DeMello read:

The Council adopt an aquaculture policy as presented and recommends that it be incorporated into the SOPP.

The motion was moved by Sablan and seconded by Dela Cruz.

**The motion was passed unanimously.**

## **10. Administrative Matters and Budget**

### **10.A. Financial Reports**

### **10.B. Administrative Reports**

Simonds reported:

Documents 10.B.1 and 10.A were provided to Council members and should contact her if there are questions.

Dela Cruz asked who pays for the attendance of the Western and Central Pacific Fishery Commission meetings and other international meetings. Simonds replied that the Council has paid for all of the expenses of all members attending the meeting so far, but the obligation should be paid by the National Marine Fisheries Service now the U.S. is part of the Commission.

Robinson said he believes the participation of the Federal Commissioners, one of which would come from this Council, will be covered either by National Marine Fisheries Service or State Department funding.

Duerr asked what happens if there are commitments to pay, but the funds have not been provided. Simonds replied that had happened a few times in the past and the bank covered the obligations for six months.

Duenas applauded Simonds for all of her efforts to provide funds to cover the Council's projects and programs.

### **10.C. Meetings and Workshops**

Simonds reported:

The Council is slowly transitioning to having all of the Council's committees to meet together, noting in June the SSC is meeting one week before the Council meets. In late April, the Regional Archipelago Committee will be held in Honolulu.

Duenas asked if Dalzell will be attending the upcoming FFC Meeting. Simonds replied it has not been decided at this point, and the agenda will have to be reviewed before it is decided.

### **10.D. Council Family Changes**

Dalzell reported:

The CVs were provided to the Council members for Mark Nelson, who will become a plan team member and Molly Lutcavage, who will become a member of the Council's SSC.

Gaffney recommended Barbara Block as a candidate for SSC nomination, as she has a very similar background to Lutcavage. He offered to contact her to see if she has interest in the position. Gaffney also suggested Dr. Andrew West, a billfish specialist.

Chairman Martin said resumes could be sent to the Executive Director.

Brief break was taken

### **10.E. SOPP**

Mitsuyasu reported:

The National Marine Fisheries Service requested all of the Councils provide their SOPP to be standardized to provide an operating SOPP to councils that are consistent across the regions. The SOPP was provided to Headquarters in January. Mitsuyasu believes the SOPP item will be on the agenda for the May Council Chair and Executive Directors

Meeting.

### **10.F. Committee Assignments**

Chairman Martin offered the following changes per request:

Manny Duenas to the Marianas, Hawaii and American Samoa Standing Committee.

Removal of Ike Dela Cruz and add Rick Gaffney to the Program and Planning and Research Committee, to avoid exceeding the quorum requirement.

Removal of Rick Gaffney from the Enforcement and VMS Standing Committee, as Gaffney felt his time would be more useful somewhere else.

Gaffney apologize to Dela Cruz. Dela Cruz replied it was not a problem.

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

Chairman Martin reported:

The Standing Committee was presented information on the Council's Administrative Report, SOPP status, the new Rules of Conduct Circular issued by the Agency, introduction of new PIRO Representative Mark Nelson and SSC member changes.

Robinson proposed to the Council, if the Council was willing, for the NOAA Regional Administrator to participate as an ex officio member of each committee, which wouldn't count against the quorum.

Simonds said Robinson currently can participate in all committee meetings and make comments.

Simonds also raised the point that members need to pay closer attention to following quorum protocol so the meetings will be more productive.

Robinson said he is willing to act in any way the Council desires and is interested in all committees, but asked to be on the Pelagics Committee and to replace Gaffney on the VMS Committee.

Duenas asked for a legal opinion so as to avoid violating quorum requirements.

Feder commented:

"At a minimum, there's a danger it can be perceived that way. If a quorum of voting Council members, that is seven Council members or more are meeting together, it appears to be perhaps a full Council meeting, and that's how standing committees, for example, are

supposed to meet."

Chairman Martin made the following additions to the Standing Committee report, Simonds gave a brief talk on the Western Sustainable Fisheries Fund Program, in the Reauthorization, monies received from any source and fines that occur for violations within the U.S. EEZ of the Pacific Remote Island Area will be added to the fund, and Keiko Bonk provided public comment asking specific questions related to Council activities, which will be addressed, and a copy of the written testimony was provided to all Council members.

#### **10.H. Public Comment**

No public comment.

Duerr moved for the Council to enter closed session. Gaffney seconded the motion.

Ebisui asked to address the issue of rescinding previous Council action for closure of the bottomfish habitat in federal waters. Feder said it can be temporarily dealt with by delaying transmission to the Secretary. Simonds said the staff will not transmit the package.

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#### **Meeting continued in Closed Session for approximately 40 minutes**

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

DeMello read:

The Council recommends that Dr. Molly Lutcavage be appointed to the SSC.

The motion was moved by Chairman Martin and seconded by Sablan. **The motion was passed unanimously.**

DeMello read:

The Council recommends that Mr. Mark Nelson be appointed to the Pelagic Ecosystem Plan Team.

The motion was moved by Chairman Martin and seconded by Dela Cruz. **The motion was passed unanimously.**

DeMello read:

The Council directs staff to make the following changes to the Council family list:

- A, add Manny Duenas to the Marianas, Hawaii and American Samoa Standing Committees.
- B, remove Ignacio Dela Cruz from and add Rick Gaffney to the Program Planning and Research Standing Committee.
- C, remove Rick Gaffney from and add Bill Robinson to the Enforcement/VMS Standing Committee.

Chairman Martin moved the motion. The motion was seconded by Sablan. **The motion was passed unanimously.**

DeMello read:

The Council recommends Council meetings in Hawaii with issues of particular concern be held in the evenings to facilitate public participation.

Chairman Martin moved the motion. Duenas seconded the motion.

Chairman Martin voiced concern that some sectors of the public may feel disenfranchised if they feel their concerns are not addressed in evening sessions.

Duerr felt it is best to meet during daytime hours

Polhemus felt it seemed a bit subjective as to what 'particular concern' means.

Gaffney felt there are better ways to deal with ensuring public participation and was against the motion.

Duenas said the motion was as a result of the Fishers Forum where fishermen told him they were unable to attend the Council meeting because it was held during their work hours.

Duenas requested a role call vote.

**The vote was passed, Duenas, Harris, Ebisui, Robinson, Duerr, Sablan and Dela Cruz casting affirmative votes; Polhemus and Robinson voting no, Tulafono and Haleck abstaining, and Gaffney casting a kanalua vote; three abstentions, two no, seven yes.**

Dela Cruz asked for clarification if abstention votes are counted as a no. Duenas said abstentions are not a negative vote, but a nonvote.

Robinson asked for clarification of the phrase, particular concern, and the fact that the motion was not to regularly schedule Council meetings at night, but only as issues arise. Simonds replied in the affirmative.

Gaffney displayed a letter he drafted overnight with regard to the ethanol issue and the possible safety-of-life-at-sea issues as a result of the mandated use of ethanol use in gasoline at the boat docks all over the State of Hawaii and is deferring three other motions to amend.

Gaffney moved the motion. Tulafono seconded the motion. **The motion was passed unanimously.**

## **11. Other Business**

Simonds commented:

So I understand, Rick, that you are not going to bring up your three motions.

I just wanted to ask you, because this happened a whole year ago at a March meeting. We asked you that when you say that it has come to your attention that one or more persons on the Council staff have engaged in public verbal denigration, slanderous and maligning them and calling their character in to question, I, as the Head of the staff, would like to know who, when, what, how.

It's the same question that we asked you last year when you brought up -- when you said that we were lobbying. We asked you the same thing, and you did not come back with anything.

So I would appreciate it when you come back with this as your motion at the next meeting, that you provide those details. Thank you.

Gaffney replied he would be more than happy to sit down and discuss the subject directly with Simonds.

Duenas also requested the information on justification for incorporating the requested items into the SOPP.

Simonds thanked all for helping with the 30th Celebration.

**Meeting adjourned**