WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

MINUTES OF THE
141st MEETING of the WESTERN
PACIFIC REGIONAL FISHERY
MANAGEMENT COUNCIL

(held by teleconference)
1:00 PM (Honolulu time) April 14, 2008
Council Office
1164 Bishop Street, Suite 1400
Honolulu, HI 96813

Western Pacific Regional Fishery Management Council
1164 Bishop Street, Suite 1400
Honolulu, Hawaii

APPROVED BY COUNCIL: June 17th 2008

Sean C Martin

Sean Martin, Chair
Western Pacific Regional Fishery Management Council

1. Introductions 3
2. Approval of Agenda 3
3. Approval of 139th Minutes 4
4. Pelagics Fisheries Actions 5
a. Hawaii Swordfish Fishery Effort 5
b. Squid Permits 7
c. American Samoa Longline Program Modifications 8
d. CNMI Longline Exclusion Zone 12
4.e. American Samoa Purse Seine Exclusion Zone 13
4.H, Public Comment 17
i. Council Discussion and Action 18
1. Hawaii Swordfish Fishery Effort 18
2. Squid permits 20
4. American Samoa Longline Program Modifications 22
Longline Exclusion Zone around CNMI 30
Purse seine Exclusion Zones 32
5 Hawaii Bottomfish Fisheries Actions 35
a. MHI Bottomfish Risk Analysis 35
b. Public Hearing 36
c. Council Discussion and Action 36
6 Program Planning, Research, and Executive/Budget Actions 36
a. Annual Catch Limits 36
b. CDP regulatory amendment to allow future CDPs 38
c. Public Hearing 38
7. Other Business 40

1. Introductions

Mr. Martin opened the 141st meeting of the Western Pacific Regional Fisheries Management Council. Then introductions were done (by phone and those present inperson).

Sean Martin, Council member from Hawaii and I'll be chairing the meeting today.
Fred Duerr, Vice-Chairman, Hawaii.
Commander Mark Young, U.S. Coast Guard, Honolulu, Hawaii.
Bill Robinson, NOAA Fisheries, Pacific Islands Region, Hawaii.
Peter Young, at-large member from the State of Hawaii.
Eric Kingma, Council staff.
Kitty Simonds, the Executive Director.
Silas DeRoma, NOAA Office of General Counsel.
MR. MARTIN asked about other Council members from Hawaii who are in attendance via conference:
Rick Gaffney, Council member at-large, Hawaii.
Laura Thielen, Department of Land and Natural Resources.
Manny Duenas, Guam. Mr. Lamorena is not here yet.
John Calvo, present.
Jesse Rosario, AP member.
Jennifer Bauer, AP, Guam.
Ben Sablan, present.
Ike Dela Cruz, Council member, CNMI.
Jack Ogumuro, our on-site coordinator is present, Mr. Chairman.
Stephen Haleck, Vice-Chair and Council member from American Samoa.
Also in attendance is Council staff Fini Aitaoto.
Will Sword from American Samoa.
The Director Ray is not here in attendance, but he'll be here shortly.
Jarad Makaiau, Council staff.
Marcia Hamilton, Council staff.
Paul Dalzell, Council staff.
Tim Lee, Council staff.
Charles Ka'ai'ai, Council staff.
Sylvia Spalding, Council staff.
Kelly Finn, Council staff.
Joshua DeMello, Council staff.
Mike Tosatto, Fisheries.
Alvin Katekaru, Fisheries.
Mark Nelson, Fisheries.
Dan Polhemus, State of Hawaii.
Sam Pooley, Pacific Islands Fisheries Science Center.

2. Approval of Agenda

Mr. Sablan made a motion to approve the agenda. Mr. Haleck seconded the motion. Mr.

Martin explained that the items on the agenda today are only regulatory action items from the 140th agenda, and those are the ones that will be voted on today.

The other 140th recommendations which did not result in regulatory actions will not be revoted on today.

A role call vote was done.

MR. DUENAS: Yes.

MR. MARTIN: Tony Lamorena.

MR. DUENAS: Absent, Mr. Chairman.

MR. MARTIN: Thank you, Manny.

Ray Tulafono.

MR. TULAFONO: (No audible response).

MR. MARTIN: Stephen Haleck. Stephen, are you there?

MR. HALECK: Mr. Chairman, Mr. Ray Tulafono is here now.

Stephen Haleck votes yes.

MR. MARTIN: Ray Tulafono.

MR. TULAFONO: I vote yes.

MR. MARTIN: Will Sword.

MR. SWORD: Will Sword votes yes.

MR. MARTIN: Bill Robinson.

MR. ROBINSON: Yes.

MR. MARTIN: Peter Young.

MR. YOUNG: Yes.

MR. MARTIN: Laura Thielen.

MS. THIELEN: Yes.

MR. MARTIN: Fred Duerr.

MR. DUERR: Yes.

MR. MARTIN: Rick Gaffney.

MR. GAFFNEY: Yes.

MR. MARTIN: Ben Sablan.

MR. SABLAN: Ben Sablan votes yes.

MR. MARTIN: Dr. Dela Cruz.

MR. CRUZ: Ike Dela Cruz votes yes.

MR. MARTIN: The Chair votes yes.

Motion carries. The agenda is approved.

3. Approval of 139th Minutes

Mr. Sablan made a motion to approve the 139th minutes.

Mr. Stephen Haleck from American Samoa seconded the motion.

Call for the question.

Manny Duenas.

MR. DUENAS: Manny Duenas, yes, Mr. Chairman.

MR. MARTIN: Manny, would you let us know when Tony comes so we can include him in the voting?

MR. DUENAS: Yes, sir.

MR. MARTIN: Okay. Ray Tulafono.

MR. TULAFONO: Ray Tulafono voting yes.
MR. MARTIN: Stephen Haleck.
MR. HALECK: Stephen Haleck votes yes.
MR. MARTIN: Will Sword.
MR. SWORD: Yes.
MR. MARTIN: Bill Robinson.
MR. ROBINSON: Yes.
MR. MARTIN: Peter Young.
MR. YOUNG: Aye.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Yes.
MR. MARTIN: Fred Duerr.
MR. DUERR: Fred Duerr, yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Rick Gaffney, yes.
MR. MARTIN: Ben Sablan.
MR. SABLAN: Ben Sablan, maker of the motion, votes yes.
MR. MARTIN: Ike Dela Cruz.
MR. CRUZ: Ike Dela

4. Pelagics Fisheries Actions

a. Hawaii Swordfish Fishery Effort

Eric Kingma, Council staff, presented the purpose and need of the proposed action related to management modifications for the Hawaii-based shallow-set fishery, the alternatives considered, the environmental impacts of the alternatives, and the recommendations that were made at the 140th meeting.

Kingma stated that the purpose and need of this action is to provide increased opportunities for the fishery to sustainably harvest swordfish and other fish species while continuing to avoid jeopardizing the continued existence of threatened and endangered sea turtles, as well as other protected species. In addition, to further the purposes of the MSA by encouraging optimum yield from the fishery while minimizing bycatch and bycatch mortality to the extent practicable.

The alternatives considered in detail are related to three topics. The first topic looks at management of the fishery in terms of directly regulating fishing effort. Alternative 1a is no action, or the status quo, which is the 2,120 set limit that was implemented in 2004. Alternative 1b would allow 3,000 sets per year. Alternative 1c would allow 4,240 sets per year. Alternative 1d would allow 5,550 sets per year. Alternative 1e would allow 9,925 sets, which is roughly commensurate to the available catch that would achieve MSY. Alternative 1f would remove the current effort limit. Without an effort limit, the fishery would be basically managed on the annual the turtle hard caps.

Topic 2, Fishery Participation, looks at the Set Certificate Program that was also implemented in 2004 under the model fishery. Alternative 2a, no action, would continue the Set Certificate Program. Alternative 2b, would discontinue the Set Certificate Program.

Topic 3 looks at potential time/area closures. Alternative 3a would be no action,

do not implement time/area closures. Alternative 3b would implement a first quarter time/area closure between 17.5 and 18.5 Degree Celsius. Alternative 3c would implement first quarter time/area closure between 17.5 and 18.5 Degree Celsius if 75 percent of the sea turtle hard cap is reached.

For the impact analysis, Kingma referred Council members so the DSEIS/FMP Amendment 18 document in their briefing books. Kingma noted that for Topic 1 alternatives, the associated turtle hard caps per alternative were predicted using interaction rates multiplied by each effort limit. For Alternative 1f,remove effort limit, an appropriate range of hard caps were selected at the 140th meeting that scientifically could be viewed as acceptable under the ESA Biological Opinion Process.

Kingma presented information on the Susceptibility to Quasi-Extinction analysis conducted by PIFSC for loggerhead and leatherback sea turtles. For loggerheads, the fishery only interacts with the he North Pacific (Japan) loggerhead population. For leatherbacks, the fishery primarily (96%) interacts with the leatherback population of the Western Pacific, and minimally (4%) interacts with the Eastern Pacific leatherback population. In relation to the SQE analysis, Japan loggerheads appear to below the threshold level of 0.4. The Jamursba-Medi population of leatherbacks of the Western Pacific, which is in Indonesia, is currently assessed at the 0.62 level, above the 0.4 risk threshold level. The Jamursba-Medi population, is a major component of the larger leatherback metapopulation of the Western Pacific and represents the only long-term leatherback nesting beach information available for Western Pacific leatherbacks. The predicted interactions for each alternatives correspond to various adult female mortalities, which are then assessed against status of the population using nesting beach trends.

Kingma stated that for the preferred alternative, 1F, the Council selected hard caps of 46 loggerhead interactions and the 19 leatherback interactions. Taking into account several variables such as post-hooking mortality rates, sex ratios and adult vs juvenile interactions, 46 loggerhead interactions result in 2.71 adult female mortalities. Based on the SQE analysis, over 4 adult female mortalities would result in an SQE level of .33, which is below that sort of .4 sort of risk level of the SQE analysis for loggerheads. For leatherbacks, 19 leatherback interactions would result in 2.54 adult female mortalities. The SQE analysis indicates that 3 adult mortalities was shown to be statistically different than the baseline for the Jamursba-Medi population, which represents about half of the nesting females of the Western Pacific metapopulation.

Kingma presented impacts associated with Topic 2, fishery participation and the existing set certificate program. The primary impacts being on fishery participants as the Set Certificate Program has no impact on protected species interactions or target and nontarget species. There is a burden on fishery participants each year to apply for set certificates. There is a small market developed for set certificates, as they are freely transferable amongst the fleet. The set certificate program also represents an administrative burden as there is a need to track and administer the application process, as well as the burden on enforcement to verify if a set certificate was attached to the corresponding log sheet.

Kingma presented expected impacts associated with Topic 3, time/area closures. Based on the available information, the time/area closures identified under the alternatives would have very little impact on sea turtle populations as the fishery would still be managed under a hard cap that would be set to no jeopardize turtle populations. In

addition, the premise of the 17.5 degree and 18.5 degree Celsius temperature band was that in 2006, there was high fishing effort and high turtle interactions within at temperature band. However, in the first quarter of 2008, when interactions with loggerheads are highest, there have not been any loggerhead interactions to date and one leatherback interaction. The largest potential impact of the time/area closures that we looked at is related to enforcement, or the ability of the enforcement agency to enforce a time/area closure based on changing sea surface temperatures that change inter-annually and intra-annually throughout the year.

Kingma reviewed the major discussion points that occurred at the 140th meeting which included: the information associated with the proposed interaction hard caps and the pending SSC, Science Center, and PIRO review; the Endangered Species Act process on the Council's action and how it initiates a biological opinion; the Council's turtle conservation projects and their sort of application in an offsetting use; transferred effects of the domestic regulations in terms of protecting Pacific sea turtles; the potential effect of the action on Hawaii and California charter fisheries; vessel safety and increased effort in the North Pacific in areas where there is large seas and cold water and distant from the Coast Guard assets.

Kingma read the recommendations made by the Council at its 140th meeting. He also mentioned that the 141st Council action is on ongoing action, not final action, and that pending the outcome of the meeting, Council staff, working with PIRO, will revise and distribute the DSEIS/FMP Amendment for a for a 45-day comment period. The Council action will initiate an ESA Biological Opinion Process to be conducted by the Fishery Service. Council final action on these issues will occur at either the June or October meeting and that the Final SEIS/FMP Amendment and NMFS rulemaking process will follow.

MR. MARTIN: asked for questions regarding the presentation and hearing none, moved on Agenda Item 4.b, squid permits.

b. Squid Permits

Mr. Martin asked Council staff member Marcia Hamilton to present on the issue of squid permits. Hamilton drew the Council and public's attention to the draft amendment and noted that her presentation would be brief but more details were available in the document. The management objective has been on the table for some time: to establish appropriate monitoring and management mechanisms for the domestic harvest of Pacific pelagic squid. The immediate issue came from PIRO who informed Council staff that the High Seas Compliance Act is to be revised to require FMP permits prior to issuance of any high seas fishing permits. So those that were have expired will not be issued until NEPA, Marine Mammal Protection Act and Endangered Species Act analyses of the domestic high seas fisheries are all completed. In addition they will soon need to have an FMP permit before they can get their high seas permit and.

Hamilton presented the Council's previous recommendation which would have talked required reporting of U.S. EEZ catches and would apply to fishing only in the EEZ. But given the new anticipated changes to the High Seas Compliance Act, at the 140th meeting the Council considered a new Alternative 3a, which would include a permitting

requirement for vessels greater than 50 feet whether they fish on the high seas or in the EEZ waters. This way they would get that FMP permit that they need before they get their high seas permit. It would only apply to vessels greater than 50 feet because it seems unlikely that smaller vessels would be going out onto the high seas. The Council at its 140th meeting also requested NMFS to expedite the necessary analyses to reissue those High Seas Compliance Act permits.

Mr. Robinson stated that the preferred alternative from the 140th meeting needs a little tinkering to make sure that it has the right distinction between requirements of the High Seas Fisheries Compliance Act and any requirements that the FMP would impose upon fishing vessels greater than 50 feet fishing in our EEZ. In particular, the reference to vessels over 50 feet fishing for squid in the U.S. Pacific EEZ probably needs to be revised to Western Pacific EEZ, since this Council jurisdiction doesn't extend to the EEZ off of West Coast. NMFS will have to deal directly with the Pacific Fishery Management Council probably to close that loophole. He went o on to say that the other change that likely will be required is to strike where it says, vessels greater than 50 feet in length that fish for squid in the U.S., the words Western Pacific should be added because the federal permit would be to fish in the EEZ in the Western Pacific area, it wouldn't authorize fishing in federal waters. That would be authorized by the High Seas Fisheries Compliance Act. Robinson observed that this is little circular, because NMFS said they'd be looking for an FMP Magnuson Act permit in order to issue a High Seas Fisheries Compliance Act, but the authority to fish on the high seas comes from the High Seas Fisheries Compliance Act, not the permit that we would issue under the EEZ. So the words or high seas waters need to be struck as well.

Hearing no further questions from the Council members, Mr. Martin moved to the next agenda item.

c. American Samoa Longline Program Modifications

Jarad Makaiau, Council staff began by requesting participants to refer to document 4.C.1, which contains the description of the proposed action under the American Samoa Pelagic Longline Program Modification. He noted that he presented the history and purpose of the American Samoa longline limited entry program as well as the detailed provisions of the management system at the 140th Council meeting and therefore, will not go over it again in detail here.

He briefly summarized the background of the issues that were discussed during the development of the program in 2002. He noted that at that time, the Council identified approximately 138 individuals who had owned a longline vessel prior to March 21st, 2002 which is a date used in the permit eligibility criteria.

He said the Council identified ninety-three individuals who owned Class A size vessels, nine individuals who owned Class B size vessels, fifteen who owned Class C size vessels and 21 who owned Class D type vessels. He then noted that issues with implementation of program were presented at Council meetings starting at the 133rd Council meeting

when we were in American Samoa. It was noted that an issue was that less than 30 percent of the potential individuals who own Class A size permits actually applied and received it. He said this is important, because Class A and Class B, which are the smallest type vessels, are those that are owned primarily by indigenous American Samoans.

Referring back to the purpose of the program, he said one purpose was to provide an opportunity or continuing opportunity for indigenous Samoans to participate in their fisheries that occur around their islands.

He added that in looking at who had applied for and received permits, 56 percent of those individual who owned Class B vessels in actually received permits, 75 percent of Class C and all of -- 100 percent individuals who had owned vessels in the Class D size range were given permits.

When the permits were ultimately issued by the National Marine Fisheries Service, there were 22 permits in Class A, five permits in Class B, 12 permits in Class C and 21 permits in Class D, for a grand total of 60 permits. He noted that this was less than half the number the Council had anticipated would be the optimal level of participation in this fishery as it had identified 138 individuals who owned longline vessels vessel prior to March 21st, 2002.

Makaiau said a second issue was that less than 30 of the 60 existing permitholders are actually reporting landings -- or actually using their permits. Because the longline program has a use-it-or-lose-it requirement, many permit holders may stand to lose their permits if they do not to maintain minimum landings specified by the program. He added that based on the American Samoa DMWR data, it is primarily Class A and B permit holders who stand to lose their permits. He said these are primarily the indigenous Samoans.

He then pointed out that during the initial notice of permit availability was issued, some individuals actually applied for the permit but didn't get a permit because they had missed the deadline. He said that although they met the technical criteria in terms of making a landing, owning a vessel prior to the March 2000 date, they simply failed to get their permit application on time. He said that one of the purpose of the document presented here is also to consider reopening the longline permit application process using the existing established criteria.

He also noted that the document also examines elimination of the minimum landing requirements for all size vessel classes, and also modification of the existing large vessel -- pelagic vessel closed area.

Makaiau then provided a description of the alternatives to be considered for each of the issues. He noted that Council staff has lumped the issues pertaining to the permit application process and minimum landing requirements together because, essentially, they addressed the same issues in terms of opening the process again for either

individuals who were qualified that didn't apply, or those who did apply that didn't actually get a permit. He then read the alternatives:

Permit application process and minimum landing requirements

Alternative 1 would be the Council take no action. Under this alternative, the Council would not reopen the permit application process and would not remove the landing requirements.

Alternative 2 is a slight tweak. It would not reopen the permit application process, but it would remove the landing requirements.

Alternative 3 would reopen the permit application process, but would not remove the landing requirements.

Alternative 4 would consider both actions, reopen the permit application process and also remove the landing requirement.

Makaiau noted that at the 140th Council meeting Council did have some discussion about the purpose of what this proposed action was to do, in terms of reopening the permit application process. There was some clarification by Council members that the purpose of this was to give those that missed the deadline another opportunity to apply for an initial permit.

He also noted that it was also to determine what would be the optimal level of participation in the fishery. Again, there were 138 individuals who the Council identified as owning a longline permit. For some reason, a great majority of them simply did not apply.

He added that reasons why many individuals who may have been eligible but did not apply were given at the 133rd meeting, the 134th, the 135th. The reasons ranged from socioeconomic to changes in the canneries' policies on what it would accept as fish. He said there is a list of reasons in the document which describes those sort of issues that the American Samoa fishery is dealing with.

He said that following the discussion at the 140th meeting, the Council recommended the American Samoa longline permit process be reopened for one year for all vessel size classes currently authorized under the existing American Samoa longline limited entry program.

Makaiau then discussed the proposal to modify the large pelagic vessel area closures of 50 miles
He presented the alternatives that were described in the document.

Modification of the large pelagic vessel area closure

Alternative 1, the no action alternative would maintain the current 50 nautical mile closure for all pelagic fishing vessels greater than 50 feet.

Alternative 2 would modify the area closure to shrink it down to 25 nautical miles.

Alternative 3 would bring it even closer to 12 nautical miles.

Alternative 4 would suspend the 50 nautical mile closure completely.

He said there was no discussion on this at the 140th meeting, but the Council ultimately took no action and made no recommendations regarding modifying the area closure.

Sean Martin asked, for clarification sake that the Council is considering whether to reopen the American Samoa longline limited entry program permit process for a period of one year only to those who would qualify. In other words, it's not just an open access, it's for those who would qualify based on the program's permit criteria.

Makaiau answered in the affirmative. He said that the permit eligibility criteria for this program was published in the final rule on May 24th, 2005 and that the intent is to use exact criteria that were established at the initial implementation of the program.

Fred Duerr said that when the Council was in American Samoa, there were a lot of people disqualified because they didn't have their documentation, they didn't have ownership in a boat. He asked if it that was a pretty common problem down there? Do they sell a boat and they don't get registered?

Makaiau said that the program rules require that first you had to have documented participation in the fishery. He also said that if an individual was able to provide that documentation to National Marine Fisheries Service documented participation they also had an additional hurdle. Within 120 days after NMFS recognized that documentation, and issued a permit, individuals had to register that permit with a vessel. He said that there were some individuals that were not able to get a vessel within that 120 or so days, and that's another reason why people didn't get permits.

Bill Robinson added that Mr. Gaffney asked him to look after the last meeting at how many folks might be affected in terms of the applications that we received and the appeals and the final decisions on the appeals. He said that NMFS basically turned down about seven applications for missing the deadline. But of those seven that we turned down, there were three or four that would not have qualified because they did not have the documented minimum landing qualification met. So there were perhaps two, maybe three, that were simply late but did meet the minimum landing qualifications.

Martin asked if there were any comments from other island areas. Hearing none, he moved onto Agenda Item 4.d,

d. CNMI Longline Exclusion Zone

Ms. Finn presented a brief overview of the Mariana Archipelago Potential CNMI Longline Exclusion Zone presentation that I made at the 140th Council meeting. The document is on the back table. For the Council members, it is 4.D.1. This is final action.

A longline fishery developing around the CNMI, and most of the reefs and banks where the small boat troll fleet fishes are within about 30 nautical miles of shore and there have been concerns expressed about potential gear conflicts, local stock depletion and catch competition between the trollers and longline vessels. Skipjack, yellowfin, marlins, wahoo, mahi and other Pelagic Management Unit Species are both culturally valued and economically important to the people of CNMI, including the troll and the charter or sport fishermen. In prior times the Council has established longline exclusion zones around Hawaii, American Samoa and Guam to avoid these similar impacts.

The objective is to appropriately balance the needs and concerns of CNMI's small and locally-based fishing fleet with the development of larger scale domestic longline or purse seine fisheries in the Marianas.

We analyzed six different alternatives, ranging from no action, up to a 100 nautical mile exclusion zone. The preferred alternative, which you can see in yellow, is a 30 nautical mile exclusion zone. When I presented this at the 140th Council meeting, we had quite a few discussions. The main points that were discussed was there was some discussion about choosing a 50 nautical mile to be consistent with Guam. Also, it was brought up that a 30 nautical mile zone may be too small to avoid longline gear drifting into the small boat fishing area and that there should be some sort of buffer zone.

There was also concern expressed about protecting the seamount habitat, which is all around the Marianas, extending all of the way to Japan, actually.

There were public scoping meetings held. The participants at these meetings, which were primarily the fishing community, preferred a 25 nautical mile closure.

Although, when this was presented at the public scoping meeting, there was not a 30 nautical mile alternative. That was added after the SSC discussed this at I believe the 96th.

Then the high price of fuel was also discussed for a lot of our actions because it will affect how far people are willing to travel to fish. At the 140th meeting, the action which was taken was that the Council adopt the SSC's recommendation of Alternative 1c, which would establish a 30 nautical mile longline exclusion zone for the CNMI EEZ.

They also took initial action to establish a control date of March 20th, 2008 with final action expected at the June meeting. This control date may be used in the future to limit further entry of longline vessels to fish around the U.S. EEZ waters surrounding the CNMI. That ended the presentation and opened up the floor for questions.

Mr. Sablan stated he didn't know whether the seamounts are protected, just like all of the islands in the CNMI out to 30 nautical miles. I think we have a concern on the seamounts in the CNMI, and that's why I ask the question, whether this exclusion zone would also be implemented for every seamount that's located here in the CNMI.

Ms. Finn responded that is currently not a part of the preferred alternative.

It was discussed, but a motion was not made to include that at the 140th Council

meeting.

Mr. Martin said he thought it would be somewhat complicated because you'd have to identify what really is a seamount as well. But I don't think that we addressed it in our 140th discussion.

Ms. Finn added that from what she knew about the public meetings and the rest of the process, the 30 mile was chosen because it includes the majority of the seamounts where the small boat fleet fishes. I don't think they're going much father than that offshore because of the high price of fuel and just because of the nature of the waters. So it is possible that the longliners would be farther out than that in the area of the other seamounts. But at this time, it's not included in the preferred alternative.

Mr. Martin had one question maybe for Mr. DeRoma, as well.

We have control date of March 20th, that was the date that we took action in CNMI, and I'm not sure that that control date would stick if the Council chooses to move this forward. I would like Silas to comment on that.

Mr. Deroma responded that the control date should be taken up as a separate action, outside of the 140th meeting. So he agreed, that the Council should revisit that. If the Council wishes to set the control date for fishing around CNMI, they should do so in a separate meeting. Setting a control date in the 140th meeting would not be valid, most likely.

4.e. American Samoa Purse Seine Exclusion Zone

Ms. Finn gave the next three presentations combined into one about the purse seine exclusion zone. So this is going to include the Marianas and American Samoa. This is also final action.

It is Document 4.E.1 for the Council members. There are copies on the back table for any of the public.

The background of this action is that there are currently closed areas around American Samoa to vessels over 50 feet in length, and Guam has a 50 mile closure for longline vessels, which were established in the past. But there are still concerns about localized stock depletion and catch competition between local vessels and purse seiners. The purse seine and the troll fleets are both targeting the skipjack tuna.

Just in the past year the purse seine fleet has increased, which is -- from about 15 vessels to 26 this year, and it is expected to continue, which is a rebuilding. It has been bigger in the past. But it has also decreased down to I believe 11 vessels at one point. So it's a rebuilding process. There is expected to be maybe up to ten new vessels in the next couple of years. Purse seine vessels have very large capacity, especially when compared to longline or trollers. They have the potential to impact local catch rates for skipjack, yellowfin and other Pelagic Management Unit Species, which are important to the small fleets.

In 2006, the highest skipjack catch on record occurred in the Western and Central Pacific, 85 percent of the catch, which was 1.3 million metric tons, was caught by the purse seine fleet. American Samoa and Guam both have small EEZs, and the Marianas, as has already been mentioned, has seamount habitat which extends far offshore which could potentially be impacted by purse seine fishing.

The objective is to appropriately balance the needs and concerns of the small local-based fishing fleets with the development of larger-scale domestic longline or purse seine fisheries in the Marianas and American Samoa.

So there are three areas under consideration, which is:

A purse seine exclusion zone around CNMI.

Number 2 is Guam.

Number 3, around American Samoa.

There were four alternatives considered for both CNMI and Guam.

The fourth alternative, which is in yellow, is for the entire EEZ to be closed off to purse seine fishing. This is the preferred alternative for both CNMI and Guam.

For American Samoa, there were three alternatives considered, ranging from:

The no action.

The entire EEZ.

And the preferred alternative for American Samoa is to prohibit purse seine fishing within 75 nautical miles around American Samoa.

When I presented these at the 140th Council meeting there quite a bit of discussion about many different topics. But I've put up here the main points that were made during our discussions.

It started without with the representative from NMFS agreeing with the objective of this actin, but that there were some reservations about closing the entire EEZ to another U.S. fishery.

There was quite a bit of discussion about the use of best available science, which is what we base all our decisions on because of the fact that there are limited studies that can show direct impacts to catch rates from purse seining.

And I've talked to a lot of the top scientists about this, and it's a complicated thing to draw a direct connection between these two things because of the vastness of the Pacific Ocean and all of the possible other causes.

There was also talk about fishermen's observations, notably of reduced catches as purse seine catches have increased. There was a lot of discussion that this should be considered best available science, because this is what is happening on the ground at the time and the fishermen are the first ones to notice these sorts of things.

Also, this was discussion about in the absence of conclusive proof of an impact of an ongoing activity that it would be best to err on the side of the resource and to take a precautionary approach.

There was also concern raised about protecting the seamount habitat surrounding the Marianas, as we've already heard about.

Also, there was a lot of discussion about overcapacity in the entire purse seine fleet in the Western and Central Pacific Ocean, including the rebuilding of the U.S. fleet.

There was also discussion about when you talk about capacity and overcapacity, the need to not only look at the fleet size but also vessel capacity. Because this has increased greatly in the past decade or so. So there can be fewer vessels, but taking more fish

Actually, from 1988 to 2003 the number of vessels increased by about 40 percent, while the capacity has increased 67 percent.

Finally, there were discussions about bycatch in the purse seine fishery. Because there is a high amount of discards, including skipjack, for different reasons, too small or

not top quality, also discards of other species that are important to the troll fleet, both culturally and economically.

So action was taken on the 140th. I will just read through this verbatim.

The Council decided to adopt Alternative 2d, which would prohibit purse seine fishing throughout the entire EEZ surrounding the CNMI.

The Council is concerned that the revitalization of the U.S. purse seine fleet, combined with the likely constraints in purse seine fishing effort in the Western and Central Pacific may lead to increased interest by U.S. purse seine vessels to fish in the U.S. EEZ surrounding the entire Mariana Archipelago.

Further, it is likely that the new vessels in the U.S. purse seine fleet will be based primarily in the far western region, in Micronesia.

The Council also took action to adopt Alternative 3d, Draft Amendment 17 to the Pelagic Fisheries Management Plan, which would prohibit all vessels from pelagic purse seine fishing within all EEZ waters around Guam.

And finally, due to the potential for local depletion and catch competition, as well as for damage or depletion on seamounts that are known to aggregate juvenile bigeye and yellowfin tuna and other pelagic species, the Council recommends that purse seine fishing be prohibited within the EEZ waters 75 nautical miles from shore around American Samoa.

That is the end of my presentation.

But I wanted to mention Item 4.E.2, which is one comment letter we've received since the 140th Council meeting. It should be on the back table, and also in the Council briefing books.

It's from the American Tuna Boat Association.

We had a prior letter from them before the 140th meeting expressing their nonsupport of closing the EEZ waters to purse seine fishing.

This current letter expresses pretty much the same point of view. They made a couple of different points that they are not currently planning on fishing around CNMI and Guam, is one of their points.

They also make a point that tuna are highly migratory species.

Other than that, the points that they made were pretty much similar to their first letter. I believe that most of the points they made are -- were brought up in this presentation during the discussion section, that the increase in skipjack landings over time and the year 2006 was the highest level of skipjack catch on record.

We also have several studies, Hampton, et al., 1996, which does show a correlation between purse seine fishing and artisanal fleet catches.

That ends the presentation.

Mr. Martin called for questions and made an observation. In CNMI when this was on the agenda and we had discussion we were talking about the American tuna fleet, in particular, the purse seine fleet. Since that meeting, he's spent some time with those folks. What he understands is that the fleet expansion that the U.S. fleet is experiencing currently, we had discussion about the size of the vessels, the models and how they were going to work. What I know is that these are 1200-ton vessels. So they're full scale, not small-scale longline boats. In the case of the U.S. fleet, they all operate with helicopters. Quite efficient.

And that the fleet rebuilding, if you will, is nearly complete. I believe what they said is by the end of June the U.S. fleet will be back up to the level that they expect to operate at in the near future. So those are just some things that have kind of come to light since the previous meeting.

MR. ROBINSON asked if there was any historical record of U.S. purse seine landings from either of the EEZs of Guam or CNMI.

MS. FINN responded not in the EEZ waters, but right outside of it. I have just recently been given those numbers that I will add to the document.

Mr.Sword made a comment that over the weekend, talking to some people doing fueling and (inaudible) in American Samoa, our purse seiners fully intend to do refueling at sea, which is kind of an environmental concern.

Mr. Duenas added that regarding any U.S. records of landings, he didn't believe there is any requirement for purse seiner landing in the U.S. EEZ. I thought there may be on the high seas, or other areas. But he didn't believe there's any documentation because there is no landing requirement -- documentation requirement.

MR. DUENAS wanted to know if there's any documentation for any harvest within the EEZ. I think the Council is the only one responsible for any type of documentation of any harvest within the EEZ. So a U.S. seiner can fish within the EEZ, but he's not required to document anything, I think.

MR. MARTIN: So I think what you're saying is -- or asking is, are there any reporting requirements for U.S. vessels while operating within U.S. EEZs, is that correct, Manny?

Mr. Robinson said that the South Pacific Tuna Treaty, which provides access to the U.S. tuna fleet to the EEZ of the other countries requires U.S. purse seiners to report their catch wherever it occurs.

Mr. Duenas also has some issues on purse seine landings or catch ratios. He found out that that are more marlin caught on purse seine set on FADs. And there are also more striped marlin caught on seamounts set or on free-schools set. So there is an impact on those two pelagic fisheries that we are very concerned about, especially with the local industries. Also, he reported there was a purse seiner operating out of Guam. It showed on You-Tube that showed a helicopter taking off and landing. It showed Guam in the background as it's going out to see. You know, we don't know why this helicopter should be taking off within Guam's EEZ, that's a major concern of ours. Also, there's a recent purse seine interest that was raised to me on Guam by an attorney, he visited me Saturday morning. They are looking at a Korean-based purse seine fleet to be established on Guam by a local U.S. citizen. He wanted to let people know there is an interest out here.

Regardless of what the head of the purse seine industry says. There are a lot of purse seine vessels out here and they're very interested in operating out of Guam. I don't think -- now that we have Don Juan Industries (phonetic) moving to Pohnpei for the last two years, our skipjack tuna have come back. Pohnpei is 1,000 miles away. So it's not affecting our fishery and now we're recovering. But once these other purse seiners come in, we're concerned about that also.

MR. Sablan, CNMI, echoed the same concern with Mr. Duenas. If there's an interest for purse seiners to operate out of Guam, most definitely there will be interest,

especially for the humongous size of the EEZ surrounding the CNMI, would be a very good way of expressing it in this way. Because if Guam is a target area, very likely the CNMI would be involved.

Mr. Haleck said there has been a positive response from our local fishermen here in American Samoa concerning a couple of issues that the Council is looking at now for our EEZ. This is one of them, the 75 nautical miles for purse seining. We share the same concern as presented by Kelly this morning, concerning the reduced catches by our local-based smaller vessels compared to the high catches the purse seiners are getting. Also, response from some of our legislators, our senators and representatives here concerning the additional purse seiners that will be utilizing our EEZ come the end of this year -- or within the next three years, the fact that they'll be utilizing all of our resource within our EEZ but they won't be able to contribute to our economy as far as refueling and resupplying here in American Samoa. That decreases the benefits for us here for our economy. But as far as the work that the Council is doing, they are very happy, not only with this but also with the agenda item that was discussed already concerning the American Samoa longline program modification, opening up the permitting system again. That will allow our local people the opportunity to once again apply for permits to fish within our EEZ. So it's a positive response from our local fishermen, of course.

But then we have a concern there with the purse seiners, because our Senator in the legislature, even our Governor, was not notified and no interests were addressed to hear from American Samoa concerning these additional purse seiners that will be fishing in American Samoa.

4.H, Public Comment.

At this time we're accepting public comment on issues related to all Pelagic Fishery Action Items. We'll start with American Samoa. Do you have public comment participation in American Samoa?

MR. HALECK: Mr. Chairman, none from American Samoa.

MR. MARTIN: Thank you, Steve.

From Guam? Hearing none from Guam.

From CNMI, any public comments or questions?

MR. SABLAN: Mr. Chairman, Ben Sablan.

No comments from CNMI. No public comment.

MR. MARTIN: Thank you, Been.

From Hawaii, public comment?

(Inaudible comment on telephone)

MR. MARTIN: Hi, Paul.

Hearing none.

Any public comment from any other regions -- or participants from any other region who might be participating in the Council meeting today?

MR.Krampe: This is Paul Krampe with the American Tuna Boat Association.

"Thanks for giving me a chance to make a couple of comments. You know, I can understand, it's natural to any fisherman in the world if they had their choice to say, I don't want another fisherman anywhere near. That's a natural thought. One of the things, though, I ask you to keep in mind, that if you start out saying you're concerned primarily

about skipjack catch. Skipjack are a highly migratory species. They move through the area. It's not like a bottomfish, that if a boat did see some fish and if they caught it, that they're going to be damaging the stocks in the area. Probably more importantly is the historical precedent -- or the lack of a historical precedent for our fleets coming in and taking all of your fish. Our fleet has been far larger than it is now and it has been very sophisticated and we have never been a problem even when the boats were based in the Northern Marianas, in Tinian. So you know, I'm sorry, but I think it's a bit of a paranoia, the concern or fear for something that might happen when there is really no evidence to say that it's going to happen or it's happened in the past. I just ask to you keep some of those points in consideration. It's just -- there's just no reason to think that our fleet -- it's no bigger, it's smaller than it was in the past, it wasn't a problem. There's no real valid reason to think we would be a problem in the future".

"On the helicopter in Guam, it's a small thing. But, first of all, our fleet that has had helicopters for many years. Helicopters (inaudible).

I'm not real close to the operation, but my understanding was that possibly somebody was just taking delivery of a helicopter or dropping it off for (inaudible) and it was not in any way a part of the fishing operation at that time. Thank you".

i. Council Discussion and Action

1. Hawaii Swordfish Fishery Effort

Mr. Duenas stated that based on the voting record from the 140th (unofficial) meeting, that he would to group the recommendations for the sake of expedience.

Mr. Duenas offered 1A, 1B, and 1C in the form of a motion.

Mr. Haleck and Mr. Duerr seconded the motion.

Mr. Martin asked Eric Kingma to read the motion for the benefit of those who may not have access to the screen. Kingma read aloud recommendations 1A, 1B, and 1C.

Mr. Kingma read aloud the motion on items 1A, 1B, and 1C.

Mr. Martin asked if all Council members clear on the motion? He stated that, it is the Chair's choice to recuse himself from this vote, but for convenience, that he would conduct the vote. Martin called for any further discussion for Council action. Hearing none, he called for the question.

All Council members voted yes, with Chairman Martin recusing himself. Motion carried.

Mr. Duenas stated that based on the voting record from the previous meeting, where there was not a unanimous vote, that he would separate the motion. Mr. Duenas offered 1D and 1E together in terms of a motion.

Mr. Kingma read recommendations 1D and 1E.

Mr. Martin asked for Council discussion on the motion and stated that to be clear the Council is voting on both 1D and 1E. He called for the question.

All Council members voted yes, the motion passed.

Mr. Duenas offered 1F in terms of a motion.

Mr. Haleck seconded the motion.

Mr. Martin asked for discussion on the motion.

Mr. Young stated that for the same reasons as when we were initially voting on this, that he is going to vote against it because he does not believe it's appropriate to lift the cap at this time on the number of sets.

Mr. Martin called for further discussion. Martin stated that he would be recusing himself from this vote. Hearing no further discussion, he called for the question.

All Council members other than Lamoreana and Young voted yes. Lamoreana and Young voted no. Motion carried.

Mr. Duenas offered item 1G in the form of a motion.

Mr. Haleck seconded the motion.

Mr. Martin called for discussion on the motion.

Mr. Young stated that as discussed in the last Council meeting, he thinks it is inappropriate for us to increase the interactions with turtles and to say that that's a good thing, and that by passing this motion he thinks that we're expressing that it's okay for us to have more interactions with endangered or potentially endangered species. He said that at the prior meeting there was discussion on the amount of information that we have, and that this is talking about the best available information, but it was the information that was presented at that Council meeting and not necessarily any other studies about interactions with turtles. He stated that for those reasons, he would vote no.

Ms. Thielen stated that she recognizes the efforts that Council staff has put in to their research, but similar to Peter Young, she would be voting no because she feels that before she can support the increased numbers that had been put forward in this motion, that she would like to see additional information and comment from other organizations and studies.

Mr. Duenas stated that he supports this motion, because it's going to require a new biological opinion and a new study done on our swordfish fishery and the turtle hard caps. He stated that these numbers are the best available science and that the scientists can actually review this document and working on getting us new numbers and giving us the facts. He stated that he thinks the fishery, itself, has done an excellent job in the efforts of conservation and I think we should applaud them and we should support them.

Mr. Martin stated that he too believes this motion is based upon the best scientific information available and has actually evolved over a couple of years of discussion through various agencies and the Council's SSC. He said that as Mr. Duenas pointed out, this action will result in a new evaluation of the fishery and the evaluation has to be based upon something and the best available science indicating that the numbers in this recommendation would not result in a jeopardy opinion in the biological opinion.

Mr. Duenas clarified that this is not the Council's final decision on this matter and that the Council will have to revisit the numbers after additional scientific analysis is conducted.

Mr. Kingma read aloud the motion on item 1G.

Mr. Martin asked if Council members were clear on the motion.

Mr. Young stated that he is concerned with the statement of the statement of best available science. He further stated that he appreciate the Chair's recusal from voting on the matters, but that it would also be helpful, recognizing the Chair's involvement with an industry that this regulation regulates, that sometimes he gets a feeling like the Chair is trying to convince us to vote a certain way. He said that that if the Chair is recusing, it would be helpful if the Chair does not try to do that.

Mr. Martin stated that his recusal is voluntary and was not at the recommendation of General Counsel.

Mr. Duenas asked if the Chairman's statement was out of order. He also asked if the Chairman should recuse himself completely from discussion.

Mr. Deroma stated that the Council member may or can be recused, but is also free to participate in the deliberation on the vote before the Council.

Mr. Martin hearing no further discussion called for the question.

All Council members voted yes, except Lamorena, Robinson, Young, Thielen, and Gaffney. Lamorena, Young, Thielen, and Gaffney voted no. Robinson abstained. Motion passed.

Mr. Duenas offered item 1H in the form of a motion.

Mr. Haleck seconded the motion.

Mr. Kingma read aloud the motion on item 1H.

Mr. Martin asked for discussion on the motion. Hearing none, he called for the question.

All Council members voted yes, except Chairman Martin who recused himself. The motion passed.

Mr. Duenas offered item 1I in the form of a motion.

Mr. Haleck seconded the motion.

Mr. Kingma read aloud the motion.

Mr. Martin asked for discussion.

Mr. Young stated that he had abstained on this vote at the prior meeting, and that not that he didn't appreciate the effort of the industry in reducing interactions, but that he is uncomfortable about voting about discussion of a credit at this time.

Ms. Thielen commented that at the prior meeting, the Council added the words, as appropriate, to this item and that she feels that the caution there was that the credit would only be evaluated as appropriate or applied as appropriate. She stated that for this reason she will be supporting the motion.

Mr. Martin hearing no additional comments called for the question on the motion.

All Council members voted yes, except Young and Robinson, who both abstained. Chairman Martin recused himself from the vote. Motion carried.

Mr. Duenas offered item 1J in the form of a motion.

Mr. Haleck seconded them motion.

Mr. Kingma read aloud the motion on 1J.

Mr. Martin asked for discussion on the motion. Hearing none, he called for the question.

All Council members voted yes, except Robinson, who abstained. Chairman Martin recused himself from the vote. Motion carried.

2. Squid permits

The Council's discussion and action on squid permits began with a motion by Mr. Duenas to recommend that domestic harvest of the Pacific pelagic species Ommastrephis bartramii, Thysanoteuthis rhombus and Stenoteuthis oualaniensis, be included a Pelagic Management Unit Species, and that the High Seas Fisheries Compliance Act logbooks currently used be replaced with logbooks specifically designed

for squid fishing. In addition to recommend that U.S. vessels greater than 50 feet in length overall that fish for pelagic squid in U.S. Pacific EEZ or high seas waters be required to:

A, obtain federal permits under the Pelagic Fishery Management Plan;

B, carry observers if requested by NMFS;

C, report their high seas catch and effort using the revised High Seas Fisheries Compliance Act logbooks;

D, report any U.S. Pacific EEZ pelagic squid catch and effort either in federal Pelagic Fishery Management Plan logbooks or via existing local reporting systems.

The Council further recommends that the resultant Pacific pelagic squid fishery information be centralized in a database easily available to resource scientists and managers. The Council directs staff to finalize the Draft Squid Amendment, including its Environmental Assessment, with the above preferred alternative and transmit it to NMFS for approval and implementation. The motion was seconded by Mr. Haleck.

Mr. Robinson moved to amend the motion to add "Western" between U.S. and Pacific, so that it refers to the Western Pacific rather than the Pacific EEZ, that corresponds with the authority and jurisdiction of this Council. Also to strike, "or high seas waters". He repeated that any vessel fishing only in the high seas and not in the EEZ would have to a High Seas Fisheries Compliance Act permit but he doesn't believe that this Council can require a vessel that's not going to fish in the EEZ here to get an EEZ permit. Mr. Duenas accepted this as a friendly amendment to his motion.

Ms.Simonds asked Mr. Robinson if his changes would follow the approach taken in the FMP for other permits as they have to report and carry observers, and all those kinds of things wherever they fish, not just in the EEZ. Mr. Robinson responded that he believes it to be consistent.

Mr. Duenas suggested that the Council should require permitted squid vessels to report their catch wherever they fish. Mr. Robinson clarified that if there is a permit being issued to fish within the EEZ, the Council may require the vessel to report its catch wherever it occurs.

Hamilton noted that the revised wording does not exactly mirror that used for other pelagic FMP permits. For example, longline squid vessels would report their high seas catch and effort only in the high seas logbook while longline vessels to report in their FMP logbook. Second, the purpose of this action was address upcoming revisions to the High Seas Fisheries Compliance Act was that would require an FMP permit to get a high seas permit. So taking out the application to folks fishing on the high seas doesn't seem to close that loophole for people who only fish on the high seas. Mr. Robinson responded that it would partially, but not totally, close the loophole.

Mr. Duenas asked whether it would address the Executive Director's concern; if these boats exit the EEZ, would there still be a reporting requirement from our Pelagics Plan? Mr. Robinson acknowledged that the reporting requirement for high seas fishing would be in a high seas logbook, not an FMP logbook as required for the longline fishery.

Mr. Martin asked Hamilton to read the motion as modified by Mr. Robinson's friendly amendment as follows: Recommend that the domestic harvest of the three Pacific pelagic species of squid be included as Pelagic Management Unit Species and the high seas logbooks currently used be replaced with logbooks specifically designed for squid fishing. The Council also recommends that U.S. vessels greater than 50 feet in length overall that fish for pelagic squid in U.S. Western Pacific EEZ waters be required to obtain federal permits under the Pelagic Fishery Management Plan, carry observers if requested by NMFS, report their high seas catch and effort using the revised high seas logbooks, report any U.S. Western Pacific EEZ pelagic squid catch and effort either in the federal -- in the Pelagics FMP logbooks or via existing local reporting systems. There were no changes to the last paragraph about centralizing the information and putting together the amendment.

The Council unanimously approved the amendment and returned to the main motion. Mr. Duenas moved to amend the motion to as follows: ...report their high seas catch and effort using the FMP logbooks rather than the High Seas Fisheries Compliance Act, which of course they will have to do under the High Seas Fisheries Compliance Act, that's a given. But that they will report as longline vessels do, using the FMP logbooks. Mr. Robinson noted the necessity of continued reporting in high seas logbooks but stated that the double reporting may not be a bad thing.

Ms. Simonds asked Mr. Robinson whether NFMS had finished an an approved high seas compliance act reporting form for squid yet. Mr. Robinson responded that PIRO is working with Headquarters to revise the current logbook to add a squid component to it. Ms. Simonds noted that this has been going on for several years and at least the fishermen would use the FMP logbooks until such time as NMFS completes their forms.

Hearing no further discussion Mr. Martin called for the question on Mr. Duenas' amendment to the motion. The Council unanimously approved the amendment and returned to the main motion.

Hearing no further discussion Mr. Martin called for the question on the amended main motion. The Council unanimously approved the motion.

4. American Samoa Longline Program Modifications

Manny Duenas offered the motion recommending the American Samoa longline permit process be reopened for one year for all vessel size classes currently authorized under the existing American Samoa longline limited entry program.

The motion was seconded by Steven Haleck.

The motion was re-read by Marcia Hamilton

Haleck said that this will provide the American Samoan people the opportunity to once

again apply for permits to participate within our fisheries here in American Samoa.

Laura Theilen wanted to confirm again that this is a reopening for one year only for those who were authorized under that limited entry program.

Martin responded that was correct, it is just for those who can meet the criteria that was established when the initial regulatory action was taken. Mr. Martin then called for the question.

MR. DUENAS: Yes.
MR. MARTIN: Tony Lamorena.
MR. LAMORENA: Yes.
MR. MARTIN: Ray Tulafono.
MR. TULAFONO: Yes.
MR. MARTIN: Stephen Haleck.
MR. HALECK: Yes.
MR. MARTIN: Will Sword.
MR. SWORD: Yes.
MR. MARTIN: Bill Robinson.
MR. ROBINSON: Yes.
MR. MARTIN: Peter Young.
MR. YOUNG: No.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Yes.
MR. MARTIN: Fred Duerr.
MR. DUERR: Yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Yes.
MR. MARTIN: Ben Sablan.
MR. SABLAN: Yes, Mr. Chairman.
MR. MARTIN: Ike Dela Cruz.
MR. DELA CRUZ: Yes.
MR. MARTIN: The Chair votes yes.
Motion carries.

Peter Young noted that it was he not Rick Gaffney who asked Bill Robinson for a list of the people that didn't get their applications in on time. He said he wanted to find out why are the Council is potentially making a rule change to allow someone who happened to miss a deadline.
He said it turns out that there were seven individuals that did not make the deadline and one of them could possibly be a Council member. So I raised a question about that.

Duenas called for a point of order noting that this is not a discussion period.

Tulafono agreed.

Theilen said that as a person who just voted yes on the prior motion, she would like to make a motion to reopen a discussion on that so that we can hear information. It should have been brought forward during the discussion period on the prior motion, but I think it is important that we have a full discussion on these matters.

Young seconded the motion.

Martin called for the question.

Sablan asked if the motion to open the discussion was approved, does that mean the Council is going to revote on the motion again.

Martin responded that it may. He again called for the question to reopen discussion.

MR. DUENAS: Yes.
MR. MARTIN: Tony Lamorena.
MR. LAMORENA: Yes.
MR. MARTIN: Ray Tulafono.
MR. TULAFONO: Yes.
MR. MARTIN: Stephen Haleck.
MR. HALECK: Yes.
MR. MARTIN: Will Sword.
MR. SWORD: Yes.
MR. MARTIN: Bill Robinson.
MR. ROBINSON: Yes.
MR. MARTIN: Peter Young.
MR. YOUNG: Yes.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Yes, and thank you.
MR. MARTIN: Thank you. Fred Duerr.
MR. DUERR: Yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Yes.
MR. MARTIN: Ben Sablan.
MR. SABLAN: Yes.
MR. MARTIN: Ike Dela Cruz.
MR. DELA CRUZ: Yes.
MR. MARTIN: Chair votes yes.
Motion carries. The floor is open for discussion.

Young said that was curious about why the Council would have a vote for apparently opening up an opportunity for an individual to apply for a permit because they had missed the deadline. He said that he received a list of seven individuals and boats that had applied but had all applied after the deadline. He pointed out that one of the names that was on the list that was given to him was the boat known as the EAGLE 2, and the

owner is identified as Stephen Haleck.

He said that he was concerned because there was no disclosure nor was there any statement -- in fact, there was encouragement to have this approved. He added that the action that had been taken in the gathering in Guam and the lack of recusal in this vote, he said that he is concerned that there is a conflict here, or at least an appearance of a conflict.

Martin asked Silas Deroma to shed some light on the matter.

Deroma said that he is not sure he could or could not as he is not familiar with the background of the list. However, he said that under the Magnuson Act there's a requirement to determine whether or not the vote, in particular, would have any expected and substantially disproportionate benefit to the voting Council member versus other participants in the fishery.

He reiterated that he did not have enough information to say whether or not that's the case, and he would have to look at all of the documentation to see. He added that an easy solution would be to redo the vote and the interested Council member would recuse himself from the vote.

Duenas said that when he attended the American Samoa REAC meeting, he met with American Samoa longline people. He said he also spoke to Peter Flournoy, who represents the two longliners that missed the deadline. He said didn't know if Stephen Haleck's was one of those individuals or if they bought a boat from Stephen Haleck. But the point is that it was Mr. Flournoy who was working on that program for the two longliners that missed the deadline and those concerns were raised a year or two ago.

Robinson said that pointed out that reopening the application period affects far more than seven people. There may be other people out there who would be interested in applying for different vessel classes. When the program was finally implemented a couple years or more after it was designed and approved by the Council, there was an expectation that there would be a greater number of vessels than the program actually ended up with. So part of what's behind this action is to allow not only those seven, but any other additional people that would be interested to apply.

Haleck clarified this request is not just for him, but for the fishermen of American Samoa and the people of American Samoa to be able to participate within American Samoan fisheries. He stated that there were a number of discrepancies during the permit application process including applications being sent to the wrong addresses.

He said that by the time he received his, he had about four or five days to be able to fill out that application and be able to turn it in. He also went on to say that when NMFS notified him that he was declined to get a permit, he tried to appeal the decision for the reason stated. He added that he was not the only one that experienced this problem and that there were a few fishermen that wanted to apply, but by the time they got their

applications it was too late for them to meet the deadline because it was sent to the wrong address.

He ended by saying that this request to reopen the application process for American Samoa is not just for one person. It's for the people in American Samoa to be able to apply and get their permits and utilize our fisheries here in American Samoa.

Duerr said that the Council members recognized the economic plight that exists in American Samoa today and the high rate of unemployment. He said the Council should be encouraging people to fish down there, not discouraging them. He said that he would like it to go on record that doesn't see a problem with re-opening the application for those who missed the deadline.

Deroma said that the Council members may be mixing the issues here. On the one hand, there's a question, is this an action that the Council wants to take. So the Council has heard arguments on how it will benefit the fishery, et cetera, et cetera. But the other question, which Council Member Young has raised, is whether or not the Council member should be participating in the vote. So we're really dealing with two separate areas.

He clarified that he does not know enough of the facts to look at whether or not Council Member Haleck would have a significant or disproportionate financial benefit to those participating in the fishery, but it is something that should be looked at.

Or, Mr. Haleck could recuse himself from the vote and the Council could vote the issue, which would require the Council -- a motion to nullify the earlier vote and then vote it again.

Young said that his concern is not relative to whether this is a good idea or not. He is concerned that there was a discussion when we were in Guam and it was isolated and really a lot of the attention was focused on a person who missed the thing by a day. He wondered why Council members were not given the names of people who were denied permits.

When there is a name of a Council member on there, it's concerning that a Council member will vote on something that is in conflict with the organization's practices and procedures, particularly that which was adopted in 2006 because it says, if you have a financial interest, you must recuse yourself.

Haleck said that he would exclude himself from any discussion and voting on this issue.

Deroma clarified that for the Council members, the Magnuson requires recusal where there's a close causal link between the Council decision and expected and substantially disproportionate benefit to the financial interests of the affected individual relative to the financial interests of other participants with the same gear with respect to the fishery. So the fact that one Council member might be a participant, you really need to look at all of

the background information and weigh that financial interest or benefit to the Council against all of the other participants. Obviously, the more participants you have in a fishery, the less you'll have that disproportionate balance. But based on Mr. Haleck's comment, it's probably a moot issue at this point, for this vote.

Young said it is a moot issue potentially when you look at it in a context of a future action, but there was an action taken and there was a vote taken by the Council.

Theilen said that she was aware that there may be more than one person who would be eligible and interested in applying. After going down to that part of the world, although we weren't in Samoa, just seeing parts of the Pacific other than Hawaii, she can understand why it is important to give people an opportunity to reapply who met that limited eligibility criteria.

However, she said she would expect Council members who do have a personal interest or even an appearance of a personal interest to raise that at the beginning of the discussion. She said that she understand the Council member is now saying he will recuse himself from a future vote, and I would like to support that we do vote again. But she said she would be abstaining from the vote.

She said that she would really appreciate when there's an appearance of a conflict, if people would openly discuss that at the beginning when these things are on the table.

Deroma clarified for Council Member Young that he was speaking in the context of this vote that the Council is taking today in terms of how to deal with the issue that you raise. He pointed out that at the 140th Council meeting, that vote is not valid on this issue.

Young said if the question had not been raised, the Council would have moved on and others may not have known that there was a conflict in that vote. He added that there are Magnuson rules the Councils has to follow, but there are also practices and procedures that the Council has to follow. Under the conflict of interest section of the practices and procedures, it says, Council members must recuse themselves from voting on matters that would have a significant and predictable effect on the financial interests.

The Council voted on whether it should allow people to apply to get a permit. He said that to him, is a clear financial interest. Because the Council has allowed it, an applicant who was late is now allowed to come back, and there is a clear financial interest that is there, and I would ask that it be reviewed irrespective of what any future vote is. Deroma said that he does not disagree with the issues that the Council members are raising, but he is not taking a position either way on the issue. He said that the Council can choose to deal with that however it sees fit. However he reminded all of the Council members he is available any time a Council member has a question about whether or not they should vote on an issue, feel free to seek me out and raise the issue with him.

Robinson noted Mr. Haleck's offer and moved to reconsider the previous vote.

Sablan seconded the motion

Martin called for discussion.

Duenas said that when the Council opens the door for a procedure to occur, everyone benefits in American Samoa. He added that if the Council was to start a procedure for regulating recreational fishing in Hawaii within federal waters, the would Mr. Gaffney, Mr. Duerr and every Council member in the room that recreationally fishes going to have to disqualify themselves because they are going to be participants the fishery?

He noted that what the Council is working on is a regulatory amendment on the permit process. Whether Mr. Haleck gets the permit is a different story. That's another series of hoops he has to go through. He said he understand the concern that it may seem like the transparency is not there. But he could also move to American Samoa tomorrow based on his decision today and benefit from the same type of action he voted on.

He felt that this issue that was discussed was just a big mud-slinging contest and does not appreciate suggestions that a person acted wrong. He said the point is that the Council is opening the door for someone to come in, and it's not limited to just Mr. Haleck or Mr. McCoy, or Mr. whoever from American Samoa. What has happened really tarnishes the process and he is really dismayed by it and I don't feel comfortable with people talking like that in a Council meeting when we're trying to put everything on the table, and we already closed the discussion.

Duenas felt that Mr. Haleck is not going to have a significant or disproportionate financial benefit from this action unless the agency gives Mr. Haleck a permit. However, others like Mr. Flournoy and his clients may get a permit as well. He asked Council members to look at this picture fairly because there are other permitholders in the B Class and C Class that are also going to benefit.

He said that for Council members to recuse themselves for every little action we're going to do is kind of ridiculous.

Tulafono said that it appears to him that someone is trying to accuse Councilman Haleck on this issue. He said that when this issue came up during the fishermen's meeting, the majority of the small boat owners, those who already got permits, will lose their permits at the end of this year because of the landing requirements. Those are the ones that asked to reopen the permit process so they can get back in because most of them don't meet the landing requirements by the end of the year.

He said that he has never heard from Mr. Haleck or any other fishermen that applied and was denied. That was not the issue during the fishermen's meeting that we approved this recommendation to move forward to the Council. And the fishermen recommendation that they made during that meeting was just for the small Class A class boats. It was not for all vessels. The reason why American Samoan Council members decided to change to all vessels is because of the discrimination clause, and that's the reason why we

decided to open the recommendation to open to all class vessels instead of just for Class A vessels.

Martin said that there is a motion on the floor to reconsider the previous motion. Call for the question.

MR. DUENAS: Okay. Thank you, Mr. Chairman.
Yes.
MR. MARTIN: Tony Lamorena. Tony.
MR. LAMORENA: (No audible response).
MR. MARTIN: Ray Tulafono.
MR. TULAFONO: Yes.
MR. MARTIN: Stephen Haleck.
MR. HALECK: Recuse myself, Mr. Chairman.
MR. MARTIN: Will Sword.
MR. SWORD: Yes.
MR. MARTIN: Bill Robinson.
MR. ROBINSON: Yes.
MR. MARTIN: Peter Young.
MR. YOUNG: Abstain.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Yes.
MR. MARTIN: Fred Duerr.
MR. DUERR: Yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Yes.
MR. MARTIN: Ben Sablan.
MR. SABLAN: Yes.
MR. MARTIN: Ike Dela Cruz.
MR. DELA CRUZ: Yes.
MR. MARTIN: Chair votes yes.
Motion carries.
We're back to -- Bill Robinson.
MR. ROBINSON: Thank you. Call for the question on the original motion, please.
MR. SABLAN: Mr. Chairman, Ben Sablan. Second that motion.
MR. MARTIN: It's been moved and seconded. Discussion.
MR. DUENAS: Yes, Mr. Chairman. Manny from Guam.
MR. MARTIN: Manny, go ahead.
MR. DUENAS: Just for the record, I would like to make sure that Council members are aware that, don't bring up discussion issues after discussion, just for point of order.
MR. MARTIN: Thank you, Manny.
Any other discussion?
Call for the question.
Manny Duenas.

MR. DUENAS: Yes, Mr. Chairman.
MR. MARTIN: Tony Lamorena.
MR. LAMORENA: (No audible response).
MR. MARTIN: Ray Tulafono.
MR. TULAFONO: Yes.
MR. MARTIN: Stephen Haleck.
MR. HALECK: Recusing myself, Mr. Chairman.
MR. MARTIN: Thank you, Stephen.
Will Sword. Will Sword.
MR. SWORD: (No audible response).
MR. MARTIN: Bill Robinson.
MR. ROBINSON: Yes.
MR. MARTIN: Peter Young.
MR. YOUNG: Abstain.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Abstain.
MR. MARTIN: Fred Duerr.
MR. DUERR: Yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Abstain.
MR. MARTIN: Ben Sablan.
MR. SABLAN: Yes, Mr. Chairman.
MR. MARTIN: Ike Dela Cruz.
MR. DELA CRUZ: Yes.
MR. MARTIN: Chair votes yes.

Hamilton said that there are Lamorena and Sword did not vote. Seven yes, two absent, three abstentions, one recusal.

Martin asked if the motion still carries, yes.

Martin called for the next item.

Longline Exclusion Zone around CNMI

Ms. Finn read the motion:
Regarding the proposed longline exclusion zone around CNMI, the Council adopted the SSC's recommendation of Alternative 1c, which would establish a 30 nautical mile longline fishing exclusion zone for the CNMI EEZ.

The Council took initial action to establish a control date of March 20th, 2008, with the final action expected at the June 2008 Council meeting. This control date may be used in the future to limit further entry of longline vessels to fish around the U.S. EEZ waters surrounding the CNMI.

Mr. Martin asked for any discussion. He said as the Council talked about briefly earlier, the establishment of March 20th as a control date is problematic since we are past

that date, and we didn't take action at the 140th meeting. So I would propose that we consider if there's a motion on the floor, a friendly amendment to change the control date to today's date, if we're going to move this forward.

Mr. Sablan, CNMI, made a friendly motion to the main motion from Manny Duenas to change the date from March 20th, 2008th to April 15th, CNMI time and date, 2008 for the control date.

Mr. Duenas had no objection. He commented by saying that he wished they could have the alignment of the 50 miles, but he respected the CNMI's recommendation. And he said he may have to recuse myself since my organization holds a pelagic permit for -- a general longline permit for Guam, and I guess I (inaudible) in the federal waters of CNMI. So I will be recusing myself from voting.

MR. SABLAN said if Mr. Duenas would agree, he cannot recuse himself and take the main motion -- or offer the main motion. So if Mr. DeRoma would agree and Mr. Duenas would agree, Mr. Sablan would make the main motion, and Mr. Duenas may second it if he wants to continue to recuse himself.

MR. DUENAS said he could make a motion for discussion purposes and can recuse myself from the voting of that motion.

Mr. Martin called for the question on the motion.
Manny Duenas.
MR. DUENAS: I recuse myself, Mr. Chairman.
MR. MARTIN: Tony Lamorena.
MR. LAMORENA: (No audible response).
MR. MARTIN: Ray Tulafono.
MR. TULAFONO: Yes.
MR. MARTIN: Stephen Haleck.
MR. HALECK: Yes.
MR. MARTIN: Will Sword.
MR. SWORD: Yes.
MR. MARTIN: Bill Robinson.
MR. ROBINSON: Yes.
MR. MARTIN: Peter Young.
MR. YOUNG: Aye.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Yes.
MR. MARTIN: Fred Duerr.
MR. DUERR: Yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Yes.
MR. MARTIN: Ben Sablan.
MR. SABLAN: Yes, Mr. Chairman.
MR. MARTIN: Ike Dela Cruz.
MR. DELA CRUZ: Yes.
MR. MARTIN: The Chair votes yes.
Motion carried.

Purse seine Exclusion Zones

Mr. Duenas offered that in the form of a motion.

MR. Sablan seconded the motion.

MS. Finn read the motion: The first item is, the Council wishes to adopt Alternative 3d of Draft Amendment 17 to the Pelagic Fishery Management Plan, which would prohibit all vessels from pelagic purse seine fishing within all EEZ waters around Guam.

The next one is, the Council wishes to adopt Alternative 2d, which would prohibit purse seine fishing throughout the entire U.S. EEZ surrounding the CNMI. The Council is concerned that the revitalization of the U.S. purse seine fleet, combined with the likely constraints on purse seine fishing effort in the Western and Central Pacific, may lead to increased interest by U.S. purse seine vessels to fish in the U.S. EEZ surrounding the entire Marianas.

Further, it is likely that new vessels augmenting the U.S. purse seine fleet will be based primarily in the far west of the region in Micronesia.

Number three, due to the potential for local depletion and catch competition, as well as for damage of depletion of seamounts that are known to aggregate juvenile bigeye and yellowfin tuna and other pelagic species, the Council recommended that purse seine fishing be prohibited within EEZ waters 75 nautical miles from shore around American Samoa, which is Alternative 3 in the document.

MR. MARTIN called for any Council discussion.

Mr. Robinson pointed out that although he certainly agreed and understood the objective of preventing gear conflicts and stock depletion impacts upon local longline fleets, those impacts primarily occur to the extent that if they occur at all -- and we've heard that they do to some extent -- due to the extensive effort on the high seas and in the EEZs of other Pacific Island Countries under multi-lateral arrangements, there simply is no record of any substantial amount of U.S. purse seine fishing within the U.S. EEZs of CNMI and Guam, although there certainly is -- have been some effort in the EEZ of American Samoa. He wanted to point out again that he has real reservations as to whether there is a legitimate purpose and need for this action, to close an area for which there is no history of fishing by U.S. fishermen, and that the supporting rationale is -- I have some real reservations about it, and those reservations mixed in to consideration as to whether these proposals are in fact approvable or not.

Mr. Duerr said that while there's no fishing there presently, there is a concern of possibly damage to the seamounts. So do we wait until they have damaged the seamounts, and then you say, oh, I'm sorry. You know, I think that part of this is the potential damage, too, and that's why I would be in favor of it.

MR. DUENAS added that in light of all of the previous discussions, he may have to recuse himself in light that there might be a purse seine industry developing on Guam, and I may have to invest in this industry, seeing that there's opportunity here since the purse seine fishery happens to be the only fishery in the world that is not highly regulated, but highly impacting. He said he may have to recuse himself from voting on this measure because it may affect his future business on Guam.

MR. DELA CRUZ said he believed some ten years ago there were some purse seine fishing allowed in the CNMI EEZ waters. After they depleted our stocks, they abandoned us.

Mr. Sablan added just for clarification so that we're not only excluding U.S. purse seiners, but I understand FMP and permitting for other countries, such as Asian countries, probably Russia or other countries may request for a permit from the State and U.S. Commerce to fish with purse seiners in the Commonwealth or EEZs around the Commonwealth and Guam. Are we allowing them if they get a permit to fish in the EEZ around CNMI?

MR.Robinson.

MR. ROBINSON said some of the new purse seine hulls which are foreign built and the fact that they're not getting documented as fishing vessels. So they can fish under treaty arrangements in the waters of other nations, but cannot fish within the EEZ. But if it related to the PIAFAs, which would allow a foreign vessel to fish inside the waters of CNMI or Guam or the Territories, I think that that process would actually be initiated by the government of the territory and go forward from there. So that would never happen unless it was with the blessing of the government of the territory.

MR. SABLAN said that is his concern. Let's suppose that the blessing from the CNMI Government or Guam allows these people for PIAFA purposes to fish with purse seiners in the CNMI. We're disallowing U.S. purse seine and maybe allowing other countries? MR. ROBINSON said that certainly would be an odd curiosity, but it's certainly under -- you know, if this proposal were adopted and approved and with the PIAFA process still in place, that's not beyond the range of possibilities.

MR. SABLAN said if Mr. Duenas would agree for a friendly amendment, maybe we'll use U.S. and other purse seine vessels to fish in the U.S. EEZ surrounding the entire Mariana Archipelago.

MR. DUENAS had No objection.

MR. MARTIN made one observation or comment. There is a bill before Congress as we speak introduced by the distinguished Congressman from American Samoa to allow an exemption for foreign-hulled purse seine vessels, I believe, to operate within the EEZ of American Samoa, kind of an interesting bill. And Guam and CNMI.

MR. DUENAS added that he got information that Don Juan Industries, a major Korean outfit for purse seining is going to open an office on Guam using U.S. citizens to operate that operation. Also, they also he believes taking over one of the canneries in American Samoa. He doesn't know how true that is, but that was my understanding from talking to some of the representatives here on Guam.

Just to share that information with the Council.

Mr. Robinson said he thought allowing any foreign fishing in the U.S. waters, even under PIAFA, would have to go hand-in-hand with a determination that there is no U.S. capacity to take those fish. If we ended up banning all U.S. purse seiners from the U.S. EEZ, I don't see how we could make that determination and I don't see how we could allow any foreign fishing. Quite frankly, I think that if in fact U.S. purse seiners would -- and I'm not saying that that would be approved -- banned from the U.S. EEZ, I think that would preclude foreign purse seiners from being considered under a PIAFA as well.

MS. FINN reread the motions that were amended

The first one is, the Council adopted Alternative 3d of Draft Amendment 17 to the Pelagic Fishery Management Plan, which would prohibit all U.S. and foreign vessels from pelagic purse seine fishing within all EEZ waters around Guam.

The second one is, the Council adopted Alternative 2d, which would prohibit U.S. and foreign purse seine fishing throughout the entire EEZ surrounding the CNMI. The Council is concerned that the revitalization of the U.S. purse seine fleet combined with the likely constraints on purse seine fishing effort in the Western and Central Pacific may lead to increased interest by U.S. and foreign hulled purse seine vessels to fish in the U.S. EEZ surrounding the entire Marianas Archipelago.

Further, it is likely that new vessels augmenting the U.S. purse seine fleet will be based primarily in the far west of the region in Micronesia.

The third one is, due to the potential for local depletion and catch competition, as well as for damage or depletion of seamounts that are known to aggregate juvenile bigeye and yellowfin tuna and other pelagic species, the Council recommended that U.S. and foreign purse seine fishing be prohibited within EEZ waters 75 nautical miles from shore around American Samoa, which is Alternative 3.

Call for the question.
Manny Duenas.
MR. DUENAS: I cancel my investment. Yes.
MR. MARTIN: Tony Lamorena.
MR. LAMORENA: (No audible response).
MR. MARTIN: Ray Tulafono.
MR. TULAFONO: Yes.
MR. MARTIN: Stephen Haleck.
MR. HALECK: Yes.
MR. MARTIN: Will Sword.
MR. SWORD: Aye.
MR. MARTIN: Bill Robinson.
MR. ROBINSON: Abstain.
MR. MARTIN: Peter Young.
MR. YOUNG: Aye.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Yes.
MR. MARTIN: Fred Duerr.
MR. DUERR: Yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Yes.
MR. MARTIN: Ben Sablan.
MR. SABLAN: Yes.
MR. MARTIN: Ike Dela Cruz.
MR. DELA CRUZ: Yes.
MR. MARTIN: The Chair votes yes.
Motion carries, with one abstention.

5. Hawaii Bottomfish Fisheries Actions

a. MHI Bottomfish Risk Analysis

MR. MITSUYASU gave a brief update of what's happened in the Hawaii bottomfish fishery since we last met in Guam and CNMI.

Since then, the final rule was published for federal closure. Also, the State has also acted to close State waters. That was based on the monitoring of the TAC of 178,000 pounds of Deep 7 has been reached. As of last Friday, I think it was at like 181, I think.

So on the 14th, April 14th, which is today, the State waters is closed. Then on the 16th Federal waters will be closed. So basically, as part of the outreach for that, letters have been sent to the fishermen regarding both closures. We also held a workshop for the industry people this morning, multi-agency, to inform the dealers about the closure.

We're also looking to hold an enforcement workshop like we did last year, to help the enforcement agents identify species and go over the rules, and whatnot. So that's targeted for Friday, I believe.

With regards to the Council action item, the Council about two meetings ago asked the Science Center to develop a risk assessment model to determine future cap levels. So since then, the Science Center has been working to develop the risk-based model. They presented the information, the most recent version of the model, to the SSC and the Council, which included information through 2006. The bottom line that came out of the presentation was the model has been improved. They have not been able to hold their CPUE Standardization Workshop. Instead, they're taking a different approach and interviewing fishermen independently to look at standardizing that CPUE.

The stock assessment for the fishery is still based on information through 2004. The most recent '05, '06 and '07 data, which is available, has not been incorporated yet.

The whole objective of our management plan was to reduce fishing mortality by 24 percent, right. And so when they looked at the information through '07, it looks like they've reduced it by 29 percent on an archipelagic-wide basis for the BMUS species.

Looking at Main Hawaiian Islands, just the Deep 7, alone, it could be up to 37 percent reduction in mortality. So we've kind of met the targets that we are shooting for.

What the Council also identified was needing a decision document for picking a risk level prior to the next Council meeting. So that was incorporated -- okay.

So there was a number of recommendations that the Council had made at the 140th Council meeting, which I put up here in the presentation.

The first one was to ask the Science Center to complete a stock assessment as soon as possible. Remember I said the information was based on '04 data, yeah. So incorporate through '07. The next one was to get that CPUE standardization information and work that into the model. Also, to create a group of Council and PIFSC staff to write the decision document for the Council and prepare a presentation for you guys at the next meeting.

The last recommendation endorsed the SSC recommendation regarding how to improve that stock assessment. Some of the keys things was to include and try and pursue the fishery-independent surveys because all of our information now is based on the catch reports from the commercial fishing.

Then also, because we manage the stock as a BMUS, a multi-species complex, start looking at separating out species, and that's where I think they would want to see it go.

MR. DUENAS asked on Guam when fishermen go out, they fish using multiple strategies. You know, they troll for a while. Catch bait. Then they bottomfish fishing, if the trolling is really slow, for example. He wanted to know if that is factored in. Because on the Guam survey, it's all number of hours fishing and it's never segregated or separated as far as how many hours that of actual trolling and how many hours of actual bottomfish fishing. I'm just curious whether the commercial guys in Hawaii fish the same style or they strictly bottomfish when they go out? I think you have the mixed fishery here, too. But what they've done, especially in the Main Hawaiian Islands, is separate out that effort with regards to line hours for bottomfish fishing.

In addition, what they've done is they've parceled out the long-term fishermen who have history in the fishery and who are active fishermen in the fishery. So that way, what you're looking at is a consistent trend, yeah, for a consistent group of fishermen, the top X percent of the fishermen within the bottomfish fishery.

Every year I think there's about 300 or so that participate in the fishery.

b. Public Hearing

One public comment was made. " I am Makaala Kaaumoana, and I'd like to comment on this portion of your agenda related to the bottomfish.

Our community is aware this is a new statistical model. We're concerned that this is a mismanaged and overfished stock.

This fishery is dominated by commercial interests and if, in fact, we agree that we need stock rebuilding, we're suggesting that you might consider a stock rebuilding program such as the striped bass and red drum program that's currently supported by the Federal Administration for the East Coast that allows continued subsistence and recreational fishing so that it doesn't affect our indigenous peoples of this area quite so much.

The striped bass and red drum program is called an exclusive recreational fisheries.

You know from the last two meetings that I'm not fond of that term, since we don't play with our food. But I would like to suggest that this Council consider that management model. Mahalo".

c. Council Discussion and Action

There was none.

6. Program Planning, Research, and Executive/Budget Actions

a. Annual Catch Limits

Mr Ignacio DeLa Cruz noted that the following items were on the 140th Council Meeting agenda as action items but did not need to be re-voted on at the 141st Council Meeting

Marcia Hamilton made a presentation on Annual Catch Limits (ACLs), a new requirement stemming from the 2006 Magnuson-Stevens Re-authorization Act (MSRA). Hamilton summarized the MSRA requirements as follows:

- Each Council shall develop ACLs, may not exceed the fishing level recommendations from its SSC, FMP shall establish a mechanism for specifying these, and Accountability Measures, unless otherwise provided for under international agreements.
- The amendment shall take effect in the Year 2010 for fisheries determined to be subject to fishing and in 2011 for all other fisheries and the deadline is not later than 24 months after the date of the enactment of this act.
- Each Council shall transmit amendments to comply with this section. So that's the end of 2008.
- The immediate requirements are to establish the mechanism for specifying the annual catch limit regulations or annual specifications and measures to ensure accountability and to implement ACLs in 2010 for fisheries determined by the Secretary to be subject to fishing. For example: Main Hawaiian Islands bottomfish and bigeye.

The alternatives the Council looked at the 140th meeting for establishing these ACLs mechanisms:

1. Establishment of ACLs based on risk of overfishing. Create a risk order ranking.
2. Implement ACLs only where MSY values are known.
3. Determine and implement ACLs for all managed species simultaneously.
4. No action.

The recommendation from the 97th SSC, was for the Council to determine and implement ACLs where MSY values are known and use risk ranking to prioritize the remaining species.

At the 140th Council chose not to take action on the second issue regarding bigeye and Main Hawaiian Islands bottomfish. Instead, they took this directed staff to prepare a Draft Omnibus Amendment addressing ACL mechanisms and the ACLs for bigeye and Main Hawaiian Islands bottomfish stocks, that includes the following preliminary preferred alternatives for Council review and final action.

Regarding ACL mechanisms, the Council recommended adopting a modified alternative that would use ACLs for those stocks with MSYs, and then using the likelihood and consequences of overfishing to prioritize the remaining species.

The Council requested NMFS hold an expert workshop to identify the species in each FMP most at risk of overfishing. The expert ranking should include a ranking of both the likelihood and the consequences of overfishing for different species.

The Council also recommended that RFMOs make better use of spatially-structured stock

assessments to consider regional differences in fishing impacts which may bear on domestic ACL requirements.

Following Hamilton's presentation, Manny Duenas referred to Document 6.A(1), under name and location of coral bed, page 5, and harvest quotas. It has Guam and American Samoa and Hawaii and other Pacific Island Areas. Duenas noted that Guam prohibits landing of black coral, and this could be footnoted in the report.

b. CDP regulatory amendment to allow future CDPs

Mr. Charles Ka`ai`ai gave a brief presentation on the Community Development Program regulatory amendment. The amendment was up for Council action at the 140th Council Meeting. NMFS/PIRO requested some modification to the amendment and staff is implementing the modifications. They are:

1. Defining steps for Regional Administrator review,
2. Inclusion of a public notice process,
3. Inclusion of ESA/NEPA compliance review by the RA,
4. Include a letter of authorization process for applicant from RA.

c. Public Hearing

Sean Martin opened the meeting for public comment. The first comment was made by Makaala Kaaumoana, and Jeff Chandler, who would like to make a comment.

Ms Kaaumoana reiterated her objection to the use of a picture in a Council presentation that portrayed a picture of human sacrifice. The remainder of her comment is given here verbatim and edited only for punctuation and spelling.

"The CDP part of this, will that include more Puwalu? If so, can we please see a budget?

We are continuing to ask for that budget. I know that you feel as though you've responded to all of the FOIAs, but that's a budget that was sent to me in a miniature little square, and then it got some other items, and it's in five formats for five responses. We'd just love to see the budget.

Also, very, very concerned about how this gets implemented. Is it possible for the public to participate in that staff work with PIRO? I don't know how PIRO works, so I don't know if they have a task force of if there's any kind of public opportunity for the committee, or whatever. If there is, I'm not sure that I have time for it, but I would certainly like to spread the word to other community efforts that might be more interested in the CDP process at this point. That would be my request also."

The next comment came from Mr Jeff Chandler as follows: "Hello. My name is Jeff Chandler. I'm a lawai'a. I also have questions about that. You know, there was a Puwalu

process that Native Hawaiians is going through, and this seems like it's a whole another thing that's being created. Not many Native Hawaiians can come out here and speak out on this. In fact, you don't see any of them. So, right off the bat, we're out of the playing field. I thought that Puwalu process would bring more Native Hawaiians to the table, because we lack representation, as far as I can tell, as far as I have heard all day today.

For me, I'm not being represented as a Native Hawaiian. I don't mean to offend you, but that's what I see, that's how I feel and it's just not right. So how can we get the information so we can participate or choose to participate or not in your process?

Most of us lawai'a, we're fishermen, we're out taking care of families. We're out managing our resources by ourselves. We don't play around with computers. We don't have access -- or the money to access this kind of stuff. So it's really hard for us to participate or come into something at the last minute to participate in when we don't have the stuff, we don't have the information. And, you know, in the Puwalu, I thought those people of the Aha Moku Council was supposed to provide all of this information. So far, nobody has shown up at this meeting today from the Puwalu, that is supposedly represents the native community. So anyway, that's all I've got to say. Thank you."

Kitty Simonds responded to Mr Chandler by noting that if people feel that they would like to review this document before it comes before the Council in June that we will be very happy to get groups together to review this process. She directed Council staff Charles Ka'ai'ai to work with Mr Chandler and his colleagues to ensure that this happened. .

The next public comment came from Ms Tina Owens and is given verbatim.

"My public remarks are concerned with the Executive Committee and with the Puwalu. I have not received an answer, Mr. Chair, about the two questions that I asked you at the end of the 140th meeting. I sent you a reminder and you have not found the time to answer me despite finding the time to send a rather lengthy letter to the Federal Government Accountability Office, which is launching an investigation into West Pac's misuse of federal funds. These two questions are:

'What official government program does the Puwalu Series come under since it's not present in any of the budgets I've seen?

'And where does the profit-sharing portion of Miss Simonds' $220,000 a year salary come from?'

These should be easy questions to answer if in fact they are as simple and above board as everyone seems to indicate they are. I would like the answers right now.

And if you refuse, please tell me exactly when I can expect the answers."

Ms Owens continued: " I also asked that you provide me with a copy of the West Pac

budget that your Executive Director passed out at the end of the 140th meeting. She stated at that time that it was, quote, not for distribution, unquote. Why is it not for distribution? Is there something that you are hiding? In response to my FOIA to you, NOAA provided with me with what appeared to be West Pac's budget. Please either confirm that what you had handed out is exactly the same as that provided by NOAA, and explain your asserted privilege. Or please give me a copy.

And in consideration of the letter to the GAO that I mentioned earlier, I have some considerable objections to the Chair's assertion that the Council members, themselves, serve as oversight to how Council funds are spent. I say this because I've found no evidence that there was ever a vote taken in full Council before the initiation of the Puwalu Series in 2006.

That series cost, I understand, somewhere in the area of half a million dollars. Yet, the full Council was not given a chance to discuss and vote on it. I have personally witnessed the extraordinary difficulty that some Council members have in getting access to the most basic budgetary documents. How can a Council provide oversight if they are refused access to the budget and have no opportunity to vote on them? The Council's refusal to provide documents to certain Council members, as well as to the public, reinforces the need for greater transparency in the Council's workings. So, Mr. Chair, can you tell me when I will get answers for my questions?"

Kitty Simonds responded by stating that there were two answers to Ms Owens questions. The Puwalu is a series of meetings that were held to develop a consultation process for the indigenous communities in Hawaii to engage in federal fisheries management as recognized in the Magnuson-Stevens Act. Engaging communities throughout the Western Pacific Region is a fundamental activity of the Western Pacific Fishery Management Council and is supported by all of the Council's programs. These include Fishery Ecosystem Plan Amendment Development, Implementation and Monitoring, Information Collection, Education and Outreach, Protected Resources, Coral Reef Fisheries, Marine Education and Training, Monitoring, Control and Surveillance, International and Indigenous Fishing Rights. Therefore, funds to support these meetings aimed at engaging the Hawaiian communities comes from all programs.

The second question was, what is the justification for profit-sharing for the Executive Director? Profit-sharing is the title of the Council's 401(k) retirement program. The Council is not a commercial institution that profits from business. Therefore, there are not profits to share.

Ms Owens responded that in the budget there was an additional retirement fund. It was considerable, but it was not listed as profit-sharing. It was listed as retirement fund.

7. Other Business

Rick Gaffney asked for confirmation that items he wanted discussed that related back to 137th and 138th meetings was going to be on the agenda for the June 142nd meeting.

Sean Martin indicated that these items would be on the 142nd agenda.

Mr Gaffney reiterated that items specifically were the legitimacy of the vote that was taken with regard to setting a control date for the sport fishery in Kona and whether or not the vote as it was taken by the Council is exactly the same as was presented in the Federal Register. In other words, to determine whether or not it was the Council's intention to set a control date in the manner that the Federal Register ultimately set the control date.

Gaffney continued that the second issue has to do with the 17 additional items that were brought up late in the 138th meeting and whether or not those items could legitimately be decided considering that they were not included whatsoever in the agenda. Gaffney was concerned with a statement that is included on each agenda and federal register notice 'In accordance with the Magnuson-Stevens Fishery Conservation and Management Act fishery management regulatory actions not contained in this agenda may come before the Council for discussion. However, such issues may not be subject to formal Council action during this meeting unless they are emergency in nature.' Gaffney did not believe that any of the 17 items could be construed as being emergency in nature.

NOAA General Counsel Silas DeRoma responded that he had responded to Gaffney's questions and assertions, But if the Council wants to take it up again, he would be happy to do it again.

Mr Gaffney reiterated this is what he was requesting. He added that the minutes of the 139th meeting specifically state that the Council would consider these matters at the 140th meeting but NOAA General Counsel was not prepared at the 140th meeting so that was why he was specifically requesting it be on the agenda for the 142nd meeting

Mr DeRoma responded that he did not see it on the agenda at the 140th. He had forgotten in the interim that it had been agreed to move it to the 140th meeting. Had it been on the agenda, he would have prepared for it. If he saw it on the agenda for the next meeting, he would be prepared to address it.

Bill Robinson informed the meeting that he had approved the Council's Marine Conservation Plan for the Pacific Remote Island Areas. Kitty Simonds asked if this meant that the Council could start spending the $250,000 that was now in the Western Pacific Fisheries Sustainable Fund. She noted that a letter had been received by the Council that indicated that the money can be spent.

Peter Young sought clarification that Rick Gaffney's issues would be on the agenda for the next meeting.

Silas DeRoma replied that the Council sets its own agenda. If the Council wants it on the agenda, he would be prepared.

Young noted DeRoma's commitment but continued to seek clarification about these items being on the agenda. Kitty Simonds added that staff had placed Gaffney's items on the agenda

Fred Duerr noted that although no federal register notice was given for the last meeting, it was still a meeting nonetheless. Kitty Simonds agreed stating that that included in the briefing materials were two Federal Register Notices, one for the March meeting and one for today's meeting. So both meetings occurred, but that the regulatory actions require a notice in the Federal Register.

Ike Dela Cruz asked Bill Robisnosn about the status of the CNMI Marine Conservation Plan. Robinson responded that NMFS PIRIO had received the Marine Conservation Plan from CNMI, and now that there was a process in place for reviewing and approving them. He thought that PIRO would have it reviewed and processed and hopefully approved it very shortly.

Ben Sablan sought clarification on an amendment for the Exclusion Zone for bottomfish fishing for the CNMI, and inquired as to the status of that amendment

Robinson responded that he was unable to give an exact response without checking with staff, but I thought the document was still in the review H e promised look into its status.

Peter Young stated that he had sent the Chair an email reminding the Chair what required reports there were for Council meetings, and if those would be distributed asked if they could be distributed at the beginning of the meeting

Kitty Simonds responded that the Chairman had received an e-mail from Peter Young on Saturday, April 12th, at 7:45 a.m. reminding Sean about being consistent with the West Pac SOPP about reports, etc. Simonds drew attention that the Federal Register Notice Administrative and Financial sections were not included in the agenda and the Council had not planned on distributing anything. However, there were a couple of items, the Financial Officer was able to put together for this meeting. These included a report of Council member compensation for the first three months, and a report of expenditures for the first three months for all o programs. It was agreed that at the June meeting reports will be distributed in advance so Council members will be well prepared for discussion.

Manny Duenas stated that he felt very uncomfortable about this providing information on individual compensation. He drew the analogy that on the IRS looked at his tax returns and he did not feel that the general public has the right to look at his personal finances. Duenas sought clarification from Silas DeRoma on this. He was concerned that staff had received an email on each others salaries and was concerned that actions like these would create animosity among Council staff and members

Mrs Simonds responded that in terms of reports on compensation, this was something that wa provided to the NMFS on an annual basis. But is not information that is normally distributed to the public. For staff compensation, it had been suggested to people who

have asked for Council budgets go through the FOIA process because then it is taken care of and the lawyers are there to make sure that the citizen receives whatever it should be receiving and it's not the Council deciding yes or no. Expenses were not normally distributed to the public but are given to Council members as well at the end of the year if they want to receive them. In the past nobody has been interested but it was available to Council members.

Silas DeRoma added that as far as NOAA GC views this issue, it is considered to be or treated as if it were a federal agency. So for the purposes of FOIA, when a FOIA request is filed the records that the Council has on hand are subject to disclosures. So, for example, if the Council has a record that says the Executive Director gets X, the Council members get Y, the fisheries biologist get Z, then those records are -- they are disclosable under FOIA. However, if the record included Social Security number and compensation then this would likely be withheld, or at least redacted to include the position description and the salary allocated to that position description without a tie-in to a name.

Manny Duenas responded that he felt it was not right to supply the name of the person and each penny they make. Mr Duenas indicated revealing salaries of staff could create animosity among the staff.

Kitty Simonds stated that the email in question was one sent by Ms Tina Owens to all of the staff members, except herself and she forwarded the budget that the Council submits to the government. It did not list people's names, but it did list all of the positions. Ms Owens asked the staff questions about whatever salaries they were getting, and related matters. Ms Simonds continued that she had instructed staff not to respond because it was not appropriate for them to respond to that kind of an e-mail. Even though no names were included in the salary list, each staff person now knows how much each other makes, and did not know this before. Ms Simonds added that there was also another question in Ms. Owens email about benefits, inferring that all staff did not receive the same benefits but this was untrue, all staff are treated equally. Mrs Simonds opined that under other circumstances this email might ferment much internal strife but the Council has a very good staff and if they have any questions about why one makes more than the other, they could discuss this with Ms Simonds.

Peter Young noted that with respect to Council compensation, the Magnuson-Stevens specifically states what each Council member makes on a daily basis and the practices and procedures that was adopted by the Council says that the compensation for Council members and travel records for Council members and financial reports are to be distributed at each Council meeting. His e-mail was simply a reminder, because he had not seen those at every Council meeting. However, the practices and procedures are very specific that states that they shall be available at the meetings.

Bill Robinson noted the reappearance of Ignacio Dela Cruz on the video conference. He added that his emails to Mr Dela Cruz bounced back. He asked if the Governor of CNMI had submitted nominations for the CNMI obligatory seat, then that was fine. Please would he let Mr Robinson know. If this had yet to occur, please would the CNMI

government submit the nominations for the CNMI obligatory seat, the term of which expires this year.

Commander Young reminded the Council meeting that Admiral, Sally Brice-O'Hara, was going to depart from Hawaii soon. Her Change in Command was the 22nd of May. Admiral Brice-O'Hara was moving on to become the Coast Guards Assistant Commandant for Operations and would take with healthy respect for the issues and threats that are involved with managing fisheries out in the Western and Central Pacific.

Sean Martin asked if there were any further comments.

Makaala Kaaumoana responded that there were some housekeeping items that were left over from the 139th Council meeting. Her comments are given verbatim as follows

"I did provide a written request at that meeting for some documentation. Staff was very kind in reformatting it in a nice table so that I still that request. I'm still missing some things from that. They are of specific concern to me because in the minutes my name is mentioned specifically as it relates to statements that Leimana DaMate made to the Council, and in that same sentence she said that she will be providing you, as Council, with documents and reports. I still have not received any of that. Specifically, for the record, a letter from Miss Leimana Damate as described during her public comments on page 71 of the 138th Council minutes. All documents referred to by Miss Leimana DaMate described during her public comments on page 71 of the 138th, both of those -- neither one of those were available. If those letters didn't happen or if the report didn't happen, cool, just tell me it didn't happen and I'll drop it. But if it -- if the reports exist, I'd like them. And that's still under an old FOIA. I understand the Director's response to our repeated requests, some formal, some not so formal, for the Puwalu. But I get it, that's it's buried in the whole budget, that it was considered workshops and meetings, and that you can't pull it out. I understood that's what you said. If I'm misunderstanding, please correct me. So I don't know what to do now except to ask for the budget again and somehow have those expenditure items somehow marked or noted or asterisked or something so that we as the public can see how our money, capitalized, our money, is being spent. Again, the same thing as it relates to Council Member Young, the 2007 budget we were expecting to see, as well as the travel budget. We want to see that travel budget. This isn't stuff that is new. This is all reminder, stuff from old FOIAs. I think Council is aware there are several FOIAs floating out there, but they're all sort of asking for the same stuff, and they're asking for the same information that Council members are asking for. And because my name is specifically mentioned in these documents, I'm not going to drop it until I either see these reports or get a letter from WESTPAC saying that those reports were never submitted. This is personal. It's disrespectful to me and I have done nothing to disrespect neither this body nor Miss DaMate, and I expect a respectful response. I believe that this is a way to exclude us in the process, to keep forcing us to go back again and again and again. We'd like to move on. We know you'd like to move on. We can't until we get the information. We're very, very concerned. I was handed the minutes -- thank you, staff -- about an hour into this meeting today, and I've highlighted some stuff. But that puts the public in a difficult situation for us to be able to comment to

Council. You know, you never know. Something that we see or we contribute to the meeting, you might find helpful. It might be good for the fish. It might be good for you. It might be good for us. But we'll never know as long as the process is this obstreperous. And I'm hoping that some of the stuff as it comes forward for the June meeting will be helpful to us as well. Mahalo."

Kitty Simonds stated that staff would check on those DaMate statements. She addded that in the future, the Council would be placing minutes up on the Council website. That should be very helpful for you folks to review the minutes. With respect to FOIA requests, the Council would talk to the government about perhaps just doing one complete report, since everybody was asking for the same items in different requests. There were about five FOIAs pending and some people were asking for six years of information, and whatever. Simonds suggested that if just one document was produced by the government and sent to everybody, that might be useful. She continued that she believed the Council had responded to certain letters about those issues, and could send Ms Kaaumoana copies of those letters. This would include a letter that that Sean Martin sent to Peter Young about many items that he had asked for and which were included in other requests.

Rick Gaffney commented that it seemed like the communications that we've been receiving from the Executive Director and staff is it less than what he recalled when he first became a Council member. Further there were apparently communications going back and forth, that in my memory of the practice, were always shared through all Council members. However, Gaffney was now learning of communications that had been passed to specific Council members that had not been sent to him, in particular, and perhaps to other Council members as well. Gaffney reiterated that his statement is in two parts: firstly, what happened to all of the material we used to receive, which included interesting clippings from newspapers and other items that were relevant to the Council's work. Secondly why is it that all the Council members were not receiving some of the correspondence that was being requested and that others may be receiving.

Jeff Chandler made the following comments which are given here verbatim as follows

"I wanted to talk about the permitting process. There is no permitting process for the Native Hawaiians. As far as I know, on Kauai the permitted process was developed by the commercial entities. And the commercial entities that created the process have dominated the permits. So there were no openings for Native Hawaiians. As far as I heard today about American Samoa, it sounded like to me today that they are trying to get a process, a permitting process, for the native people. I was hoping that the foreman of the Ahu Moku Council would address those problems. You know, to go through that process and to see nobody representing the Aha Moku Council over here or talking to the State is very disheartening to me. Because going through the process, I went to the fifth Puwalu, I was treated like I was from someplace else. I was set in the back of the room like a stranger in my own land. Yeah, I don't speak Native Hawaiian, but I'm 90 percent kanaka. That's all I am. I live off the ocean and mauka all my life. That's how I survive. But to see that there is no representation, yeah, and to create something. In fact, it went

to the State legislators, yeah, and to see no representation over here, I don't know who to blame; the people that create the process or the people who hold the seat or maybe just blame myself. But, you know, this is what we're doing. What we're doing is nothing new. It's been done by my ancestors a long time ago. We're taking ownership of our place. We want to manage our place. We're going to teach our kids how to manage our place. The ocean you manage belongs to us. Not too many Hawaiians know that, but I know that. Yah. And the kids from my place are going to know that, yeah. Because of all of the mismanagement from the federal and the state level that has come down, the fault that has come down to us. What we are going to do is culturally proper, it was culturally practiced. I still practice it until today. I make my own fishing equipment, whether you want to throw net, lay net, whatever. That's so I can survive and that's so I can feed my people. So it seems to me there been a lot of talking about communities and no action. Because if there truly were, yeah, if there truly were -- and I've been to these meeting I think three years already, then communities should have a place right here. There should be representation from the community, yeah. I'm fortunate I can come to these things. In fact, all somebody got to do is let me know where and when, yeah, and I will find the how. Because when you talk about overfishing, fish depletion, turtles, look at the native people, yeah. If we don't stand up and take hold of ownership of our place, yeah, commercially, yeah, commercially. Everybody talk to us about being subsistent. If we don't step up and do it, you won't find Native Hawaiians at home. You guys understand that? You won't find Native Hawaiians at home. That's the sad part. There is nobody, yeah, nobody, taking care of the native people, the people of this land, the people that -- everything Hawaiian we talk about, that's us. I don't care which way you look, it us. So I hope without native people on this Council that somehow you guys find one Native Hawaiian representative, one Native Hawaiian representative of these people on this Council. I can tell you, it's a totally different -- it's just different in every which way, spiritually, emotionally, because we think the same, we live the same, we do the same things. We have the same cultural values. Same in Samoa. Guam, same. How come we no more the representation? That's why I question the Aha Moku Council, why, if they was to represent me, why are they not here? Five Puwalus. How much does it take before you're going to get somebody to represent us over here? Anyway, mahalo.

Ms. Simonds responded to Mr Chandler's statement I just have a quick response, The Council had spoken to the Governor of Hawaii many times about including Native Hawaiian people on her list to the Secretary of Commerce. The Secretary of Commerce ultimately makes the decision on who is chosen. So there have been Hawaiians who the Governor has put on her list. In the past, the Council always did have a Native Hawaiian person on the Council except for the last four years. In essence therefore the Council agreed with Mr Chandler's comments about Native Hawaiian representations.

Ms. Simonds also agreed with you about everything that Mr Chandler has said. Ms Simonds stated that the Council had been remiss in taking care of our obligations, because it was obligated under the Magnuson Act to address not only the cultural interests, but to actually support and help the indigenous people of the United States and the Pacific Islands to address their economics. One of the things that the Council was doing, finally after ten years, was developing a process that would exempt indigenous

communities from current prohibitions, except for the Endangered Species Act and the Marine Mammal Protection Act. The Council was also going to address the economic needs of indigenous peoples by developing this process. However, Ms Simonds acknowledged that the Council was 12 years late into this whole thing.

Concerning the Aha Moku, this was not yet established. Last year, the Governor and the legislature decided that there should be established a committee to go out to the communities to talk about what would be best practices and what are the models and just looking at the old aha moku system. It's not to replicate that system, but to look at how that worked; and then ask the communities what they would like to see the legislature do next year. This had not been established yet. All that is established is a committee that the Governor appointed, one person from each island, to go out there and find out what is it that all of the communities in the State of Hawaii would like to see in terms of how to deal with resource management in the future and to present a package to the legislature next year. Mrs. Simonds continued that all of the people in the different communities, including Mr. Chandler's should get out there and speak to the Governor's representative on each island to tell them what you folks think and how things should be done in the future.

Mr. Chandler responded as follows:

"We've been there. We have a community subsistence fishing area, yeah. But that's about it. The bottom line is us. So it seems to me, going from the top down don't work. And the Aha Moku Council, I thought, once the body was together, it's already established. I mean, if I was on that body right now I would be here representing whatever island I represent. I have no doubt about that, yeah. So it leaves us in limbo. Again, we're just floating. You know. And in fact, on Kauai, there is no meetings being held. In fact, there was just one meeting held on the south side and I wasn't invited. I wasn't invited. So -- and it's not just me. It's a whole bunch ahupua`as that wasn't invited. And if you want to go as far as the mokus, there were a whole bunch them that wasn't invited. Why? Because we're controversial? Because you don't want to hear what I've got to say? It might hurt your feelings. I mean, if we don't create a process where people can come out and speak what they feel, yeah, then what are you trying to create? Seems to me that creating what they think, yeah -- you know, nobody think better about being one lawai'a than one lawai'a. That's a fact. Because that's their life. So I don't know, you need to create a process where commercially, yeah -- and I don't know how come this never come up before, maybe because you don't have any Native Hawaiians who fish commercially. I don't know. Yeah. I mean, we're dominated by the outside world. Totally, in every commercial venture you can dream up. We were taught, we were taught this is no, from Hawaiians, everything you do is subsistence. I don't what hell that means. You know what it means to me today? You no like I make money, you no like me make one living. That's what it means. I not going to be that way for the -- you know, the next generation no can live like that because they won't survive -- they won't survive here. They'll be gone. Just in my place, real life, lucky if we get 10 percent in our community Native Hawaiians. We're lucky. Yeah. All we got in there is all commercial ventures from the mainland moving in, buying up the land, land taxes going up thousands percent, by the

thousands. And we're being pushed out. And if we don't, as native people, step up and create an economic base in our place, we're gone forever.
Anyway, thank you. Thank you."

Sean Martin adjourned the 141st Council Meeting.

*3.1
142nd CM

WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

DRAFT

MINUTES OF THE
140th MEETING of the WESTERN
PACIFIC REGIONAL FISHERY
MANAGEMENT COUNCIL

March 17-18, 2008
Guam Hilton
202 Hilton Road
Tumon Bay, Guam 96913

March 19-21, 2008
Fiesta Resort
Saipan, Northern Mariana Islands

Western Pacific Regional Fishery Management Council
1164 Bishop Street, Suite 1400
Honolulu, Hawaii

APPROVED BY COUNCIL: June 17th 2008

Sean Martin, Chair
Western Pacific Regional Fishery Management Council

Table of Contents

1. OPENING CEREMONY 1

KEYNOTE ADDRESS: U.S. REPRESENTATIVE MADELEINE Z. BORDALLO 1

2. INTRODUCTIONS 6

3. APPROVAL OF AGENDA 6

4. APPROVAL OF THE 139TH MEETING MINUTES 6

5. AGENCY REPORTS 7

A. NATIONAL MARINE FISHERIES SERVICE 7
1. Pacific Islands Regional Office 7
2. Pacific Islands Fisheries Science Center 12
B. NOAA GENERAL COUNSEL 14
C. US FISH AND WILDLIFE SERVICE 14
D. ENFORCEMENT 15
1. US Coast Guard 15
2. NMFS Office for Law Enforcement 16
3. Status of Violations 18

6. GUEST SPEAKER: TRINA LEBERER, THE NATURE CONSERVANCY – MICRONESIA 19

7. MARIANAS ARCHIPELAGO 1-GUAM 25

A. ISLA INFORME 25
B. ENFORCEMENT ISSUES 27
C. ACTION ITEMS 28
1. Guam purse-seine closed area (Action Item) 28
2. CDP regulatory amendment to allow future CDPs (Action Item) 32
D. COMMUNITY ISSUES 34
2. Transshipment Issues 43
F. MARIANAS FEP ADVISORY PANEL RECOMMENDATIONS 43
G. MARIANAS FEP PLAN TEAM RECOMMENDATIONS 43
H. MARIANAS FEP REAC RECOMMENDATIONS 45
I. SSC RECOMMENDATIONS 46
J. PUBLIC HEARING 46
K. COUNCIL DISCUSSION AND ACTION 46

8. HAWAII ARCHIPELAGO AND PRIA 48

A. MOKU PEPA 48
B. ENFORCEMENT ISSUES 51
C. UPDATE ON STATUS OF MHI BOTTOMFISH MANAGEMENT AND MONITORING 51
1. Data Collection, Processing and Analysis 51
a. Catch Reports 51
b. Dealer Reports 51
c. Delinquencies 51
2. Review annual data by month for last three years 53
3. Federal regulations 53
4. State rules and regulations 56
5. Report on economic performance 56
D. ACTION ITEMS 58
E. NWHI BUYOUT 60
F. COMMUNITY ISSUES 65
1. Seascape Initiatives 65
G. LOCAL, NATIONAL & INTERNATIONAL EDUCATION AND OUTREACH INITIATIVES 66
H. SSC RECOMMENDATIONS 66
I. PUBLIC COMMENT 68

J. COUNCIL DISCUSSION AND ACTION 68

9. PROTECTED SPECIES 71

A. STATUS OF PROTECTED SPECIES PROGRAM 71
B. UPDATE ON ESA CONSULTATIONS 71
C. ALBATROSS PETITION 79
E. OBSERVER PROGRAM REPORT ON AMERICAN SAMOA AND HAWAII 2007 LL FISHERY 81
F. PUBLIC COMMENT 81
G. COUNCIL DISCUSSION AND ACTION 81

10. PUBLIC COMMENT ON NON-AGENDA ITEMS 82

11. OPENING CEREMONY 82

12. INTRODUCTIONS 82

GUEST SPEAKER: THE HONORABLE SPEAKER OF THE CNMI LEGISLATURE ARNOLD PALACIOS 83

13. MARIANAS ARCHIPELAGO 2-CNMI 85

A. ARONGO FLAEEY 85
B. ENFORCEMENT ISSUES 87
C. ACTION ITEMS 87
1. CNMI longline and purse-seine closed areas (Action Item) 87
D. COMMUNITY ISSUES 90
1. Military Expansion 90
2. CNMI Monument 90
E. EDUCATION AND OUTREACH INITIATIVES 90
F. MARIANAS FEP ADVISORY PANEL RECOMMENDATIONS 91
G. MARIANAS FEP PLAN TEAM RECOMMENDATIONS 91
H. MARIANAS FEP REAC RECOMMENDATIONS 93
I. SSC RECOMMENDATIONS 93
J. PUBLIC HEARING 94
K. COUNCIL DISCUSSION AND ACTION 95

14. AMERICAN SAMOA ARCHIPELAGO 97

A. MOTU REPOTI 97
B. ENFORCEMENT ISSUES 98
C. ACTION ITEMS 98
1. American Samoa purse-seine closed area (Action Item) 98
2. American Samoa longline program modifications (Action Item) 100
3. American Samoa Marine Conservation Plan 108
D. COMMUNITY ISSUES 108
E. EDUCATION AND OUTREACH INITIATIVES 108
F. SSC RECOMMENDATIONS 108
G. PUBLIC HEARING 109
H. COUNCIL DISCUSSION AND ACTION 109

15. PELAGIC & INTERNATIONAL FISHERIES 110

A. ACTION ITEMS 110
1. Hawaii Swordfish Fishery Effort (Action Item) 110
2. Squid permits (Action Item) 128
B. INTERNATIONAL FISHERIES 129
1. 4th International Fishers Forum (IFF4) 129
2. Western Central Pacific Fisheries Commission 130
a. Report on WCPFC 4 130
b. Commissioners 131
c. Advisory Committee 131

d. Implementing Regulations 131
3. Northwest Pacific Bottomfishing Agreement 132
4. South Pacific RMFO 132
5. Meeting of US Commissioners for Living Marine Resources 132
6. CLIOTOP 133
C. SPC REPORT ON INSULAR FISHING IN THE PACIFIC 133
D. PACIFIC PELAGIC ADVISORY PANEL RECOMMENDATIONS 133
E. PACIFIC PELAGIC PLAN TEAM RECOMMENDATIONS 133
F. MARIANAS FEP REAC RECOMMENDATIONS 133
G. SSC RECOMMENDATIONS 133
H. STANDING RECOMMENDATIONS 134
J. COUNCIL DISCUSSION AND ACTION 134

16. PROGRAM PLANNING AND RESEARCH 134

A. MSRA IMPLEMENTATION 134
1. ACLs (Action Item) 134
2. Council Five-year Research Priorities 140
3. Status of MRIP 140
4. NEPA Coordination 144
5. SSC, Peer Review, Stipends 145
6. Proposed revisions to EFP process 145
B. UPDATE ON STATUS OF FMP ACTIONS 147
1. CNMI Bottomfish Logbooks 149
2. Barter/Trade Issues 149
C. POTENTIAL PERMIT FEES 150
D. STATUS OF MARINE CONSERVATION PLANS 150
E. WESTERN PACIFIC COOPERATIVE RESEARCH PRIORITIES 151
F. LEGISLATIVE REPORT 153
G. SSC RECOMMENDATIONS 153
H. STANDING COMMITTEE RECOMMENDATIONS 154
I. PUBLIC HEARING 154
J. COUNCIL DISCUSSION AND ACTION 154
1. ACLs 154
2. Council's five-year research priorities 156
3. MRIP 157
4. NEPA coordination 157
5. SSC Stipends 157
6. EFP Process 157
7. CNMI Bottomfish Logbooks 160
8. Barter/trade subsistence and artisanal fisheries 160
9. Fishing Permit Fees 160
10. Status of the Marine Conservation Plans 160
11. Western Pacific Cooperative Research Priorities 160
12. CDP 161
13. Other 161

17. ADMINISTRATIVE MATTERS AND BUDGET 161

A. FINANCIAL REPORT 161
H. COUNCIL DISCUSSION AND ACTION 166

19. OTHER BUSINESS 170

Monday, March 17, 2008

1. Opening Ceremony

On Monday March 17, 2008, Chairman Martin opened the 140th meeting and thanked our hosts, both on Guam and the Commonwealth of the Northern Mariana Islands for extending their hospitality.

Next was the presenting of the colors which was conducted by the University of Guam ROTC students and the College of Natural and Applied Sciences. After introducing them the Posting of the Colors Ceremony took place.

Mr. Martin introduced Mr. Leonard Iriarte from Guma Palu Lie, a cultural historian, to open the meeting for us. Mr. Iriarte greeted everyone and shared a Chamorro chant that is done in remembrance of their ancestors and our indigenous heritage.

Keynote Address: U.S. Representative Madeleine Z. Bordallo

Mr. Duenas then introduced Congresswoman Bordallo from Guam. She is a member of the House Committee on Natural Resources and serves as Chairwoman of Subcommittee on Fisheries, Wildlife and Oceans. She also has a seat on the Subcommittee on Insular Affairs which has jurisdiction over issues affecting the Insular Areas.

Congresswoman Bordallo is a member of the House Committee on Armed Services and is a member of the Subcommittee on Readiness and a Subcommittee on Seapower and Expeditionary Forces.

The Honorable Madeleine Bordallo, US Congresswoman from Guam, provided the opening remarks. She noted the following:

The Western Pacific Regional Fishery Management Council is charged with managing and protecting the fisheries and associated marine resources across and within one of the largest areas of the United States Exclusive Economic Zone as compared to any of the other seven councils established in accordance with the Magnuson-Stevens Fishery Conservation and Management Act first passed by Congress in 1976. The sheer magnitude of your area of responsibility and the number of jurisdictions, diverse communities and international partners with whom you are charged with working to protect these fisheries and resources give you a most significant voice with Congress and federal policymakers who work to set the natural priorities with respect to our fisheries.

At the start of the 110th Congress last year I assumed a new leadership responsibility and an appointment. As Chairwoman of the Subcommittee on Fisheries, Wildlife and Oceans I am committed to working for the enactment and improvement of federal policies supporting the Fishery Management Council system. I believe the Council concept and the system is unique and a proven way with which to carefully manage our fisheries and to do so in a way that involves the greatest degree of community input and participation as possible. The oversight work of the Subcommittee on Fisheries, Wildlife and Oceans in the House of Representatives for the 110th Congress continues. Our oversight work is oriented toward the Magnuson-Stevens implementation and the Act's goals of ending overfishing, minimizing bycatch, developing fisheries in a responsible and sensible manner and in protecting fish stocks and habitat. This is our focus.

Last December we began formal oversight with a hearing to review the actions of the National Marine Fisheries Service and the Councils in stemming overfishing and rebuilding overfished fisheries. The biological, economic and social consequences that overfishing brings for our islands and coastal communities, industries and marine ecosystems is too important for us to ignore. So it is the responsibility of the Congress, the Administration and the Councils to use the lessons learned from past mistakes to improve the state of our fisheries. Fortunately, for us, the rebuilding challenges fall today more upon management for fisheries along the East and West Coast than they are for fisheries in the Western Pacific. However, that is no less of a reason to strive for responsible management in our own region. We must be cognizant of overfishing, and I echo your Executive Director's recommendation that the Council carefully review impacts on fishing and the resources that may come to bear as a result of population growth and the military buildup on Guam and in the Northern Mariana Islands.

I note on the agenda for tomorrow and Thursday in Saipan is a focus on community issues, including a discussion on expansion of military activities and the stationing of a greater number of military personnel on Guam. I maintain a close working relationship with the senior leaders in the Department of Defense, including Major General David Bice, who is the Executive Director of the Joint Guam Program Office, or as we call it here, JGPO, and also with the Honorable B.J. Penn, the Assistant Secretary of the Navy for Installations and Environment. Both of these gentlemen are the point persons in Washington, DC, for managing the Guam buildup, together with Captain Robert Lee of JGPO. He's here on Guam, who I know you will hear from tomorrow and on Thursday. They are working to address community priorities and the impacts on our environment as part of the drafting of the Comprehensive Environmental Impact Statement, or better known as EIS, required under the National Environmental Policy Act of 1969. This is a work in progress, and 2008 is a pivotal year for planning for the military buildup. I might add at this point that we should have the results of the EIS by 2009, or perhaps a little bit before. At present, I am working to support greater involvement on the part of cooperating agencies with the Department of the Navy in analyzing actions and alternatives as part of the EIS. I encourage this Council to help in this process of assessing and preparing for impacts on our fisheries and to our fishing community. I stand ready to assist the Council to respond to impacts associated with the military buildup. I commend you for your attention to these issues, and I encourage you to remain involved in this process.

Congress is increasingly focusing on the military realignment. Congressman Neil Abercrombie, whom I'm sure the Hawaiian folks all know, and I, together with House Armed Services Committee Chair, Ike Skelton, and Congressmen Solomon Ortiz, the Chairman of the Subcommittee on Readiness, are committed to strong oversight of the military buildup. I will mention that all of these gentlemen have visited Guam just recently. Chairman Nick Rahall of the Natural Resources Committee and my good friend, Congressman Donna Christensen of the Virgin Islands, Chairwoman of the Subcommittee on Insular Affairs, are also working to support federal review and resources for Guam and the CNMI with regard to the environmental and the economic aspects of the buildup. I am also working very closely with my good friend, CNMI Resident Representative Pete A. Tenorio, to see to it that this buildup works for both Guam and CNMI. Last August Chairman Skelton in a bipartisan congressional delegation

visited Guam on the heels of the First Congressional Field Hearing held on Guam in nearly three decades to discuss several aspects of the buildup.

Last year Congress passed a resolution that I sponsored to back the US TR's position in the WTO talks and to put Congress on record on the issue of harmful foreign fishing subsidies. I also believe our own domestic policies should move away from pure subsidies of fishing fleets and towards better management and tools to meet the goals of the Magnuson-Stevens Act.

Curbing illegal, unregulated and unreported, or IUU, fishing in the sovereign waters and Exclusive Economic Zone of the United States remains of paramount interest to me. In the coming weeks I will convene a hearing in Washington, D.C. of the Subcommittee on Fisheries, Wildlife and Oceans to examine the progress the Department of Commerce and the Department of State have made to date in complying with and fulfilling the terms of the key IUU provisions of the Magnuson-Stevens Fisheries Conservation and Management Reauthorization Act of 2006. I'm also interested in learning about the development of foreign nation compliance certification procedures and a possible vessel registry, or a watch list, to help enforce the laws of the sea. I'm also interested in strong diplomacy on the part of the United States with foreign nations whose vessels we know are engaged in IUU fishing. Vigilance and international cooperation are the keys to protecting the interest of our own fishermen and the health and the sustainability of our fish stocks. The United States Coast Guard must be given greater resources to help respond to IUU fishing in the waters of the Western Pacific Ocean, and I am committed to working toward this end. Our island communities need the tools and the federal support to manage the fisheries, protect our marine resources and to promote the livelihood and economic success of our fishermen and women. The lack of capability to respond to IUU fishing in the Western Pacific Ocean is only one of many areas in which I believe the Federal Government should improve upon its

Another matter of international importance is banning the practice of and more strictly enforcing prohibitions on shark finning. I will soon join several of my colleagues in the House of Representatives in formally calling upon the Honorable Carlos Guiterrez, the Secretary of the United States Department of Commerce and the National Marine Fisheries Service to promulgate regulations that will ensure full implementation of the United Nations General Assembly Resolution recently adopted on this matter. Congress recognizes shark finning as inconsistent with the very spirit in which we as a country and as the peoples of the Pacific Islands should engage in as we develop our fisheries and harvest the resources. It runs counter to our values and to the example we are called upon to set for the rest of the world. That is why in 2000, before my service began in Congress, that both chambers of Congress and the President enacted the Shark Finning Prohibition Act. As you know, the act prohibits United States fishermen and women from removing the fins of sharks and discarding the carcasses at sea and from landing shark fins without the corresponding carcass. This past December the United Nations General Assembly took further action with regard to shark conservation and adopted a resolution supported by the United States calling upon governments worldwide to require sharks to be landed with their fins attached. The United States already has a prohibition on finning, as I mentioned. However, we as a country are called upon to do more to enforce the Shark Finning Prohibition Act and to improve its implementation. Last summer the National Marine Fisheries Service published proposed amendments to the consolidated Highly

Migratory Species Fishery Management Plan to strengthen the existing shark finning ban in the U.S. Atlantic waters with a strict fins-attached enforcement standard. Such a standard should be consistently applied to all U.S. waters if we are to uphold and act upon with the spirit that we as a country supported the U.N. Resolution. In this regard, I will join with my colleagues in urging the National Marine Fisheries Service to move toward a uniform fins-attached standard for enforcing the Shark Finning Prohibition Act to all U.S. waters because I believe this is fundamentally the right thing to do and is action that we can take as a country to demonstrate our commitment to shark conservation. So I urge all of you to join me in supporting this goal. I understand that fishing techniques and practices may be affected by adoption and ensuring compliance with such an enforcement standard. But I do believe all of us should work together to find the best way at achieving a shared goal of shark conservation and greater compliance with the prohibition act while setting a strong example of United States leadership in this regard. The sooner a fins-attached rule becomes United States policy the sooner we can lead the rest of the world toward stronger domestic and international conservation to curve mortality from shark fisheries that are too often completely unregulated.

Eliminating the IUU fishing and enforcing shark finning prohibition are two international goals. Apart from this focus is my commitment to building fisheries programs for our indigenous communities. We know that through efforts of stakeholders in our communities the Magnuson-Stevens Act was amended in 1997 to promote traditional fishing knowledge and practices and to support greater participation of indigenous communities in the United States Pacific Island fisheries. I am concerned with the interruption of funding for an authorized program that was experienced three years ago. I am working to reinstate funds for its implementation. This is the Western Pacific Demonstration Projects Program, which holds national value for the protection and the development of indigenous fishing practices. This is an important cultural preservation program for the Chamorro people of Guam and the Northern Marianas, the Samoan community of American Samoa and the greater South Pacific and Native Hawaiians. All of us understand sustainable fisheries are an important component of the economies of the islands and integral to the preservation and socioeconomic well-being of the indigenous communities of the Western Pacific Region. These Demonstration Projects help our indigenous communities explore safe and promising new means of fishing while maintaining the cherished traditions of living amicably with the sea. Our challenge is in securing such understanding on the part of budget decision-makers in Washington, DC. I will again work in this year's appropriations process to secure funding at the maximum authorized amount of $500,000 to enable three to five Demonstration Projects to be competitively approved and awarded grant funds in accordance with established regulations. This program, for example, has supported the work of the Guam Fishermen's Cooperative toward developing a domestic longline fishery, a fishery historically dominated by foreign fishers. This work should continue to receive federal support, in my opinion, and we must look at new ways to support training and recruitment programs for indigenous fishermen and women. Our history on Guam is abundant with accounts of how the ancient Chamorros were master boatsmen and outstanding fishermen. The crew members of Magellan and other European voyagers marveled at the mastery of the seas by Chamorros in their flying proas and the skill by which these master mariners harvest the ocean. Today, there is a real risk that these skills and practices will be lost.

Fortunately, we have the Guam Fishermen's Co-op working within our community and promoting fishing as a traditional skill, as well as an economic opportunity. Such co-ops and endeavors are increasingly important as scientists tell us that the world will inevitably become more and more dependent on the ocean as a primary source of food. The cooperation of stakeholders in our community must continue for efforts to grow and build Guam's fishing industry to be successful. The impending military buildup will provide new customers, not only for the catch of the day, but also as opportunities to grow the sport of fishing. Many will seek the thrill of hooking a marlin, a sailfish, yellowfin tuna, mahimahi, wahoo or barracuda. I appreciate the work of our fishermen and women in keeping me abreast of their efforts in promoting and preserving the skills for which indigenous peoples of the Pacific are respected and known. I, therefore, support the full implementation of the Western Pacific Demonstration Projects Program and am also interested in efforts to build the Community Development Program similar to the one established for the Alaskan fisheries.

Our focus on building fisheries programs for indigenous communities should be equally attached with focus on protecting some of the world's most ecologically precious resources found off our shores. Last year I was invited to address the Ocean Studies Board of the National Academies during a session they held on opportunities and challenges for ocean research in the U.S. Island Territories. I continue to urge the Ocean Studies Board to invest its academic capital, professional knowledge and capabilities in the territories. I'm encouraged by the level of increasing interest demonstrated on the part of scientists, the academic community and community stakeholders in our region. I am further encouraged by the academic pursuits of our young people toward careers in marine science and in fishing. I urge all of us to work together as one community and I commend you on your focus on education and outreach as part of your agenda. In Washington I am working to re-authorize the Coral Reef Conservation Act, the Coastal Zone Management Act, the National Sea Grant College Program Act and to move forward with implementing many of the recommendations of the U.S. Commission on Ocean Policy. 2008 is the International Year of the Reef, and we are poised to make progress in protecting habitat. Our Marine Protected Areas on Guam are a real success story. In Congress our work also includes re-authorization of the National Marine Sanctuary Act. I recently learned of a growing interest on the part of stakeholders in our community and conservationists across the world in a possible sanctuary or a monument to forever protect the integrity of the Marianas Trench. This proposal deserves to be carefully evaluated and we should weigh its positive elements as well as issues of concern. I believe the Council should be an important part of this process and I encourage you to keep an open mind about sanctuary designation for the Marianas while working to ensure the interest of our fishermen and women are protected in any proposal that may come forward.

Again, I want to express my support for the Council's work at this important meeting and to thank you for inviting me to address you here today. I look forward to working with you as you address the issues important to our community. I look forward to continuing to dialogue with you, with our fishers, with our scientists and with our nonprofit community in managing our resources in a sustainable manner and in achieving economic progress and, where appropriate, for protecting our resources and ecosystems for future generations. Please make the most of our visit on our islands. I hope the next

few days are very fruitful. I know you're going to visit our brothers and sisters in the Northern Mariana Islands and I hope that you have a chance to see our beautiful island. Thank you very much. Si yuuse maase.

2. Introductions

Then the Council went around the table and introduced themselves. In attendance was:

Mr. Sean Martin, the Chair of the Council and a Council member from Hawaii.
Mr. Paul Callaghan from the University of Guam, the Chairman of the Scientific and Statistical Committee.
Mr. Silas DeRoma, NOAA's General Counsel.
Mr. Bill Robinson with the National Marine Fisheries Service, Regional Administrator in Honolulu, Hawaii.
Mr. Ray Tulafono, Council member from American Samoa.
Mr. Will Sword, Council member from American Samoa.
Mr. Tony Lamorena from Guam, Bureau of Statistics and Planning.
Mr. Stephen Haleck, Vice-Chair from American Samoa.
Ms. Kitty Simonds, Council Executive Director.
Mr. Manny Duenas, representing Guam, Vice-Chair.
Mr. Ben Sablan, Council member, Northern Mariana Islands.
Mr. Fred Duerr, Vice-Chair, from Hawaii.
Mr. Ignacio Dela Cruz, Council member representing the CNMI.
Ms. Laura Thielen from the State of Hawaii.
Lt. Kyle Deems, U.S. Coast Guard, Honolulu.
Mr. Peter Young, State of Hawaii.
Mr. Rick Gaffney, Rick Gaffney, State of Hawaii.

3. Approval of Agenda

Mr. Martin moved on to the approval of the agenda.

Mr. Sablan made a motion to approve the agenda for the 140th Council Meeting.

Mr. Martin asked for a second. The motion was seconded by Mr. Duerr.

Mr. Martin said the motion was moved and seconded. He called for discussion. Hearing none he called for a vote. He asked all those in favor, say aye.

ALL COUNCIL MEMBERS said Aye.

Mr. Martin asked for those opposed. Hearing none, the motion passed.

4. Approval of the 139th Meeting Minutes

Mr. Martin said that the next item on the agenda is Agenda Item 4, Approval of the 139th Meeting Minutes.

Mr. Sablan made a motion for the approval of the 139th meeting minutes of the Council.

Mr. Tulafono seconded the motion.

Mr. Martin said the motion was moved and seconded. He asked for discussion and called on Ms. Thielen.

Ms. Thielen asked what the practice was of the Council because on other councils that she is on, the member who was not there will recuse themselves during that minutes vote. She asked if is practiced in this Council?

Mr. Martin said it has never come up, but if she was more comfortable with that, that it would be accepted.

Ms. Thielen thanked the Chairman and recused herself.

Mr. Martin asked for further discussion. Hearing none he called for a vote. Mr. Martin asked for those opposed. Hearing none, the motion passed.

5. Agency Reports

Mr. Martin said the next item on the agenda is Agenda Item 5, Agency Reports and started with the National Marine Fisheries Service, Pacific Islands Regional Office and called on Mr. Robinson.

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Mr. Robinson started with a quick summary of the regulatory actions that the NMFS has worked on since the last Council meeting in October. Beginning on October 15th, NMFS published in the Federal Register a Final Rule to implement changes to the federal black coral regulations, removing the exemption to the minimize size requirements. That rule became effective on November 14th. On December 27th, NMFS published a Notice of Availability and Request for Public Comment on the Bottomfish FMP Amendment 14 to end overfishing of Hawaii bottomfish. Comments on Amendment 14, which included a Final Environmental Impact Statement, were due on February 25th, 2008.

On February 1st, 2008, NMFS published the proposed rule and requested public comment on regulations implementing Amendment 14. Comments on the proposed rule were due by March 7th. He said NMFS will be working diligently with Council staff to respond to the comments on the proposed rule and to go immediately to a final rule as soon as the approval decision on the amendment is made. He said that it was his intention to make the approval decision earlier than the 95 Day requirement because the Council will be discussing what the appropriate regulatory response is to reaching a TAC in the bottomfish fishery. He said that in the meantime, part of that will be to complete the amendment approval process and to complete the final rule and to put that in place so that subsequent actions to close the fishery based on reaching the TAC can be taken.

On January 28th, NMFS published a notice that the 2008 lobster harvest guideline for the Northwestern Hawaiian Islands is set at zero, consistent with the Monument Proclamation and its implementing regulations.

In the area of permits, NMFS renewed all eight of the Northwestern Hawaiian Islands bottomfish limited entry permits, four for the Hoomalu Zone and four for the Mau Zone. They also received a permit from the Monument giving NMFS PIRO the authority to issue Letters of Authorization to the fishermen to allow them to anchor in the Monument outside of the closed areas in the Monument. That permit and Letters of Authorization will be good through 2011 when the bottomfish fishery in the NWHI will end.

He continued with his report by saying that approximately 150 Hawaii longline limited entry permits will be renewed this month, their renewal time. During 2007, NMFS issued 2,072 shallow-set certificates to 148 longline limited entry permit holders, 1,569 of those certificates were used on 87 trips by 29 different vessels. For 2008, NMFS issued 2,086 shallow-set certificates to 149 longline permit holders. As of February 8th, 77 of the certificates have been used on eight trips by eight vessels.

He also reported that the National Marine Fisheries Service National Permit System has been under development for a number of years. One phase of this project should be operational within the next few months, enabling PIRO to process and issue High Seas Fishing Compliance Act permits. Once the national system is up and running, expected by the end of this summer, the online system will be used for all Western Pacific FMP permits.

NOAA and the Fish and Wildlife Service and the State of Hawaii will soon release a consolidated Draft Papahanamokuakea Monument Management Plan to address six priority management needs. There will be an opportunity for public comment on those plans.

During 2007, 338 people attended the NMFS Protected Species Workshops, 246 in Hawaii and 92 in American Samoa. So far this year, 55 have attended the workshops in Hawaii and 19 in American Samoa. The online workshop has been completed, the design of it has been completed, and it's currently undergoing testing. So far it's only in English. Fifteen fishermen have taken the course and have provided valuable feedback. And the Korean and Vietnamese language versions of the course should be completed soon.

NMFS has also begun to develop regulations to implement the Northwestern Hawaiian Islands Compensation Program for fishery participants displaced by the Monument Proclamation.

In preparation for the completion and approval of the Fishery Ecosystem Plans for the archipelagoes, NMFS reviewed the status and sufficiency of ESA compliance of all of the fisheries managed in this region. And following this status review, we've made major progress to ensure that all of the fisheries have undergone sufficient ESA analysis.

Consultations for the Marianas and American Samoa crustacean fisheries have been completed, as was the consultation for the Heterocarpus, Amendment 13. Informal consultation is under way for the Hawaii crustacean fishery and the CNMI coral reef fisheries and will be completed very soon, hopefully within the next week or two. In that, NMFS will complete bringing four of the five FEPs up to speed, basically, as soon as they complete the consultation on the Hawaii bottomfish. So at that point, the Hawaii Archipelago, the PRIAs, the Mariana Archipelago and the American Samoa will all be up to speed on their ESA Consultations. Still outstanding, however, are some of the consultations under the proposed Pelagics FEP, including the American Samoa longline fishery.

In 2006 and 2007, observer reports determined that the American Samoa longline fishery is capturing more green sea turtles than NMFS has authorized under the 2004 Biological Opinion. Genetic analysis from two of the four turtles that were captured show that one was from the stocks nesting in Northern Australian and New Caledonia and one was from nesting stocks in Micronesia and American Samoa. Those are very small nesting populations, so are certainly something to be concerned about. Given the low observer coverage rate, there's a great deal of uncertainty about the total number of interactions in the fishery, however. The Opinion's Incidental Take Statement anticipated and limited sea turtle mortality in the fishery to a single individual for all hard-shelled species combined, therefore, NMFS needs to re-initiate. In conjunction with re-initiation of consultation, NMFS is preparing a letter and a request to the Council. But rather than re-initiating and establishing some new management measures as terms and conditions of a biological opinion, he suggested that the Council take a look at that fishery and consider some management measures that will be designed to reduce the incidental take of sea turtles, particularly green sea turtles. If the Council proposed some measures, then NMFS would conduct the consultation on the new proposed measures.

On February 7th, the Sustainable Fisheries Division submitted a Biological Assessment on the effects of the implementation of Amendment 14 to the Bottomfish FMP. The BA determined that the proposed action of the federal regulations to end overfishing of Hawaii bottomfish is likely to adversely affect Hawaiian monk seals because of incidental hooking and green sea turtles because of vessel collisions. NMFS is working on a biological opinion on the effects of this action on the two species, noting that the incidental hooking of the monk seals and the vessel collisions with turtles are very infrequent and the proposed action actually reduces fishing effort.

The annual meeting of the Hawaiian Monk Seal Recovery Team was held February 5-7, 2008. This was the first meeting of the team since the Revised Monk Seal Recovery Plan was adopted last August. The status of the monk seal population continues to worsen with a population decline of more than four percent. In many locations in the Northwestern Hawaiian Islands the juvenile survival rates are as low as 20 percent, or worse, and the age structure is such that there is not sufficient replacement of breeding age females, which is likely to further the population decline. NMFS is working diligently to raise awareness of the plight of the Hawaiian monk seal and to find ways of addressing this unfortunate decline.

He ended his report with statistics from the NMFS Observer Program. One-hundred percent of the Hawaii shallow-set swordfish longline fishery was covered in 2007. Coverage of the deep-set tuna longline fishery in 2007 was 20.1 percent. Observers covered 278 trips out of a total of 1,382 deep-set trips. The coverage for the American Samoa longline fishery in 2007 was only seven percent, with 11 out of 157 trips observed. Twenty-two trainees recently completed their observer training on February 15th.

Mr. Martin asked if there were questions for Mr. Robinson. He called on Mr. Duenas.

Mr. Duenas asked if the Western Pacific receiving vessel was based out of Guam or NMI. Mr. Robinson said that he didn't have that information on hand and he would find out and report back as soon as he got that information.

Mr. Martin called on Mr. Tulafono.

Mr. Tulafono asked if the NMFS would be offering a Samoan language version of the online protected species workshop. Mr. Robinson asked Alvin Katekaru to answer the question. Mr. Katekaru said that at the moment NMFS is concentrating on the Vietnamese and Korean fishermen, and will have to think about the American Samoa language and that it is not on their radar but they will consider it.

Mr. Martin called on Mr. Duenas.

Mr. Duenas said that the priority should be on the Insular Areas rather than where the NMFS office is at because they have to travel. Mr. Robinson objective of the online workshop is so that fishermen from other areas don't have to travel and he's hoping they can get the beta testing period finished and make that available online to all fishermen. Mr. Martin pointed out that a Protected Species Workshop appropriate for the American Samoa fishery may not be identical to the other fisheries. But if they are, there are probably many owners and operators who are both required to take the workshop that could participate in English when they get to it. So there is some opportunity.

He called on Mr. Duerr.

Mr. Duerr asked what the observer retention rate is after observers are trained. Mr. Robinson said that he doesn't have the exact numbers but noted that there is significant turnover in the program, but those that come through the Native Observer Program generally stay longer with less turnover.

Mr. Martin called on Ms. Simonds.

Ms. Simonds asked if Mr. Robinson would provide insight on the comment from the Monk Seal Recovery Team meeting that the monk seals will be gone in 20-30 years. Mr. Robinson asked Chris Yates to elaborate on that comment. Mr. Yates said that the

news from the Monk Seal Recovery Team was rather sobering in terms of the survival rate of juveniles. He said that is probably not a completely accurate characterization of what the modeling is showing, but basically, it's showing that very, very low survival rates of juveniles, breeding females leaving the population and thus the trajectory will continue to get worse and probably get even steeper as time goes on because there are not many reproductive females entering the population.

Ms. Simonds asked what happened in the 19th Century that started this whole downward trajectory.

Mr. Yates said that there are genetic analyses of the animals being done to see whether there's genetic diversity of the species and whether there is a significant degree of inbreeding, and those types of things. The genetic analyses can show you that there were probably bottlenecks in the population at some point in the 1800s that could have been due to a large-scale sealing effort, or something that happened at that time that reduced the population appreciably and then they could kind of see that all of the animals alive now are descendants of that population when it was brought down to a small number because all of the genetic hereditary is the same in all of those animals. That's a concern when you have a very small population of animals, the degree of genetic diversity and whether at some point the population is going to be suffering because of lack of genetic diversity within that species.

Ms. Simonds asked if any amount of money would help the survival.

Mr. Yates said that what was carried from discussions at the Recovery Team is what suite of measures we could possibly do to try and do a couple of things. One is to preserve some females, to preserve female reproductive capacity in the population in the Northwestern Hawaiian Islands. There is a lot of hope, but it's going to require a lot of work and probably some significant resources to really try and preserve that reproductive potential or eventually to change the trajectory of the downward slope. Some of them cost more monies than other. He said that the answer is going to be a suite of different types of things, large-scale captive care efforts cost a lot of money and require a lot of time and the right types of facilities and expertise.

Ms. Simonds noted that Niihau would be a good spot for them, away from Waikiki. Mr. Yates replied that there's been some recent discussion recently with some folks from Niihau.

Mr. Duenas asked what the real reason was for the jump in decline from a four percent norm to 20 percent. Mr. Yates clarified that the survival rate was around four percent and that the 20 percent referred to pup survival. Mr. Duenas said that it was curious that the Main Hawaiian Island population was doing well, considering the amount of human interaction occurring. Mr. Yates said that the hypothesis that the seals should be doing better in undisturbed areas is not accurate because the main islands have more extraction of resources and disturbance.

Mr. Martin called on Mr. Tulafono.

Mr. Tulafono asked if there's anyone who knew what percentage of the certified people from Alu Like have been working as observers.

Mr. Robinson said that 30 percent or more of the observer core has come through the Alu Like Program.

Mr. Martin called on Mr. Dela Cruz.
Mr. Dela Cruz asked if global warming and changing sea surface temperature has anything to do with monk seal mortality.

Mr. Robinson said that the monk seal mortality rates could be related to some form of climate change.

Mr. Martin asked for further questions. Hearing none he moved on to the next item on the agenda, the Pacific Islands Fisheries Science Center and called on Dr. Pooley.

2. Pacific Islands Fisheries Science Center
Mr. Pooley noted that his report was in the briefing book and reported on what the NMFS PIFSC has been working on. He said that the PIFSC was tracking a monk seal off Poipu in Kauai through satellite tags. He said that the discussion that was going on the status of the seals does reflect both long-term demographic changes back to the 1800s, and that the Hawaii Institute of Marine Biology, who is doing this work estimates there may have been as few as 50 breeding pairs at the end of the 19th Century.

He reported that the PIFSC is spending a lot of time doing international fisheries work. He said that there's been a lot of work on the pelagic fisheries over the last three to six months. Some of that work has to do with bycatch work and looking at issues of what's caught at what depth, and this is just a chart that shows various species in different kinds of depth configurations and what hook they were caught on.

One of the things that the Council brought up at the last meeting, was to translate turtle outreach materials into Vietnamese. He thinks it really is just coincidental that this is the first year the PIFSC actually had this product out in Vietnamese and they've had the lowest turtle catch in basically, the history of the fishery.

He next reported on the unmanned vehicle, the MALOLO 1 which weighs about five pounds and can go 75 miles. He said that it was designed to look for marine debris in the Northwestern Hawaiian Islands and further north in cooperation with the National Marine Sanctuary Program. He said that one of the interesting things about trying to do new technology is how hard it is to do sometimes. You have to be a trained pilot to drive this thing and you need to have it in sight all of the time, which is something of a problem since the whole purpose of that is to get it out and extend the range from what you can do on the vessel.

He reported on the research vessel work and that the OSCAR ELTON SETTE is doing a cruise around the Main Hawaiian Islands looking at monk seal foraging and doing oceanographic work. The next thing will be to do monk seal cam work. He said that the HIIALAKAI is in American Samoa at the moment and that the Governor of American Samoa was just on one of the legs where they went out to Rose Atoll.

As for other activities, he said that the PIFSC is going to have an external review of their ecosystem science in June of this year. Those are always important reviews for them as it's a chance to bring people in from the outside and take a look at what they're doing. He also said that there's been a lot of progress on the Ford Island Seawater Laboratory and Small-Boat Facility, which is where the Kewalo facility will be moving. He noted that in the FY08 budget, the fish and coral lines did pretty well but the monk seal line didn't do so well and the rest of the marine mammal lines haven't done that well.

He gave a brief overview of other items. He noted the cumulative catch of the Deep Seven Bottomfish starting from the opening of the season, October 1st. He said that the management of the bottomfish represents a really good collaborative effort between the WPacFIN Program and the State Division of Aquatic Resources in terms of fast-tracking data collection and data processing so that we are as close to up-to-date as anybody could conceivably be.

He did say that statistical analysis without understanding the physical characteristics that are underlying it is always dangerous. He said that they don't have any analysis of fishing behavior. He said that they know that when it gets really nice and flat and there's not very much wind, somebody said anybody and their grandmother in their 14-foot boat can go out and catch a bottomfish, and that wasn't in the model.

The PIFSC has also been doing some studies of fishing communities. They published one on Guam which is primarily a historical look that really focuses on the co-op and looks at changes over time in Guam. The focal point of this study was to really look at the co-op as a distillation of the fishing communities in Guam.

Mr. Pooley noted that the PIFSC has been essentially negotiating with the Navy over the last six months to provide them with a general environmental and ecological baseline to evaluate what's going to happen with both the Apra Harbor expansion and the Marianas operations, Marianas Range Operation. They have provided funds to accelerate the normal monitoring report, the one that he reported at the last meeting done on American Samoa to do the one for the Marianas. They still have not reached agreement on monitoring and site-specific issues. PIFSC has done a substantial amount of effort in designing how it ought to be done, and that, if nothing else, is a good thing to do. It's all done through the Coral Reef Ecosystem Division, which is a partnership with NOAA's Coral Reef Conservation Program and the local fishery and coastal zone agencies.

He also reminded the Council that the Reef Assessment and Monitoring Program operates in the various jurisdictions of the Council doing cruises every year or two or three to do nearshore surveys of the coral reef ecosystem. They do fishery assessment of

various techniques, as well as habitat mapping. These techniques have been implemented over a period of five years. PIFSC went through a substantial review of those methods about a year ago and began to fine-tune them, and that's what's going into the redesign of how they would help provide information on the impact of the Navy developments.

Lastly, he reported that the RAMP reports for American Samoa are finished but haven't actually been printed yet. The Marianas one is under development with a tentative deadline of December 2008. The Hawaiian Archipelago will be the next one.

Mr. Martin asked for questions. He called on Mr. Haleck.

Mr. Haleck asked if there were any observations or studies done on the active underwater volcano east of the Manua Islands. Mr. Pooley replied that the PIFSC is not very well prepared to do that type of work but said that the University of Hawaii has a pretty active program in underwater volcanology, and he thinks that they are studying it on a fairly regular basis.

Mr. Martin called on Mr. Duenas

Mr. Duenas commended the PIFSC for producing the study on the Guam fishing community and hoped that studies on other communities around the island areas would be forthcoming.

Mr. Martin called on Mr. Duerr.

Mr. Duerr commented on the ability to fly the MALOLO and the need for a trained pilot to fly it. He said that military drones are similarly operated and they might look into using these companies but cost may be a factor also. Mr. Pooley said that anyone can fly the MALOLO, the FAA requires PIFSC to have a trained pilot to fly it. The cost to fly it is low but agreed that they could make it much more simple.

Mr. Martin asked for further questions. Hearing none, he moved on to the next item on the agenda is 5.B, NOAA General Counsel and called on Mr. DeRoma.

B. NOAA General Counsel

Mr. DeRoma reported that there were no significant legal developments since the last time that the Council met.

Mr. Martin asked for questions. Hearing none, he moved on to the next item on the agenda, 5.C, U.S. Fish and Wildlife Service.

C. US Fish and Wildlife Service

There was no U.S. Fish and Wildlife Service representative at the meeting and no presentation.

D. Enforcement

1. US Coast Guard

MR. MARTIN introduced Item D, Enforcement. First to report was the U.S. Coast Guard.

LT. DEEMS said that Rear Admiral Brice-O'Hara sends her regards but she had a family emergency. She was scheduled to attend, because this was going to be her last one before she departs for D.C. He also said that Commander Mark Young was supposed to be here, but had a medical emergency this week.

The following is Lt. Deems' summary of the Coast Guard fisheries law enforcement activities from 18 September to 4 February.

Over this period of time the USCG completed 42 boardings of the Hawaii-based longline fleet.

Over the last several years the Coast Guard has documented an unsettling trend of safety issues associated with both the Hawaii and American Samoa-based longline fleets that include such things as collisions with large commercial vessels, groundings due to lack of navigation skills, security zone breaches, unmanned bridges at all hours, impaired or fatigued operators, lack of knowledge in deploying anchors after a loss of propulsion or steering, and chronic operation by non-U.S. masters.

Recently, the Hawaii-based fleet almost two additional vessels in two separate incidents, one involving a collision with a tug-and-tow, another that ran aground off the south shore of Oahu.

He urged Council members and staff to take the opportunity to support Coast Guard efforts in improving commercial vessel safety in these fleets. He explained that commercial fishing safety program coordinators and examiners are available in both Honolulu and American Samoa to assist vessel owners and operators in increasing compliance with the minimum safety requirements.

Coast Guard enforcement efforts outside the Main Hawaiian Islands focused on the prevention of encroachments by foreign fishing vessels in the remote U.S. EEZs in the Western and Central Pacific and also in areas located a thousand miles north of the Main Hawaiian Islands. He stated that the areas north of the Main Hawaiian Islands with colder water in the higher latitudes greatly affect distressed crew in-water survivability rates. Cold water survivability in these areas typical for fishermen floating in 17 degree Celsius water without an emergency suit is less than six hours. He explained that emergency suits are required safety equipment for all crew members on fishing vessels north of 32 degrees North Latitude.

Lt. Deems ended his report with stating that the Coast Guard also conducted information outreach to the fishing industry, including the Hawaii Longline Association and also the NOAA Observer Training Coordinator.

MR. MARTIN made a couple observations. He stated that the Coast Guard has worked very hard at continuing to develop a stronger relationship with the fishing industry in Hawaii, at least. They did attend an HLA General Meeting, made presentations related to a couple of different topics. Boarding ladders is one issue, a NOAA issue that's going on, as well as discussion about foreign crews and kind of putting the face of the Coast Guard in a different environment.

It's one thing when the Coast Guard meets you at the dock in a boarding environment, whether it be for cause or just a general boarding. But it's another when

you're talking, standing on the dock and kind of just developing a rapport.

Mr. Martin said that he knows that the Admiral and her staff have worked very hard in developing that relationship, and he wanted to pass along that we appreciate that, the lines of communication.

Mr. Duenas commended the U.S. Coast Guard Marianas for its outstanding work in assisting the fishermen in boating safety requirements.

2. NMFS Office for Law Enforcement

Mr. Martin introduced Agenda Item 5.D.2, NMFS Office of Law Enforcement, Scott Yamashita. Scott explained that they're still in the process of rebuilding their office and that they just have hired three more agents to replace agents that they lost. They should be onboard in approximately 60 to 90 days. With added on training specific for the agency, we're probably looking at another four months before they can have them in the streets. They're working through it and, hopefully, will get them up and running and with that, be a little more interactive in terms of helping with enforcement issues in the Pacific Island Areas.

He had several highlighted investigations that they are currently working on which aren't included in the Council's report. He briefly went through some of them.

The first case was an arrest involving a case of an illegal turtle take. They've had several of these recently, not specific to any one area. But they've been getting hotline calls and then they respond. They've responded luckily in time. The turtle is alive, usually at someone's house, backyard or garage. They get the turtle and have a veterinarian check the turtle, return it to the wild, and then proceed from there. He stated that it has been a win-win situation. A hotline call comes in and they respond in time. The animal is saved and they continue the investigation and hopefully it's a successful prosecution.

The next two cases are involved with monk seals.

The first case occurring in our investigation was a monk seal that was a female monk seal with a nursing pup on the beach that got harassed. This person eventually ended up posting it on myspace.com. Because of that, it was viewed by a lot of people that reported it to us, and they're in the process right now of tracking this person down, and the witnesses.

It turns out that this type of investigation leads them to California, Alaska and some other states, too. They're all spread out. He explained that often it's where they're visiting Hawaii and got caught up in a few things and now they're back home and the power of the internet will follow them to where they're living.

Another case was a monk seal that was attacked by an unleashed dog. In this case, the dog attacked the pup. The pup fled into the water. It was not sighted for several days, but was sighted about a week later. The dog and its owner were identified. He thinks that investigation has been concluded.

The third case is another internet case also on myspace.com. This is a case of feeding wild dolphins. They are following up on that, too.

In terms of community relations, he stated that he was very pleased with their Enforcement Officer Edwin Sui (phonetic) in American Samoa. He's been very active in the community, very active in boarding vessels there and learning as much as he can from our agent there, Kevin Painter.

They participated in the Hawaii Fishing and Seafood Festival which he explained was an eye-opener for me; he was just amazed how many people attended. He said it was a great, great opportunity for everyone to learn more about the fisheries and he recommended every island nation put something like that.

Lastly, he explained that as part of their office rebuilding they have hired Terry Bloom (phonetic), who is our new VMS Program Manager.

Since Terry has come onboard, he's done a lot in terms of helping the VMS Program and is currently in charge of replacing the older VMS units on vessels in Hawaii which is a process that they hope to start within the next several months and start replacing older units.

The only troubling news he had to report is that the only known VMS vendor in American Samoa right now closed his doors which is going to lead to a little bit of a technical problem as they try and find a replacement for that vendor to service VMS units in American Samoa. They're pretty much getting to the stage where they may have to just do a separate contract if they can or he may be just stuck flying special contractors down there to address the problem.

One of the things they're trying to do, if they do go down there, though, is to see if they can get some cooperation from the fishing fleet and have as many vessels in port at the same time so we can do as many vessels as we can while the technician is in American Samoa. They're hoping to find another vendor or find some other way to better accommodate the fishing industry there than to have them all come in and sit in port for a week or two until they work through it. If he's going to do that, he wants to try and find a vendor to service the boats as they want to be serviced.

Mr. Martin asked if there were any questions.

Mr. Gaffney asked about the wild dolphin feeding incident, wondering what species of dolphin and what island.

Mr. Yamashita responded it was off the Big Island. He believed it was a spinner. He said that from what he can tell, it may be related to the aquaculture business over there.

Mr. Martin had a question related to VMS. He explained that he understands that the Galaxy and Trimble units are basically becoming obsolete and the fleet is transitioning to the Faria WatchDog™ 750 VMS. He asked how that transition was going and if they were bringing in new units. He wanted to know if units fail, are vessels experiencing delays in getting a unit fixed or the installation of the new units. He asked if they are available on the shelf so that there's no time delay. Mr. Yamashita explained that the original Trimble units, much to their credit, are rock-solid units but with everything, time and age will get to them. They are replacing those units as they can. But that they don't have quite the inventory stock that they should. They have not delayed any vessels once properly notified and haven't delayed any vessels from going on a trip. And then those vessels, of course, become priority once they get back to Oahu and for it to get those units serviced.

Mr. Tulafono explained that when he called his office on Friday, his deputy said that some of their officers were helping out two NMFS agents investigating one of the vessels flagged from Ecuador that was suspected of fishing in American Samoa's EEZ. He asked for an update on that situation. Mr. Yamashita answered that that it's going to be ongoing. The officers did accompany Edwin and another agent onboard and that

they're still analyzing and talking to those people. He also said the vessel is still operating.

Mr. Duenas asked about in his report on their investigations that an arrest was made on a case involving an illegal take of endangered green sea turtle. He asked if 'endangered' was proper or is it 'threatened'. Mr. Yamashita answered that Mr. Duenas was right, it should technically be threatened.

Then Mr. Duenas commended their agent on Guam, Chuck, for his participation in their Fishermen's Festival. Mr. Martin made one point of clarification, that the Seafood Festival in Hawaii was modeled after the one here in Guam.

3. Status of Violations

Mr. Martin introduced the next item on the Agenda, Item 5.D.3, Status of Violations, presented by Alexa Cole. Ms. Cole explained that her predecessor, Paul Ortiz, and she now split up his job. He's going to be the Senior Enforcement Attorney for the Southwest Region and she is the new Senior Enforcement Attorney for the Pacific Islands Region. She explained that this was her first Council meeting ever. She went on to say that as Scott said, the Office of Law Enforcement, as she took over this new job, the first few months have been spent taking a look at the cases that she's inherited, finishing up some cases from the East Coast where she was at Headquarters for the last five years.

She said that the enforcement report she submitted has four cases on it and that she's added three more that have gotten charged and have been served since she last sent in this report.

The first three cases are all very similar, involving the Fishing Vessel(s) KAIIMI, NATALIE ROSE and VIRGINIA CREEPER (phonetic). Those were all unpaid summary settlements for failure to submit your logbooks within 72 hours. Those summary settlements have been unpaid for way too long, and so they have been issued a NOVA. She said this is going to be their standard practice moving forward. Let that message go to the dock that summary settlements need to be paid. When they're unpaid, the cases are going to be coming to her and they are going to be getting a NOVA of that increased amount.

The summary settlements were for $500. The NOVAs were issued at $1,000.

The next case is the Fishing Vessel FORTUNA, which is the second case that has gotten charged under the regulations from the new Monument up in the Northwestern Hawaiian Islands. This is one of the eight bottomfish vessels. He was fishing in the Maro Reef Special Recreation Area. He was issued a civil penalty of $20,000 and a permit sanction of 30 days of all of his federal fishery permits but it has not yet gone final.

The next two cases that are not on what you have are monk seal cases. One was the case that Scott just mentioned where the dog bit the monk seal. That case was charged for $2500. There was another case that she recently charged involving a monk seal that was killed in a beach seine. They were charged by the State for illegally setting the beach seine. They have also charged them for the death of a monk seal for a civil penalty of $3500.

The final case that has been charged in this period was to the Fishing Vessel LADY CHRISTINE II (phonetic), which was two counts of fishing with longline gear in the Main Hawaiian Islands longline prohibited area for an assessed civil penalty of

$17,000.

Mr. Gaffney asked about the last case reported on, fishing inside the Main Hawaiian Islands area, where they were fishing. Ms. Cole did not have the information and only knew they were in the MHI.

Ms. Simonds asked what was happening with pursuing the enforcement actions with the Spanish purse seiners that were flying the Ecuadorian flag that violated the EEZ last year.

Ms. Cole responded that she can't charge a case until she has the evidence that documents the violation and that they did charge two counts, the DRESDAN and the SAN ANDREAS, and since then they are continuing to work both with the State Department and seeking cooperation from Ecuador in pursuing these violations. But until they have the evidence, they're still under investigation and they can't move forward until they have more information.

Ms. Simonds explained that we're anxious for Ms. Cole to pursue them that we hope our government can do something in the international arena, because we're looking forward to those penalties to come to the Western Pacific Fisheries Sustainable Fund.

Ms. Cole responded that they would also like to be able to charge the cases when they find that there has been foreign fishing vessel incursions in the U.S. EEZ, and that they are working with the State Department to do everything they can to get the information to be able to do something about that.

6. Guest Speaker: Trina Leberer, The Nature Conservancy – Micronesia

Mr. Martin introduced the guest speaker, Trina Leberer, from the Nature Conservancy. He said that she has lived in Guam since 1994, earning a Master's in Biology at the University of Guam Marine Laboratory in 1997. She worked for the Guam Department of Agriculture, Division of Aquatic and Wildlife Resources for seven years before joining the Nature Conservancy in 2004.

He went on to say that as the Marine Conservation Coordinator for the Micronesian Program Trina assists partners in their Micronesian Challenge efforts in the Federated States of Micronesia, Republic of Palau, Republic of the Marshall Islands and the Commonwealth of the Northern Mariana Islands and Guam. He thanked her for coming and welcomed her to the meeting.

Ms. Leberer (verbatim): "Thank you very much. Thank you for inviting me.

I'm going to give a brief overview of the TNC Micronesian Program today.

For those who aren't that familiar, the Nature Conservancy is a nongovernmental biodiversity conservation organization. It started on the mainland more than 50 years ago. It's grown considerably since that time.

We started a program in Palau in 1990, and then opened a field office in Pohnpei in 1992.

In 2002 the decision was made to merge those programs and to expand a bit. So we created the Micronesia Program. Thusly, we work with our partners in Palau, FSM, Marshall Islands and even now in Guam and CNMI as well.

So the work that we do in Micronesia is quite different than for those who are

familiar with the TNC State Programs. We're quite different.

A lot of that is based on the fact that biodiversity conservation from Micronesia means a lot more about wise use and strong and effective management of natural marine resources that sustain the cultures and livelihoods of the area. So it's more about sustainable use.

So the way that we work here, we don't own our own sites or manage our own sites. We don't implement our own projects on the ground.

But instead, we work with our partners. We support the work of local partners in the region.

Our partners range, we have government agency partners. We have local conservation NGO partners, community-based organization partners, even academic institutions.

We also partner a lot with regional organizations, like SPREP and SPC. In fact, currently, we are partnering with SPC to help them develop an ecosystem approach to fisheries management as well.

We mostly focus on helping our partners to set their priorities and develop strategies to try to address those priorities. Then we help them to take action, in some cases.

And then help them to measure their success as well.

We do that in a variety of ways.

We have provided help with setting up peer learning networks, like the Micronesian Islands Conservation Network, the Pacific Invasive Learning Network.

We help site exchanges, facilitating the ability for a partner in one place to go to another place. If they are dealing with a specific issue and they want to share experiences on how to deal with remote enforcement, or how to monitor, do socioeconomic monitoring, things like that, we just facilitate the exchange.

We also help with technical assistance for things like strategic planning, capacity needs assessments. We help with -- we've been asked by our partners to help them with ecological assessments.

We also focus a lot on management effectiveness and helping our partners to really be able to identify and measure those indicators that will help them know whether the actions they're taking are successful or not.

And finally, very short overview. But finally, we also in the past few years we've been focusing a lot on sustainable programs and helping our partners to sustainably fund the work that they're doing.

We do that in a few different ways.

We help them with -- we help them in a few ways.

We help them identify the cost of their natural resource management and then we help to look at the gaps in the funding they may have and help them to find maybe some strategies to generate new income.

But we also help in terms of helping to build an endowment for the region, but we'll fill those additional gaps as well.

That's truthfully, basically it.

I mean, that's a general overview, and I've left plenty of time for questions. So I do thank you again for inviting me to come.

I'd be happy to take any questions at this time."

Mr. Martin thanked her and asked for questions. He called on Mr. Sablan.

Mr. Sablan asked if the Federated States of Micronesia, Republic of the Marshalls, Republic of the Palau had state waters, and what governmental agencies work on state waters and what governmental waters work on the international waters.

Ms. Leberer replied that they're actually set up very closely to the U.S. system. So they do have local waters/state waters and it goes out to nine nautical miles. She said that they also have national waters that are managed by their national governments, out to 200 miles. So they do have national governments that enter into treaties and participate in organizations like those for migratory tuna stocks and the different bodies that manage migratory fish. She said that the local waters are managed under the states, and in many cases, the communities directly, themselves.

Mr. Sablan said that works for the FSM, but wondered how that works for the Republic of the Marshall Islands. Ms. Leberer replied that each of the atolls have control over their own local waters. They're municipal governments. They call them states, but they're municipal governments, and they own their own resources.

Mr. Martin called on Ms. Simonds

Ms. Simonds asked for an example of one of those financing situations she talked about. Ms. Leberer said they are helping to develop sustainable finance strategies to cover the natural resource management needs of each place. That has entailed helping the partners to identify on spreadsheets basically what is the cost to do the current work you're doing, whether you need to do things in addition. And then they want to help them develop the strategies that might get them to that gap. One example is from Guam, the conservation officers know they need. Guam would like an additional 10 officers to be up to their original level to be as effective as they can be. They want to help them find ways to fund those officers.

Mr. Martin asked for additional questions and called on Mr. Sablan.

Mr. Sablan asked if she knew what the state waters were in CNMI.

Ms. Leberer said that she believed that the Council manages waters from zero to 200 in the CNMI.

Mr. Martin called on Mr. DeRoma.

Mr. DeRoma said that it seems to him like what she was describing in terms of what you do here is different from the model that the Nature Conservancy uses on the Mainland. He asked her to elaborate on the differences, and asked which model she thinks works better. Ms. Leberer said it depends on the place. She said that the international programs, in general, operate a bit differently than the state program. The Conservancy, itself,

started off mostly with sort of grass roots communities wanting to raise money and purchase land. So a lot of people know us as this organization that purchases land. But she explained is not how they operate in the international community. So for them, the program has evolved over the 18 years they've been in Micronesia to fit what seems to work best out here, which is let their partners do the work and they just support them and help them do what they would like to do to manage their resources. So that seems to be what works best for here.

Mr. Martin called on Mr. Tulafono.

Mr. Tulafono asked how American Samoa can go about getting her assistance in providing some training for any project or any programs that they are undertaking.
Ms. Leberer She said that it is hard because American Samoa doesn't fall within her purview and it doesn't currently fall within any sort of any other programs. But she said, she would help try to figure out what they need and help them with that to the best that she can. But currently, it's not part of her program.

Mr. Martin called on Mr. Dela Cruz.

Mr. Dela Cruz asked if her organization is giving out grants for some of these programs related to what she was promoting. Ms. Leberer replied that they do have some small grants. They have things called Just-in-Time grants for small organizations just trying to get started. They gave a small grant to MINA, the Mariana Islands Nature Alliance. Then they also have had some grants which unfortunately, Guam and CNMI don't qualify for, that they're early action grants under the Convention on Biological Diversity to the countries are signatories under that convention, but the U.S. is not a signatory.

Mr. Dela Cruz also asked if she would go over sustainable financing.

Ms. Leberer said that, "in general, we all know how natural resources oftentimes get relegated to the budget. Discussions happen in legislation, and things. Sometimes that environment isn't always thought about, natural resources aren't necessarily priority because things like schools and public safety and health are really critical important issues. So one of the things that they're trying to do is sort of help fill that gap with maybe more creative ways to do that and think of it as more of a private sector model or a business model, as to the ways that we can really figure out how much does it cost to do the work we do. She said that we tend to under-value the work that we do. When we volunteer our time, we don't realize that's time, and that costs money and that we should be valuing things accurately. Then they'll be able to really think about strategies. In the case of Guam, right now they get about 1.3 million tourists a year, and Guam doesn't capture any money from those tourists for the use of our beautiful natural resources. So that's something they would like to explore -- they would like to help their partners here to explore ways they might be able to capture some sort of user fees from those tourists that would then go into management actions and enforcement and all of the different projects."

Mr. Martin called on Mr. Duenas.

Mr. Duenas asked if she was a volunteer for the Nature Conservancy or a paid employee.

Ms. Leberer replied that she was paid and said that she mentioned that when they volunteer their time for other things, sometime they do not take into account what things cost.

Mr. Duenas then asked about funding availability for Guam, CNMI or American Samoa.

Ms. Leberer replied that they have small grants, small things like Just-in-Time Grants, or things like that. But some of the larger grants that are available are tied more to the U.N. Convention on Biology.

Mr. Duenas asked if the Nature Conservancy was Washington D.C. based.

Ms. Leberer said yes.

Mr. Duenas said that it was his understanding, its original duties in the beginning was to help people get lands and protect the lands and the wildlife and the wilderness and supply funding for that. He asked why it is different out in the Pacific.

Ms. Leberer replied that she has assisted with grant proposals and things for partners in CNMI and Guam, and get those very funds to do that. She said that when the Nature Conservancy did begin, it was the communities, themselves, that were raising the money to purchase the lands. So that's how it was happening back then.

Mr. Duenas asked if that was the case with the Micronesian Challenge. He said that Micronesia is supposed to get $6 million from the Nature Conservancy and asked if that's a small grant.

Ms. Leberer asked to set the record straight, and replied that the Nature Conservancy put up a pledge of $3 million for the first phase of sustainable financing under the Micronesian Challenge, and Conservation International, another organization, put up an additional three million. That has since been matched by the countries with a $6 million Global Environment Facility Grant, and that was the original pledge, was that they would put up six million to raise eighteen for the first phase, that was for the three countries because they're signatories on the Convention of Biological Diversity. She said the US is not. So Guam and CNMI are part of phase 2, and that's what they're currently doing right now, which is helping to develop strategies and find the actual costs and needs. Then Guam and CNMI will be part of phase 2. She said that she mentioned that they will help to try to build that endowment where all five members are equal partners and they're as committed to helping Guam and CNMI meet their needs as the other three countries.

Mr. Martin called on Ms. Simonds.

Ms. Simonds asked if Margret Spring was her boss and where she fits into her program.

Ms. Leberer replied that she isn't her boss, but is part of the California program and the Pacific region, of which the Micronesia wasn't a part of. She said they were a part of the Asia Pacific Region and the International Program.

Ms. Simonds said that Mr. Tulafono should write to Margret Spring since she is in charge of the Pacific Region.

Mr. Martin asked for additional questions. Hearing none, he thanked Ms. Leberer for presenting and concluded the agenda for the day.

(Council meeting adjourned for the day)

Tuesday, March 18, 2008

7. Marianas Archipelago 1-Guam

A. Isla Informe

Document 7.A(1) is the outline of what Mr. Duenas presented containing information on fisheries: pelagic, bottomfish, crustacean.

He said that Guam had a pretty good season this past six months, but the high price of fuel still is limiting effort and that the Fishermen's Co-op lost about 15 percent of its membership due to the high price of fuel. Fuel now is nearly $4 a gallon for Guam.

He explained that there are only two FADs online which also restricts opportunities to go fishing. Since November is the beginning of the mahi season all through April, due to the lack of FADs, fishermen don't want to go out and waste their time. The best fishing for mahimahi during this time of the year is up at Ritidian Point during their winter season which also has the roughest waters on Guam.

Some wahoo were caught during the moon phases of each month, however, this was restricted due to the rough seas. Also a few bonita, skipjack tuna but not much this season. The ones that have been harvested were under three pounds, or three-pound average.

Yellowfin is also few and far between but there have been some good catches of the deepwater species which gives a better price. They're going to get rough water, so the bottomfish will get the best price. There's not much in the shallow bottom.

On Guam they have two types of bottomfish fishing zones; shallow, which is the red-gilled emperor and the grouper, stuff like that. And the Deep 7, like in Hawaii, that go down to eight, nine hundred feet.

Spear fishermen also had problems fishing because of the rough seas. It just coincides, when the water gets calm, the moon is full and it makes fishing a little more difficult. Also, the octopus fishing, which is a local favorite fish around Guam, is kind of rough right now to get on the reef and harvest the octopus.

ESA Issues.

A dead whale was washed up on the shore by the Glass Breakwater on January 29th, 2008. The whale was dead and decomposing. Samples were taken by DAWR.

Fishing Communities.

DAWR held public meetings on November 16th, 19th and 20th, Tumon, Piti and Merizo, respectively, to encourage all fishermen and those involved in marine resource management to participate in a meeting with an agenda that was publicized as:

"Strengthening the relationship between the community and the resource agencies;

Sharing experience from Marine Managed Areas in other communities; and

Increasing community engagement in Marine Preserve management through awareness raising and outreach, biological and human use monitoring and surveillance and compliance".

These public meetings were not advertised in the PDN and maybe should have allowed for more public comment during the sessions. Community engagement is always a two-way street as with the Council's public meeting last night.

Fishing Communities.

The vast majority of the fishing community has abided by the 1997 Marine Preserve law despite the challenges created and the adverse effect it has on their

livelihood, economics, health, safety and culture, while others have prospered on these natural resources. The community has long awaited the implementation of the 2004 Eco Permit Program that regulates all other users, which is long overdue. Again, fishermen continue to be deprived. There are numerous violations, including the beach raker (he showed a photo) and pointed out that the tractor is located in the water. He is driving into the water to scrape the algae and whatever is growing on the beach to create beautiful white sandy beaches like Honolulu. He also pointed out on the lower photo below the tractor, there's a foot. In front of that foot is what's left of a sea cucumber that was raked by the tractor. Yet the sea cucumber is part of the ecosystem and it's a very important part of the ecosystem, people shouldn't harvest it. Yet, there is wanton waste for the idea that they want to make their island beautiful for the tourists.

The fishermen still argue the fact that this machine should not be allowed on the beach. They don't know if there's nesting on those beaches. They know that there is algae and small crabs and sea cucumbers being removed.

New Initiatives.

This is the Year of the Coral Reef. The initiative hopes to strengthen awareness about ecological, economic, social and cultural value of coral reefs and associated ecosystems. The question fishermen or community members wonder about is whose economics are being looked at because social and cultural value has no meaning on this list.

Improve understanding of critical threats to coral reefs and generate both practical and innovative solutions to reduce these threats.

Three, to generate urgent actions at all levels to develop and implement effective management strategies for conservation and sustainable use of these ecosystems.

On Friday, February 1st, Lieutenant Governor Michael Cruz signed a proclamation designating 2008 as the Year of the Coral Reef.

Marine Education Initiatives.

The College of Natural and Applied Science 4H Program did a summer program at the Fishermen's Co-op. They did it during Christmas break with 25 kids involved in the program, plus 25 kids came from Korea. So there were 50 students over the Christmas holidays that we took them out and showed them how fishing is done on Guam. So we had a pretty good exchange program with the Korean students and the local students for the whole week. They were happy they caught mahimahi, wahoo and bonita.

The Council announced a request for proposals from local teachers and organizations to run the High School Summer Program, and we're still working on that project here on Guam.

The Western and Central Pacific Fisheries Commission held its regular meeting at the Hyatt Regency Hotel on Guam on December 2nd through the 7th. Council staff assisted local arrangements and the running of the Hospitality Desk for the meeting. The Guam Fishermen's Cooperative Association and the Council family hosted the nightly receptions at the GFCA facility in Agana.

Mr. Duenas concluded and asked if they were any questions.

First Mr. Duenas thanked Council members and the staff that assisted in last night's Fishers Forum. He felt the take-home message from the fishermen was that the Council wants to engage with the community and for them to be participants in all parts of the decision-making process. He thinks the zero to three and three to two hundred

should be erased and all should work together to accomplish a common goal, which is to manage our resource.

On a final note, Mr. Duenas apologized to the Council as a Council member. He said he understands two letters were sent to Washington, D.C. regarding his actions as a Council Representative on Guam. He explained that he is Manny Duenas, President of the Guam Fishermen's Cooperative Association, when he is on Guam and that he is the Guam Council Representative when he's at the Council meeting, and that is on the record. He apologized to the Council for any embarrassment he may have brought. He explained that he will try and rectify the problem and send a forthcoming letter regarding the situation.

Mr. Martin acknowledged and expressed appreciation to John Boreman for last night's meeting. Although Mr. Boreman was delayed returning to the meeting; he was out actually getting familiar with the fishing environment in Guam being able to see what the local community deals with and recognizing that there are significant challenges to the [MRIP] programs that he runs through Science and Technology. A one size doesn't fit all nationally, and it's even more unique out in the Pacific Islands.

B. Enforcement Issues

The next item is 7.B, Enforcement Issues. Mr. Tony Lamorena read a report verbatim, making side comments from this report.

On Thursday, December 13th, two Chamorro activists were arrested by DAWR Conservation Officers while protesting the restriction of cultural fishing practices in Tumon Bay. The protesters entered the water, according to one witness, with a 50-foot net, which is against Public Law 24-21, better known as the Marine Preserve Law.

According to the interview with Howard Himsing (phonetic), one of the activists arrested, they used the net to draw attention to the problems of the law.

Public Law 24-21, Section 15311.3, special regulations to be applied to select Marine Preserves:

B, Tumon Bay, all fishing except for cast net from shore, hook and line from shore, and those methods specifically identified as allowable by law or regulation in a Preserve shall be prohibited.

Hook-and-line fishing and cast net fishing allowed from shore shall be limited to the take of:

Rabbitfish, seyun, manahak.

Juvenile goatfish, ti'ao.

Juvenile jacks, i'e'.

And then convict tang, kichu.

Cast net fishing will also be allowed along the reef margin for rabbitfish and convict tangs only.

This section has caused much confusion for local residents, fishermen. Note that the activity of cast net or hook-and-line fishing require the fishermen to enter the water whether to cast the net, retrieve the net cast or to unhook a line.

That concluded the report.

He made some side comments saying that the local law prohibits gill net fishing. Gill net fishing is defined in Public Law 24-21. Gill net fishing is not considered traditional fishing as defined in the Public Law through public hearings with the local

fishermen. The men were using a gill net, a 50-foot gill net which is the reason they were arrested. There have been no fishermen arrested using rod and reel and talaya net fishing by entering the water. The Conservation Officers realize that you need to enter the water to retrieve your nets and retrieve your catch. So there are no reported arrests of any fishermen entering the water to retrieve their nets and their catch.

C. Action Items

1. Guam purse-seine closed area (Action Item)

Kelly Finn presented this proposed action by identifying the problem statement and objective and then describing the four alternatives and their potential impacts. In conclusion she presented the recommendations of the SSC, AP, and Plan Team; and the reasons why Alternative 3D, to prohibit purse seine fishing in the entire EEZ around Guam, is the preferred alternative including to avoid stock depletion and catch competition and to best avoid any adverse impacts purse seine fishing for tunas may have on availability of locally important fish species in Guam. She pointed out the Hampton et al. (1996) study found negative correlations between purse seine catches and catches by artisanal fleets for small areas (50- 60 nm) which are likely the result of purse seine catches depleting local abundance of yellowfin and thus impacting the small boat catch rates. Ms. Finn explained that additional preliminary modeling of theoretical skipjack tuna movement indicated that purse seine fishing could have an impact on the availability of skipjack tuna for small-scale trolling from equivalent levels of fishing effort occurring as far away as 600 -800 nm (P. Kleiber pers. comm.) which indicates localized effects may occur if purse seiners began fishing around Guam especially because of the small size of the EEZ around Guam. Ms. Finn also explained that the preferred alternative is not likely to cause excessive hardship to the purse seine fleet as they currently fish in other suitable fishing areas, are able to travel far distances (unlike the local fleet) and have exclusive rights to fish around the PRIAs. Discussions by the Council on this action centered around three main themes: use of best available science, overcapacity of the purse seine fleet, and discards by the purse seine fleet.

Mr. Robinson stated that he agrees with the objective of this action, i.e. preventing adverse impacts on the local fleets and their cultural values and maintaining as high a CPUE as possible and agreed that this is addressed in the Magnuson-Stevens Act. He added that it must be based on the best available science per National Standard 2 and that the studies indicate that the local depletion and gear conflicts are identifiable in terms of negative correlations within about 60 nautical miles and that after that the work is not empirical and highly theoretical. He acknowledged that at the Fishers Forum, however, folks said that CPUE has been declining and fishing isn't as good for skipjack, yellowfin and others. Mr. Robinson stated that what the theoretical model may be showing is what's happening on a broad scale. Mr. Robinson expressed concern about implementing a regulatory solution to prohibit a sector of the U.S. fishing industry, i.e. purse seiners, from fishing in an area without a good scientific basis. He went on to state that to have a regulatory solution when you don't have a problem, an identified problem, is problematic for the Agency. He further stated that there has never been a purse seine fishery of any amount in either Guam or CNMI and there's not likely to be. He acknowledged the

magnitude of how the two fisheries operate, how the purse seine fishery is an industrial fishery which takes a lot of fish. He continued with how the purse seiners need a high abundance of fish to make their fishery economic, and explained that they always have fished and will continue to fish in the equatorial band of warmer waters where they have the abundances. Mr. Robinson stated that he thinks there is strong justification for an exclusion zone out to 60 nautical miles or so and that the case is weaker for CNMI than Guam, because Guam does have the smaller EEZ.

Mr. Robinson also commented that the SSC has suggested that there might be conservation benefits all around from looking at FAD fishing by purse seiners if there's purse seining in the EEZ, and eliminating FAD fishing. He further explained that the idea is actually being looked at in the international forum as a conservation management measure to reduce the impacts on juvenile yellowfin and bigeye and is under serious consideration not just for the U.S. EEZ, but across the entire Western and Central Pacific. Mr. Robinson stated that he thinks the Council might want to follow up on that idea, and perhaps the U.S. can lead the way in FAD management and set an example for the international forum.

Mr. Duenas pointed out that Guam's ecosystem includes a series of seamounts including the Marianas Ridge, sixty to eighty miles within the EEZ, which is why the longline closure extends down south of Guam over 90 miles. Because of the seamounts and due to the small size of the EEZ around Guam there's only 30 miles left for longliners south of Guam to fish and therefore to close the entire EEZ, is not unreasonable. Mr. Duenas also commented on the extent, magnitude and concentration of the Japanese fishing effort in the vicinity of Guam. He noted their effort was concentrated on the western side of the EEZ. He pointed out that even a 60 nm exclusion zone outside the seamounts would encompass nearly all the EEZ waters.

About the use of "best available science" Ms. Thielen questioned where the line should be drawn between what's best available science and allowing practices to continue unregulated which may be having an impact despite not being able to prove it. Mr. Robinson responded that the Agency would advocate that if one errs, you err on the side of the resource and that a precautionary approach is something that the Agency supports.

Mr. Duenas added a comment that there's an old and new school of thought that's being considered more widely which is fishermen's knowledge. I think the fishermen are the first line of defense and offense, as much as they are criticized. He explained that fishermen know when the fish stocks are going down or when there is a problem with the environment. He further explained that there is a time lag between submitting catch records and completion of stock assessments such that a decline may be identified [by the assessment] five years after the fishermen have noticed it. Mr. Duenas pointed out that perhaps this fishermen's knowledge should be recognized as a science.

Discussion continued about overcapacity in the purse seine fleet whereby Mr. Robinson pointed out that there clearly is overcapacity in the purse seine fleet on a broad-scale basis throughout the Western and Central Pacific. He stated it is very likely and a reasonable hypothesis that the purse seine fleet as a whole in the Western and Central Pacific is affecting catch rates in many areas, perhaps even in Guam as well. Ms. Simonds questioned the overcapacity issue by stating that the U.S. purse seine fleet is going to increase this year from eight to ten boats, to twenty-five boats, and then in the next two years it will be up to thirty-eight boats. She questioned how the United States

can increase capacity when we know that there's overcapacity in the purse seine fishery going on. Mr. Robinson pointed out that the US fleet originally had 50 licenses and voluntarily reduced it by 20 percent to 40 and then fleet size decreased a lot as skipjack prices fell, etc. and now they are rebuilding and that they have continued to pay for the 40 licenses ($21 million/yr). He explained how there's also a 1999 resolution in the MHLC process that said that Member Nations shall not exceed their 1999 level. It is Mr. Robinson's view that even though we're entitled to 40 permits that the 1999 level is the appropriate place for our purse seine effort. The numbers vary on that, but it's somewhere around 38 permits. According to Mr. Robinson, the U.S. does not feel that it's responsible for the increase in purse seine capacity. Furthermore Mr. Robinson doubts that the U.S. would continue to be willing to pay $18 million if it's Vessel Day Scheme were restricted.

Mr. Duenas pointed out that there are two schools of thought when describing capacity; one is the number of vessels and the other is the size of the vessels. He explained that over the last 10-15 years, the capacity of these vessels has increased threefold or fourfold; and that the vessels are not only more efficient, but they also carry more fish, up to 3,000 metric tons capacity. Mr. Duenas emphasized that even though the fleet may be operating with the same number of vessels, the increase in vessel capacity has greatly increased the harvest level. Mr. Duenas stated that best available science includes the fact that purse seine fishing in the Western and Central Pacific is at overcapacity. Mr. Duenas stated that it may behoove the Federal Government to donate that $18 million and not increase the number of vessels by 25 which could compound the problem. Mr. Duenas stated that the proposed purse seine exclusion zone is about protecting the livelihood and the survivability of Guam's island community. Mr. Robinson agreed that the restricted EEZ and the presence of the seamounts makes the argument stronger in Guam than in CNMI which has a much larger EEZ and is further north and further away.

Mr. Tulafono pointed out that science is not needed to know that stocks are declining because in his experience in American Samoa fishermen are describing that when they go out fishing, they have greatly reduced catches. He pointed out that the increase in the purse seine fleet coming to the Western and Central Pacific is causing much concern because of their capacity and because huge magnitude of difference when comparing the purse seine catch to the small fleet catch. Mr. Gaffney stated that complicated models should not be necessary but that the science is really simple. He stated that those from any of the island groups represented at the meeting know that there's less skipjack available today and he noted that the Community of Guam is saying they don't want purse seining in their EEZ because they're experiencing reduced catches. Mr. Gaffney stated that regardless of how catches fell off, the simple science is that there's less skipjack available.

Mr. Robinson expressed concerns about regulating an area where there is currently no fishery and therefore no impact on the stock but went on to say that the impact is occurring on a broader scale than within the EEZ of either Guam or CNMI. Mr. Sword added that these seiners went from 1200-ton vessels to almost 3,000-ton vessels in the mid '90s and therefore the quantity of fish that the seiners take in one set should be considered. He suggested looking at limiting the size of these purse seiners so they don't catch entire schools in one set. Mr. Sword also brought up the idea of limiting

the use of FADs not only in our EEZ, but everywhere else.

Another issue discussed was the purse seine fishery bycatch. Mr. Tulafono explained to the Council that these fish that purse seiners discard fish that the local fishermen heavily depend on, especially subsistence fishermen, which causes concern. He further explained that in the island(s) what is caught is eaten. Mr. Sword pointed out that food is a big problem for island communities because land that can be farmed is limited and, therefore, there is great dependence on the fisheries.

Dr. Dela Cruz pointed out that during the scoping meetings the fishermen voiced their support of prohibiting purse seine fishing in the entire EEZ waters. Dr. Dela Cruz pointed out that 120 miles west of CNMI is a seamount stretching all of the way to Japan providing good pelagic habitat and he expressed the need to protect these areas from purse seiners to provide for the local troller fishermen. Mr. Haleck reitierated the issue of purse seine bycatch and the potential impact on local fisheries. Mr. Sablan explained that historical data and records show purse seiners, the Zee boats, discarded huge amounts of discards in the 70's and 80's around the Island of Tinian and that it has been reported that the number of sharks increased tremendously on the Island of Tinian because of these discards. Mr. Duerr agreed this type of discard could lead to increased sharks.

Mr. Duenas made a motion, seconded by Mr. Sablan, for the Council to vote on adopting Alternative 3D of Draft Amendment 17 to the PFMP which would prohibit all vessels from pelagic purse seine fishing within all Exclusive Economic Zone (EEZ) waters around Guam. All Council members voted in favor of the motion with the exception of Mr. Robinson who voted against the motion and Mr. Lamorena who was not present.

Then discussion ensued on the SSC's recommendation to prohibit purse seine fishing on drifting and anchored FADs in all EEZ waters as well as requiring all FADs to be regulated (via registration) as fishing gear. Mr. Callaghan re-read part of the SSC's report stating that in previous meetings the SSC had recommended that FADs be registered as fishing gear but that the Council had chosen to not act on it prior. However, Ms. Hamilton and Mr. Dalzell pointed out that on this issue they had been informed by SWR NMFS General Counsel Judson Feder that FADs are already regarded and can be regulated as fishing gear. In discussing the part about prohibiting fishing on FADs Dr. Dela Cruz expressed concern about this because anchored FADs are used by and are a great help to local trollers in CNMI. He interpreted this recommendation to mean requiring these FADs to be removed. Dr. Dela Cruz pointed out that CNMI is just now in the process of deploying ten additional FADs for the local trollers and removal would have a significant adverse impact on the local fishermen. Mr. Duenas explained that this recommendation would only apply to purse seine FADs.

Discussion then went back to making a motion to regulating FADs as fishing gear. Mr. Robinson suggested that since this is initial action the Council would ask staff to define what a FAD is and to develop a proposal for who, what, how and when FADs need to be registered, who registers and how they will be registered, so on and so forth, i.e., flesh it out and analyze it for future consideration. Mr. DeRoma reminded all that registering something as fishing gear wouldn't actually do anything; that there is no regulation saying that if you have fishing gear you have to register. Mr. Martin explained that he thought the intent of this recommendation was that if it was registered as fishing

gear that you could also have reporting requirements associated with it, including what fish came off of what FAD.

Mr. Duenas made a motion whereby the Council recommends Fish Aggregation Devices (FADs) be registered as a fishing gear and directed Council staff to prepare an options paper on the classification and identification of FADs used in the U.S. EEZ waters of the Western Pacific Region as fishing gear. The motion passed. The second part of the SSC recommendation that purse seine fishing on both drifting and anchored Fish Aggregating Devices, or FADs, be prohibited in the EEZ waters around Hawaii, American Samoa, CNMI and Guam be tabled until Friday after Pelagics which was agreed.

Mr. Gaffney then made another motion (at the behest of Mr. Robinson), which was seconded by Mr. Duerr, for the Council to re-vote on the motion to adopt Alternative 3D of Draft Amendment 17 to the PFMP which would prohibit all vessels from pelagic purse seine fishing within all Exclusive Economic Zone (EEZ) waters around Guam. The Council voted in favor of the motion with the exception of Mr. Lamorena who was not present and Mr. Robinson who abstained.

2. CDP regulatory amendment to allow future CDPs (Action Item)

Mr. Kaai'ai made a presentation explaining that this was supposed to be a decisional meeting and action item on the agenda but that this has since changed. He said this was presented fully at the 130th Council meeting.

In the Sustainable Fisheries Act that reauthorized the Magnuson Act there was put in there a number of programs that the Council needed to act on; one of them was the Community Development Program. In 1996, the Magnuson Act authorized the Council to give the Council authority to create programs to address community development in the areas and in the fisheries that they manage. The council published eligibility criteria for this program in 2002. The objective of the plan was to establish a standard process to consider the future of CDP initiatives without having to automatically go through the FMP Amendment Process. He explained that the way that the Council has addressed this before was that every time an issue was proposed for community development we went through a Council amendment process, a very difficult and painful process.

So the Council decided to develop a plan to better accomplish this by first looking at what other processes are out there such as the Experimental Fishing Permit, Limited Entry Application Process for the Northwestern Hawaiian Islands Bottomfish, and the Community Demonstration Project Program application process. These are processes the Council has already done and could look to for the Community Development Program.

The Northwestern Hawaiian Islands Bottomfish Program was a project to reserve 20 percent of the bottomfish permits in the Mau Zone. There were 10 bottomfish permits allowed in the Mau Zone, which we reserved 20 percent based on the population level of the Native Hawaiians in Hawaii, and we were going to reserve two permits for native communities, however, this became un-doable when the Northwestern Hawaiian Islands became a Monument. They went through a process of thinking about what would be the decision points for the process, what would trigger the process to occur.

With regards to community interest they thought if a community was interested in accessing a fishery that the Council managed, then they would come in with a proposal or a request for information and the Council would provide some kind of application

process but the Council needed to decide what the process would be; would the communities come to the Council or to PIRO. Also, they needed to come up with a review program of how and who would review each application in this plan, how the recommendations will go, who will have the final authority to approve and who will take the lead in monitoring the programs. Alternatives to these questions were laid out in a matrix that was presented at the 138th Council meeting where we came up with the trigger points, what would cause the Council to look at a Community Development Project, and how it flows down the decisional process ending up with the Regional Administrator, the Council and a select panel making decisions on whether a proposal is approved or not.

Progress to Date.

The document was drafted by the Council in October. On December 13th, it was sent it to PIRO for review and received one comment on December 19th. Changes were made to the document and it was sent back on January 18th, 2008. On February 29th, 2008, there was an Action Item meeting and on March 3, a memo reply to the meeting was sent from PIRO saying that our plan didn't address some of the issues that PIRO wanted addressed. So we had to pull the document back. On March 12th, 2008, implementation process was transmitted from PIRO. They wanted us to address RA review, public notice, how we're going to do the public notice, compliance with NEPA and ESA and specific terms of access, all of the rules that apply and the limitations on the projects and the programs.

In the original draft of the document, it was going to be done on a case-by-case basis but the Pacific Islands Regional Office wants us to come up with some theoretical proposals and put that in the document so they have some kind of guidance in how to apply compliance to the process. So, essentially, what's going to happen is we'll have to go back and renegotiate what the amendment will look like, what the document will look like.

Mr. Robinson explained PIRO's thinking behind it which is that when they looked at it, and at the authorizing legislation and the purpose behind Community Development Programs, it was clear in the Magnuson Act that it is to provide access to communities, to fishers, which otherwise may be precluded by existing regulations such as a limited entry fishery or a closed area, that a community might benefit from participating in.

The document that was originally prepared for consideration did a good job of covering the process of soliciting applications, reviewing the applications, having the Council do that, making recommendations to the RA and monitoring afterwards. But it didn't address the key purpose of the legislation, which is by what mechanism and how once the RA has approved a Community Development Program how do you provide access to the fishery. Therefore, PIRO hoped to sit down with the Council staff and develop a mechanism by which the RA can approve a Community Development Program. And then without having to go through a regulatory amendment or a fishery management plan amendment, take that approval and take it directly to the implementation stage and relieve the Community Development Program vessel or fishermen from various prohibitions that would otherwise apply. By adding this Mr. Robinson thinks the document would be improved greatly and remove the need for further regulatory processes after approving a Community Development Program. He thinks it will serve the purpose of the Magnuson Act better and more effectively if we provide that mechanism. He said it may be something like in an Experimental Fishing

Permit where a Letter of Authorization is issued. But it will require a public notice. For example, if the Council recommends a Community Development Program be approved, PIRO puts out a Federal Register Notice and seeks public comment on the decision to approve. There might be a requirement for some NEPA analysis or an EA. After public comment, the RA can approve it and then immediately issue a Letter of Authorization or a permit that provides access to the fishery.

Mr. Gaffney asked Mr. Robinson to define access to a fishery, from his perspective, and/or the Magnuson Act.

Mr. Robinson answered that access to a fishery would best be explained by using examples. The two community permits for the Northwestern Hawaiian Islands was an exception to the limited entry program that allowed community access where the fishermen might not have met the qualifications. Under the Community Development Program a vessel might be constructed for a community purpose or a training purpose or an education, and that vessel may need to accomplish that purpose by being allowed to fish in an area otherwise prohibited to regular commercial vessels; allowing that vessel to operate in that area might be a potential outcome. Generally, it's to provide access to a fishery that might not otherwise be available to a community.

A development project, a fisheries development project, that doesn't require access to the fishery, but may, require financial assistance. Those are eligible for the Community Demonstration Project Program, which isn't funded at the moment.

But the Community Development Program under Section 305 of the Magnuson Act speaks directly to allowing communities to have a way to access fisheries.

D. Community Issues

1. Military Expansion

Lt.Col. Kube, of the Joint Guam Program Office on Guam with the (inaudible) of General Bice's team back in Washington D.C. reported on the military buildup from the JGPO Program. The movement in Guam is part of a bigger DPRI, the Home Defense initiative to realign forces around the world, essentially. In Japan, that's part of the overall realignment of forces. A piece of the Japan move is moving Marines and their dependents from Okinawa to Guam. The planning numbers are 8,000 Marines and their 9,000 dependents. Right now there are 6,400 active duty personnel on Guam. Along with that are their 7,600 or so dependents.

After the buildup, which includes Navy, Air Force, Marine, and to a smaller extent the Army, there will be upwards of 19,000 active duty and another 20,000 dependents, for a number of around 40,000, total. The U.S. Navy is building an aircraft carrier CVN pier down at the Naval Base. The Air Force will be increasing periodic movements of aircraft temporarily in and out of Andersen. The Army will be building a Battalion Missile Defense System somewhere on Guam, probably in the northern sectors.

Then the biggest part is the Marine move.The NEPA process started last March or last spring. We had scoping meetings here on Guam, which generated upwards of 1,000 written comments, mostly concerns were socioeconomic type concerns, as well as

maintaining the cultural identity of the islands here on Guam. As they progress with NEPA, the environmental impact studies are scheduled to be complete with a Record of Decision in January '10. They won't be able to begin any type of construction here on Guam until that Record of Decision. With that, their plan is to start construction that summer, with a completion date of around FY14.

The Marines will start arriving, in small numbers, somewhere around FY11, and then building for a final coalition of all of the Marines here and all of the units involved hopefully by FY14.

Master Plan.

We're looking to have a Working Level Master Plan by this summer, with the Final Master Plan approved around the same time as the Record of Decision. A lot of things are going into this Master Plan. It's not just a Marine move. It's the CVN pier, it's the ships that area associated that would support the Marines, i.e, the (inaudible), the missile sites and other potential growth of the military.

Stakeholders in this planning process have been ostensibly with GovGuam, the U.S. Marine Corps, the Navy, the Air Force, as well as the Government of Japan, who is financially paying for essentially 60 percent of this move.

The preferred alternative for the placement of the Marine facilities here on Guam is essentially the northwest sector of the island. It's up near or just below where Andersen Air Force Base is at. That's the location they are planning on putting the working facilities, the offices, the schools, the housing, and things of that nature. Right now, everything there is DOD land.

The bigger piece of it is NCTS, it's a Naval facility. Then the smaller piece below it, which is broken up by some private lands or some GovGuam lands, is where they plan on putting the majority of the housing.

The Marine Aviation Element that would be coming to Guam would be bed down at Andersen. A number of different alternatives were looked at around the island where other historical runways have been, but haven't been used in many years. So both logically and economically the most feasible place is up at Andersen Air Force Base.

The Navy is looking at locations for the CVN piers. They're not looking to station the aircraft carrier here, but it would be essentially for transient, two or three times a year, four or five weeks at a clip, and any other ships that would come in periodically.

For instance, transient ships that would support Marine movements in and out of Guam in the 31st (inaudible), essentially. One piece that's kind of problematic is the training areas, mainly the firing ranges. They are limited to the amount of land here on Guam. After much analysis and study, it's been determined their firing ranges cannot be put on existing lands. So they are actively looking for some private lands to possibly lease or buy to facilitate training. The type of training I'm talking about are rifle ranges, pistol ranges, small-arms type of training.

The training you see depicted there with the box, that's South Andersen. That is a location that we're looking at to do nonfire type of training, to maneuver urban worker type of stuff. In looking for ranges for firing, they're actively looking for ranges that are not going to impact the tourism, the fisheries, the different concerns that are coming out of the scoping and from GovGuam. Out of that, looking mainly on the eastern shore, kind of located along the eastern side where that training area -- the nonfire training area is located.

The environmental impact studies are ongoing. They've had the cultural/economic team from Hawaii in here doing socioeconomic studies. It's ongoing. They're partnering with GovGuam, CNMI and federal regulators to work through the process. There've been three partnering sessions so far, and the last one being on Guam in January.

The Draft EIS, spring of '09 is the goal, with a public meeting shortly thereafter. With the Final EIS in November, and again, the Record of Decision, January 10th.

Potential land requirements, looking for outside DOD, is for places for workforce housing temporarily. It ranges, construction requirements and again, environmental mitigations is another place we're looking for appropriate land use.

This buildup would be starting in 2010 and completing in 2014. From their perspective, the early years would be building things that Guam needs anyway, as far as the military infrastructure. Whether or not the Marine move happens or gets delayed, they'll work down at the pier, down at the on-base infrastructure that's currently there, schools, and things of that nature, so that we can kind of frontload things that are going to happen here on Guam anyway. Then as the process matures and we work with the Japanese, we'll do the operational things in the outer years. The cost of this project, just the Marine side, is upwards of $10 billion, 10.6.

Lay on top of that GovGuam's -- their forecast of three to five million dollars -- or billion dollars worth of infrastructure improvement, and then what the Army will be doing, as well as the Air Force. They'll go from a three to five hundred million a year to upwards of 2.5 billion a year just for the Marines, then you lay on top of that the other expenditures. So with that, it's become a whole lot of requirements as far as offshore labor, H2B Visa Caps, socioeconomic impacts here on Guam, construction laydown, so on and so on.

Based on the agreements they have with the Japanese, all of this has to be fit in a four-year period. Otherwise, unless the agreements are restructured, they will probably lose the funding. GovGuam will be looking at three to five billion dollars to conduct the improvements.

Obviously, they don't have that in the treasury here. Part of the way we're trying to mitigate that is through an Interagency Task Force, which is chaired by the Department of Interior and JGPO. It meets quarterly in D.C. The working groups consist of Infrastructure, Labor, Environmental, Health Care and Socioeconomic. This is a mechanism to get the appropriate federal agencies involved so they're aware of the infrastructure issues and the Marine buildup in general so they can help Guam help themselves prepare for the buildup.

The workforce challenges depending on who you talk to, it's estimated there are 10 to 20,000 workers here on Guam, mainly probably from the Asian countries. For instance, the Philippines. They estimate there are on Guam, CNMI, four to five thousand workers that probably have the expertise and skills required. Other than that, they probably have to go offshore and do that. The H2B Visa Cap will have to be lifted. So they're working actively with the federal authorities to do that. There's a bill in the Senate right now to lift that.

They call it their Critical Program Enablers. Obviously they can't start turning dirt or building buildings or work on construction until they get their Record of Decision.

Right now, from the time we get that decision to the time when they're starting to build is very condensed in the plan. We're working hard to try to meet that plan.

The United States Government, the Government of Japan, while they agreed on a 60/40 split, the Government of Japan is watching very closely to make sure that they don't pay for anything that they don't think they ought to be paying for, and that includes pretty much anything outside the fence line.

Work force, I already talked about.

Guam infrastructure.

Finally, it crossed to the other federal agencies outside of DOD. This is not just a DOD initiative. It's a federal initiative. Their boss in D.C., General Bice is working hard to get the Federal Government to chair a cabinet level forum or summit, so that these Secretaries can start pushing down to get these federal agencies engaged and involved to help facilitate this military expansion.

Take Aways.

NEPA, Record of Decision are 2010 with construction starting soon thereafter. They'll set the stage for construction to begin in the summer of 2010.

Lisa (inaudible) is the environmental expert on their team here on Guam and JGPO.

His talk ended and questions were taken.

Mr. Duerr asked about members of the community expressing concern not with the military but with local government, road building and things, runoff was a real concern to them, construction runoff and then oil and stuff from roads and vehicles getting into the sea and eventually affecting the reef. I'm sure the military is taking that into consideration when they start their construction?

Lt.Col. Kube responded that it's being taken into consideration in the environmental impact studies, not just the impact of the Marines after they get here, but the whole process of building up the road expansion. Lisa Beamer, the Environmental Director and the Environmental Engineer in the Joint Guam Program Office on Guam, said it's fairly standard when you do military construction that you have storm water permits, storm water management plans, and they control the construction sites to minimize the amount of runoff that occurs.

Ms. Thielen had a question about the scope of the Environmental Impact Statement. You folks are going to be doing an awful lot of construction and buildup here and there's going to be a significant amount of cargo going to and from Guam to other places. Many areas are concerned about the brown tree snake being in a place of some cargo that goes out elsewhere. It just seems to make a lot of sense to concentrate the inspections in Guam as opposed to expecting every other jurisdiction which is going to be a point of contact for your cargo from the neighboring islands here, the State of Hawaii, you know, even up to Oklahoma, which I understand a snake got to there through one of the planes. She asked if their Environmental Impact Statement takes the expansion of the brown tree snake and those inspections into consideration and whether they are working towards putting those inspections into the operational budget for the buildup.

Lt.Col. Kube responded that from an operational perspective, it is actually being looked at and it is a major concern, obviously. The operational side of our team goes to brown tree snake conferences, and such. We had one a couple of months ago in Virginia. He said they feel the same way. It would have to be mitigated from Guam.

Ways that they're looking at, for instance, equipment that we would be using up in Tinian for a routine training basis we would leave from Tinian instead of -- on Okinawa,

we typically bring equipment back and forth, every time we use it, we would take it with us. They would leave it up in Tinian. For instances, vehicles, things of that nature. So that would help mitigate the amount of cargo going back and forth. Right now, already there are mechanisms in place on the bases to mitigate the brown tree snakes leaving the island. But they would have to come up with a more robust program as time goes on.

Ss far as the environmental impact study goes, Ms. Beamer said it will be in there. She explained that additionally, they work closely with the Fish and Wildlife Service, SDA and the other entities that get together quarterly or semi-annually to discuss brown tree snake issues. The next meeting that is in Hawaii, one of the things I want to discuss is we have construction specifications that outline how you bring materials in and you have things exit the construction site.

And also, for the training aspect, the way the Marines do their training, they have standard procedures and protocols for ensuring that you don't -- you have to wash down vehicles, you have to do certain things, and is that going to be adequate for the brown tree snake issue.

So they're looking at all aspects. She works really closely with folks like Earl Campbell and all of these other folks, and trying to get his ideas on how do we get our hands around this, because it is a huge issue. Especially with their cargo, they're going to increase the cargo 600 percent coming in and out of this port. She believes the Port Authority may be at that conference meeting as well. They're trying to get all of the players together so that they can address this.

Ms. Thielen stated that her understanding is that the Air Force has put these inspections into their operational budget. But to date, while the Navy may be looking at it, it has not gone in there. Her understanding was that this funding for the inspections right now is being done on a year-to-year basis, and it actually looked like up until the last minute this year as if they were going to discontinue. Ms. Thielen said that speaking as a partner, a state where there's going to be a lot of activity back and forth, that they would feel a lot more confident about these discussions if the Navy were able to shift towards putting this funding into their operational budget, particularly when there's going to be this huge magnitude of increase of cargo going back and forth.

Again, I think that the other islands here are also impacted by this. There certainly are measures that we can do in Hawaii. But it's going to be far less efficient funding-wise, personnel-wise, to expect all of the other areas where this cargo is going to have to beef up their inspections. And if it can be concentrated here, that would be the most efficient use of the resources.

Mr. Lamorena, the Director of the Bureau of Statistics and Planning on Guam, charged by the Governor through his Civilian/Military Task Force to take the lead of the 11 subcommittees established by the Executive Order. So he works very closely with the military.

Mr. Lamorena explained that one of the reasons why, as the Lieutenant Colonel has stated, originally the live firing range was planned over Double Reef. (inaudible), the Chief of Staff for the Lieutenant Governor and myself, are from time to time invited to attend the NADFAC (phonetic) planning groups. They fought really hard to make sure that the live firing range was moved, because we realize that Double Reef is used by a lot of commercial fishermen, recreational fishermen, dive boats, and so forth. So it's one reason why the military is now looking for alternative sites to move the live firing range.

A lot of the issues that they bring up are basically military issues. But I think you need to look at the overall picture when dealing with a military buildup. You need to take into consideration also what's happening on the civilian side. He reiterated Ms. Thielen's point insofar as invasive species, and particularly into Hawaii. As Lisa stated, they're going to increase the containers coming into Guam by 600 percent. Presently the military brings in about 12,000 20-foot containers annually. They're looking at the height of construction an average of 70,000-plus containers. This is not inclusive of the civilian containers that will be increasing as well as result of the military buildup. He anticipates the civilian buildup to be as large or slightly smaller than the military buildup. So you can imagine the magnitude of invasive species that could be coming into Guam as a result of the additional containers coming to Guam. Some of these construction materials are going to be coming in from various points in Asia. They already had an issue with the rhinoceros beetle here on Guam. You see those five-gallon containers hanging along the trees throughout the northern part of the island. So these are issues that they're looking at very seriously.

So far as Guam's natural resources, it's one of the reason why they're strongly pushing for the passage of the Seashore Reserve Plan according to Mr. Lamorena. The intent of the Seashore Reserve Plan is not to create any more MPAs. There is no intention in this government -- and in talking with the Governor and the various agencies, we had no intention of creating additional MPAs. The whole intent of pushing forward the Seashore Reserve Plan is to make sure that our seashore resources are protected as a result of buildup, not only on the military side but on the civilian side. Their projections are an additional 20,000 civilians moving to Guam to look for employment and business opportunities increasing their base population by 35 percent. Presently, Guam's population is 171,000. We're looking at a 60,000 increase over a period of five or six years. So you can imagine the tremendous impacts to the island as a result of the buildup.

Again, Guam is a patriotic island. Many of our boys joined the military. We want to make this a win-win situation. So we're trying to work very closely with the military to ensure that both sides -- and as the Governor stated, this is not a military buildup, this is a Guam buildup. Because the reality is we need to make sure the fence line is not there when we discuss issues concerning Guam. When we talk about drinking water, the northern aquifer is consumed by 80 percent of this island. It's going to be consumed by the military and the civilian population. So we need to take necessary steps to ensure that resource is protected.

So these are the many things that on our end, we work with the military to ensure that our resources are protected as well.

We're working on various mitigation issues.

We want to make sure that Guam is compensated justly for mitigation, for damages to our natural resources and how we can protect our resources as a result of this buildup. So we need to work regionally.

Then later on in my presentation, there are some recommendations that I would like this Council to assist Guam and the region. Because the reality is the CNMI is going to be an active player in this military buildup. They're looking at training in Pagan and Tinian. So these are things that we need to work collaboratively.

I know we're working very closely with Dr. John Joiner (phonetic) and his staff

insofar as natural resources. But he thinks it's a West Pac issue that needs to be addressed. That concluded Mr. Lamorena's comments.
Ms. Simonds asked about their building a highway that connects the bases. Can you tell me how far in advance this planning is? She wanted to know how many communities or villages may have to be moved because of this super highway. Lt.Col. Kube responded that that's an option. It's not necessarily a decision. There are ongoing road studies. He had a conference call this morning with San Francisco, Hawaii, Washington, D.C. Federal Highway Administration, and a lot of other entities. The answer may be to use a series of roads to connect to bases and improve accordingly. But to build a super highway from Point A to Point B down through the middle of Guam is not currently viewed as an option.

MS. SIMONDS other question was about contract laborers coming in from the Philippines and Taiwan. Our concern, as resource managers, of course, is with fishing, in particular. The people who are coming from these countries, fishing is a part of their culture.

The Council is going to be discussing this during this week. We have been thinking, in order to protect our local people and local resources, is maybe requiring a permit and reporting from all of these new people that are coming in, nonresidents and contract workers, so we can follow the fish, so to speak. Ms. Simonds asked what kind of support the Council could get from the military for this. As well as I understand that within the military, your people go fishing as well. I'm not sure if your people currently report their catch to the local governments. The Federal Government is trying to get a handle on mortality in all of the fisheries. What we're going to be doing in the future is actually allocating quotas to the different islands. In order to do that and be fair, we really do need to know what the total mortality is.

Lt.Col. Kube responded that not being an expert on exactly what Ms. Simonds spoke about, the military that comes here, as well as any contract workers will abide by any licensing requirements or any registration requirements or any reporting requirements that the Government of Guam or that arm of the government, or branch of the government, would evoke.

Mr. Lamorena said the local regulatory agencies have been having quarterly partnering meetings and the military has been very active and cooperative in that. They are meeting with all of the U.S. Federal Agencies, U.S. EPA and NOAA and all of the other regulatory agencies on the federal side, as well as the local side to address local issues. They've been working very well, partnering with the military. They've been keeping them abreast on a lot to the environmental issues that need to be addressed. He thinks they have a good relationship with the military concerning the environmental issues.

Mr. Sablan said that Mr. Lamorena said earlier that probably the Island of Pagan will also be utilized by the U.S. Armed Forces, that could be Marines or the Army. He asked if that was for a target range or other military uses. Lt.Col. Kube answered that it hasn't been decided. It's just an option that they're looking at in trying to scope out the training opportunities here in the islands. As the planning goes on, I mean, they will look at what's feasible as far as training, whether or not it even makes sense from a training perspective to use Pagan. Then with that, that becomes an alternative that is vetted through public forums and other local governments and such, to see if it's not only

feasible from a military perspective, but obviously from a local or governmental perspective.

Mr. Sablan asked if it is feasible from a military perspective to have a base on Pagan. And Lt.Col. Kube said no.

Mr. DeRoma asked if the document will go so far as to assess the impacts directly to the affected environment or the cumulative impacts of things like fishing by military members or contractors or the civilian workforce that comes to build the facilities. But you'll see in the EIS, the impact analysis will simply focus on the training or the construction, and it doesn't go to that secondary level of recreational uses by the individuals who come as a result of the action.

Lt.Col. Kube answered that they have contracted with consultants for socioeconomic studies, and have been going out to the public soliciting their concerns, their inputs. The scoping meetings we had early on brought out literally over 1,000 written concerns that are all being included into our program. Specifically, servicemen fishing, he did't have the answer to that question.

Ms. Beamer said the scoping was done last spring.

Mr. Deroma asked if the Council wanted to send a letter asking that you review these impacts in your analysis, what would be the next juncture at which they could provide that input to you.

LT.COL. KUBE responded the Council could write a letter any time you want, and then we would take that to (inaudible) and see if, in fact, it's within the scope of their EIS. And it would become part of the record. Mr. DeRoma asked if then the Council does not have to wait until the public comment period for the Draft EIS.

Mr. Sword asked about what amount of the buildup is relegated to CNMI, of the Guam buildup.

Lt.Col. Kube said the buildup as far as where people will be is in Guam. There potentially could be a few caretakers on Tinian, as far as we're leasing over half of the island at this point. A lot of the Marine training and maneuver will be in the areas that we lease on Tinian. They may pre-position equipment, maybe some barracks. Again, a lot of this notional and in the planning stages. But with that would some small particular people to maintain that, whether it's contractors that will be living on Tinian, whether it's military people, it's yet to be seen. That being said, their vision is to have a near-continuous presence of military on Tinian, maybe 200 or 300 people there continuously. In addition to that, Japanese self-defense forces will train there with us, to some extent. But as far as a permanent family-type, schools, things like that, it's all going to be on Guam.

Mr. Lamorena had a follow-up question on submitting scoping comments. Because he was told the deadline for scoping comments had already passed. Lt.Col. Kube said they can take those comments and see -- and answer your question whether or not they're being addressed. Whether or not they can be folded into it, they aren't in a position to say yes.

MR. LAMORENA said what he can do is we can provide West Pac with GovGuam's scoping comments to see if your issues are addressed. Because all of GovGuam's submitted -- I'm surprised that your local rep did not participate in the scoping process because -- to bring up your issues, because all federal agencies submitted scoping comments. Our scoping comments are broad-based because when the military

conducted the scoping, they did not particularly identify the specific areas.

Mr. Duenas added that just for the record, when the wharfs were being constructed, the contractors did come to visit our Fishing Community Operation Office. We sat down and talked with that person from Honolulu.

I haven't seen anybody come from this major buildup to talk to the community yet. There's still the live fire issue. Mr. Lamorena mentioned the live fire at Double Reef. But you do have ocean live fire ranges that are still open that we have problems with with the local fishermen. Because the Coast Guard still uses it for practicing their live fire. But it's a Navy live fire ocean range. He asked if they are going to expand on that around Guam, or what. The other issue was mentioned by Silas about the recreational. He asked if there's any room in their plans for expansion of our recreational facilities. Twenty percent of my membership in the Fishermen's Co-op are military-related. It used to be higher when I had a lot of Navy doctors who could afford a lot of boats. But 20 percent are military. I imagine if the military builds up tenfold, I imagine that number is going to increase by tenfold. Is there any money being set aside for the marinas to expand, the boat ramps, to expand for the recreational side?

Lt.Col. Kube said that Mr. Duenas is right in that when the families that are stationed here on Guam, they will be allowed to bring their boats up to a certain size. There are a lot of military people that are very much into recreational fishing. But as far as the Master Planning goes, yes, MWR, quality of life and all of these issues are being looked at and planned for. As far as money being budgeted specifically, where MWR (inaudible), you don't budget federal money to MWR, it's all self-sustaining type stuff. But it will grow out of these bases like it's growing out of any other bases (inaudible). Like you alluded to, the military will utilize civilian recreational opportunities.

Lt.Col. Kube said he's not familiar with the Coast Guard training requirements here on Guam. He thinks the recreational bit should be closely looked at because it's really going to start taxing us as the five, ten, fifteen, numbers start increasing. It's not only infrastructure, but also facilities. The ramp up will be gradual in the sense -- for a four-year period it will be gradual. But it's going to be a lot of people coming here in short order over a four or five year period.

Mr. Duenas asked if there was going to be a Cultural Awareness Program conducted by the Marine Corp or Navy. Lt.Col. Kube responded that the Marine Corp, we have an MOS or a speciality that is called the Community Planning Liaison, who come and they actively interface with the community and work from the community's perspective to help facilitate our buildup.

Ms. Simonds said she thinks that in order to educate the newcomers, that there may need to be some research done, additional research on the resources so that we can better educate everybody about why they should fish for this or not fish for that, and those kinds of things.

She asked if there's a pot of money that might be available for our scientists to access.

He answered that from a DOD perspective, no, there isn't. The monies that we have can't be used for anything other than military construction and military buildup, as far as moving the forces here.

2. Transshipment Issues

E. Education and Outreach Initiatives

Mr. Calvo presented an update. The Western Pacific Regional Fishery Management Council conducted a photo essay competition for Guam and the Commonwealth of the Northern Mariana Islands designed for high school students in Grades 9 to 12. The theme of the competition was Tradision I Tasen I Kumunidat Marianas: Sigun I Inatan I Manai'na-ta Guatu Gi Kannai I Manhoben-ta, Ocean Traditions of the Marianas Community: Through the Eyes of Our Elders to the Hands of our Youth.

The photo that was shown is by Leana Peters of Guam, who is the winner of the photo essay contest. She was presented yesterday. The Council has allocated $4,000 for Guam to run the three-week course which will include 12 to 25 students and two teachers and will last two to three weeks and will consist of lectures, field trips, hands-on activities that will provide students with a wide overview of marine-related jobs and expand their knowledge of marine fisheries and resources, including the management of them.

Organizations that have expressed interest include the University College of Natural and Applied Sciences 4H Program, Under Water World and the Guam Fishermen's Cooperative Association. Other groups and individuals were approached, but expressed conflicts with this summer's planned activities. No questions were asked.

F. Marianas FEP Advisory Panel Recommendations

Jesse Rosario, co-Chair, presented the report of the Marianas FEP Advisory Panel which was held on Wednesday, March 12, 2008. The AP discussed the use of traditional knowledge in management, building a community consultation process, and upcoming council actions. Rosario reported that the AP made the following recommendations:

1. The Guam AP recommends the Council prohibit purse seine fishing in the U.S. EEZ waters around Guam.
2. The AP recommended the Council adopt Alternative 1B: set ACLS only for those species/groups with available MSY estimates, regardless of their risk of overfishing.
3. The Guam AP supports the CNMI AP's support of Governor Fitial's non-support of the Northern Islands monument proposal.

G. Marianas FEP Plan Team Recommendations

Council staff presented the report of the Mariana Archipelago Plan Team meeting which was held at the Guam Hilton on Thursday March 13, 2008. The plan team discussed upcoming actions including the proposed purse seine area closure for Guam and CNMI, the proposed longline closed area for CNMI, and Annual Catch Limits. The Plan Team also discussed development of annual report modules for bottomfish, crustacean and coral reef fisheries. Council staff reported that the Mariana Archipelago Plan Team for Guam recommended the following:

1. Regarding the proposed purse seine area closure for Guam, the Plan Team

recommended that purse seine fishing be prohibited in the U.S. Exclusive Economic Zone surrounding the island of Guam.

2. Regarding Annual Catch Limits, the Plan Team acknowledged that the Mariana Archipelago Advisory Panel recommends that the Council adopt Alternative 1B which would determine and implement ACLs only where MSY values are known. However the Plan Team emphasized the need to simultaneously undertake efforts to explore ways to establish ACLs for other species for which little to no information is available, possibly through ecological risk assessments and workshops.

3. Regarding Bottomfish, the Plan Team urgently requested the PIFSC to study the socio-economic impacts (shift in interviews) on Guam's fishery (effects of Supertyphoon Pongsona, rising gas prices, MPA implementation, loss of FADs, employment index, etc.)

4. Regarding Bottomfish, the Plan Team recommended engaging the military to establish a fishery monitoring and data collection program to capture survey information from those fishermen who depart out of the Sumay Marina in Naval Station.

5. Regarding Bottomfish, the Plan Team recommended collecting more length/weight data in surveys.

6. Regarding the development of a coral reef ecosystem module for Guam, the Mariana Archipelago Plan Team recommended that the species to be included in the reported be grouped into the following categories:

1	Atulai	13	Wrasses
2	Emperors	14	Misc. Reeffish
3	Goatfish	15	Misc. Shallow bottomfish
4	Groupers	16	Misc. Bottomfish
5	Jacks	17	Other (all other finfish CREMUS)
6	Mullet	18	Bumphead Parrotfish
7	Parrotfish	19	Napoleon Wrasse
8	Rabbitfish	20	Reef Sharks
9	Rudderfish	21	Crustaceans
10	Snappers	22	Molluscs
11	Surgeonfish	23	Other Invertebrates
12	Squirrel/Soldierfish		

The plan team also recommended that the coral reef ecosystem module include an index that lists all species that are included in each species group.

7. The Plan Team recommended that the species categories for both the Northern Mariana Islands and Guam be made consistent in order to facilitate future integration of the report modules for the purpose of assessing the status of the fisheries on an archipelagic-wide basis.

8. The Plan Team recommended that estimated total catch and effort be reported for top five gear types used to harvest coral reef ecosystem resources for both the shore-based both and boat-based surveys as follows:

9. The Plan Team further recommended that CPUE analysis be conducted for each of the major gear types where adequate numbers of creel interviews are available.

a. Shore-based gear types:
Hook and Line,
Spear/Snorkel
Gillnet
Cast Net
Surround Net

b. Boat-based gear types:
Bottom
Spear/Snorkel
Spear/Scuba
Trolling
Gill Net

H. Marianas FEP REAC Recommendations

Council staff reported on the Mariana REAC meeting which was held at the Guam Hilton Hotel Friday March 14, 2008. A community marine management forum was held in conjunction with the REAC meeting where marine topics were discussed. Discussion topics included beach access issues identified by the Mayor of Tumon, Tamuning, Harmon, the status of PCB contamination clean up projects and marine permitting in Merizo, the proposed military buildup, an update on Guam coral reef local action strategies and other topics.

Council staff reported that the Mariana Archipelago REAC recommended the Council adopt the proposed actions Mr. Alberto Lamorena included in his presentation on the pending military and civilian build up on Guam. Specifically, the Mariana Archipelago REAC recommended the

Council be involved in the following areas:

a. Submit scoping comments and participation in the EIS
b. Proposed military ocean disposal site
c. Proposed Sub training
d. Ship Ballast water and barnacles
e. Ship fuel leaks
f. Increase of recreational boaters
g. CNMI/Guam regional partnership
h. Threats of diminishing fish stock due to military training
i. Threats to Council federally defined jurisdiction

I. SSC Recommendations

Dr. Paul Callaghan reported that regarding the proposed purse seine close area the SSC recognizes that impacts on local target and bycatch/discard fish populations from expanding purse seine fisheries outside of EEZs can be far-ranging (up to an 800 nm radius), and that with advances in technology and FAD deployment, these issues must be addressed on an international Pacific-wide basis. The SSC also recognizes the adverse impacts of purse seine fishing for tunas generally may have on availability of locally important fish species in island areas. Scientific analyses presented to regional fisheries management organizations clearly show that purse seine operations in association with drifting objects cause depletion of bigeye and yellowfin stocks. In addition FAD associated fishing causes a substantial bycatch of culturally and economically important non-tuna species. RFMOs have been unable to control the growth of FAD fishing in both the EPO and WCPO. In previous meetings the SSC has also recommended that FADs be registered as fishing gear. **Therefore, the SSC recommended that purse seine fishing on both drifting and anchored FADs be prohibited in the EEZs of Hawaii, American Samoa, CNMI and Guam.**

Topic 1. The SSC recommends the preferred stakeholder Alternative 1C which would establish a 30 nm longline fishing exclusion zone for the CNMI EEZ.

Topics 2 & 3. The SSC reiterates that impacts on local target and bycatch/discard fish populations from expanding purse seine fisheries outside of EEZs can be far-ranging (up to an 800 nm radius), and that with advances in technology and FAD deployment, these issues must be addressed on an international Pacific-wide basis.

J. Public Hearing

No public comment was made at this time.

K. Council Discussion and Action

Mr. Martin announced that at this time the Council will entertain any Council discussion or action that anybody would like to propose that's related to Marianas Archipelago specific to Guam.

Mr. Duenas made a motion to follow what that the Advisory Panel and the Plan Team recommended, to prohibit purse seine fishing in the U.S. EEZ waters around Guam.

Mr. Sablan seconded the motion.

Mr. DeRoma clarified that the motion is to adopting Alternative 3d [under Section 7.3] of Draft Amendment 17.

Ms. Thielen asked if the science advisory committee also made a recommendation for action on FADs being to be considered as fishing gear and regulated as such.

Mr. Gaffney proposed to add that to the motion but it was decided that it made more sense to raise it as a second motion after we deal with this first motion. The first motion passed after a role call vote. Mr. Robinson voted no and Tony Lamorena was absent.

Mr. Duenas brought up the SSC recommendation that FADs be regulated as fishing gear.

Ms. Simonds reminded the Council that if this is a motion and voted on that this would be an initial action.

Mr. Callaghan clarified that he had called the Council's attention to the fact that the SSC had recommended that FADs be registered as fishing gear in previous meetings. Ms. Hamilton, Council staffer, pointed out that in the past NOAA General Counsel at the time, Judson Feder said FADs are already regarded and can be regulated as fishing gear. But she didn't think that distracted from the intent of this recommendation.

There was much discussion about what kind of FADs (all FADs or just those used in purse seining). Concerns were voiced about regulating all FADs. Mr. Dela Cruz was a little bit concerned because anchored FADs are a great help to CNMI's local trollers.

Ms. Thielen added that to address the concern raised, her understanding is that if we are able to regulate them as fishing gear, it's not banning FADs. It's just permitting them an ability to begin to regulate them as fishing gear. They retooled the motion. So it now reads that the Council recommends that FADs be registered as fishing gear.

Mr. Robinson said that he assumed that since this is initial action, the Council would be asking staff to define what a FAD is and to develop a proposal or for who, what, how and when FADs need to be registered, who registers and how they will be registered, so on and so forth; i.e. flesh it out and analyze for future consideration.

Mr. Deroma pointed out that registering something as fishing gear doesn't do anything, i.e., there's nothing in the reg that says if you have fishing gear you have to register.

What is in the regs is a requirement that used -- for example, longline buoys, be identified. He recommended the Council consider changing the wording of the motion and say that identification measures be required for FADs.

Ms. Simonds suggested the Council should just ask staff to flesh out an options paper that includes all of those kinds of things.

Mr. Tulafono pointed out that the FAD system now in place, one has to register their FADs with the Coast Guard, i.e. it's a requirement for all of FADs.

The motion was voted on and carried.

Mr. Gaffney brought up the other part of the original motion that the Council recommend purse seine fishing on both drifting and anchored Fish Aggregating Devices, or FADs, be prohibited in the EEZ waters around Hawaii, American Samoa, CNMI and Guam. This would be initial action.

Mr. Martin: It's been moved and seconded. At the suggestion of Mr. Robinson, this motion will wait until after the Council has taken action on CNMI and the proposal for

American Samoa, and then see what's left, and we take it up again, if necessary, on Friday in Saipan. This was accepted.

Mr. Duenas said there also are recommendations from the Plan Team, the Advisory Panel and REAC and could staff councilize those recommendations and see how we can accept them. There was no objection to making a motion to adopt all of the recommendations. A separate motion was made for each three set of recommendations by Mr. Duenas and seconded by Mr. Sablan. The motions carried unanimously.

Mr. Gaffney asked to move for a reconsideration of the vote to ban purse seiners from the Guam EEZ. Mr. Duerr seconded that. Mr. Robinson explained that he asked Mr. Gaffney to make that motion for his benefit in order to maintain -- or in order to not prejudice consideration of the Council's recommendation during the approval process, he'd like to change his vote from no to abstain. The Council then voted on the motion to prohibit purse seine fishing in the Guam EEZ, and Mr. Robinson changed his vote from no to abstain with all others voting yes again. Motion carried.

8. Hawaii Archipelago and PRIA

A. Moku Pepa

Mr. Duerr called on Peter Young who had nothing to report.

Mr. Duerr called on Rick Gaffney.

Mr. Gaffney reported that the Kona catch in the sport fishing industry so far this year had the largest blue marlin for the year so far, 934.5 pounds; biggest ahi, 190 pounds; spear fish, 54 pounds; mahamahi, 57 pounds ; ono, 66 pounds; amberjack, 105 pounds; opakapaka, 15.5 pound; onaga 21 pounds; And uku, gray snapper, 22.5 pounds. He noted that the opakapaka and the onaga are the top seven bottomfish species, and those are caught in deep water often by sport fishermen in Kona.

He also said that there was also a 953 pound thresher shark taken in Kona, which has now been recognized as a new Hawaii state record for that species. There is a developing shark sport fishery for threshers, in particular, because they're believed to range over 1,000 pounds in the waters off Kona.

The top billfish tag and release captain for the Pacific last year was Captain Gene Van Der Hook, of the Vessel SEA JEANIE II. He's won this five years in a row with over 100 billfish tag and releases in the course of a year. It's an award given by the Billfish Foundation. He also noted that they have several fuel issues. Number one, $4 a gallon. That speaks for itself. And that's for both diesel and for non-ethanol related gasoline. We can buy cheaper gasoline with ethanol in it, but it's been destroying motors all over the Big Island so most people don't want to use it.

Another thing Gaffney reported was that the West Hawaii Fishery Council has a Billfish Advisory Subcommittee. That subcommittee has requested that the larger Council, the larger West Hawaii Fishery Council, requests that the Division of Aquatic Resources, which is who that

Council reports to, make a recommendation to West Pac, that West Pac consider making a recommendation to NOAA to ban the sale of Pacific blue marlin in the Hawaiian Islands. So that, depending on whether or not it comes through DAR, that recommendation may be coming to the Council in the future. He said that is a grass roots of charter boat operators in Kona who initiated this, and the reason behind their initiation of this request is that we have a young PhD student, he just got his PhD, who he got his PhD based on fishing every day for larval billfish in the waters off Kona, and he's been able to show I think beyond the shadow of any scientific doubt that Pacific blue marlin are breeding in the waters off Kona 24/7, year-round. He's able to go out any day of the year and find blue marlin larvae that are under three days old, and that's an indication that those fish could not have swum in from anywhere else because they don't travel that far when they're that size. So it's a clear indication that those fish are breeding in Hawaiian waters.

Interestingly, Gaffney noted, the scientist was also able to show that spearfish are breeding year-round in Kona. Broadbill are breeding five or six months of the year in Kona waters. Black marlin are breeding seven months of the year in Kona waters. So we have a very, very prolific billfish nursery area around Kona, and that's what the charter boat captains obviously want to preserve, the future.

Duerr asked if Gaffney had any information on the proposed private marina in Honokohau.

Gaffney replied that it is not moving forward at all. He had a meeting with the developers about four months ago. They're somewhat frustrated by the process and, early on, several people believed that there was a fairly good chance we were going to see a new marina in Kona. He thinks the general impression by most people now is that it's probably unlikely that the marina will be built.

Duerr called on Sean Martin

Martin provided a background of primarily the longline fishery in Hawaii, how it's doing, what's going on. The swordfish fishery, of course, opened on January 1. There's been somewhere between 13 or 14 active vessels fishing. Catches have been quite good fishing, primarily around 34 Degrees. So 600 miles north of the islands, something like east of Oahu, maybe northeast of Oahu. The market for swordfish has been kind of all over the board. It was significantly affected by the East Coast weather that's been poor on several different occasions. What happens is the availability to the market and the airplanes that get the fish to the market are constricted. So during those periods of time there really is not enough market in Hawaii or on the West Coast of the U.S. to absorb it. So the prices go down. Of course, there's a price for everything. But some of the prices were extremely poor. They're back up again. So it's just a cyclic thing having to do with several different factors including moon phase.

Martin also noted that when other fisheries primarily around North and South America who have access to the East Coast to the U.S. market are landing fish, prices go down. So there's nothing mysterious about that. The United Fishing Agency Fish Auction has recognized that the increased volumes that good swordfish fishing produced has constrained their facilities and that they're in the process of expanding those facilities to accommodate a little bit different marketing

situation.

On the deepset fishery, it can be described as up and down. For the last two to three weeks, there's been some good landings and some very poor landings. It almost doesn't matter what direction you go fishing, you get lucky or you don't get lucky. Prices have been exceptionally high, the highest I've ever seen in the 23 years I've been around the fishery. It's a good thing, because although we're not contending with fuel costs like Samoa or Kona, fuel costs are significant for these vessels. I think we're somewhere right around $3 today.

Duerr thanked the Council Members. He said that it is interesting to note that the onaga that was caught in Kona was caught by one of the top trolling skippers in Kona. He didn't know if he's doing more bottomfish fishing because of the price of fuel, but it could be a tendency with the cost of fuel now that more and more people might be looking at taking their charters bottomfish fishing rather than trolling. That certainly will have some impact on our bottomfish. Also, the International Billfish Tournament this year will be the 49th year. So far, the recruitment of teams is pretty good. IBT has five teams coming from Japan and a couple teams interested from Australia and New Zealand. He also said that they have one club in California, so they're sending three teams this year. He said they hope the 49th will be good because next year the State of Hawaii is celebrating their 50th anniversary and the Billfish Tournament will be celebrating its 50th tournament.

Duerr then called on Laura Thielen.

Thielen reported that the DLNR was trying to pass two bills this session which will help the State be consistent with what we need to do under the Magnuson-Stevens Reauthorization Act. These bills are requiring a lot of care and feeding as we go through the legislative session because a number of legislators have questions, and I didn't want both Dan and I to be away during this time. Both bills I'd like to say are alive and well, and we hope that we'll get them through. The first bill changes our State law. Right now, our reports from commercial fishers have monthly reports. I'm going to be doing a PowerPoint presentation on our commercial fishing reports and what we're doing to beef up the response in that area. But their monthly reports is under our State statute. It says, monthly reports. So we're putting in a bill to strike the word "monthly" to allow us to do reports on a greater frequency so that we can be consistent with the federal reporting.

The second bill we have in place in front of our legislature, we're calling the Same Same Bill. We're saying that if we have a co-managed fishery where it spans the federal and the state waters, and the Feds have declared that fishery to be in a state of overfishing and they enact regulations, that our Department would have the authority to enact identical regulations. Similarly, if the Feds lift those regulations then we would have to lift them as well. So the intention is to give us the ability to manage these co-managed fisheries identical as the Feds. That way, the fishers when they're going out they know that whatever the rule is it's the same on both sides of the three-mile line.

Again, both those bills are moving through our House. They've passed through the House and they're in front of the Senate right now. Dan is caring for those and hope that when I come back

next week they'll be moving forward. The other thing that we're working on is rules to amend our license and permit provisions for fishing, fish and fish products. We've done a round of public informational hearings on some concepts. We have some draft rules that are in front of our Attorney General's Office for review. What these would do is require fishing reports by trip and require commercial bottomfish licensees again to report by trip, authorize fishing season closures for bottomfish, exempt the possession and sale of bottomfish during the closed season for fish from federal waters in the Northwestern Hawaiian Islands or for bottomfish that are imported to the state, amend the bag limit for noncommercial take of bottomfish and to add some definitions.

We've gone back to NOAA and recommended that the scoping activities for the Humpback Whale National Marine Sanctuary in the Hawaiian Islands include taking a look at sea turtles, Hawaiian monk seals, spinner dolphins and other marine animals and that we also take a look at the marine habitat conservation responsibilities, such as deep coral conservation, to the extent that such habitats supports the ecological needs of the species under consideration.
So that's two other activities that are moving forward.

B. Enforcement Issues

Enforcement Issues were provided in 8.C.1.

C. Update on Status of MHI Bottomfish Management and Monitoring

1. Data Collection, Processing and Analysis
a. Catch Reports
b. Dealer Reports
c. Delinquencies

Thielen then provided a presentation on enforcement issues and commercial fishery reports. She reported on what the State of Hawaii is able to do with the additional Federal support that it has received. The four areas they have been concentrating on include Commercial Marine Licenses, the fish report system, the fish dealer report system and the imaging archival system.

She said the State issues or renews over 3,000 individual Commercial Marine Licenses annually and processes 35,000 monthly fish reports from 2,700 licensed fishers. There are also 3,000 monthly fish dealer reports from 250 known dealers annually. She noted that 20% of the landings are in State waters and 80% is from the EEZ.

Thielen then pointed out the limitations of the commercial fishery system. She noted that compliance was a big problem and dealing with paper reports, trying to process them and turn around the data quickly has led them to looking at an electronic reporting system. Another problem is validating the data. Staff contacts dealers to make sure that the data matches and looks at possible gaps. She reported that the State fast-tracked the data processing for the MHI Deep 7 bottomfish fishery and provided examples.

She noted that they have asked fishermen and dealers to report voluntarily on a weekly basis instead of monthly. They send reminder notices for compliance to fishermen and dealers and those that do not comply are referred to DOCARE. She showed the Council compliance rates in

her presentation.

Thielen said that the fast-track processing is the second element where they're trying to process these reports more quickly, within two days of receiving them. They are looking at making changes to the reporting system to help make the process easier and spend a lot of time validating data by calling fishermen or dealers. They are also sending thank-you notes to those that submit logbooks early, and also a newsletter to inform fishermen the purpose behind the regulations.

She then presented some landings data to the Council. She noted that the State would also like to continue their pilot project for the commercial Main Hawaiian Islands bottomfish fishery and then also take a look at extending it into the nonlongline commercial pelagic fisheries.

Theielen also presented the Council with a sneak peek of the State of Hawaii's online reporting system and mentioned that all the information is collected into a database and the form can recognize when required information is not filled in. She noted that not all fishermen have access to the internet or a computer so they are exploring other options such as a phone system to record catch data.

She also noted that the DLNR has the ability to use civil enforcement to enforce compliance instead of using the limited DOCARE resources. She said they would like to set up a system more along the lines of like traffic tickets. She also provided an idea about incentives for fishermen who provide their reports on time, by giving them reduction in license fees or some kind of reward.

Duerr asked for questions and called on Duenas.

Duenas congratulated Thielen on the report of the Deep 7 bottomfish fishery and said he was impressed. Thielen thanked Duenas and said she would convey that back to the DAR.

Duerr called on Gaffney.

Gaffney asked if the Department is looking at creating a new charter boat operators marine license because of the issue with many charter boat operators that don't want to be considered, " commercial fishermen" because they are catch-and-release fishermen.

Thielen said she was unaware of that, but noted that the State is keeping track of the release information. So while it may be a separate category of licenses, there may still be interest in collecting information from them because that would be able to act as kind of a check on how many fish are being caught out there, even if they're not a mortality.

Duerr asked if the State of Hawaii has accurately determined who is a dealer and maybe there is a need to classify those that sell from the side of the road or to the back door of hotels.

Thielen said there are a lot of black market operations out around the world. Not just in Hawaii, but everywhere. She said that there are certain areas in Hawaii, where if the economy starts to

go down, the number of people going into fishing and the number of people starting hunting to help feed their families, particularly in the rural areas of the Big Island, significantly increase.

Duerr called on Martin.

Martin expressed his thanks and congratulated the DAR staff.

Duerr called on Duenas.

Duenas commented that Guam is assisting with the Ulua Tagging Program in Hawaii by getting fin clippings to look at genetic relationships.
Duerr called for additional questions. Hearing none, he moved on to 8.C.2 and called on Sam Pooley.

2. Review annual data by month for last three years

Pooley said that people may recall that as early as the mid 1980s, using an SPR approach, they identified issues with overfishing. One of the issues is how do we monitor the fishery and then project ahead. He then presented graphs showing projections of the MHI Bottomfish fishery landings and showed the cumulative landings from the beginning of the season until the projected May 1, 2008 closure. He then showed a second graph showing a daily plot that shows that the TAC may have probably been reached at this time.

He said you can make the predictions based on previous years history or previous months history. So if you look at it, the expectation would be that November and December being the holiday months would be the big months of the year, then they trail off in January and February. The fact that March is a very low number here doesn't really mean anything. It just means that they hadn't processed very many catch reports for people who had actually fished in March at that point. But the key point is that the February catch was larger than any previous month during the season, weather-related.

Pooley reported that the point of this is that projecting things based on the first year of implementation of the TAC is extremely difficult. At the same time, the process in the sense of collecting the data and having it available on a really timely basis has worked out pretty well.

Duerr called for questions. Hearing none, he moved on to 8.C.3 and called on Robinson.

3. Federal regulations

Robinson reported that the Secretarial Review Process under the Magnuson Act normally provides for making a decision to approve or disapprove the amendment on Day 95. Day 95 is March 26th. But as Dr. Pooley alluded to, there is a situation with the catch where there is a probability that we may already be at the TAC, or be there very soon.

As a consequence, Robinson said, in order to have the amendment approved and the final regulations in place to provide the authority to close the fishery on the TAC, that Day 95

decision, he wanted to make that decision just as quickly as possible and file the final regulations with the Federal Register as quickly as possible. There's normally a 30-day APA cooling off period before final regulations become effective, but because of the need to file a closure notice because of the TAC NMFS will be asking to waive the 30-day cooling off period for good cause.

Robinson sent what's called an Issues Advisory back to Headquarters alerting them that the Decision Memorandum on approving the amendment is on its way and the final regulations are very close to being finalized and should be ready to go back to Headquarters this week, within the next day or two. There are, as is often the case, a few revisions in the final regulations from those that were published as proposed rule.

He pointed out that the amendment requires that noncommercial bottomfish vessel operators report their catch from all trips, whether they're bottomfish or for other species. Although the amendment itself will authorize that, NMFS plans on phasing that in where initially and immediately they would collect information from the vessel operators on their bottomfish trips. Then contingent on having the funds and the staff and the ability, they would follow that up with full implementation, collecting the data from all trips.

Robinson also pointed out that in the final regulations, they would clear-up issues about mixed trips where some folks would have a non-commercial permit and others on the same vessel would have a CML. He reported that the entire trip would be defined as non-commercial and they would be subject to the Federal reporting requirements. He also said that non-commercial vessel operators need to report only the catch made by holders of non-federal permits and not the holders of CMLs to avoid double reporting.

Robinson said that another slight change is the final rule will exempt charter vessel customers from the permit requirement because charter vessel operators are already required under State law to hold State CMLs and to report the catch from all customers onboard. The final rule will also relieve vessel operators and owners from the federal vessel marking requirements and, basically, provide for the State bottomfish vessel registration and marking requirements to suffice for the federal. So we don't have double vessel marking requirements. It will also clarify that the Agency will charge a fee for the permit. That was not in the proposed rule. It was in the preamble, but not in the regulations.

He reported that the Final Rule will clarify the procedure for closing the fishery; which basically requires that a Federal Register closing the fishery be filed and that fishers be given 14 days notice before the TAC becomes effective and that Deep 7 species may not be sold or offered for sale after the closure is effective. The Final Rule would also allow renewal of permits a year from the date that they were issued instead of one renewal date.

Duerr thanked Robinson and asked for questions. He called on Gaffney.

Gaffney asked Robinson to clarify the time frame for when the fishery could be shut down if the TAC were reached today.

Robinson said that he doubt it could be shut down any earlier than the 1st of April, and he

suspected it would be closer to mid April because of the 14-day notice needed.

Gaffney followed up by asking Robinson if there is any mechanism currently, or in the works, to advise the bottomfish fishermen in advance that the TAC is being approached much more quickly than we thought and that there's a likelihood the fishery will be shut down early?

Robinson responded that it would be a good thing to do and they are looking into ways to do this. He said that advising the fleet that the end of the season is coming up very quickly is something that we should be doing and should be part of the process.

Gaffney asked Pooley what caused the catch to be bigger earlier than in previous years? Is it weather? Is it rush to make money before the closure? Any sense?

Pooley replied that based on second-hand information, the dominant presumption is weather, several weeks of a pretty windless period and relatively calm seas in which it was pretty easy for people to go out over and over again.

Council staff confirmed that the last month's calm weather and that long, steady period really pumped the landings.

Pooley also said that there is one other theory, which is Easter is early this year, and that may also have an effect.

Duerr asked Pooley if more people were engaged in bottomfishing this year?

Pooley said that he didn't know. Council staff responded saying that the State of Hawaii had reported the number of commercial fishermen reporting at around 300, consistent with previous years in terms of number of fishermen.

Duerr called on Thielen.

Thielen wanted to clarify the Land Board time frame. She said the DLNR is governed by a policy setting board, which is set up under the State Sunshine Law. They have to have a public notice posted seven days before our meeting with the action item agendized. She said the results could be effective immediately.

Duerr called on Duenas.

Duenas asked Pooley if there are there any filters going through this analysis (i.e., moon phase, tide currents, conditions, weather conditions)?

Pooley responded that this is the first time they've tried to project the TAC in this manner, and they were just trying to do something that was simple, easily implemented. He said that over a longer period of time, we can have some success, but in shorter periods of time, we haven't been particularly successful. He said that the question about moon phase is a good one. The weather is a good one, and those are things that they'll take into consideration next year.

Duerr called on Gaffney.

Gaffney asked Pooley if PIFSC has the capability of overlaying moon phase after the fact, and weather after the fact? He said Pooley was talking about it as a tool for in advance.

Pooley said that PIFSC can overlay in the past, and make a projection into the future. They haven't overlaid it in the past, but that doesn't mean they couldn't do it into the future.

Duerr asked for further questions. Hearing none, he moved on to 8.C.5, Report on Economic Performance, Bottomfish.

4. State rules and regulations

State rules and regulations were presented under 8.C.

5. Report on economic performance

Pooley reported on the increasing role of imports in the bottomfish market over time and, in particular, some effects related to the closure in 2007. He said PIFSC developed a retail monitoring system in the fall of 2006 and also examined the Customs data on imports. The monitoring system for the retail sector involved going out to some retail outlets and taking weekly visits and basically checking the prices.

He provided examples of data collected and trends of supplies over time. He said that fresh imports have comprised approximately 60 percent of the market in the last couple of years. Imports really peaked during the closed period, which is what you would pretty much expect. He said that if you look at what's happened over the last two years, adjusting prices for inflation, prices have gone down. That's two possibilities of the role of imports and change in the species composition.

Looking at some of the prices between Main Hawaiian Islands and Northwestern Hawaiian Islands, Pooley noted that the Main Hawaiian Islands prices are almost always higher. It's a fresher product and quite a few chefs quite often prefer the Northwestern Hawaiian Islands because a lot of it is smaller. He also said there's been a shift in where imports come from. There's less from Australia.

Pooley noted that one of the things that happened in 2007 was the loss of the Main Hawaiian Islands price premium. That's also interesting and perhaps a little troubling, and one of the things that from a market perspective they need to dig into more. One of the things you would expect when you lose the price premium is there will be less fishing effort because there's less of an incentive to do it, certainly, with fuel prices going up. But on the other hand, we see that fishing has gone rather nicely this year.

So in conclusion, imports seem to be good substitutes for domestic fish in the bottomfish market. Their market share has increased. The volume has changed the traditional supply and demand relationship. As expected, imports were able to meet the demand last year during the closed

season and had an impact on prices. Because it's had an impact on prices, it had an impact revenue and reallocation of effort. Not surprisingly, consumers didn't see an awful lot of Deep 7 bottomfish during the seasonal closure.

Although one of the things discovered, he said, was that some retailers were reluctant to even indicate that their product was local because they were concerned about enforcement issues, even though it's perfectly legal for them to be selling bottomfish from the Northwestern Hawaiian Islands. So that's an unanticipated side effect in cost to the Northwestern Hawaiian Islands bottomfish fishery during the period.

Duerr thanked Pooley and asked for questions. He called on Martin.

Martin asked if we know whether the imports are from managed fisheries or unmanaged fisheries?

Pooley said that the customs data does specify individual countries, whether it be Tonga or Independent Samoa or American Samoa, Australia. But sometimes they can be unclear. For example, if Papua New Guinea were shipping its fresh fish through Australia, it might show us as an Australian import. So there can be some ambiguities in that respect. It's not intended to be a deceptive market practice; it's just the way the Customs looked at where the last port of departure was. However, because of seafood safety issues, they are trying to be much more precise about the country of origin of fish.

Martin asked about Hawaiian names of fish and its use for imports, as it has built up a good reputation. He also suggested that when available, knowing something about the management regimes where the imports come from to make sure that we're not an outlet that they have, but it's contrary to maybe their conservation efforts, wherever they are, is something we might be thinking about.

Pooley said it was interesting how some of these things affect market practices, retail practices. In terms of the management regimes in country of origin, one of the things that he noticed over time is countries' ebb and flow in terms of their availability. Partly, that may be having to do with fishing down relatively virgin stocks. It may have to do with air transport, a change in the size of planes. There are all of these factors that affect how much is supplied. But certainly, it's an interesting question to go back and see to the extent to which these other fisheries are regulated.

Duerr called on Dela Cruz.

Dela Cruz said that maybe its time for Hawaii to come up with country of origin labeling requirements. He also asked Pooley if PIFSC was doing any kind of monitoring regarding the amount of imports of popular fish substitutes, such as salmon, tilapia, milkfish, or groupers?

Pooley said that PIFSC does monitor true imports, in the sense they're coming from foreign countries. But if they come from the Mainland of the United States, they're invisible to the

tracking system. So you may in fact have a bunch of fish that goes from from Papeete to Los Angeles that then came over to Hawaii. Well, those would no longer be in Customs sense Tahitian fish. They're already been imported to the United States, and they don't have to go through Customs anymore. On the other hand, there are country of origin requirements and one of the things that the National Marine Fisheries Service does is it has a Seafood Inspection Service that's primarily supported by the industry, itself, and larger importers and processors. But a much larger percentage of seafood imports are inspected by the National Marine Fisheries Service and other food groups are inspected by FDA. So that doesn't solve the country of origin issue, per se. But it does begin to put a little bit more pressure on importers to be more up front about where their fish comes from, because they have a much higher chance of being inspected on the seafood side than if they were, for example, bringing in vegetables, which the inspection rate is very low.

Duerr asked for further questions. Hearing none he moved onto the next agenda item.

D. Action Items

1. MHI Bottomfish Risk Analysis (Action Item)

Gerard DiNardo from the Pacific Islands Fisheries Science Center presented the results of their ongoing research on the Main Hawaiian Islands bottomfish TAC Risk Assessment Model. He also talked about the fishery relative to the 24 percent reduction in fishing effort that was the target of the 2007 seasonal closure.

The presentation on the modeling side addressed the question proposed to the Center at one of the past Council meetings to determine what the Total Allowable Catches for the 2008 season in the Deep 7 bottomfish for the Main Hawaiian Islands might be to produce risk of archipelagic overfishing from zero to fifty percent, in intervals of five percent. They used the same modeling assumptions from the 2006 bottomfish stock assessment, as reported by Moffitt, Kobayashi and DiNardo. Also used the best available information on the current bottomfish fishery which included the 2005 catch of BMUS and 2006 and 2007 Deep 7 catch estimates. The Stock Assessment from 2006 used data up to 2004.

Some of the assumptions that went into the model, include: 2004 biomass estimate was 669,000 pounds, intrinsic growth rate of R equals .45, and the fraction of Deep 7 catch relative to the total catch at about 66 percent. DiNardo then reviewed the model, its parameters and potential results based varied inputs.

Using this simple approach, the allowable associated catch for the Deep 7 in 2008, ranges from 24,000 pounds with a zero percent risk of overfishing, to about 97,000 pounds, with a 50 percent risk of overfishing. Looking at the sensitivity of the model, they tweaked parameters to see which are most sensitive they may have to look at in the future. In summary, the results are sensitive to: estimates of biomass in 2004 and its variability about that estimate and the estimate of intrinsic growth rate. Results are quasi-sensitive to an increase of carrying capacity. It was not sensitive to any kind of variability about the intrinsic growth rate or the fraction of the Deep 7 catch. Nor is it sensitive to the Deep 7 TAC, itself, in 2007 and the estimates of carrying capacity.

Based on the assessment in 2006 it was determined that a reduction of 24 percent would be need archipelagic-wide to get this system at least to a level out of overfishing, down to where F over FMSY is equal to 1.0. Looking at the data through 2007 relative to the measure of 24 percent, there was a reduction archipelagic-wide of 29 percent. Looking at the Main Hawaiian Islands, there was a 39 percent reduction in fishing effort in the Main Hawaiian Islands. DiNardo explained the declining effort trend in the MHI fishery continues for a number reasons such as weather at the end of the year, gas prices, and economy.

Discussion ensued about the 29 percent reduction being based on Bottomfish management unit species and the 39 percent reduction being based on MHI deep 7 and its relation to meeting the overfishing control rule. DiNardo noted that part of the problem is having the threshold be the limit for overfishing which means there is a 50/50 chance of exceeding it each year.

Questions were raised regarding focusing management on MHI status instead of looking at the archipelagic stock. It was explained that the assessment is done on a stock as a whole which includes the entire archipelago, however management was focused on the MHI where effort was not controlled. Council members noted concern about data from the entire archipelago masking the problems that are going on in the Main Hawaiian Islands.

Another problem noted was the pending closure of the NWHI and the need to continue data collection for future stock assessments. There are ways to deal with this issue such as fishery-independent surveys in the Northwestern Hawaiian Islands. Because the fishery is in very good shape, one could use the value that they have now and project from it using the a model and values from the last year. If there's connectivity between the areas, and they are not sure there isn't, then the entire population range should be covered, including the Northwestern Hawaiian Islands. After 2011, two thirds of the entire archipelago and bottomfish stock will be set aside thus testing the MPA rationale used to create the Monument.

The Council discussed the information used in the current stock assessment which includes information up to 2004. DiNardo confirmed that the assessment data ended in 2004, but they did include in the analysis and modeling effort and projections of the catch data through 2007. The best way to approach this problem would be to come out with a new assessment with new data which may result in some changes and differences.

There are also questions that stock assessment scientists raised associated with PIFSC analysis, with one having to do with CPUE time series. There are some serious questions about just how accurate that data is, however, its the best available information available. To address that PIFSC staff have been going back to the old-time fishermen and asking them, what they did back then to help explain why they see these large changes in some of the years, such as technology like GPS or hydraulic winches. Discussion continued about standardizing CPUE estimates given known differences in the effectiveness between fishermen and the high vulnerability to weather. DiNardo said that they expect to have the new stock assessment by the end of the year. It was also noted that the current assessment is only based on commercial catch information and does not include fishery statistics from the recreational or non-commercial sector which needs to be addressed if all sources of fishing mortality are to be assessed. The public meetings held throughout the islands on bottomfish also provided the stock assessment staff with a better

understanding on the importance and need to better understand changes in CPUE. PIFSC will use the Fish Auction staff to facilitate individual bottomfish fishermen interviews which will include "old-timers" from all islands.

Thielen reported on a private meeting she had with fishermen about a number of fishery issues including the Departments initiatives relative to bottomfish. Fishers recognized that in the Main Hawaiian Islands the level of fishing was not where it was before but wanted a kind of a public recognition that it's not just due to commercial or even recreational fishing, that there's a lot of other activities that have impacted Hawaii waters, like the development on land. The question about reporting was raised for recreational fishers because there is an interest in getting that data. Because of concerns about data disposition, fisher impacts and Department trust issues, fishers agreed that they would start to communicate within their blogs and their newsletters, to talk with people about what could be done.

Another issue Theilen summarized was regarding a bill going through the legislature asking for our Division of Aquatics to evaluate and report back on rules that are implemented. They are working with fishers and the legislature to come up with a fair package for evaluating rules on a five-year basis.

The last thing the Department has been doing is to help with the trust-building effort and support more dialogue when working on Administrative Rules. Instead of going directly to public hearing, the Division would first have informational meetings.

E. NWHI Buyout

Robinson reported that the Omnibus Appropriation Bill included $6.7 million to compensate federally-permitted bottomfish and lobster fishermen who have permits for the Northwestern Hawaiian Islands, and that the compensation program was a voluntary program, and it was limited to no more than the economic value of the permit, but there was an option for additional compensation at the discretion of individual fishermen for the value of the fishing vessels and gear for those who would agree never to use their vessels for fishing again.

He said that NMFS has begun the process of developing a program and a plan and regulations for implementing the compensation. They have a very aggressive time schedule that heseriously doubts they can meet. It involves having a proposed rule that would basically lay out what the program would like and what the methodology is for determining economic value, and so on and so forth. By the end of May, the schedule calls for a proposed rule, a 30-day comment period through the end of June, a final rule probably in September and the program and compensation taking place over the fall, maybe perhaps by the end of the year.

Robinson said that they wanted to start by getting some input from the two groups of fishermen and had a conference call with representatives of the lobster fishermen to sort of describe this timeline and get their input on issues of importance that we needed to address. Then, they did the same thing with representatives of the bottomfish fishery, sat down with them and talked through, to get a feel for some of the issues of importance to both groups. He said that of course, the key to the whole Compensation Program is what is the methodology for determining the economic value of a permit and how do we apply that methodology to the eight bottomfish

permits and the 15 lobster permits.

He reported that they have a number of economists, lead by Dr. Pooley and other economists at the Science Center, our regional economists, economists from Headquarters who are working through that issue and developing some options, and ultimately the methodology selected will be published in the proposed rule for public comment, and we'll take comments on that methodology. Some of the issues that they're wrestling with, of course, is this all or nothing? It is a one-time deal? Is there a window which you have to opt to take the compensation and not? And if you don't, what happens to the rest of the money?

He said they see it as two tiers. Basically, the first tier is compensation for the economic value of the permits. In this case, if the combined cumulative economic value of all of the permits exceeds the 6.7 million, they'd not get to that second tier of compensating for vessels and gear. If the combined cumulative value of the 23 permits is less than the 6.7 million, then there may be money left to offer compensation for vessels and gear.

They're also looking at whether you apply single methodology to both sectors for those types of permits. Or whether it's a different method of determining economic value for the lobster permits versus the bottomfish permits. He said there is an issue that has to do with the obligation of federal funds, and one thing they don't want to do is to get to the end of the fiscal year and have not obligated those funds. Because those funds are at risk of being gobbled back up by the Federal Government, and sometimes you can't get them back.

Robinson said they are exploring doing a cooperative agreement with the Pacific States Marine Fisheries Commission, to provide the money to them and then have them conduct the Compensation Program according to the regulations that we would promulgate, and in that way, the money could be carried over into the next fiscal year, and wouldn't risk losing it.

Duerr asked for questions. He called on Gaffney.

Gaffney asked the Council to consider something that's related to this subject. That is that this compensation as passed by Congress recognized only one group of fishermen that were displaced in the creation of the Monument. The only fishermen that were recognized by this bill were the commercial fishermen. In fact, there was another group of fishermen who were displaced by the Monument, and that is the recreational fishery that was established on Midway and was active and functioning and probably would have remained functioning under Sanctuary, at least that was the way it was going when the Monument came up.

He said that if you read the act, if you read the first sentence, it says, compensation for all fishermen displaced by the Monument, and then the act begins to get specific and it talks about permitted bottomfish fishermen and permitted lobster fishermen. It completely ignores the fact that there was a sport fishery here. He said that he has a personal stake in this, so regardless of what the Council does, he was going to recuse himself because it was his business that was displaced. He said it was a strong business. It was called Destination Midway. He booked 100 percent of the fishermen that were going to Midway at the time. He said he had over 5,000 fishermen who would like to go to Midway and fish, and his business was summarily shut down

by the creation of the Monument.

He wanted to get input from the Council to whether or not they think it's appropriate for this Council to make a request, perhaps back to the Congress, asking them to consider whether or not it's fair, particularly considering that the Magnuson Reauthorization pointed out that recreational fisheries, sport fisheries, should be considered on an equal basis with commercial fisheries.

Duerr called on Duenas.

Duenas said that he wanted to comment that the Fish and Wildlife Service said they're developing a new scheme of things as far as how things are going to operate in the northwest. He believed they mentioned that they're going to re-institute a recreational type fishery.

Duerr called on Gaffney

Gaffney responded that he has been in close contact with the U.S. Fish and Wildlife Service and they have adamantly said no. He believes that the three partners in the management of the Northwestern Hawaiian Islands basically feel that that's absolute, that it's not going to change, that there's not ever going to be a recreational fishery at Midway.

Duerr said that maybe the people that drew up the Proclamation was unaware of the sport fishing that was going on there. Maybe it would be appropriate to send a letter to Senator Daniel Inouye, just advising him of this and what they do with it is up to them. But if they weren't aware of it, that there were other people fishing there and making their livelihood there, it might be worth letting them know about it.

Duerr called on Martin.

Martin noted that he is a permit holder in the Northwestern Hawaiian Islands. He said that asking Congress or the Senator's office or whoever it might be for clarification is fine. He said that they either were unaware or were aware and chose not to recognize for whatever reason.

Duerr called on Dela Cruz.

Dela Cruz asked Gafffney how many recreational boaters are affected by what he brought up.

Gaffney said there was only one business that was chartering to visiting anglers at Midway. There were a total of five boats involved. So there could have been on any given day, five boats chartered, which would have meant five captains, a couple of mates and the opportunity that's presented by that many boats, which would basically be as many as 30-40 anglers a day, although they never did that many.

Dela Cruz noted that he was in support of Gaffney's concerns, and asked if additional funds could be appropriated by the U.S. Congress to support his cause.

Duerr asked if those charter boats were all commercial?

Gaffney responded that the governing agency at Midway was the U.S. Fish and Wildlife Service. The State of Hawaii didn't have any say, so the two larger charter vessels were documented U.S. Coast Guard documented vessels. The smaller vessels weren't required to be either documented or registered because of their size. So they were neither recreational nor commercial.

Duerr called on Martin.

Martin noted that the compensation package was not a Council-driven initiative and it is being run through NMFS. He asked if the appropriate mechanism would be for PIRO to request clarification from Congress.

Duerr called on Young.

Young said that the legislation says that the Secretary of Commerce is authorized to provide compensation to fishery participants who will be displaced by the 2011 fishery closures. That's Paragraph A. Paragraph B speaks to identify eligible participants as those individuals holding commercial federal fishing permits for either lobster or bottomfish. Paragraph B also has to do with establishing regulations. But Paragraph A clearly states that the Secretary is authorized to provide compensation to fishery participants, and it doesn't differentiate what type of fishery and what type of participant.

Duerr called on Martin.

Martin said he didn't disagree, but said that it hasn't been through Council action.

Duerr called on Young.

Young asked who would look into this, and do they need an action by the Council to look?

Simonds responded that it would be the Department of Commerce. She suggested that Gaffney talk to PIRO about it because they're the ones who have to decide who's qualified and who's not, and what it is. She said that the real problem has been that Gaffney was fishing up there under Fish and Wildlife Service permit. Under the bottomfish regs for the Council all these years, anybody who fished up there, whether you recreationally fished or commercially fished, you were supposed to get a permit from the NMFS, and the Council kept telling Fish and Wildlife Service, and kept writing them letters and writing NMFS about how whoever they were permitting, they also should have had an NMFS permit, and Gaffney would have qualified if they had only done their job.

Duerr called on Gaffney.

Gaffney responded that he has already talked with PIRO and that they were reading the letter of the law, and the letter of the law is he didn't have permits, so there's no compensation. That's the way it reads. That's why he brought it to the Council. He said what's fair for the commercial fishermen is fair for the sport fishermen as well, and that got missed here. How it got missed, he

didn't know, whether it was purposeful or simply neglect.

Simonds said he should have had a permit, even if he recreationally fished, under the Council's regulations.

Duerr commented that a letter from the Council would have a little more weight than if a fishermen approached the NMFS. He called on Robinson.

Robinsons said that permits were only issued to bottomfish and lobster fishermen and that the legislation appears to be very specific as to eligible participants being those individuals. Although one might argue that Gaffney should have gotten a federal permit, he doesn't know how you go back and address that in the face of this legislation. He said you'd have to have a change in the legislation or supplemental legislation.

Duerr called on Simonds.

Simonds responded that the Council wrote a letter to that effect, that there are those pelagic fishermen who fished up there, and they didn't have any federal permits, but they had CML permits, and they fished up there. But they're not eligible. And there were recreational fishermen who fished up there and, of course, they're not eligible as well.

Duerr called on Robinson

Robinson said that this is an earmark to the Appropriations Bill that came from Congress. So the NMFS authority is clearly laid out in this bill. This is not a program that was generated from within the Agency at the request of Congress.

Duerr called on Young.

Young asked if Robinson would feel better if the Council asked him to check on whatever can be done to at least clarify it?

Duerr called on DeRoma.

DeRoma said that he hears that some think there may be some ambiguity in the Appropriations language. He said that the NOAA Office of General Counsel has interpreted it to say it authorizes the Secretary to dispense funding, but mandates the people to whom you shall dispense the funding are in this legislation are limited to bottomfish permit holders and lobster permit holders. He said that if you think there should be an additional class of permit holders included in that, Congress could do the same thing for that that they did here.

Young responded that in Paragraph B, it talks about fishery participants and that the Secretary is authorized to provide compensation and that it also says the Secretary shall promulgate regulations, and then it lists some activities. And in that, it identifies lobster and bottomfish permittees.

DeRoma replied that the language mandates that the eligible participants be identified as lobster permit holders, bottomfish permit holders. It doesn't provide for any other class of participant. It only says, eligible participants are these two groups.

Young said that maybe a lawyer will say that the rules deals with those two groups, but the Secretary is authorized to pay for fishery participants.

DeRoma said he disagreed.

Duerr called on Duenas.

Duenas brought up a point of order and suggested that this discussion take place at the appropriate part of the agenda.

Simonds suggested that the Council write to the NMFS and describe this situation, then also describe what should have happened before, and copy Senator Inouye's office, asking for compensation.

Duerr called on Gaffney.

Gaffney agreed with Simonds. He noted that he was not the only person who missed out on this and everyone should be brought into the fold.

Duerr moved on to item 8.F.

F. Community Issues

Council staff presented Hawaii community issues to the Council. The first issue was the Aha Moku Council and the creation of the Aha Kiole Advisory Committee. In June of 2007 Governor Lingle signed Act 212 creating the Aha Kiole Advisory Committee, whose purpose was to report back to the legislature on best practice models for traditional natural resource management in Hawaii. The final interim report for this legislature and the final report will be filed for the next legislature. Staff reported that the Advisory Committee was active and getting input from the communities.

The other two initiatives that reported dealt with the Hawaii Tourism Authority. The HTA gave out three million dollars to 25 natural resource projects. They had an award period in November of last year. They still have the 25 community-based natural resource projects and the total amount of funding they put out for that is 3.1 million. The HTA also had the Kukula Ola Award Program where they organizations who use conditional management techniques and methods to promote natural resource management in their communities. There wasn't an amount of money that was funded for that.

1. Seascape Initiatives

Council Staff also reported on the Main Hawaiian Islands Seascape Strategy Framework. This is a draft proposal by the Conservation International in partnership with the Castle Foundation and the Hawaii Community Foundation. What this basically talks about is creating a

Hawaii Marine Trust Fund to be used to fund community-based natural resource management projects. Staff commented that they would like to see the next proposal that comes out have a bit more robust discussion on how the communities will be engaged and some of the criteria that they're going to use to award this money that they put into this Marine Trust Fund.

Duerr asked for questions and called on Thielen.

Thielen requested that the Council be updated at its next meeting on the Hawaii Ocean Resource Management Plan. Simonds responded that when the plan was completed, the Council was provided a copy and that the Council liked the plan because it covered the same areas of interests as the Council.

Duerr asked for further questions. Hearing none, he moved onto item 8.G.

G. Local, National & International Education and Outreach Initiatives

Council staff reported that in Hawaii, a multi-agency outreach team including the Council, State and NOAA was put together to provide outreach on the Main Hawaiian Islands Bottomfish fishery. The Council maintains the website with updates on the TAC. There is also a comment section where bottomfish fishermen can send comments.

The Council is also working on outreach for the Marine Recreational Information Program including their national campaign that consists of a website and press kit. Locally, an outreach team comprised of the Council, NOAA Fisheries, a fishermen organization and the State of Hawaii has met and come up with a budget and a plan. Ads will be run in the Marianas and Hawaii fishing magazine and a brochure will be developed for tackle shops. A regional website that links to the national website is also in development. Lastly, there are plans for ads on TV, talks with tackle shops, fishing clubs and HMRFS surveyors, and updates for state officials.

Another area the Council is working on is traditional knowledge, with vignettes of "Fishing in Old Hawaii" airing on *Let's Go Fishing*. The Council is also a co-Chair on the National Marine Educators Association's Traditional Knowledge Committee. The committee will meet for the second time at the NMEA conference in July, and Council still will also deliver presentations on the high school summer courses in marine fisheries and resources and on the CDPP. The Council is also working on lunar calendars and met with traditional fishermen in Guam and CNMI to fill in gaps found in the CHamoru calendar.

The Council will continue to sponsor the Teacher's Workshop on the Hawaii Seafood Industry with the Hawaii Longline Association, Pacific Ocean Producers, United Fishing Agency and others.

Duerr asked for questions. Hearing none he moved on to the next agenda item.

H. SSC Recommendations

Paul Callaghan reported the SSC recommendations. The SSC reviewed the Main Hawaiian Islands bottomfish risk assessment model in some depth. The SSC was informed there will be a new revised model which should be available at the end of the year in 2008. Until that new

model is available, the SSC recommends that the Council decision-making be based for the moment on the current revised bottomfish risk assessment model. With respect to efforts on the new approach, the SSC recommends that fishery-independent surveys with the Deep 7 species be undertaken for stock assessment purposes. The SSC recommends that a comprehensive species-specific stock assessments be given a priority for at least the three main Deep 7 species, onaga, opakapaka and ehu, or for some combination complex of the three of those. The SSC recommends that tagging analysis for these species, where available, should be incorporated into the stock assessment. The SSC recommends a high priority be given to the analysis of historic catch and effort data going back to the 1940s to support any comprehensive species-specific stock assessment which is under way.

Callaghan noted, given some Council members' recent comments, the SSC also made several comments to PIFSC relevant to suggestions for improving the interview protocol for fishermen.

The Council members discussed the precedence of selecting an appropriate level of risk related to overfishing and the requirements of the Council when a fishery is declared to be experiencing overfishing or is overfished. It was suggested that the given the status of bottomfish in the MHI sub-management area, the Council might act precautionary and select a lower level of risk to allow for re-growth of the fishery. However, re-growth or rebuilding of the stock is not required for overfishing. The Council would be required to develop a rebuilding plan if the fishery was overfished. Further discussion ensued about defining and managing the bottomfish stock throughout the archipelago. Establishing the NWHI Sanctuary then Monument adds a level of complexity because a large portion of the stock is set aside and protected from fishing mortality. However, the remaining open are then becomes the subject for concentrated effort and management. Under the MSA, sub-stock can be defined and managed separately which is the current situation in Hawaii. Fishermen during public meetings have already discussed and suggested establishing TACs for each island.

DiNardo added that in 2011 they will need a signal for NWHI the population level. Fishing is only one way to get that signal. There fishery-independent surveys that can be used which can be either extractive, where a sample collected and brought back which is preferable in many ways or non extractive. Non-extractive surveys such as sending down cameras or using acoustics are potential means which still need to be developed.

The Chair noted that a year or so ago the Council, in partnership with the State, led the charge to address the overfishing determination on bottomfish and Deep 7 in the Main Hawaiian Islands. The effort is basically in the first year. The Council was required to end overfishing by 2010. It may be premature to rush to judgment on the effort. The imposition on the fishermen is a significant concern that needs to be considered. The fishery is going to close shortly for several months, at which time further information, probably not a stock assessment, will be available to better

Theilen, after hearing comments from Council members, noted parallels in the vote taken earlier against purse seining around Guam.

The Council asked about studies on movement of fish between the NWHI and MHI. Past tagging

studies have shown kahala to move between the NWHI to the MHI. There are a number of tagging studies ongoing now that might add information to this question in the future. Pooley added that the Honolulu Laboratory signed a decision memoranda about 10 years ago determining one archipelagic stock based on available genetic research. Additional genetic research is also ongoing now that will further the understanding of bottomfish stock structure throughout the archipelago. With regard to stock structure, it may not be that the fish swim from one zone to the next but that genetic information over time is being exchanged between areas to keep the stock homogenous.

Pooley added, on the topic of selecting a risk level and TAC, that one of the real problems is that now the trajectory of the biomass over the last four years in the period of which effort has been declining. Considering the model projections, one of the things that discussed is this guide path of transition going from 178K to 100K which is even still a 50 percent risk of overfishing. Closing the fishery for four or five months is pretty dramatic. So part of the job is how to maintain the trust of fishermen, part of the risk is the risk to the human community as well as the risk to the overfishing, the regulatory community and, of course, the ecosystem. There is something to consider as a guide path of administering quotas over a fairly short period of time.

Council member rediscussed the requirements of the MSA relative to overfishing and overfished stocks and the Council's responsibility to define stock range and manage fisheries accordingly. It was reiterated that the target reduction of 24% fishing mortality was exceeded on an archipelago-wide basis meeting the control rule for overfishing. The issue of potential litigation was raised should the Council select an inappropriate level of risk. Robinson noted a case where the level of risk was greater than 50%.

Robinson asked for clarification on how it is possible that the fishery met the overfishing control rule by reducing bottomfishing effort by 29% in 2007 which corresponds to a landing of 179K of deep 7 and yet a projected quota 97K is need for 2008 to meet the control rule. DiNardo responded that the level of risk associated with the 178K quota is much higher than 50%. So when you go from zero to fifty percent, you would not see 178K anymore. However, this is an archipelagic stock which is how it should be viewed. The idea of the closure of the Northwestern Hawaiian Islands, keeping in mind the literature about the MPAs and their benefits, there should be some benefit to the MHI.

I. Public Comment

Duerr asked for public comment and heard none.

J. Council Discussion and Action

Chairman, Sean Martin, asked for recommendations for Council discussion and action. Duerr read the following in the form of a motion: The Council recommends:

A. that the Pacific Islands Fisheries Science Committee complete their updated Hawaiian Bottomfish Stock Assessment as soon as possible;
B. that the PIFSC incorporate current fishery statistics and standardized CPUE values through 2007 in their updated stock assessment
C. that a working group of Council and PIFSC staff be formed to prepare a written report in a

simplified presentation describing PIFSC's Risk Assessment Model and the pros and cons of each risk level for the June 2008 SSC and Council meetings.

Tulafono second the motion.

Martin asked for discussion. Hearing none, called for the question. Motion carried.

Duerr read recommendation number two and offered it in the form of a motion: the Council endorses the following recommendations made by the SSC regarding the Hawaii Bottomfish Stock Assessment Model:

A, fishery-independent surveys for the Deep 7 species be undertaken for stock assessment purposes.

B, comprehensive species-specific stock assessments be a priority undertaken for at least, but not necessarily limited to the three main Deep 7 species, onaga, opakapaka and ehu, or for a complex of those three species. Tagging analysis for these species where available should be included in the stock assessment.

Analysis of historical catch and effort data going back to the last 1940s for comprehensive species-specific stock assessments be given a high priority.

Tulafono second the motion. Martin asked for discussion.

Young moved that the motion be amended to include the other component of the SSC recommendation, that the Council decision-making be based for the moment on the current revised bottomfish risk assessment model. Duerr noted no objection. Tulafono had no objection.

Council members confirmed with NOAA GC to vote on the amendment first. Young clarified that the amendment just modifies how the motion starts, and it's just affirming what the SSC had said, which is that the Council decision-making be based for the moment on the current revised bottomfish risk assessment model. The main motion references the assessment model.

Martin asked for discussion and clarification on "for the moment." Young said "it (for the moment) talks about this is what we know now and this is a model that we have. As they learn more, they may adjust their model. But at least, this is what the model is now."

Martin asked for further discussion. Thielen suggested it means until it's updated. Robinson noted that there is no decision-making based upon the model that's required at this meeting. This is to guide the Council at the June meeting when the TAC is set for the next fishing year. The Council is considering the methodology now and will be free to select that in June. Hamilton noted that the draft motion left out the word, risk. The model the SSC was referring to is the risk assessment model. Martin agreed. Duenas asked if they should take this under advisement. Robinson said the Council is about finished with the Hawaiian bottomfish items and there are no decisions to make and questioned if they actually need to consider this motion, unless the Council intends to lock this table in for June.

Martin clarified that the Council is voting on the amendment, which is to add Item C to the original motion. Gaffney asked if it was part of the original SSC recommendation which was

confirmed by Young and Martin. Martin asked for a role call vote on the amendment to the original motion and called for the question.

MR. DUENAS: On the amendment, no.
MR. LAMORENA: I'll say no.
MR. MARTIN: Ray Tulafono.
MR. TULAFONO: No.
MR. MARTIN: Stephen Haleck.
MR. HALECK: On the amendment, no.
MR. MARTIN: Will Sword.
MR. SWORD: No, on the amendment.
MR. MARTIN: Peter Young.
MR. YOUNG: Aye.
MR. MARTIN: Laura Thielen.
MS. THIELEN: Yes.
MR. MARTIN: Bill Robinson.
MR. ROBINSON: No.
MR. MARTIN: Fred Duerr.
MR. DUERR: Yes.
MR. MARTIN: Rick Gaffney.
MR. GAFFNEY: Yes.
MR. MARTIN: Ben Sablan.
MR. SABLAN: No.
MR. MARTIN: Ike DelaCruz.
MR. DELA CRUZ: No.
MR. MARTIN: The Chair votes no.

Martin stated that the motion failed, four to nine and directed the back to the original motion. It's back on the floor for discussion. Hearing none, he called for the question. The motion carried.

Martin asked for other Council discussion and action.

Duerr requested to make a motion that the Council write a letter to the National Marine Fisheries Service with a copy to Daniel Inouye regarding Rick Gaffney's request. The letter should be written by the Council with assistance from Mr. Gaffney. Duenas second the motion. Martin stated it's been moved and seconded and asked for discussion.

Duenas suggested removing Rick Gaffney's name for obvious reasons. He also suggested making the motion more general to take into consideration other recreational guys involved. The intent is to look at the whole aspect of other participants in the Northwestern Hawaiian Islands that have been displaced. Council members Martin, Gaffney and Duerr agreed. Duenas point of order. For the record, if the maker has no objection to the changes, he has no objections as a second to the motion. Hamilton read the revised motion "that the Council write a letter to NMFS with a copy to Senator Inouye regarding compensation for additional displaced Northwestern Hawaiian Islands fishery participants beyond bottomfish and lobster federal permit holders."

Martin called for the question. Motion passed with one abstention, Robinson, and two recusals,

Martin and Gaffney.

Martin concluded the Hawaii Archipelago section and noted the following changes to the agenda. Protected Species will be moved to Thursday late morning, probably, between Items 13 and 14. .

9. Protected Species

(Moved to Thursday between items 13 and 14)

A. Status of Protected Species Program

B. Update on ESA Consultations

Mr. Yates presented an overview of Protected Resources Programs that are relative to Council interests. NMFS started this about a little over a year ago, organized the fisheries from the FMPs under the appropriate Archipelagic FEPs, looked at the status of all of the consultations on each of these fisheries and looked to see whether they were adequate under the law. This is just a process of showing kind of where we went. They came up with a green, yellow and red system to show that fisheries in green had adequate consultations, the fisheries in red did not and the fisheries in yellow either had no activity or were adequate for the time being. In the five FMPs there's a lot of yellow and red in that process. They went through a process of looking at all of the ones that needed to be consulted upon and tried to make a smart decision on how to group them or not to group those fisheries under the consultations fairly. They wanted to group them similar where possible, maintain the fishery ecosystem specificity under the FEPs, but not lump them together to the extent that when the fishery may exceed its Incidental Take Statement we have a bunch of other fisheries that then fall out of compliance with the ESA. That's what previously has happened in this region, is a lot of the fisheries were lumped together under different Incidental Take Statements and, therefore, when one fishery became noncompliant, it affected a whole bunch of other fisheries. They're trying to lump and split to the appropriate degree. Basically, all of the fisheries under the Pelagic FEP, with the exception of the deepset, shallow-set, needed to be reconsulted on.

Hawaii FEP, we had Bottomfish and Main Hawaiian Islands Crustacean. The Marianas, we had Bottomfish and Crustacean. American Samoa and the PRIAs didn't have any red fisheries. They started with looking at the four Archipelago FEPs rather than the Pelagics, since that was kind of the low-hanging fruit. They completed Amendment 13 on Heterocarpus and several informals on the Marianas and American Samoa Crustaceans. The RA just signed the Biological Opinion on the Main Hawaiian Islands Bottomfish yesterday. Both the CNMI Coral Reef and the Main Hawaiian Islands Crustaceans are under consultation.

The Hawaii FEP is adequate. One more of those yellows will turn to green shortly. The PRIAs are good to go. The Marianas will be good to go once we complete that Coral Reef Ecosystem one. American Samoa is good to go.

But that leaves the Pelagic FEP is where the bulk of the work remains to be done in order to have all of the fisheries adequately consulted under the ESA.

The next actions that they'll have done in the next several weeks is the Marianas and the Main Hawaiian Islands informals. That will get four of the five FEPs cleaned up and adequately consulted on under the ESA.

The American Samoa longline fishery initiated an observer program in late May of 2006. Subsequent to that it has been observed to have four interactions with green turtles, and all of those turtles have been dead.

The Incidental Take Statement for that fishery was combined into troll, pole and line and handline fisheries, which was an unfortunate way to lump all of those fisheries together because that observer take in American Samoa has since busted the ITS for all of those fisheries. The observer coverage in American Samoa has been right in seven percent based upon trips, a very low number, a very short history, and the turtles that have come up have been dead. Of those turtles that have come up, we've got genetic samples on two of them. One of them comes from the stocks that nest in Australia, which are large stocks that are doing very well. One of the genetic analyses have haplotypes from American Samoa and Micronesia, which are where there's many small stocks, many of unknown status and some that we know that aren't doing very well.

So the issue in American Samoa is the inability to really extrapolate those observed takes to any degree of certainty because of the low numbers of observed trips, which gives us a huge confidence interval on the numbers of turtles that are being taken. So they really don't know how many turtles are being taken. It could be very large. It's very hard to tell. They don't know what stocks of turtles are being taken. They have only two genetic samples that have been taken, and they show up different places. So there's a high degree of uncertainty about what the impact of that fishery is on those turtle populations.

As Mr. Robinson alluded to previously, one way to reduce that uncertainty is to ensure that the fishery is doing everything it can to minimize the take of those turtle stocks.

Interestingly all of the turtles that were hooked in that fishery are taken on the top three or four hooks.

So looking at the depth of where the turtles are getting caught, not only in this fishery but in the deepset fishery and others, is really an interesting way to look advancing the reduction in take of turtles.

So Mr. Robinson will be transmitting a letter to the Council shortly, expressing basically what I've just said. There's some concern about the take. It's very uncertain, and recommend to the Council to look at what measures may be feasible to try and minimize that take.

As I mentioned, the troll, pole and line and handline fisheries were combined with the American Samoa ITS, and thus we're out of compliance with that fisheries. Its exceeded its take. Probably after we completed these two informals, that will be the next fishery that we address, hopefully to get that consulted on and then completed to further advance the Pelagic FEP.

The squid jig fishery, I think we're taking action tomorrow and final action on the squid jig fisheries. We'll need to complete a consultation on that fishery.

Then finally there is a fishery that's operating around the Main Hawaiian Islands unmanaged by the Council or the State, which basically we're referring to as a shortline fishery, a fishery that does not exceed the one mile, is at or does not exceed the one-mile length of longline, that there's no regulations on where that fishery can and can't operate. It can be operating anywhere around the Main Hawaiian Islands.

From a Protected Species standpoint, that is something of grave concern, that we highly recommend the Council take under consideration and figure out a way to manage that fishery. I'm sure there's potential for gear conflicts as well.

But from a Protected Species standpoint, having those shortline fisheries in areas where you can be catching monk seals or other sea turtles is a concern that we think the Council should take a look into.

Hawaii deepset longline fishery, there's a potential that -- there's two triggers that could cause us to have to re-initiate consultation on the deepset fishery. We did have a loggerhead mortality in the fishery, which was a very unexpected event. Once the Science Center finishes their extrapolations on the fishery, we're going to have to see whether that mortality exceeds the limits in the ITS. Olive ridleys are the turtles that had the highest rate of interaction for the longline fishery -- for the deepset fishery. Two years ago we were getting a lot of loggerheads. Last year we caught very little.

So far this year, we're at two or so. But that's another potential trigger.

Then obviously the shallow-set fishery the Council will be taking under consideration tomorrow. A couple of things that we've been working in advance of that is evaluating the status of both the loggerhead and leatherback sea turtles. Most of you know that those sea turtle species are -- face various threats. We've pulled together a mortality estimation of what the fishery has since it's reopening in 2004 with the estimated mortality of both loggerhead and leatherbacks had in that fishery. We've been working through lots of the variables that are important to Biological Opinions, such as the sex ratios of the animals in the area where they're being caught, what the adult female equivalent is at different age classes of turtles, using the best available science to try and figure out whether a juvenile loggerhead, what percentage of the adult female is that correlates to when we do our extinction risk analyses.

I want to mention a little bit about -- I think Dr. Snover has only presented to the SSC, but a lot of this is what the Council and us are both using in terms of evaluating the potential impact of the different alternatives. But what Dr. Snover's analysis looks at is nesting beach data. She looked at the removal of adult females and what that potentially -- how that potentially raises the extinction risk of these species. So that's a very important component to it. What is incorporated in that nesting beach analysis, to a certain extent, and what will come under a lot of scrutiny is the threats that these turtles species are facing. Most of you are aware of the -- for loggerheads in Japan and Mexico, and those types of places, the threats that they're facing. So our requirement under the Endangered Species Act and a Biological Opinion is to look at the status and all of those threats facing sea turtles to begin with, and then on top of that, evaluate the action.

So I guess I will reiterate my caution to the SSC, and I will reiterate to the Council as well, is that if the status of the sea turtle species and the fact that whatever alternative is pursued will need to undergo a Biological Opinion and then almost certainly a challenge in the legal system.

My recommendation is that the Council act cautiously in selecting the alternative that meets the needs of the proposed action to allow the shallow-set fishery to expand to a degree that is anticipated, but not to overreach and to predict an impact on sea turtles that is riskier than what the Council or its fishermen would want to assume.

A little bit about the Hawaiian monk seal. In 2007, we finalized the revision of the Monk Seal Recovery Plan. It had not been revised since 1983. As most of you know, monk seals are not doing very well. I talked a little bit about this the other day. They're declining at a rate of about four percent per year. In the early 2000s, late '90s, we thought that the seals might be turning the corner. Since then, they've been going down hill in a pretty dramatic fashion.

The signing ceremony had a senior senator there. We had the head of the Fisheries Service and NOS participating. So that was kind of the kick-off event to a new phase of monk seal conservation and that we're trying to implement the provisions of that recovery plan. We've got a lot of challenges in the Main Hawaiian Islands with seal and human interaction and various other threats to seals. In the Northwestern Hawaiian Islands, the Science Center is trying to look at continuing to assess the population, do a lot of research on what seals are eating and working

with all of our stakeholders to try and look at what types of measures we can do to try and improve the female juvenile survival. We talked about bringing the seals in and nutritionally supplementing them, moving them to various places for higher survival, trying to reduce the risk of shark predation, reduce the risk from marine debris.

Under cetaceans as you know, the Council has a Marine Mammal Advisory Committee, which Paul has kind of chaired. We've had two different meetings. Since the last Marine Mammal Advisory Committee we made some pretty good progress on a couple of things. We supported an analysis by the Pacific Islands Fisheries Science Center scientists and also from the Southwest to come out and actually do an extensive analysis of the observer database to see if we can pull out of that any clues that may correlate into when either depredation or hookings occur of cetaceans. You all know we have an issue with the number of false killer whales that are caught in the deepset longline fishery. We have all of that data, which had never been extensively mined. That initial report came up with a couple of interesting things, but very preliminary. It came up with a positive correlation between the type of hook in hookings. But there's a lot of caution to that because other studies in the Atlantic have shown exactly the opposite results. So we're doing our best to try to figure out if there's any variables that we can come up with to figure out whether there is some way to know when whales are depredating and when they're getting hooked.

Working with HLA and the Council and others, we've undertaken a survey of longline fishermen to try and talk story and figure out both what they thing how wells are finding them and depredating the catch and also if there's any ideas they have on how to reduce or to eliminate that, and that's ongoing right now. An outcome of the Marine Mammal Advisory Committee, was the need to include the fishermen more. There's a lot going on in the Southeast. They have a longline fishery that interacts with pilot whales. We're tracking the results of the research that they're doing there. There was a study that we've commissioned to look at nearshore fishery interactions around the Main Hawaiian Islands to see to what extent cetaceans were being hooked by nearshore fisheries. That study is completed.

Then on the research side, they're continuing their genetic study to look at false killer whales and acoustic issues, photo ID, and those types of things. False killer whales is the issue that has previously been the main cetacean issue with the longline fisheries. The recent genetic evidence is showing that there is likely at least one or two separate stocks from separate substocks of false killer whales. There is genetic evidence -- other survey evidence to show that the whales that are around the Main Hawaiian Islands are generally staying around the Main Hawaiian Islands. They're not going out into the pelagic environment.

The genetics from the whales that have interacted with the longline fleet are showing that they are a different genetic makeup than the nearshore Main Hawaiian Islands animals, which is what a lot of people have been surmising for a while, is that you've got whales close to the Main Hawaiian Islands and then you've got a pelagic stock of whales. At the recent Pacific Scientific Review Group Meeting, the scientists proposed that there be a substock of whales close to the Main Hawaiian Islands and then a stock off the Main Hawaiian Islands, the fishery would be interacting with the stock of whales off of the Main Hawaiian Islands. They really don't have any evidence for a specific line. They said somewhere around 60 or 70 is where those genetic results have been captured. They proposed using 75 nautical miles since that is the outside of the exclusion zone for longline fishing. They're also trying to ensure that we get genetic samples from around Palmyra and other places to try to figure out what the stocks are doing.

A few large whale interactions with the longline fishery. You can see the dates up there.

A few humpbacks have swam into the lines. One Brydes whale same into the line back in 2005. We're working to try and get these takes authorized under the MMPA and the ESA process under the negligible impacts determination process.

We've been talking to HLA and others about splitting the Hawaii longline fishery as it's defined under the Marine Mammal Protection Act in the list of fisheries. They have requested that the fishery be broken into a deepset fishery and a shallow-set fishery. Right now the fishery is under a total heading of Hawaii longline fishery. These fisheries do have different types of interactions with marine mammals. All of the false killer whales interact with the deepset component of the fishery. Since the fisheries are managed under different regulations, evaluated under different Biological Opinions, fishing techniques are different, it makes sense to us if we concur that the fishery should be listed under two categories under the MMPA.

The next go-around is coming up here shortly. We're going to pose that they actually be split into two different fisheries. What that means in terms of the list of fishery categories, that the deepset will remain a Category 1 Fishery because of its interaction with false killer whales and then the shallow-set need to be -- we have to run the numbers to rate that part and see whether that then corresponds to a lower listed fishery for the shallow-set likelihood, which is one of the outcomes of that process.

A lot of things happening with the stranding program in other places. But I did want to say that we have worked with various folks in Guam and CNMI and American Samoa and facilitated a joint grant application to the Prescott Grant Program, which basically is the money that goes out to support stranding networks. That was successful. Both Guam, CNMI and American Samoa are getting money through a Prescott Grant Program. David Schofield (phonetic), who works as the Stranding Response Coordinator, was out here for the previous two weeks working to help set up Stranding Response Programs and worked with folks to understand the type of equipment and the type of samples that are taken, and what you do with whales, and those types of things. So that was set up, I think a positive step in helping the Guam, CNMI and American Samoa build a more robust Marine Mammal Stranding Response Program. Obviously, a lot of scrutiny on strandings when there's potential association with Navy activities, then the way to address that is either to move it out or to gather information on any potential correlations to be able to respond to those animals, gather samples and do the right types of tests.

On Oahu, we actually run the animals through a Ct-scan to actually get Ct-scans of the animals to look for potential noise, damage to the animal's (inaudible) level of interest, particularly from D.C. and other places where this is a real sensitive issue.

We continue to work with Guam, CNMI and American Samoa on the grant programs to build -- to gather information, conduct research and build capacity through sea turtle conservation research programs. One of the things that's always been mentioned for a couple of years now is to try and someone to come out here and spend a more significant amount of time than just a week or two to talk to folks. So PIRO and the Science Center are working together to try and hire someone for a temporary position to come and spend some time out here in the Marianas, both in Guam and CNMI, to work with the folks that are running these turtle programs to refine methodologies and to make sure that the research is flowing on in a way to provide the best data possible to meet all of the goals that we're all trying to accomplish.

So Dr. Snover has got some names and ideas to go out in the field and help build research programs. Palmyra Research. We help support some of the research in Palmyra that's looking at sea turtle species around there, and discovered some interesting things.

Hawksbills in the Main Hawaiian Islands is an area where not a lot of work has been done

on that very small stock of hawksbill turtles. So we're trying to work with the Park Service and other partners to protect some of those nesting beach areas in the Main Hawaiian Islands for that very small stock of turtles.

Five-year reviews. They did complete five-year reviews on all of the sea turtle species. They found that the current listings as they're currently found under ESA are appropriate. The five-year status review found that loggerheads, as listed, their listing was appropriate, but in our own evaluation recommended that we evaluate whether they should broken out into different population segments. For example, the most relevant one of concern to the Council is the North Pacific loggerhead stock between Japan (inaudible) Mexico.

Subsequent to that analysis, the Agency was petitioned by CBD and Turtle Island Restoration Network to do just what we said we wanted to do in our five-year review, and that was to look at whether the North Pacific stock -- or whether the Pacific stock of loggerheads should be broken into the North Pacific and South Pacific stocks, and actually breaking them apart between the Atlantic and the Pacific.

They also in that petition asked to uplist the species to endangered and to designate critical habitat. So the Agency, the way this process works if you're petitioning, have 90 days to say whether you think you should continue to evaluate it further, whether that petition was warranted, whether there's information there that you should consider.

Clearly, since the Agency had already said that we wanted to look at whether those stocks should be split out, the 90-day finding did find that that was warranted. Now there will be a year process to find out whether the loggerhead stock should be broken out into distinct population segments.

It's not going to make any difference to the Council because we already evaluate the North Pacific loggerhead stock in our Biological Opinions as a unit that then links up to the larger listing. So it won't really make any difference in terms the way the Biological Opinions are done or in terms of the concerns about the impacts on those species. We also have to decide whether the current listing status is appropriate or whether there should be designated critical habitat. We've been working with the State of Hawaii for a while on the nearshore interactions with sea turtles and monk seals. We worked with the State of Hawaii, and they obtained a Section 6 Grant, and they have reported on that at a previous Council meeting. With that money then they will afford to work with someone that work closely with us on looking at the nearshore interactions to sea turtles, potentially (inaudible).

NOAA Fisheries received a block of funding this year specifically for dealing with military and military consultation issues. We requested a portion of that since we will be required to conduct analyses on all of the Guam buildup activities. You saw the presentation the other day of them putting in all of these various structures in the harbor, building the piers, and all those types of things. All of that will have to undergo analysis by our office under Section 7 of the ESA. So we did receive a little portion of that to bring someone onboard to kind of be our point person to look after ESA and bring up (inaudible) issues with that buildup. So we'll have someone to engage. Previously, we have not. So we were kind of a little bit out of the picture on that one.

Mr. Gaffney asked if we know the size of the shortline fishery around Hawaii.

Mr. Yates responded that he knows nothing about the effort in the shortline fishery. Most of my information has come through talking to folks here at the Council and others.

But that fishery is operating and so my point then on the slide was to raise that awareness and that clearly is a protected species concern because we have no idea what the fishery -- how

the fishery may be interacting with nearshore protected species. But I don't know anything about the effort.

Mr. Pooley said this is one of the situations where the HMRFS is actually quite useful, not in terms of interactions but in terms of the fishing effort in the various (inaudible) CML aspect of the commercial shortline fishing is pretty small.

But the HMRFS survey does a pretty good job of covering the nearshore waters. To give you an idea of the kind of fishing effort that comes from the shortline fishery at a broad level, and then maybe you can scroll down into it and get a sense of general locations and gear types. One of the things that John Boreman said the other night at the Fishers Forum in Guam was the survey was not designed to do a lot of conservation management kinds of things that it's now been asked to do.

That's unfortunate, but that's part of what the MRIP process ought to do, is to be able to get the kind of information that is reliable to be used for conservation management.

Mr. Duenas had many questions. On the issue of the longline fishery or shortline fishery, whatever it is, I don't know what's going on with NMFS or NOAA, or what, but you say you're going to send us a letter to regulate it, and the dataset and all of that. We did submit an amendment that was denied by your agency. So I wish people within in your agency would talk to one another before they start denying our request for amendments to our Pelagics FMP. What are the differences of interaction of species -- of like species among the different fisheries and why the numbers are so incredibly different. Like, for the purse seine fishery, you have 11 loggerhead -- or leatherback. Then for the longline fishery, you have 17 and 16.

Then for the Caribbean area, there's 3,000 can be killed. I don't know why the major difference in the numbers, because at one Council meeting I remember in Hawaii, a lady from the Caribbean Nature Conservancy, or something like that, came to Hawaii criticizing us for trying to expand the sets on the fishery and saying that 16 turtles is really bad. So I was curious who she was or what she represented. I thought (inaudible) her organization represents -- or entity that operates in the Caribbean where there's 3,000 killed, not interacted with, or whatever, 3,000 killed per year.

So I'm just wondering, people have this so-called longline mentality. But every time I turn around, there's a different number for different fisheries and every time something within the management Council regime, we get a lot of grief about -- we have the model fishery. We have been doing everything right for the last 20 years. I don't understand where we're going wrong. We should reward our fishermen for doing good. I don't understand why the Biological Opinion or Section 7 Consultation, or whatever consultation, is forever different, even though it's within the same waters, same regime or the same species, or what have you. I'm just curious about that part, and maybe you can answer that because you're out here.

Mr. Yates said that he concurs that this fishery is a model fishery and that the take of protected species is very low from our longline fishery, as the Council and the fishermen are to be commended on that. To answer your question why the numbers are different, the numbers will be different for each fishery because we -- as I mentioned, we try and gather the best available information of what we think that fishery -- to what extent that fishery is interacting with turtles, and we try and extrapolate that over the effort of the fishery.

So for the shallow-set, we know exactly how many turtles are being caught in the fishery because we have 100 percent observer coverage. The numbers for that fishery were somewhat came up doing the process of the Biological Opinion and negotiations, and I wasn't around for that so I can't answer exactly why those numbers are where they are.

What I can is for the deepset fishery, there's approximately 20 percent observer coverage, same thing as the purse seine fishery. We go through a process of looking at what those interactions are, CPUE of turtles, those types of things, to try and extrapolate that on the predicted effort. So those numbers that come out for the deepset fishery and the purse seine fishery and all of those things are through that process.

So it's the same process and, obviously, depending on the CPUE and the amount of effort, the numbers clearly are going to come out different. It's not a process of where we say, okay, the deepset and the purse seine fishery both get 12 loggerheads, or something like that. That's not how the process works. We go through a process of gathering the information, mostly from observer programs, figuring out what the CPUE is and trying to project that. Then whatever that number ends up is what we evaluate under the standards of the ESA.

So I don't know if that answers your question, Manny.

Mr. Duenas: If you observe the purse seine fishery at 20 percent and they are allowed to interact with 11 loggerheads and 11 leatherbacks, and they're at only 20 percent with longline boats. Yet, with the Hawaii swordfish fishery, at 30 vessels, they're required 100 percent observer coverage and 16 and 17 turtles. That, to me, is discrimination.

Ultimately, the thing that you're most concerned about is the rate of removal or injury of females, right, because that's what has the greatest impact of the species. So that's where those things like set mortality of animals that are caught and then released, the sex ratio of those animals in that area, the size of those animals. So how far away they are from reproductive maturity. All of those things come in and, ultimately, that's where the rubber hits the road the most in terms of evaluating the impact.

As I mentioned before, in all of the turtles that have been caught in the purse seine fishery actually were released alive and healthy. It's a different type of observer program so that the information is not as good as the information that we get from the -- I'm not here defending the purse seine fishery against any longline fishery.

The process is the same, I guess. So there's no discrimination one way or the other. The process is the same.

Hopefully, that helps a little bit.

Mr. Duenas: Just one more. We're regulating all types of gear, and they fisheries inside. Then all of a sudden, you mentioned about the strandings. The problem with the strandings in our region is that you give the training to agencies within our government that are off on weekends. My recommendation is that we get the community more involved in these areas where the so-called strandings are to occur, but it was a dead -- a dead mammal. So I think the strandings are great -- the training is great, but I think it should be expanded to the community because, like I said, even if we have a violation in our MPA, you make phone calls on a Saturday, you get an answering machine if you're lucky, and nobody acts on until Tuesday morning when they finally realize there was a message over the weekend.

Mr. Yates agreed with that. And said most areas of the country, those training networks actually are nongovernmental. They normally are groups associated with aquariums or other types of things, or just community groups. The RA has the authority to delegate that stranding response authority to groups that are willing to take on that responsibility. Part of that responsibility is being able to answer your phone on a Saturday and go out and pick up the dolphin off the beach. So this was just our first visit here to try to energize that.

Clearly, community involvement is absolutely critical. We do that same thing in the Main Hawaiian Islands and around the country. So that's what we're trying to follow.

Mr. Martin asked when should we expect to see the results of the study that's being done working with the -- the interviews with fishermen related to marine mammals? Mr. Yates said the contractor has made significant progress with some portions of the fleet. He had a hard time I think getting an interpreter for the Korean portion of the fleet. I think he just did -- I think he's the President of the Korean Boat Owners Association, or whatever the right terminology is. So he's advancing that. Hopefully as soon as George can get it done, I guess is the answer. We're hoping that that would be in the next couple of months, and then we can come back and present that. That will be part of our ongoing effort. As you know, this is a very difficult nut to crack. But it's an interesting one, because both the fishermen and the regulators have the same goal in mind, and that's reducing the number of whales that are eating stuff of the line because that's good for the fishermen (inaudible) and it's good for the whales that they're not getting hooked. So it's a challenging one that's worked on all around the world, and we're trying to do our part to see if there's any tricks that we can learn.

Mr. Martin pointed out that probably right now we're seeing the worst predation that we've ever seen in the Hawaii longline fishery, and it's in a broad geographic area, basically any direction around the islands. It's quite a problem. Mr. Yates said the contractor is trying to also in his interviews get a handle on the fishermen's perception of the level of depredation. So that hopefully will be something we all can use in terms of assessing the economic impact of this problem.

Mr. Martin said he thinks that the Council recognizes that we've worked long and hard to help develop what we hope to be a really well thought out and reasoned approach. We hear about the shortline fishery and the need for the Council to be concerned in addressing that fishery and its interactions with marine mammals. A year and a half ago after a somewhat long, drawn-out process, we were informed that that portion of the Amendment 14 that related to federal permitting for the shortline fishery was going to be denied. That's too bad, and I think we lost an opportunity there to be about a year ahead of where we are now, and now we're hearing that it's coming back to create some issues for the Council. So I guess hopefully next time-around there will be a little bit more collaborative effort in addressing the concerns, whatever those concerns were, that the Agency had in denying that portion of the amendment so that we can actually address some of the issues that you brought up.

C. Albatross Petition

Mr. Dalzell presented an update. It's a petition that was submitted a couple of years back by Earth Justice on behalf of Turtle Island Restoration Network and the Center for Biological Diversity. This is to list a species which is not listed currently under the Endangered Species Act, the black-footed albatross, and to give it a listing as threatened or endangered under the ESA. The original petition in your books, one of the things that stands out about it is they've used a lot of very old information -- and by old I mean stuff around about 2001 -- which is at that time we were -- had just really sort of taken action to address the high takes of albatross in the Hawaii longline fishery.

The Council responded to the petition. We pointed out that the administrative record does not support listing BFAL as threatened or endangered. There is good information -- reasonably good information from Fish and Wildlife Service to show the population has been pretty rock-solid stable for at least a decade in the Northwestern Hawaiian Islands. Some populations on different islands go up, some go down, but overall the population as a whole has remained I

think at about 60,000 nesting pairs. Of course, it is because the Northwestern Hawaiian Islands is isolated. There is -- over the last century there was progressive reduction of anthropogenic impacts, which will almost cease altogether as the new Monument evolves.

As such, our interpretation of the population information was that such a listing was not warranted. Moreover, if you do look at the historical trends for the albatross, what is clear is that while populations were greatly reduced by further collecting in the Northwestern Hawaiian Islands at the turn of the 19th Century, we find that populations have grown considerably since the 1920s to about the level that they are now, about 60,000 nesting pairs.

Also, to note, black-foots have to share that little bit of real estate with 600 to 700,000 nesting pairs of Laysan albatrosses. The available scientific and commercial data indicates that the Hawaiian black-foots is stable at relatively high levels and are not declining in any statistically significant manner. That's very important.

The available scientific and commercial data collected by the Council indicate its 2000 conservation measures implemented in the Hawaii longline fishery average (inaudible) 90 percent the amount of incidental black-footed albatross captured in its fisheries.

The fishery was probably responsible for between 1,000 to 2,000 mortalities of black-foots and the same level of Laysans in the Hawaii longline fishery up to about the late 1990s, when we completed research, as did the Science Center, on seabird mitigation measures. Even with the implementation -- and it was primarily the shallow-set fishery, which was collecting these mortalities on the fishery. The Council can be very proud of that we've actually achieved actually a two order of magnitude reduction in seabird interactions in the Hawaii longline fishery and have established several mitigation measures as one which we think other countries should emulate to reduce seabird interactions.

On an absolute level the Hawaii swordfish fishery probably took more seabirds than any other fishery. That is because distance to the nesting grounds seems to have been one of the chief factors in seabird interactions. Although we have a 50 mile closure, we can still fish within the EEZ. What has since happened, even with the revival of the swordfish fishery, the mandatory night-setting with the 100 percent observer coverage has shown that this is also extremely effective. We've had a two order of magnitude reduction of seabird interactions.

These Council management measures were not considered in detail at all by the petition. They were pretty much more or less ignored. It's also inappropriate to extrapolate seabird takes in the Hawaii fishery to international fisheries as a whole, and they have made sort of modeling attempts to do this. Even accounting for differences between fisheries, there are some questionable results in the measure of these studies, and I have to say that, in the sense of my youth catching up with me, since I was one of the chief culprits in this using swordfish ratios in longline catches to generate estimates of seabird takes. Then also, the longline fleet size as whole has grown in the Pacific Ocean over the past 50 years, and available scientific information indicates that the black-foot populations have not declined despite the substantial increase in the amount of longline effort.

I think Council members will recall I've shown at various times the size of the longline fleet size relative to the Pacific. It's been pretty much linear since the 1950s to the present, going from under 1,000 boats to about 5,000 vessels currently. During all of this period of time, the BFAL population and the black-foot population has remained stable. The short-tailed albatross, was really reduced to only a few specimens, has grown exponentially also during this period of linear growth of the longline fishery. Our recommendation was that a listing of the black-footed albatross is not required at this time.

Fish and Wildlife Service required the fishery to do various things under a BiOp back in 2000. I think it was quite clear then that although they realized the short-tails were probably in no danger from the longline fishery, it was a proxy for in fact addressing their concerns about the black-foot. We have these measures in place. To date, seabird takes have been reduced from thousands to tens.

E. Observer Program Report on American Samoa and Hawaii 2007 LL Fishery

Mr. Robinson briefly commented to say he doesn't have a whole lot more information than what Mr. Yates presented. Last year our observer coverage was about seven percent. That was 11 out of 157 trips were observed trips. We would obviously like to have much better coverage, but there are a number of problems. One problem is the length of trips. Whereas in the swordfish fishery, an observer might get two -- possibly three, but at least two trips in a 60-day period.

In the American Samoa fishery, sometimes trips run 60 to 70, sometimes 75 days. So that ties up an observer for a long time and reduces the number of trips. The other factor in depressing the level of coverage is funding. We prioritize observer coverage within the amount of funding we have. Number one priority is the swordfish fishery. Number two is the deepset fishery. American Samoa longline fishery is number three. Number four was the bottomfish fishery in the Northwestern Hawaiian Islands. We've dropped all observer coverage of that fishery for two reasons. One, funding issues. Two, in the entire amount of time that the fishery was observer there were no interactions with Hawaiian monk seals. So we thought it was appropriate to drop observer coverage on that fishery. We have, as I said, two observers in American Samoa and one debriefer and one coordinator, Rick Culfer (phonetic). His tour of duty down there is ending. He's returning to Honolulu. We're trying to figure out who to send down there to be the next coordinator, and we'll know that real soon.

Ms. Simonds asked why they didn't do a BiOp for the noncommercial fishery. Mr. Yates said they just completed a Biological Opinion on Amendment 14, which covers the Main Hawaiian Islands bottomfish fishery. The action that we consulted on was all fishing in federal waters, which is what the jurisdiction of NMFS entails. There were inter-related and inter-dependent actions, which are the boats that transit from shore out to the federal waters. So we evaluated the impacts of those boats on actually hitting turtles. They consulted on the federal action over which we have authority. They didn't really have the option of consulting upon actions which we don't have authority. So the activity is the issuance of bottomfish permits to federal fisheries, and that's the action upon which we were consulting. We acknowledged in the Biological Opinion that there is potential overlap and additional State of Hawaii regulations that may require a permit to do things. But we actually have no control over -- we don't have any federal authority over what someone else may or may not require with a federal permit. So the action upon which we consulted was the operation of bottomfish vessels in federal waters both commercial and recreational.

F. Public Comment

There was no public comment.

G. Council Discussion and Action

There was none.

10. Public Comment on Non-Agenda Items

Martin called for public comment on non-agenda items. Hearing none, he adjourned the meeting for the day.

Thursday, March 20, 2008

11. Opening Ceremony

Chairman Sean Martin opened the meeting by thanking participants and the Honorable Governor Benigno Fitial for his hospitality and inviting the Council to his home for dinner last night. He also thanked Sylvan Igisomar and his extended family for their performance as well.

He then recognized Mr. Ramon Mafnas, a former Advisory Panel Member who now works for the Governor's office. He also recognized Dr. Ignacio Dela Cruz, who so graciously put together last night's event for us.

Martin then introduced the Chalan Kanoa Fishing Community headed by Mr. Lino Olopai, a member of our Council's Advisory Panel. He said Mr. Lino Olopai is also the instructor for the Traditional Fishing Education Project, which was funded by our CDPP, and the author of Ropes of Micronesia, which highlighted the story of his life as a Carolinian.

Mr. Olopai gave a brief history on the Carolinian community in the Marianas and introduced several of the clan members accompanying him. They preformed a traditional chant which speaks about the journey from their homeland to the Marianas and the hardships and joys they endured on their journey, including catching of fish as well as the driving force behind their motivations.

12. Introductions

Martin then asked all members sitting around the table to introduce themselves.

MR. CALLAGHAN: I'm Paul Callaghan from the University of Guam, Council's Scientific and Statistical Committee Chair.

MR. DeROMA: I'm Silas DeRoma, from the NOAA Office of General Counsel.

MR. ROBINSON: I'm Bill Robinson, Regional Administrator, Pacific Islands Region of National Marine Fisheries Service.

MR. TULAFONO: Talofa. Ray Tulafono, Council member from American Samoa.

MR. SWORD: Talofa. Will Sword, Council member, American Samoa.

MR. HALECK: Talofa. Stephen Haleck, Council member and Vice-Chair, American Samoa.

MR. DUENAS: Manny Duenas, Council Vice-Chair, representing the Island of Guam.

MS. SIMONDS: Kitty Simonds, the Executive Director.

MR. SABLAN: Hafa adai and tirow. Benigno Sablan, Council member, CNMI.

MR. DUERR: Fred Duerr, Vice-Chair, Hawaii.

MR. DELA CRUZ: Good morning. My name is Ike Dela Cruz. I'm the Council member from the Commonwealth of the Northern Mariana Islands.

LT. DEEMS: Good morning. Lieutenant Kyle Deems, U.S. Coast Guard.

MR. YOUNG: Peter Young, State of Hawaii.

MR. GAFFNEY: Rick Gaffney, Council member at-large, State of Hawaii.

Martin then turned the floor over Vice-Chair Sablan, who will continue the introductions.

Guest Speaker: The Honorable Speaker of the CNMI Legislature Arnold Palacios

Sablan gave a in depth introduction of Speaker Arnold Palacios noting his various positions and of public service as well as membership on the Council and Council advisory bodies.

SPEAKER PALACIOS: Thank you. Thank you, Ben, for the kind introduction. I didn't know I had such a long resume. Thank you. Good morning, Chairman Martin, Honorable Members of the Western Pacific Fisheries Council, same to the Director, Kitty Simonds, all the guests, staff, Advisory Panel members.

I extend my warmest hafa adai to everyone and thank you for bringing the 140th Council meeting to Saipan. We are honored to have you here. I want to thank you again also for the opportunity to share a few words with you this morning. But before I start, I want to ask that we observe a moment of silence and pay tribute to the late Jacinto Taman (phonetic). Mr. Taman was a long-time employee of the Division of Fish and Wildlife, a friend to many of us present here this morning and a local master fisherman.

(Moment of Silence was observed)

SPEAKER PALACIOS: Having been involved in regional fisheries as a Former Director of Fish and Wildlife for a little over a decade, and a past voting member of this Council, I've had the pleasure of working with many of you here attending this meeting this morning, and it is always heart-warming to see familiar faces and reconnect with old friends.

I also noticed that the Council agenda contains several action items relating to creation of longline, purse seine exclusion zones around the Island of the CNMI. I'm glad for the Council through its Advisory Panel and Plan Team members to address the potential impact that these industries may have on our local fishery fleet. I feel confident the Council's decision will result in protection of our local fishing industry while at the same time allowing for the growth of a local longline fishery.

As some of you may know, we are just starting the development of the local longline industry with a fishing venture on Rota that now has grown to two fishing vessels. The Council is unique in that all of the years it has always attempted to incorporate the Islanders' concerns into its decision-making process, and that is all that the people of the Commonwealth, the people of Samoa, the people of Guam, people of Hawaii ask for. There is no leader in the Commonwealth who will oppose resource management. It is an important and integral part of our lives and of our culture. However, some resource management measures make sense locally. We all know that. Some do not.

Those management schemes that advocate the complete prohibition on the use of our resources are not based on rational, scientific arguments and are not welcome to the people of the

Commonwealth. As there are many other less draconian management measures that can be availed to address the many shortcomings presently being experienced in our existing programs.

The sustainable use of marine resources is the Pacific Island way of life. It is our way of life. It's what has sustained us for centuries. In the process of determining which management measures are locally appropriate, we need to be mindful that we are creating an end product for the benefit of our community and the benefit of our people, not so that we can have an aquarium.

Ladies and gentlemen, members of the Council, we don't play with our food.Recently there has been a resurgence of what has been perceived as marine conservation measures being proposed for the Mariana Islands. Some are originating from the U.S. Mainland, such as the Pew Northern Mariana Islands Monument, and some are regional in nature, such as the Micronesian Challenge.

While these proposals and these ideas are noble, I feel it personally disappointing that our people are not being involved. Some of these proposals do not recognize that these measures are not new to our island nations.

The venue for this meeting is particularly appropriate for the CNMI, as we are experiencing several management proposal movements that has the potential to greatly affect our existing and future fisheries development. Let me talk a little bit about the Pew proposal for the Northern Mariana Islands Monument.

In the very limited time that I've been able to find out the information that I can, let me share some things that you may not be aware that the plan of the Pew Foundation to establish the Northern Mariana Islands Monument, and this includes the northernmost islands of the Mariana Archipelago; Uracas, Maug and Asuncion. It includes part of the 200-mile EEZ.

From what I have gathered, the Pew proposal has already been given an okay from the federal agencies to pursue this proposal. I personally don't understand this behavior. Since when does an outside organization come into another's home with a grandiose plan without consulting the very people they would be affecting?

Establishing a Northern Mariana Islands Monument would greatly affect any type of sustainable fisheries development plans by eliminating a significant area of the CNMI EEZ as a used area. The fact that this has been accomplished under the radar is untenable. I believe it's a great disservice to the people of the Commonwealth. Ladies and gentlemen, we don't want to wake up tomorrow morning and find out that the people of the Commonwealth will no longer have access to the marine resources in over 30 percent of its EEZ simply by a stroke of a pen of the President.

I fully support resource management. But please, ensure that any resource management program be appropriate based on science and continue allowing our people access to these resources. And just as this Council has practiced over the years, please, make sure that the stakeholders, the people of the Commonwealth, the people of Guam, are actively involved in the decision-making process. I'm not sure, really, what the Council's role would be on this particular issue. But I hope

that you'll become an active participant and assist us in articulating our positions.

The Micronesian Challenge is a regional environmental effort and has the goal of effecting management of over 30 percent of our nearshore resources and 20 percent of our terrestrial resources by the Year 2020. As many of you are aware, this was started by President Tommy Remengesau of Palau, and other nations of Pacific Islands in the region have accepted the challenge, including the Marshall Islands, FSM, Guam and the CNMI.

Each Island Nation is developing a unique approach to meet the challenge that will address the local perspectives. Unfortunately, it is also my understanding that this program, though noble in intent, is being developed with very little public and stakeholder input. It is important that the people be involved in these issues.

As for the Northern Mariana Islands Monument proposal, I'm hoping that the Micronesian Challenge will start involving the fishermen and the other stakeholders. Despite these perceived shortcomings, I believe that the stated goals of the Micronesian Challenge are worthy goals that will benefit the community as a whole.

The last issue, what Ben has mentioned, as Speaker of the House one of my goals is to finally pass the (inaudible) Northern Mariana Islands Fisheries Act. It's in final form, ready to be introduced. In fact, it was introduced in the last legislature, but has lingered due to the court decision of our EEZ. But I believe we have worked out a version that is workable with our local agencies as well as our federal agencies.

I want to thank Mr. Igisomar and the able staff of the Division of Fish and Wildlife for pushing this proposal, helping draft the legislation. I want to move forward in this, and I believe, as Speaker of the House, I can get this passed in the House -- at least in the House.

Again, thank you for the opportunity to share my thoughts with you this morning. I hope your two days of meetings will bear fruits, the decisions and the deliberations will bear fruits that will benefit our peoples. Thank you. Si yuus maase (inaudible). (Applause)

Martin thanked Speaker Palacios.

13. Marianas Archipelago 2-CNMI

A. Arongo flaeey

Mr. Dela Cruz reported on Marine Protected Areas in Saipan and Rota. Marker buoys have been deployed for the Sasanhaga Fish Reserve in Rota with the assistance of the local dive operators. Buoy development for the Managaha Bird Island and Forbidden Island Protected Areas will be deployed this spring and summer.

He said the Tinian Marine Sanctuary was signed into law late last year. The sanctuary area was initially surveyed by the Division of Fish and Wildlife in 1999 when the bill was first proposed

to create the Tinian Marine Sanctuary. Numerous management details needed to be resolved prior to the institution of an effective management protocol.
Dela Cruz said that the Managaha Marine Conservation Area annual surveys will be conducted in 2008. An updated analysis of abundance trends for various reef food fish groups will be reported in the annual report to the U.S. Fish and Wildlife Dingell-Johnson Program, which will be submitted at the end of March of this year.

The annual survey of the Sasanhaya Bay Fish Reserve will be conducted in late March to early May or early April of this year. An updated analysis of abundance trends for various reef food fish groups will be reported in the annual report to the U.S. Fish and Wildlife Service DJ Program, which will be submitted at the end of March. For evaluation of management measures, the Fisheries Research Section completed the resampling of the Southern Saipan Lagoon in late September. The sampling has been undertaken to assess the influence of the net use restrictions that were implemented in December of 2003.

This information, coupled with inshore creel survey data, data collected from exemptions provided to obtain fish using nets for the annual fiestas and historical research data has been analyzed providing information on the current state of food fish resources in Saipan Lagoon. For technical assistance, the Fisheries Research Section has spent a considerable amount of time addressing the objectives of the Micronesian Challenge, which is stated as effectively conserving 30 percent of nearshore coral reef resources by the Year 2020.

He said that staff of the Division of Fish and Wildlife has spent considerable time on revising and redrafting the Northern Marianas Islands Fisheries Act. The DFW staff believes that the NMI Fisheries Act will become an outstanding achievement that will provide the Department of Lands and Natural Resources and the Division of Fish and Wildlife the necessary authority to effectively manage and conserve all fishery resources in CNMI.

Regarding Invasive Species Survey, the Division of Fish and Wildlife is partnering with Guam's Division of Aquatic and Wildlife Resources to survey freshwater habitats from Saipan for species diversity and invasive species this spring.

Fish Aggregating Devices. Data collected via the offshore marine survey regarding the effectiveness of the FADs is currently being reviewed. Boat surveys of FADs around Saipan and Tinian in mid December verified that five of ten deployed FADs were still onsite.

The Fisheries Research Section will be placing oceanographic sensors or (inaudible) FADs to collect data on temperature and currents with the potential of reporting salinity and other physical oceanographic components potentially displaying in real-time. This data will enhance our knowledge of oceanographic characteristics that influence fishery resources.

Dela Cruz said that the Division of Fish and Wildlife, and especially the Fisheries Research Section staff, would like to recognize a friend, a brother, Mr. Jacinto Taman, otherwise known as Cap (phonetic), who recently retired. Jacinto was a long-time employee of the Division who provided expertise in boat handling, fishing technique applications, FAD assembly and deployment, as well as offering a wealth of local marine resource knowledge to Fisheries

Research Section projects. His wisdom, insight, understanding and humor are missed.

B. Enforcement Issues

Dela Cruz Reported on three items, status of illegal fishing incidence, education and outreach and arrests and violations. He said conservation officers responded to 13 cases of illegal fishing during this reporting period. Seven cases involved illegal fishing inside a sanctuary. Fishing equipment, such as spears, masks and fins, as well as the fish caught, were confiscated.

Regarding education and outreach he said that the Enforcement Section had a booth at the International Year of the Reef Symposium and conducted a dozen presentations with students from Headstart to high school. Conservation officers also conducted a PowerPoint presentation with the local divers association and answered questions regarding DFW regulations afterwards. Conservation officers also gave a live talk show to the local television station in vernacular to inform the audience of fish and wildlife regulations, concentrating on our Marine Protected Areas.

Regarding arrests and violations he said that one male person was arrested for possession of a green sea turtle. The turtle was tagged and released and the individual faced charges of possession of an endangered -- or rather, threatened sea turtle.

Duenas asked if there is any information regarding whether violators were residents vs. non-residents.

Dela Cruz responded that it is not clear of the percentage, but some of these violators are from off-island areas.

C. Action Items

1. CNMI longline and purse-seine closed areas (Action Item)

Council staff member Kelly Finn summarized the issues concerning both a longline exclusion zone and a purse seine area exclusion zone around CNMI.

Mr. Sablan asked Paul Dalzell to give a brief summary of his meeting with the Director of Crystal Seas Fishing, the local longline fishing venture that was recently established in Saipan and Rota. Dalzell stated he had met with the Director of the company which has facilities on Saipan and a processing plant on Rota. The company currently operates a custom-built longliner and a converted shrimp trawler. They had not caught many fish, but that may have been due to the fact that they were not familiar with the fishing conditions in this area. They were only setting up to 600 hooks per set, which is about half the number of hooks set by, for example, a swordfish longliner in Hawaii, and if targeting tuna would be setting between 3,000 to 5,000 hooks. They were hoping to land fish fresh into Saipan, particularly the large, quality fish, such as the large yellowfin and large bigeye. Then the remainder of the catch would be sent out to their processing plant in Rota. Dalzell stated that he thought they were going take advantage of the military buildup to market their fish. Dalzell noted that the fishing company was concerned

about the establishment of longline exclusion zones. Dalzell thought that they were comfortable with the 30 nautical mile zone.

Mr. Duenas asked about the depth or size of the purse seine nets currently used by the various purse seine fleets. Dalzell stated that the depth of the purse seine nets have been increasing over time. One of the outcomes of the increased size of nets has been the fact that they now go so deep they start catching bigeye. Duenas noted that the depth of the purse seine net was critical because there were seamounts to the west of CNMI, some of which were shallow enough to be within the depth fished by contemporary purse seines. Fishing these could have negative impacts on shallow seamount habitats. Duenas sought clarification about the volume of fish used in the examples used in Finn's analysis. He asked is 47,000 lbs was a reasonable volume of fish to catch annually. Mr. Martin noted that the 47,000 lbs was for yellowfin only and that the cumulative total, 193,000 lbs is a reasonable annual total.

Mr. Martin commented that consideration should be given in using a FSM longline vessel as the proxy because they may not use gears and techniques that are common to Hawaii vessels or to the [2] vessels that are located in the CNMI now. And the FSM vessels may have significantly different catch rates than at least U.S. domestic vessels fishing for pelagics anywhere out in Guam.

Mr. Duerr asked if there would be competition for blue marlin between longliners and trollers as the longline fishery grows. This should be noted in the document. Mr. Gaffney also raised an issue concerning marlins noting that the large volume of black marlin taken by the FSM fleets (used as a model for Guam and CNMI) is not typical of longline catches. Black marlins are more typically a coastal related species, not as open ocean associated as striped and blue marlins. This may imply the FSM fleet may not be a good model for longline fishing in the Marianas. However, as the Marianas have a large number of seamounts there might be a large number of black marlin longline catches. This could have impacts to the recreational fishery including events such as the Saipan Fishing Derby, the oldest sport fishing event in this part of the world and an important factor of the economy of the sport fishing fleet.

Mr. Robinson stated that he believes the Commonwealth supports development of a longline fishery and its contribution to the economy and therefore the likelihood of that happening is probably quite real as is the likelihood of future gear conflicts. Because of the back-and-forth between Guam and the CNMI waters, Mr. Robinson suggested that it might be preferable to have a 50 nm closure around the CNMI to be consistent with the Guam closure. Mr. Duenas suggested that a 30 nm boundary might be too small and that a longline of 20-30 nm in length set close to the closed area might cross into the longline closure zone. He suggested there should be some sort of a buffer zone. Mr. Duenas also expressed concern about the seamounts in the Northern Mariana Islands which were fished seasonally by the troll fishermen. Mr. Sablan noted that Dr. Dela Cruz had conducted a public scoping meeting in Rota and had spoken to some of the leaders in Rota about the exclusion zone. Originally they preferred 25 nautical miles. Mr. Sablan had brought up the issue that a 25 nautical mile closure would likely fail to prevent interactions between the local trollers and longliners and therefore he preferred 50 nautical miles for uniformity with Guam.

Dr. Dela Cruz recounted the outcomes of the scoping meetings conducted in Saipan, Tinian and Rota. It was the consensus of those present in favor of the 25 nautical mile closure for longliners. He added that due to the very prohibitive price of gasoline that many fishermen would not be able to reach beyond the 25 nautical mile fishery zone.

Discussion then ensued about the proposed purse seine exclusion zone around CNMI

with Will Sword asking if the observer coverage on US purse seine meeting was 20 percent. This was acknowledged to be correct according to Finn and Mr. Yates (NMFS PIRO Protected Resources Division Chief). There followed a general discussion about the number of turtles that the purse seine fishery could interact with under the biological opinion for this fishery. Discussion focused on the number of turtles that were likely to be interacted with as the fleet rebuilt to former levels.

Dr. Dela Cruz asked why had the purse seine fleet declined in the past and Mr. Robinson explained that a combination of low skipjack prices and the decline of fishing families involved in purse seining out of San Diego had contributed to the decline. Mr. Martin asked if there was any information on the purse seine fishery in Tinian. At one time in the early 1980s there was a fleet of 12 purse seine boats that were actually based out of Tinian and had access to waters within the region. He was curious if we there was any information on how much of their efforts were actually taking place within the EEZ or surrounding the EEZ of the CNMI. Paul Dalzell stated that information received to date had indicated no purse seine fishing in the US EEZ around CNMI.

Mr. Duenas noted that the purse seine BiOp referred to a fleet of eleven vessels when conducted in 2006. Finn suggested that the fleet expansion might be a reason to reinitiate a Section 7 consultation. Duenas also commented on why the purse seine fishery had an authorized loggerhead take when this was a species not typically found in the areas fished by purse seiners. Chris Yates indicated that the authorized take was for South Pacific loggerheads. He added that the Protected Resources Division does not allocate turtles to fleets but the BiOp estimates the expected number of interactions (take) based on fleet operations. For purse seiners the estimated interactions are all expected to be non-lethal interactions.

Mr. Haleck expressed concerns about the volume of discards associated with the purse seine fleet revival. Fishermen in American Samoa, Guam and NMI were concerned about poor catches of skipjack and mahimahi. He suggested that the observer coverage should be raised from 20 to 100 percent.

Mr. Robinson stated his continuing concern that an exclusion zone out to 50 or 60 miles may be well justified based on the concerns about interactions with the local fleet and localized depletion and the scientific studies which support that. There was no recorded purse seine catches in the US EEZ around Guam or the CNMI and thus he felt it was difficult to rationalize a complete closure of the EEZ to purse seine fishing. Mr. Sablan noted Robinson's comments which had also been made in the Guam segment of the Council meeting [see #5 below].

Mr. Callaghan reported the SSC recommendations with respect to purse seine area closures. These were as follows: The SSC recognizes the adverse impacts that purse seine fishing for tunas may have on the availability of locally important fish species in island areas. Scientific analysis presented at Regional Fisheries Management Organizations clearly show that purse seine operations in association with drifting objects cause depletion of bigeye and yellowfin stocks. In addition, FAD-associated purse seine fishing causes a substantial bycatch of culturally and economically important non tuna species. Regional Fisheries Management Organizations have to date been unable to control the growth of FAD fishing in both the Eastern Pacific Ocean and the Western and Central Pacific Ocean. In previous meetings the SSC has recommended that FADs be registered as fishing gear. Therefore, the SSC recommends that purse seine fishing on both drifting and anchored FADs be prohibited in the EEZ of Hawaii, American Samoa, Commonwealth of the Northern Marianas and the Territory of Guam.

Mr. Callaghan then gave the SSC recommendation with respect to the CNMI longline

area closure. This was as follows: The SSC recommends the stakeholder preferred alternative 1c that would establish a 30 nautical mile longline fishing exclusion zone in the Commonwealth of the Northern Mariana Islands EEZ.

Mr. Callaghan explained the background to this recommendation. In its 96th meeting (the penultimate meeting), the SSC were presented by staff with two alternatives, a 25 nautical mile closure and a 50 nautical mile closure. In the process of discussion in the SSC, it came to light that there was historic evidence that trollers from CNMI fish seamounts that were slightly outside the 25 nautical mile zone. Thus, the SSC made a recommendation to increase, or to have another alternative available to the Council for a 30 nautical mile closure because we were under the impression that the 30 nautical mile closure covered the seamounts that were traditionally fished by trolling vessels. The 30 nautical mile recommendation was not a recommendation on the part of the SSC to choose it, but a recommendation that it be added to the options available. At the last meeting the SSC was told that the 30 nautical mile closure for longline had been added as an option. Since the SSC had recommended this option, they felt a need to select it as a recommendation to the Council, and also this had been selected by the fishermen through public scoping.

Jarad Makaiau noted the discussion that Advisory Panel members had with one of the operators of the longline vessels here in the Northern Mariana Islands. That individual was also an Advisory Panel member who stated that a 30 or 50 mile closure would not affect his operations which were conducted further offshore.

D. Community Issues

1. Military Expansion

Sablan noted that the Military Expansion Agenda was presented in Guam.

2. CNMI Monument

Mr. Sablan noted that no there is no one to speak on this agenda item and requested any individual from the Council, CNMI or Federal Government to speak on the proposal.

Dr. Dela Cruz noted that the Governor's Administration is not favorable to this plan or idea as to the CNMI Monument.

E. Education and Outreach Initiatives

Jack Ogumoro presented on Community Initiatives, Education and Outreach Initiatives in the CNMI. He said that for community initiatives, CNMI is currently assisting four fishing communities located in Tanapag, San Jose and Chalan Kanoa to organize themselves as one solid community organization and help them in managing their own resources and promote traditional practices as well as serve as the eyes and ears for the local authorities (inaudible because of poor audible quality, background noise).

Duerr said the communities should be commended for fishing with natural materials.

F. Marianas FEP Advisory Panel Recommendations

Ray Mafnas, co-Chair, provided the Council with a report from the Marianas FEP Advisory Panel meeting in CNMI held on Saturday, March 8, 2008. The AP discussed upcoming council actions as well as impending CNMI fishing issues such as the proposed fishery act, the military buildup on Guam, and the status of CNMI's fishery resources. He then presented the following recommendations made by the Advisory Panel:

1. In regards to the CNMI longline closure, the CNMI Advisory Panel recommends the Council adopt Alternative 1D: 50 nm. The Advisory Panel noted a need to consider consistency with Guam's 50 nm longline area closure.
2. In regards to the CNMI purse seine closure, the CNMI Advisory Panel recommends the Council adopt Alternative 2D which would prohibit purse seine fishing throughout the entire EEZ surrounding the Northern Mariana Islands.
3. In regards to ACLs, the CNMI AP supports Alternative 1B: Determine and implement ACLs only where MSY values are known.
4. The CNMI AP is concerned that the CNMI has no representation in the NMFS MRIP and recommends the Council requests NMFS to expand membership to include CNMI representatives.
5. In regards to cooperative research, the CNMI AP recommends the NMFS Cooperative Research Program focus on nearshore fisheries as a critical need for the CNMI and that the Advisory Panel be involved in the program development.
6. The CNMI AP supports Governor Fitial's position to not support PEW's proposal to establish a Marine National Monument in the Northern Islands of the CNMI. The Advisory Panel does not support the project.
7. The CNMI AP notes that the Military is developing (multiple) environmental impact statements for a number of activities in the CNMI. The CNMI AP further noted that the CNMI government will be burdened with undertaking a review of these EIS and therefore, the federal government must provide funding and logistical support to accomplish this.

G. Marianas FEP Plan Team Recommendations

Council staff presented the report of the Mariana Archipelago Plan Team meeting which was held on Monday March 10, 2008 in Saipan. The plan team discussed upcoming actions including the proposed purse seine area closure for Guam and CNMI, the proposed longline closed area for CNMI, and Annual Catch Limits. The Plan Team also discussed development of annual report modules for bottomfish, crustacean and coral reef fisheries. Council staff reported that the Mariana Archipelago Plan Team for the Northern Mariana Islands took the following actions:

1. Regarding the proposed purse seine area closure, the Mariana Archipelago Plan Team members supported the SSC recommendation to prohibit purse seining on fish aggregation devices (FADs) throughout the entire U.S. EEZ surrounding the CNMI. The plan team further recommended that a purse seine area closure be established from the shoreline to 50 nm in the US EEZ surrounding CNMI.

2. Regarding the proposed longline area closure for the Northern Mariana Islands, the Mariana

Archipelago Plan Team supported the Advisory Panel which recommended adoption of Alternative 1D. The Plan Team noted that there is likely little difference in terms of gear conflicts between a closure of 30 miles vs. a closure of 50 miles.

3. Regarding bottomfish the Mariana Archipelago Plan Team recommended separating out the catch of the northern islands bottomfish fishery from the catch of the southern island bottomfish fishery to address the influence of the northern islands fishery on the whole data set.

4. The Mariana Archipelago Plan Team also noted that the northern island bottomfish vessels are larger in size compared to the southern island bottomfish vessels and that combining the catch of the both fisheries tends to mask the trends in the southern island bottomfish fishery.

5. The Mariana Archipelago Plan Team also recommended that the creel survey data be used to augment the reports on catch, effort and species composition of the bottom fishing fishery.

6. Regarding the development of a coral reef ecosystem module for the Northern Mariana Islands, the Mariana Archipelago Plan Team recommended that the species to be reported be grouped into the following categories:

1	Atulai	11	Surgeonfish
2	Emperors	12	Squirrel/Soldierfish
3	Goatfish	13	Wrasses
4	Groupers	14	Misc. Reef fish
5	Jacks	15	Misc. Shallow bottomfish
6	Mullet	16	Misc. Bottomfish
7	Parrotfish	17	Other (all other CREMUS fish)
8	Rabbitfish	18	Bumphead Parrotfish
9	Rudderfish	19	Napoleon Wrasse
10	Snappers	20	Reef Sharks

7. The Mariana Archipelago Plan Team also recommended that the species categories for both the Northern Mariana Islands and Guam be made consistent in order to facilitate future integration of the report modules for the purpose of assessing the status of coral reef ecosystem fisheries on an archipelagic-wide basis.

8. The Mariana Archipelago Plan Team also recommended that estimated total catch and effort be reported for top gear types used to harvest coral reef ecosystem resources for both the shore-based both and boat-based surveys as follows:

a. Shore-based gear types: Hook and Line, Cast Net and Spear/Snorkel
b. Boat-based gear types: Trolling, Bottom, Spear/Snorkel, Atulai and Gill Nets

9. The Mariana Archipelago Plan Team further recommended that CPUE analysis be conducted for each of the major gear types where adequate numbers of creel interviews are available.

10. Regarding Crustacean the Mariana Archipelago Plan Team recommended the crustacean

report module not identify commercial deepwater shrimp entities by name.

11. The Mariana Archipelago Plan Team also recommended that the DFW should re-examine the 2005 freshwater shrimp import figure to verify that saltwater shrimp is not included.

12. The Mariana Archipelago Plan Team also recommended that the DFW report the domestic landings of lobster and imports using double axes so that trends in the domestic landings are more apparent.

13. Regarding cooperative research the Mariana Archipelago Plan Team members recommended that Cooperative Research funds be sourced to provide better biological and catch information on the northern bottomfish fishery and coral reef fisheries.

H. Marianas FEP REAC Recommendations

Council staff reported on the Mariana REAC meeting which was held on Saipan Tuesday March 11, 2008. A community marine management forum was held in conjunction with the REAC meeting where marine topics were discussed. Discussion topics included upcoming council actions, Highway Fuel Tax exemption for fishing vessels, status of CNMI coral reef local action strategies, the Micronesian Challenge and the military build up.

Council staff reported there were no recommendations from the REAC.

I. SSC Recommendations

Dr. Paul Callaghan reported that regarding the proposed purse seine close area the SSC recognizes that impacts on local target and bycatch/discard fish populations from expanding purse seine fisheries outside of EEZs can be far-ranging (up to an 800 nm radius), and that with advances in technology and FAD deployment, these issues must be addressed on an international Pacific-wide basis. The SSC also recognizes the adverse impacts of purse seine fishing for tunas generally may have on availability of locally important fish species in island areas. Scientific analyses presented to regional fisheries management organizations clearly show that purse seine operations in association with drifting objects cause depletion of bigeye and yellowfin stocks. In addition FAD associated fishing causes a substantial bycatch of culturally and economically important non-tuna species. RFMOs have been unable to control the growth of FAD fishing in both the EPO and WCPO. In previous meetings the SSC has also recommended that FADs be registered as fishing gear. **Therefore, the SSC recommended that purse seine fishing on both drifting and anchored FADs be prohibited in the EEZs of Hawaii, American Samoa, CNMI and Guam.**

<u>Topic 1.</u> The SSC recommends the preferred stakeholder Alternative 1C which would establish a 30 nm longline fishing exclusion zone for the CNMI EEZ.

Topics 2 & 3. The SSC reiterates that impacts on local target and bycatch/discard fish populations from expanding purse seine fisheries outside of EEZs can be far-ranging (up to an 800 nm radius), and that with advances in technology and FAD deployment, these issues must be addressed on an international Pacific-wide basis.

J. Public Hearing

Martin noted that if individuals who are awaiting opportunity for public comment, and cannot wait until after lunch may provide comments at this time.

There followed a public comment period, during which the Council heard remarks on the longline closure around the CNMI and the potential for a national marine monument in the northern islands of the CNMI. Mr. Martin then asked if there was any public comment. Two cards had been completed. One was Mr. Seman, a member of the AP who commented on the longline exclusion zone. He said at the scoping and AP meetings the consensus was to be consistent for the purpose of enforcement they opted for 30 mile zone. He described that the trollers spend a good amount of money before they ever catch any fish with fuel and other up-front expenses. Mr. Seman, as a member of Saipan Fishermen's Association, expressed his non-support of establishing a National Monument in the NMI. He said they wish to continue developing a fishery in the northern islands and do not want to be prevented from doing so by the mission of a group of non-local people who wish to close their waters. He also expressed that this proposed monument sends a negative message to the people of CNMI that they are not capable of managing their own resources.

The next public comment was by Mr. Gourley, who informed the Council that he was a longtime Saipan resident and fisheries ecologist. Mr. Gourley expressed his concern, as a stakeholder, at the Pew Foundation's pushing this National Monument on the people of CNMI. He expressed amazement that The Pew Foundation has been working on this project for over a year. They have gone to the White House staff and they have gotten an okay from the White House staff saying that the President is ready to sign it provided that the Government of the CNMI and the people support it. But yet, he explained, the people don't know about it, and it's been over a year. Mr. Gourley explained that reading the letter that Pew sent to the Governor, it appears that Pew wants to take the entire EEZ surrounding CNMI's three northernmost islands, a total area of 300,000 nautical miles encompassing the CNMI and EEZ, this proposed Monument has the potential to take over 100,000 nautical miles and lock it up.

Mr. Gourley expressed fear that Pew keeps telling CNMI folks that they want to model this monument after the Northwestern Hawaiian Islands one which means no fishing. That means the indigenous people can go up, but they have to eat the fish they catch up there. They can't bring the fish back. They have to go through a lengthy permitting process and they have to submit their permits months in advance before they're allowed to go up. Mr. Gourley explained because of these factors he cannot support this and that is flies in the face of Pacific Island traditions and as such is not appropriate for CNMI. He ended by expressing that if this proposed Monument goes through, he believes three things will happen. The first is that the Pew Foundation is going to be able to sit back in their chair and say, oh good, we've locked up another 100,000 nautical miles up in the Northern Mariana Islands and we can add it to our Ocean Legacy Program, and they will go away and they will go somewhere else and try to lock up some more ocean. Number two, President Bush is going to be able to put another notch on his

environmental bed post before he leaves office as another Monument. Number three, the stakeholders of the CNMI are going to get the shaft as they're going to be left holding the bag while Bush leaves, Pew leaves and the folks of CNMI will be the ones that will be paying for it.

The next public comment was by Ken Mahmood, representing Crystal Seas. He explained that he and his colleagues came to the island about 18 months ago under the help of NOAA to build the first South Pacific Tier 1 processing operations, which have been built as an operation on Rota. He explained that they were told by NOAA they'd have 12 longliners and that those longliners would not in any way impact the fishery compared to what one seiner would take in one trip. He also explained that the fish that Crystal Seas is buying from the local trollers are harvested in the NMI, where they want to put the Monument. He expressed support for a 50 nm longline exclusion zone saying they're very cognizant of the local fishermen and have arranged the financing for local boats, to build the 58-footer so they don't have to go out in 19, 20 footers, so they can go out for three, four, five days and go fishing. The average crew will be six crew members to support their families and they need a 50-mile buffer. He expressed his non-support of the Monument as well explaining that fishing is the heritage of the people of CNMI. He also described the public meeting Crystal Seas held prior to establishing their plant and over 60 people showed up and expressed interest in being involved to be able to make a living by fishing. He encouraged small boats to bring them their catches for sale which they need to fill demand. They don't want to see the fishing grounds impacted and are supportive of a 50-nm longline exclusion area but are opposed to any monument designation.

The final public comment was by Mr. Davis, an 18-year resident and Japanese translator. He expressed his support of maintaining Crystal Seas and putting boats in the hand of local fishermen. He explained that the garment industry has closed down and that the local folks need the fishing industry to support their families. He expressed his non-support of a Monument in the NMI.

K. Council Discussion and Action

Regarding the action item, a longline and purse seine exclusion zones around CNMI. Mr. Sablan introduced the following motion [the tape ended and did not record who seconded the motion] which would establish a 30 nautical mile longline fishing exclusion zone for the CNMI EEZ with the following proviso: that the Council establish a control date of March 20, 2008. This control date may be used in the future to limit further entry of longline vessels to fish around the U.S. EEZ waters surrounding the Commonwealth of the Northern Mariana Islands.

Council staff member Paul Dalzell then read the first motion as follows: The Council adopt the SSC's recommendation, Alternative 1c, which would establish a 30 nautical mile longline fishing exclusion zone for the CNMI EEZ.

Before voting a small amount of discussion included Mr. Robinson stating that a 50 nautical mile exclusion zone would make more sense, however, he would defer to the judgment of the folks from CNMI and support their wish. Mr. Martin agreed with this but pointed out that this is a situation where they are trying to develop a fishery and 30 nm may provide a little more flexibility for smaller vessels to engage in longlining. There was no further discussion. The motion carried with Mr. Lamorena absent.

Dalzell then read the next motion made by Mr. Sablan and seconded by Dr. Dela Cruz, as follows: The Council establish a control date of March 20th, 2008, which is today. This control date may be used in the future to limit further entry of longline vessels to fish around the U.S. EEZ waters surrounding the Commonwealth of the Northern Mariana Islands.

The motion was amended after discussion about the fact that this would be initial action and would need finalization at the June meeting, to: The Council consider establishing a control date at the June Council meeting, which would be initial action. This control date may be used in the future to limit further entry of longline vessels to fish around the U.S. EEZ waters surrounding the Commonwealth of the Northern Mariana Islands. However, Mr. Duenas expressed concern that the amended motion did not establish today [March 20, 2008] as the control date, rather, that it would be giving people advance notice to go apply for longline permits before the control date is established. After further discussion the motion was amended again to propose March 20, 2008, as the control date, thereby giving some advance notice to the public yet making the decision at the next [June] meeting. The amended motion was as follows: The Council consider establishing a control date of March 20th, 2008 at the June Council meeting which would be initial action. This control date may be used in the future to limit further entry of longline vessels to fish around the U.S. EEZ waters surrounding the Commonwealth of the Northern Mariana Islands. The motion carried, with Mr. Lamorena absent.

Dalzell then read the next motion: That the Council adopt alternative 2d, which would prohibit purse seine fishing throughout the entire U.S. EEZ surrounding the Commonwealth of the Northern Mariana Islands. The Council is concerned that the revitalization of the U.S. purse seine fleet combined with the likely constraints on purse seine fishing effort in the Western and Central Pacific may lead to increased interest by U.S. purse seine vessels to fish in the U.S. EEZ surrounding the entire Mariana Archipelago. Further, it is likely that the new vessels augmenting the U.S. purse seine fleet will be based primarily in the far western region in Micronesia.

Discussion on this motion began with Mr. Robinson reiterating for the Council's benefit that this is somewhat problematic to the Agency. He stated that the justification appears weak for taking such a severe action with an impact upon a sector of the U.S. fishing industry and that generally, there needs to be a demonstrated issue involved.

Mr. Duenas continued discussion on this by noting that the WCPFC in I think second meeting or third meeting presented a case where bigeye tuna is in jeopardy and part of the harvest is done by purse seining, and the reason being is that purse seine nets extend from -- not 200 feet, but 300 and as deep as 400 meters below the surface, which 800, 900, 1,000, 1200 feet below the surface. He also explained that coastal fisheries use those seamounts on the western side of the Marianas also as part of their artisanal fishing grounds. He stated that throughout the Pacific the U.S. has taken the lead, and so have other countries in protecting or managing our demersal fisheries in our seamount areas for troll fishers, and considering that a net that goes down 1200 feet and may affect these ecosystems or the fish around these ecosystems as well as the smaller ecosystems along the drift line. Mr. Duenas contends that the Council has always worked on the marine managed areas and that it should protect those seamounts and leave them to small-scale fisheries. Mr. Duenas explained that the impact to the ecosystem and marine habitat would be greater impacted by purse seining, should they decide to come.

Dalzell then read the last motion for the session as follows: The Council support the Government of CNMI's request for assistance of a SPC master fisherman to assist the CNMI-based longline vessels in improving their performance and to provide more information on the potential of pelagic resource sin the U.S. EEZ surrounding the Marianas Archipelago. The motion carried with Mr. Lamorena absent.

14. American Samoa Archipelago

A. Motu Repoti

Mr. Haleck introduced Council Member Ray Tulafono for the Motu Repoti. He said their Island Report in the briefing book at 14.A(1).

On their MPA program, he reported they just finalized their MPA Master Plan. They convened a meeting in January of this year to review the draft of this plan and to get some input from other government agencies and the public. On a project that was undertaken, a collaborative effort by NOAA and also my Department on the socioeconomic survey that was conducted in American Samoa for the last two months. He reported that is this project, they surveyed elderly fishermen, trying to capture their traditional knowledge on fishing practices in American Samoa. This project has also been completed. They have sent the abstract of this project to the Eleventh International Coral Reef Symposium, which is going to be held in Fort Lauderdale, Florida. They will be able to present this project.

On our large-scale survey for Large Key Reef Species Project, in this project they targeted nine sites that we have surveyed for (inaudible) characteristics and also for the presence or absence of large key reef species. Those large key reef species include the bumphead wrasse, humphead parrotfish, great barracuda, giant groupers, and so forth. This project is also completed. The report is currently in draft.

He reported on their FAD program. They have three FADs in place at the present time, one FAD in the Manua Islands and two FADs in Tutuila. One FAD was reported missing in September. But fortunately, they recovered it drifting towards one of the villages in the eastern part of the island. They anticipate to deploy two more FADs next month, providing the weather will cooperate.

On our scientific exchange program, an abstract was submitted also to the Eleventh International Coral Reef Symposium to be held in Florida this summer. It's been accepted. The title of this abstract is, Patterns of Reef Fish Utilization and the Consequence of Human Population Growth on Fish Density and Community Composition in American Samoa.

If you are interested in a copy of this project, it's available in their office.

Lastly but not the least, Mr. Tulafono was happy to report that the expansion of their fishery dock is near completion. They anticipate the completion of this project near the end of April of this year. The funding has been provided by the U.S. Fish and Wildlife Service under the Boating Access Facility and also the (inaudible) Infrastructure Plans, commonly known and (inaudible).

That concluded his report.

Mr. Sword, added on behalf of our gamefish fm to clarify, what it said on the tournaments about two weeks ago, we expect about three boats from Western Samoa. Then in May there's another national tournament in (inaudible) sending three boats there. So we're pretty active in that area. To give you a summary of that, they have a running (inaudible) we have seven scheduled again this year. Their winning blue marlin was 165 pounds. They tagged and released eight billfish and the largest (inaudible) was 65 pounds, largest mahi was 48, (inaudible), 22 pounds, got to two tunas, 43 pounds, (inaudible).

That's the report.

Mr. Haleck added that it's a grave concern to him sitting here and listening to a presentation on the proposed Monument, knowing very well that what happens on this side of the Pacific also affects us on their side of the Pacific, and American Samoa being the only U.S. Territory south

of the equator, it's a grave concern because we know very well that they're probably next in line.

Today he read this letter that was to the Honorable Governor of Guam from Pew which is a grave concern. He wouldn't want anybody that was 6,000 miles away coming to his house and telling them what the rules and the regulations are and tell him how to run his house. He's lived there for a number of years and his family and extended family have lived in the same house for hundreds of years.

And as long as this is a democratic form of government. This government is for the people and by the people and people should speak out and the people should have a voice in how the government should be run, and what the regulations are that govern our government, what goes on.

Also, in the Council meeting in Guam, during the buildup in Guam, the presentation that was done by the Colonel, he was sitting there and just thinking, and a great concern because it has been proven back during the Pacific war that whatever takes place on this island affects us also, also in Hawaii, too.

B. Enforcement Issues

MR. Tulafono gave the report. The Enforcement Report is in the briefing books, 14.B(1). It's a two-page report. He brought up two issues.

On the proposal that they have submitted to the National Marine Fisheries Service, Office of Law Enforcement, our Joint Enforcement Agreement has been approved. They are getting $150,000 this year. That will be for the personnel costs, some equipment and also the training of our personnel.

He thanked the Office of Law Enforcement for providing that funding so that they will be able to assist in their work in American Samoa.

Also, he reported that the enforcement boat that he mentioned in the October meeting that has been under construction in Seattle, Washington is near completion. They anticipate that the construction will be completed in May of this year. They're looking at June before it will be transported to American Samoa. The cost of the boat is around 300K.

So that concludes the enforcement portion of our report.

C. Action Items

1. American Samoa purse-seine closed area (Action Item)

Kelly Finn presented a summary of the issues relating to the establishment of a Purse Seine Fishing Exclusion Zone in the EEZ of American Samoa. This fishery has a history of limited catches and activity outside the 50 nm large vessel exclusion zone but within the EEZ. It was noted that the American Samoa stakeholders had a preferred alternative of a 75 nm exclusion zone.

Mr. Duenas sought clarification on whether the closed 75 nm closed area would be around the main archipelago or all islands. Kelly Finn answered it would encompass all islands.

Mr. Robinson expressed his concerns about the need for a purse seine area closure. He noted the small volume of fish caught by the seiners over a decade, and whether the expansion of the closure from 50 nm to 75 nm would have any appreciable effect on stock depletion or gear conflicts. He also noted the SSC comments on a no FAD set provision in the EEZ and suggested that this be developed into a more full blown proposal before action was taken on this issue by

the Council. Robinson also expressed concerns that any action against the purse seine fishery may make the long term continuity of the canneries more precarious, given that the recent minimum wage increase had compromised the continued operations of the canneries in Pago Pago. He also noted the presence of the canneries as a ready market for the domestic longline fishery, which would also be threatened if the canneries shut down.

Mr. Martin was curious as to the percentage of fish processed by the canneries that was from US vessels. His impression was that this volume was considerably reduced. He noted that the joint ownership (51% US, 49% Taiwanese) purse seiners may not be landing fish all that regularly at the Pago Pago canneries. In which case one of the arguments for rebuilding the US fleet, i.e. to secure the future of the canneries, may not be valid.

Mr. Robinson responded that it was true that the newer vessels may have a different operating profile that the older vessels, however, given the precarious future of the canneries, the question for the Council is will this action compromise this further?

Mr. Duenas stated that some countries like the Cook Islands have banned purse seining altogether from their EEZs. Some countries like Thailand have several canneries but no national fleets tied to supplying them. Duenas was also interested in the impacts of purse seine fishing on local troll fisheries.

Mr. Tulafono explained that American Samoan fishermen wanted a complete ban on purse seining in the US EEZ around the archipelago but recognized the strong opposition they would face from then purse seine industry and their lobbyists, and so settled on a 75 nm closure. He also drew attention to the apparent correlation between the troll CPUE for skipjack and the pattern of purse seine catch in the EEZ over the past 10 years, which had also been noted at recent meetings with fishermen in Pago Pago.

Mr. Sword asked if the newer purse seiners would be refueling and re-provisioning at sea. Mr. Robinson indicated that this would not be the case, but those they would likely be operating out of ports like Pohnpei in the Federated States. This was followed by some general discussion about marine safety and refueling requirements, including flushing fuel tanks which were directed to the US Coast Guard.

Mr. Tulafono stated that he would like to see the new purse seine vessels landing fish in American Samoa. However, this desire was balanced by a need to ensure the long term continuity of the troll and longline fisheries, which had a much more limited range than purse seine vessels. This should be taken into account when considering the 75 nm closure option.

Mr. Sword commented that the older purse seine vessels had operated in the EEZ under an informal gentleman's agreement about not fishing close to the islands and had in general not conducted much fishing in the American Samoan segment of the US EEZ.

Mr. Halleck offered the Council the recommendation as follows:

Due to the potential for local depletion and catch competition, as well as for damage or depletion

on seamounts that are known to aggregate juvenile bigeye and yellowfin tuna and other pelagic species, the Council recommends that purse seine fishing be prohibited within the EEZ waters 75 nautical miles from shore around American Samoa.

This was seconded by Mr. Gaffney. Mr. Martin referred Council members to a letter from the purse seine industry commenting on the proposal. Martin referred to the section of the letter that referred to the purse seiners conducting gear tests, and that it would be an additional hardship to have to run out to beyond 75 nm to conduct tests if this recommendation was adopted by the Council. However, Mr. Tulafono stated that the Gentleman's Agreement with the purse seiners included a provision for testing, and that if they wanted to conduct gear tests, they would contact DMWR and an enforcement officer would be dispatched to monitor the vessel. Then Lieutenant Deems (USCG) stated that vessels wishing to test gear inside the closed area should also inform the Coast Guard ahead of time.

The Council voted on the recommendation. The motion passed with all members in favor except for Mr. Robinson who abstained.

2. American Samoa longline program modifications (Action Item)

Council staff member Jarad Makaiau began the presentation with a summary of the American Samoa longline management program. He said that the American Samoa longline pelagic fishery was managed under a limited entry program which was established through Amendment 11 to the Pacific Pelagic fishery management plan. In addition to the limited entry program itself, he noted that pelagic fishing vessels greater than 50 feet in length are also prohibited from fishing within 50 nautical miles of the islands of American Samoa. He also summarized the purpose of both the limited entry program and the 50 nautical mile large pelagic vessel area closure. He noted that an important part of the program was to continue to provide opportunities for indigenous Pacific Islanders to participate in the longline fishery.

The limited entry program established four vessel size classes.

Class A were those vessels that were 30- 40 feet in length.

Class B was those that were between 40 and 50.

Class C was those 50 to 70.

Class D, was those vessels greater than 70 feet.

The program also established very simple specific criteria regarding eligibility for the initial permits. Essentially, an applicant or those who are eligible to qualify had to document and provide documentation that they landed Pelagic Management Unit Species with longline gear from the Exclusive Economic Zone of American Samoa prior to March 22nd, 2002.

The program also allowed people who notified the Council or the National Marine Fisheries Service of their intent to participate in the fishery to obtain a permit if they were able to provide documentation that they that they landed longline-caught fish before June 2002. In addition an individual had to be a U.S. citizen or a National to be eligible.

When the Council developed the limited entry program it identified approximately 130 individuals who would be eligible participants. The Council document Amendment 11 itself, outlined how many vessels were anticipated by vessel size class. However, when permit process opened, there were only 60 individual who received limited longline permits. Less than half of the anticipated permits that the Council thought were going to be applied for actually were issued

as follows:

Class A, seventeen permits.

Class B, six permits.

Class C, eleven permits.

Class D, twenty-six.

The limited entry program also included a use-it-or-lose-it clause. In order to renew the permits, each permit holder had to maintain over a three-year period a total of 1,000 pounds of Pelagic Management Unit Species for Class A and Class B vessels, or 5,000 pounds of pelagic species for Class C and Class D vessels. If permittees were not able to make this minimum landing requirements over the three years in which their permits were issued that they would be forced to relinquish that permit back to the National Marine Fisheries Service.

New entrants could be allowed into the fishery by applying for a relinquished permit.

In addition, new entrants could also be allowed through a permit transfer where current permit holders could transfer permit to another individual. For Class A permits, transfers can be done immediately. However, Class A permits can only be transferred to a family member, a community that meets the definition of a Western Pacific community under Section 305 of the ma, and any person with documented participation on a longline fishery on a Class A vessel in the EEZ or American Samoa before March 22nd, 2002.

He noted that this is part of the design of the program to ensure that indigenous Samoans have the opportunity or given some priority in terms of having an opportunity to participate in the fishery. For Class B, C and D permits, permittees can only transfers their permits after three years following their issuance. He noted that since most of the permits were issued in December of 2005, permit transfers for B, C and D can only occur at the earliest after the end of calendar year 2008. Additionally, Class B, C and D permits can only be transferred to a person with documented participation in the pelagic longline fishery and a CDP community.

Regarding relinquished permits, if permittees are not able to make the minimum landing requirements over the three years in which their permits were issued, they would be forced to relinquish that permit back to the National Marine Fisheries Service.

NMFS in turn must make the permits available, with priority given to applicants with the earliest documented participation in the fishery onboard a Class A vessel. The next priority is given to an individual with earliest participation in the fishery onboard a Class B, Class C and Class D vessel in that order. He noted that this was a design of the program to ensure that indigenous Samoans would have an opportunity to participate in the fishery.

During the initial permit issuance process in the fall of 2005, NMFS issued a total of 60 limited entry permits to qualified applicants. Most permits were issued by December 2005. Initial review of the American Samoa Department of Marine and Wildlife Resources (DMWR) Daily Effort Census for the pelagic longline fishery indicates that only 36 of the 60 permitted vessels were engaged in longline fishing during 2006, dropping to just 28 vessels in 2007.

A table summarizing the number of active permits by vessel size class was presented as follows:

Class A: 2 of 17 permits

Class B: 0 of 6 permits

Class C: 8 of 11 permits

Class D: 19 of 26 permits

Despite the fact that less than half of the 60 limited entry permits were actively fishing in 2007, DMWR and WPacFIN reported the fishery set several all-time records in terms of the

number of hooks set, the number of hooks per set, the number of fish caught, the number of albacore tuna caught and the number of bigeye tuna caught.

In April 2007 the Council and NMFS held a workshop in American Samoa to talk about the issues facing the fishery. The issued included "why of the anticipated number of 130 potential applicants, we only had 60 come forward?" and "questions about the initial application process and why some people who were denied a permit?" among other issues.

At the 139th Council meeting, Makaiau presented a number of these issues however, the Council focused on three major elements. The Council directed staff to draft a regulatory amendment that would provide a framework to adjust the American Samoa longline limited entry program that would include:

1. Re-opening the limited entry permit process under the existing qualification criteria;
2. Eliminating the minimum landing requirements for all vessel size classes;
3. Modifing the existing large pelagic vessel 50 nautical mile closure.

1. A permit holder was denied a permit because the application was submitted late. However, the individual did have documentation of making the requisite pelagic landings. Unfortunately, under the limited entry program rules, there's no flexibility to allow this person to have a permit if the person didn't meet that criteria.
2. Less than half of the permits are currently being used by fishery participants.

The main concern is about Class A and B vessels, which are predominantly owned by indigenous American Samoans. They are not utilizing their longline permits and with the use-or-lose requirement, they could stand to lose their permits. However, there is mechanism which gives those with earliest participation in the fishery first priority to receive permits if they are reissued by NMFS. Therefore, if current permit holders are forced to relinquish their permits back to NMFS, they could possibly re-apply for a permit, and based on their documented historical participation in the fishery, be in position to receive highest priority for those permits.

3. Class C and D vessel owners have requested access into the 50 mile area. They note that Class A and B vessels are not currently fishing therefore, the conditions for which the longline closure program was established no longer exist.

Makaiau then provided a description of the alternatives and associated impacts. He noted that the four alternatives with respect to permit application process and minimum landing requirements are lumped together because they're very similar in terms of what they're intended to achieve and the actual outcomes.

Alternative 1: No Action- Not Re-Open Permit Application Process; Not Remove Landing Requirements
Alternative 2: Not Re-Open Permit Application Process but Remove Landing Requirements
Alternative 3: Re-Open Permit Application Process but Not Remove Landing Requirements
Alternative 4: Re-Open Permit Application and Remove Landing Requirement

He prefaced the discussion noting that Amendment 11 which implemented the limited entry program included an Environmental Assessment which considered a lot of different aspects with respect to impacts to participants, impact to protected resources, et cetera. He said the

alternatives considered here would generally fall within the purview of that Environmental Assessment as it deals primarily with amending the mechanisms of the program rather than considering new significant measures.

He also noted that a stock assessment of South Pacific albacore was conducted by Langley and Hampton in 2006 which was presented to the Science Committee of the Western and Central Pacific Fisheries Commission. The report found that the existing number of vessels and levels of catch of the American Samoa longline fishery represent a small amount of the total catch and therefore has likely a negligible effect of the south Pacific albacore stock. Therefore, the fisheries impact on albacore stocks would likely continue under all the alternatives considered.

Alternative 1: No Action- Not Re-Open Permit Application Process; Not Remove Landing Requirements

Under the no action alternative, the number of permits for Class A and Class B would remain capped at the current level. There would be no new entry for any vessel size class category. With respect to the permit renewals, it is anticipated that many of the Class A and B permits are anticipated to lose their permits.

But because there is a mechanism that gives priority to those with the earliest participation in the fishery, we feel it's likely if they were to reapply for those permits, that they would probably be on that priority list to receive it again.

For Class C and Class B vessels, most permit holder are using their permits. So it is anticipated that most of them would be able to renew their permits.

With respect to new entry, Class A and Class B, new entry can occur immediately. As the slide shows, of the 17 Class A permits only one of them is actively fishing. So if someone who doesn't have a permit currently wants to have a Class A permit, there's a mechanism that allows them to transfer that permit immediately.

For Class C and Class D, permit transfers can occur after the third year. January 2009 will likely be the earliest when people seeking entry into the fishery can seek a transfer from an existing permit holder who is not using his permit.

Alternative 2: Not Re-Open Permit Application Process but Remove Landing Requirements

With respect to permits the impacts of alternative 2 would be the same as alternative 1.

With respect to permit renewal, everyone who has a permit right now would be able to renew their permit even if they did not make the minimum landing requirements. This would essentially allow current permit holders to hold on to their permits forever.

With respect to new entry, any individual looking to get into the fishery, would only be allowed to do so through a permit transfer from a current permit holder. For Class A vessels, transfers can occur immediately. For B, C and D, transfers can occur after the third year which again is early 2009.

Alternative 3: Re-Open Permit Application Process but Not Remove Landing Requirements

With respect to permits, it is anticipated that the number of applicants seeking a Class A or B permits could increase, but is not likely to be substantial, as less than only a few Class A or B vessels are presently fishing. Therefore, if there was already interest in entering the fishery at this time, individuals could seek a permit transfer from permit holders who are not using their

permit at this time. That is not happening at this time. Makaiau said that based on some feedback we've got from participants, there are a number of alia vessels that are no longer in operation because they're dilapidated or they're damaged and there's lack of capital to get those vessels back in.

With respect to Class C and D, it is anticipated that at least one participant could apply for and receive a permit. That individual would be the one that was denied initially because he missed the application date.

With respect to permit renewals, it is anticipated that many of the Class A and B permit holders would lose their permits. However, there is an existing the mechanism which allows that those with earliest participation or documentation in the fishery would be put on the priority list to get the permit.

With respect to C and D, most of them are anticipated to get their permit as most have been actively engaged in fishing. If some do lose their permit, they would likely be first in priority to receive permits as they would likely have earliest participation in the fishery.

With respect to new entry, for all vessel size classes, if the Council is to consider reopening the process, then following the reopening of the process permit transfers could also occur. In the event that people don't meet the minimum landing requirements, new entry could be gained through relinquished permits.

Alternative 4: Re-Open Permit Application and Remove Landing Requirement

With respect to permits, the impacts of this alternative would be similar to Alternative 3. For Class A and Class B, the number of permits could increase, but it's not likely given the present situation of the alia vessels, the cost of fuel, and the other reasons explained under alternative 3. This impact would also be similar for Class C and D.

He noted that because of the existing permit qualification criteria requiring documented landing prior to March 2002, it is anticipated that the likelihood of the number of people that can meet that criteria is low.

If the minimum landing requirements are removed, then anybody who has a permit right now can keep it forever. There's no forcing the mechanism to have it relinquished. With respect to new entry, this would only be available through permit transfers for all vessel size classes.

Makaiau then summarized the comments from the the public meeting that occurred in American Samoa in February 23, 2008. Participants at this meeting suggested another alternative with respect to reopening the permit application process.

They suggested that the Council consider reopening the permit application process for Class A vessels only. They also recommended that the Council not remove the landing requirements for any vessel size class.

Makaiau also said the Council received written comments which are provided in 14.C.1(2) and 14.C.1(3). He said one commenter requested the Council take no action, and do not reopen the permit process.

He said the SSC also reviewed this presentation and basically felt that it was a policy call and did not address the issue.

With respect to minimum landing requirements, the SSC reiterated its previous recommendation that no action be taken.

Mr. Haleck asked if the Council members had any questions on the presentation. Hearing none, he directed Council staff to continue onto the issue of modifying the large vessel area closure.

Makaiau presented alternatives for the Council to consider to modify the large vessel are closure.

Alternative 1: No Action-Maintain Current 50 nm closure to vessels greater than 50 ft

The no action would continue to prevent gear conflicts between large vessels and small longline vessels should the small vessel return in the future. Given the relatively limited range of Class A and Class B, including trolling vessels, a substantial amount of area within 50 nautical miles will continue to experience very little fishing pressure. This alternative would be the most economically disadvantageous option for large vessels as they would continue to be required to fish even further away despite the lack of potential for gear conflicts.

However, he noted that it does not appear that maintaining the status quo would deprive Class C and D vessels from maintaining the historical levels of catch landings. I show you in the first two quarters of 2007 that they've been making some records. We had some preliminary reports at the SSC of third quarter landings, and those kinds of trends are still continuing with respect to albacore tuna.

Alternative 2: Modify the area closure to 25 nautical miles

If the Council was to consider reducing it to 25 nautical miles temporarily, I'll just describe that under this alternative it would temporarily reduce it to 25 nautical miles but would consider reviewing that status every two years to determine whether it should return back to 50 nautical miles. Alternative 2 would not likely have significant impacts on Class A and B or troll fishing vessels because, as we understand, these vessels do not regularly travel out to 25 nautical miles. For this reason, interactions between these vessels and the big boats would continue to remain unlikely. However, this alternative would provide increase opportunities for the big boats, as it would allow them access to 25 nautical miles closer than currently prohibited.

Alternative 3: Modify the area closure to 12 nautical miles

Alternative 3 would bring it in even closer, to 12 nautical miles. Again, this would be temporary, in which the Council would review every two years to determine whether or not it should be maintained or returned back to 50 nautical miles. This alternative would provide longline large boats a greater fishing area opportunity as compared to Alternative 1 and 2, but could result in competition with active small vessels and increased gear conflict should more small vessels become more active in the future. There is a concern that if the small longline sector was to increase in the future, increased gear conflicts could increase in the future.

Alternative 4: Suspend the 50 mile area closure

Alternative 4 would be a suspension of the 50 nautical miles. The Council again would review this every two years to determine whether or not that should be put back in place. There is a concern that the small boats may never get back into the fishery, at least that's a potential for what may occur given the rise in the cost of the fuel and with the pending uncertainty with respect to the cannery. Impacts of Alternative 4, therefore, would provide the greatest opportunities for Class C and Class D vessels. But it's also coming with the greatest potential for gear conflicts and interactions with small troll and longline vessels. Again, at the public meeting the majority of participants felt that Alternative 1, no action, was the best way to go.

The SSC, however, had a differing opinion. In looking at the possibilities for gear conflict and existing ability of small boats versus big boats, they previously recommended that it be

reduced to 25 miles and for the Council to look at that area every two years. At this meeting, they reiterated their previous recommendation and seeing no valid scientific justification for altering that recommendation that the longline closure being modified to 25 nautical miles.

Makaiau said that at the public meeting held in American Samoa on February 23, 2008, the majority of participants felt that Alternative 1, no action, was the best way to go. Also, public comments received on the proposed alternatives supported alternative 1, no action.

He also noted that at the 97th SSC, the SSC recommended that the area closure be reduced to 25 miles and for the Council to look at that area every two years.

Bill Robinson requested clarification as to whether the proposed alternatives for modifying the large vessel area closure around American Samoa was for longline vessels or all vessels.

Makaiau responded that the measures are intended for longline vessels only.

DISCUSSION AND RECOMMENDATION (Continued on Friday March 21, 2008)

Motion # 2 Regarding American Samoa Archipelago,

Steven Haleck offered a motion that the Council recommends that the American Samoa longline permit process be reopened for all vessel size classes.

The motion was seconded by Mr. Ray Tulafono

Chairman Martin noted the second and asked for Council discussion.

Mr. Robinson noted that there is a need to specify a definite window of time within which people will be able to apply for the permits.

Mr. Deroma expressed concern over the term "all vessel size classes" and preferred to see language from the Council that would specify "all vessel size classes currently authorized under the permit program."

Mr. Duenas offered an amendment to the motion to set a one-year time period for re-opening and to include language to specify all vessel size classes currently authorized under the permit program.

Mr. Haleck seconded the motion to amend his original motion

Mr. Young said that his understanding is that the Council is re-opening the permit process to allow some people who missed the deadline a second opportunity to re-apply for a permit and asked if this is why this action is being taken.

Mr. Duenas said that during his visit to American Samoa he heard several concerns. One was a concern by the Class B and C vessels who wanted to upgrade to D class vessels. Also, the issue of the individual who missed the application deadline by one day. Also, the fishery itself is operating below the allotted numbers for the limited entry program.

Mr. Martin said that there was initially 60 limited entry permits issued by NMFS and that currently, less than half of that number have been actively engaged in the longline fishery. He noted that before the limited entry program was implemented, many of the small alia type vessels, for economic reasons or other reasons, dropped out of the fishery. So the fishery is operating at some level of 30% of what the Council had anticipated. So there is a desire to see if the fishery can be regenerated to get the fleet up to a little bit higher level of production by allowing qualified applicants another opportunity to apply.

Mr. Young asked if there is a periodic reopening for an application process? He noted that it seemed that when the presentation was made, the focus was on individual who did not submit his application to NMFS prior to the deadline. He said it seems the entire amendment was

to allow one individual a second opportunity to reapply.

Mr. Martin noted that that is one consideration but it is not the only consideration of this amendment.

Ms. Thielen asked if it is still the intention to keep the fishery a limited entry fishery capped at 60 permits.

Mr. Duenas said that it is the wishes of the fishing community to reopen the permit process because we have managed this fishery very under strict restrictions that govern these vessel classes. He said that acknowledges that missing the deadline is one issue the council is considering to reopen the process but it is not the only reason. Also there are individuals that are non Samoans who hold Class B and C permits that would like to move up in the fishery. These permits are locked in right now.

Mr. Robinson said that when the program was initially recommended by the Council there was an expectation that perhaps as many as 130 vessels in total might apply, and that seemed like an acceptable number for the limited entry fleet. However, when the permit process was opened, only a limited number of applications were received and only 60 permits were eventually issued.

He said that there were some who were denied permits because they were late. He recalled it was more than one or two, but no more than three or four who missed the deadline. Some denials were appealed however, the regulations didn't provided guidance on how to deal with late applications and how many days late is ok or not ok, therefore, the denials stood.

He stated that there are probably a couple of reasons, one is to allow people who qualify who were denied permits another shot and another was the sense that the optimum fleet level could be a little greater than 60.

Mr. Martin called for the question on amending motion.

All Council members present voted aye with the exception of Mr.Young who abstained.

Mr. Martin then asked for discussion on the amended motion on the floor.

Ms. Theilen requested clarification from legal counsel that the permit application process would be open for one year until the limit is reached?

Mr. Robinson responded that the limit on fleet size was meant to reflect those who are eligible for a permit. So there was no maximum limit on the number of limited entry permits available when the program was established. The limit of 60 was determined by the number of individuals who met the qualified requirements in terms of landings and participation in the fishery during the qualified period.

Mr. Deroma added that if there is no set maximum then during the one year period, come one come all.

Mr. Martin noted that the program is not an open access and there are established requirements that have to be met in order to qualify for a limited entry permit.

Makaiau said that the eligibility requirements are specified in the final regulations implementing the program published on May 24, 2005.

In order to be eligible, an individual need to have made landings of Pelagic Management Unit Species in the EEZ of American Samoa using longline gear prior to March 22nd, 2002. In addition, the individual had to be a U.S. citizen or national. If an individual met both requirements and received a permit, they were then required to register that permit with a vessel if you didn't already have one.

Mr. Duenas noted that the criteria are pretty strict and because of the current situation in American Samoa, there may be few individuals that can meet all of the requirements.

Mr. Martin called for the question.
All Council members present voted aye, with the exception of Mr. Young who voted no. There were no abstentions and the motioned carried.

3. American Samoa Marine Conservation Plan

Tulafono reported that the plan has been reviewed and supported by Governor and that he will be submitting it to the Council for its inclusion.

D. Community Issues

Tulafono said there were four community issues. He said that the minimum wage increase is of great concern to fishermen, the canneries and most of the small businesses in American Samoa. The Governor was in Washington, D.C. last month to testify on the minimum wage bill. Another concern from the fishermen is the escalating cost of fuel. Another issue is the issue of purse seiners not coming to port in American Samoa for fueling and re-provisioning.

Tulafono also reported on meeting with the President of American Samoa's Development agency. He noted that the president supported an initiative to develop a fishermen's co-op in American Samoa.

E. Education and Outreach Initiatives

Tulafono noted that there was a recommendation made in American Samoa during the American Samoa Council meeting about the cleanup of the Pago Harbor. The Council Coordinator and DMWR Education Staff are working together at the present time trying to have radio public announcements and newspaper advertisements for that. The territory will be hosting the Pacific Islands Art in July and will need to have the area cleaned up before the event.

F. SSC Recommendations

The SSC received a summary of the draft regulatory amendment to modify the American Samoa pelagic longline fishery management plan pertaining to permit applications and minimum landing requirements. **The SSC reiterates its previous recommendations from the 96th SSC that no action be taken to change present minimum landing provisions for any Class permit. In addition, a status report should be prepared by NMFS PIRO to determine the number of vessels within each permit Class that have not made the requisite annual minimum landings.**

The SSC had previously supported Alternative 2, reducing the large vessel exclusion zone to 25 nm. **The SSC sees no valid scientific justification for altering its previous recommendation for a 25 nm large longline vessel exclusion zone.**

The SSC also heard a summary of Amendment 19 to the PFMP pertaining to the establishment of a Purse Seine Fishing Exclusion Zone in the EEZ of American Samoa. This fishery has a brief 10-year history of limited catches and activity outside the 50 nm large vessel exclusion zone but

within the EEZ. It was noted that the American Samoa stakeholders have a preferred alternative of a 75 nm exclusion zone, with a no-FAD set provision. However, given the caution already expressed under our recommendations for Guam and CNMI regarding expanding purse seine activity, **the SSC recommends that no purse seine fishing on FADs be conducted within the US EEZ surrounding American Samoa.**

Dr. Paul Callaghan reported that the SSC reiterates its previous recommendations from the 96th SSC that no action be taken to change present minimum landing provisions for any Class permit. In addition, a status report should be prepared by NMFS PIRO to determine the number of vessels within each permit Class that have not made the requisite annual minimum landings.

G. Public Hearing

No public comments were received

H. Council Discussion and Action

For action on the two American Samoa action items see Sections C.1 and C.2.

Mr. Haleck made Recommendation No. 3:

The Council endorses the American Samoa Marine Conservation Plan and requests that National Marine Fisheries Service expeditiously approve it upon receipt from the Governor of American Samoa.

Motion carried.

Mr. Haleck made the following recommendation for American Samoa:

The Council endorses the SSC recommendation that purse seine fishing on anchored and drifting FADs be prohibited in the EEZ waters around American Samoa, CNMI, Guam and Hawaii.

Mr. Tulafono seconded the motion.

Discussion. Mr. Robinson felt that the motion's wording is getting a little ahead of ourselves. It implies that the Council is making a decision today on a regulation on FADs. He said what the Council needed to do is take this SSC recommendation and have some analysis, and have it developed by staff and then consider whether to adopt it or not at a future meeting.

It just seems to say we endorse it now. At least, from my perspective, I certainly would endorse developing the issue for Council consideration. But it's too soon to say in fact whether we would adopt such a recommendation either. This was offered as an amendment to this motion and Mr. Duenas seconded it.

Ms. Hamilton notes that this would be initial action and that this is the one that was tabled from the Guam meeting.

Mr. Robinson pointed out that this Council has already recommended no purse seine fishing in the EEZ in CNMI and Guam.

No further discussion occurred. Motion carried.

That completes the recommendations section of American Samoa.

Mr. Martin asked if there was any other Council discussion or action as related to

American Samoa. Mr. Robinson offered up some information regarding purse seine activity and what the expectations are for the future. The most current data as of today, for your information, is that there are 26 purse seiners licensed for the 2007 and 2008 period and eight additional who are applying for licenses for the 2008/2009 year for a potential total next year of 34.
Mr. Martins said he thinks it's probably a direct reflection of $1500 a ton skipjack.

That concluded Agenda Item 14, American Samoa.

Friday, March 21, 2008

15. Pelagic & International Fisheries

A. Action Items

1. Hawaii Swordfish Fishery Effort (Action Item)
Eric Kingma, Council staff, presented the alternatives for potential regulatory modification to the Hawaii longline shallow-set fishery. He provided background information on historical and recent fishery statistics as well as information on loggerhead and leatherback sea turtle populations exposed to the shallow-set fishery. Kingma also presented the predicted impacts of the alternatives on target and non-target species, protected species, fishery participants and regional economy, and administration and enforcement.

Kingma stated that there are 164 limited access permits in the Hawaii longline limited entry program, with 120-130 active permits. All of the vessels are less than 101 feet in length and all of the shallow-set vessels land in Honolulu in the past few years. Kingma mentioned that there are operational differences between shallow-set longline and deep-set longline, where shallow-set longlines are shallower in the water column than deep-set longlines and that the primary target species in shallow-set fishing is swordfish. The shallow-set operation uses less hooks in between floats and target a depth range of 25 to 75 meters.

Kingma reviewed the history of fishery including its beginning in 1990, its peak in 1991-1993 (around 100 vessels participating, 8,000 sets/yr and approximately 13 million pounds/yr), the closed period of 2001-2004 and the model fishery from 2004-present. The current shallow-set fishery (approximately 30 vessels/yr participating) is regulated under an annual effort limit of 2120 sets, which half of the historical average of the shallow-set fishery from 1994 to 1999. The regulations also require the use of circle hooks 18/0 or larger with a 10-degree offset and mackerel-type bait. Annual sea turtle hard cap limits are 17 and 16, for loggerheads and leatherbacks, respectively. When the cap is reached the fishery is closed for remainder of the calendar year. A shallow-set certificate program was also instituted for the model fishery where fishery participation was open to all Hawaii limited access permit holders that apply on an annual basis. The set certificates are distributed to those permit holders who are interested in the fishery. Other regulations that would be maintained include area closures, seabird mitigation measures, annual protected species workshops, sea turtle handling requirements, VMS, logbooks and also 100 percent observer coverage in the fishery.

Kingma reviewed information from 1991-1999 compared to 2004-present which indicates the fleet behavior has changed in response to tighter regulations. Under the current regulations the majority (57 %) of the year's fishing effort is expended in the first quarter, whereas when the fishery was not as constrained, most of the fishing effort was used in the 2nd Quarter. Swordfish CPUE by quarter is highest during the first quarter and interactions with

loggerheads sea turtles are also highest in the first quarter.

Kingma presented information on the stock status of North Pacific swordfish, which indicate that swordfish stocks are healthy at this time, noting that a new stock assessment will be conducted in 2009 and completed by 2010.

Kingma reviewed information on nations harvesting N. Pacific swordfish including: Japan, Chinese Taipei, Korea, Mexico, U.S. and Spain.

Kingma reviewed fishery statistics indicating approximately 85 percent of the shallow-set landed catch is swordfish, with bigeye, striped marlin, mahi, blue marlin, albacore making up the remainder of the catch. The highest bycatch species is blue shark, with 94 percent discarded and returned alive to the ocean.

Kingma stated that the current model fishery was implemented based on successful experiments from the Atlantic where circle hooks and mackerel bait were found to reduce loggerhead interactions by 92 percent and 67 percent for leatherbacks. The model fishery achieved a 90 percent reduction in loggerhead interactions and a 85 percent reduction in leatherback interactions. Deep-hooking rates have also declined to 15 percent of loggerhead sea turtles and six percent of leatherback sea turtle captures. Prior to 2004, 51 percent of all sea turtles were deeply hooked. Deeply hooked turtles have higher post-hooking mortality rates.

Kingma mentioned that there are two leatherback population stocks in the Pacific, one in the Eastern Pacific comprised of Mexico and Costa Rica, and the other in the Western Pacific, comprised Papua New Guinea, Papua Indonesia, Malaysia, and the Solomon Islands. The Hawaii shallow-set fishery primarily interacts with the Western Pacific stock, which comprises 96 percent of interactions. The annual nesting females in the Western Pacific leatherbacks are estimated to be between 2,700 and 4,500 nesting females. Threats to leatherbacks include eggs poaching, killing of nesting females, human encroachment of nesting beaches and incidental capture in fishing, and beach erosion.

Kingma reviewed the Council's leatherback conservation projects, highlighting that approximately 140,000 hatchlings have been protected from the Warmon Beach area of Papua, Indonesia. The Council's leatherback conservation project in Papua New Guinea (Huon Coast) has protected approximately 12,000 hatchlings in 2005 and 2006, respectively.

Kingma stated that there two nesting stocks in the Pacific, Japan and Australia and that the shallow-set fishery only interacts with the Japan nesting stock. Approximately 1,000 females nest in Japan per year. Threats loggerheads include incidental capture in fisheries and alteration and destruction of nesting habitat such as beach armoring to prevent erosion. Loggerhead nesting beach trends go up and down (increasing trend in recent years), and are likely linked to various environmental conditions.

Kingma reviewed the Council's loggerhead conservation project on Yakushima Island of Japan, where 30 percent of entire loggerhead nesting in Japan occurs. To date, approximately 108,000 hatchlings have been protected and conserved with this project. Kingma also summarized existing threats to loggerheads from coastal fisheries in Japan and Baja, Mexico. Coastal pound net fisheries around Japan and Asia may be responsible for approximately 1,000 loggerhead mortalities per year. Coastal bottom gill net and bottom longline fisheries in Baja Sur, Mexico have been estimated to kill approximately 2,000 loggerhead mortalities per year. Kingma mentioned that there is a large discrepancy between what the shallow-set fishery takes versus what the Japan and Baja coastal fisheries take. The Council's conservation project in Baja Sur, Mexico has produced the 2007 Santa Rosa Declaration, where the fishing community of Santa Rosa has agreed to retire its turtle-harmful gear (bottom-set longline/bottom-set gill net)

which is expected to save approximately 700 to 900 turtles a year.

Kingma reviewed the number of sea turtle takes in the fishery from 2004-2008, with 2006 the only year the annual sea turtle cap was reached. No loggerhead turtles were interacted with by March 21, 2008, which suggests that fleet behavior and oceanographic conditions are plausible reasons for the variability.

Kingma reviewed the post-hooking mortality rates which are based on NMFS guidance, noting that the current guidance does not take into account empirical data from recent, peer reviewed studies.

Kingma summarized the Hawaii Longline Association petition as well as recommendations made at recent Council meetings. Kingma stated the purpose and need of this action, which is to look at providing increased opportunities for the fishery to sustainably harvest swordfish and other fish species while continuing to avoid jeopardizing threatened and endangered sea turtle populations. In addition, to further the purposes of the MSA by encouraging optimal yield from the fishery while minimizing bycatch to the extent practicable. Kingma stated that the proposed action will include 100 percent observer coverage, the maintenance of sea turtle hard caps on an annual basis, gear requirements for circle hooks and mackerel bait, amongst other regulations, as well as the continuation of the Council's sea turtle conservation projects.

Kingma presented the alternatives being considered in detail.

Topic 1- Fishery Effort:

1A, status quo, 2120 set limit;
1B, 3,000 set limit;
1C, 4240 set limit;
1D, 5550 set limit;
1E, 9,925 set limit
1F, remove effort limit.

Kingma also presented some factors to consider when thinking about effort limits, including the increasing cost of fuel which may lead to a shift in how the fishery operates. Currently, the fishery is primarily a fresh fish fishery, with trips lasting 30-35 days. There is interest to shift from fresh fish operations to frozen fish, which could reduce fuel costs as vessels would stay out longer without losing swordfish product quality. Another factor is that the local Hawaii market is undeveloped and that most of the swordfish that is landed in Honolulu, the swordfish are shipped fresh by air to the U.S. Mainland. Potential reductions in bigeye (subject to overfishing) catches or quotas from Regional Fishery Management Organizations such as the Western and Central Pacific Fisheries Commission, may likely shift effort to shallow-set fishery targeting swordfish.

Kingma presented Topic 2: Fishery participation (shallow-set certificate program):

2A: Continue the set certificate program;
2B: Discontinue the set certificate program.

Kingma presented Topic 3: Time/area closures:

3A: No action. Currently the fishery is not managed by time/area closures.
3B: Implement first quarter January time/area closure between 17.5 to 18.5 Degree Celsius.
3C: Time/area closure between 17.5 to 18.5 Degrees if 75 percent of the sea turtle hard cap is reached.

These time/area closures alternatives were identified because information provided by PIFSC indicated that for 2006 (when the fishery was closed from reached the loggerhead cap)

the temperature band between 17.5 and 18.5 degrees Celsius saw the majority of the interactions with the fishery. Furthermore, the month of January was selected because January is thought to be the pivotal month of when the fishery is going to reach its hard cap or not. For example, in 2006, the fishery interacted with eight loggerheads in January as opposed to 2007, where the fishery didn't interact with any loggerheads. Kingma noted that in the first quarter of 2008 to date, there have not been any loggerhead interactions which puts the utility of these time/area alternatives into question.

Kingma presented the predicted impacts from Topic 1 and stated that with increasing fishing effort limits, it is anticipated that similar increases in target and not target species catches is expected if all the effort under the cap is utilized. Bigeye catches from the fishery are very small and are expected to negligible in regards to the overfishing of bigeye in the Pacific. Impacts to loggerhead and leatherbacks by alternative were presented in terms of interactions and corresponding adult female mortalities, focusing on Alternatives 1B-1D and 1F. Alternative 1B with 3,000 set limit is anticipated to result in 32 loggerheads interactions per year with the corresponding adult female mortality rounded up to 2. Leatherbacks interactions anticipated for Alternative 1B is predicted to be 12 with adult female mortalities rounded up to 2. For 1C, 40 loggerhead interactions are predicted with adult female mortalities rounded up to 4, and 19 leatherback interactions with up to 3 adult female mortalities. For 1D 45 loggerhead interactions are projected with up to 3 adult female mortalities, and 28 leatherback interactions and up to 4 adult female mortalities. Based on this approach, the sea turtle interaction hard cap would be based on these projected numbers of interactions, thereby changing the current status quo hard caps of 17 loggerheads and 16 leatherbacks. For Alternative 1F (remove effort limit), which was recommended by the SSC, would not to set an effort limit, therefore the annual sea turtle hard caps would serve to manage the fishery. Staff has proposed anticipated hard cap ranges under Alternative 1F for loggerheads to be between 40-50 with adult female mortalities of up to 3 and between 16-21 leatherbacks with corresponding adult female mortalities of up to 3. Based on the available information which includes long term nesting beach trends for loggerheads in Japan and the preliminary modeling working conducted by PIFSC, the proposed hard cap range looks to not put loggerheads at too much risk. For leatherbacks, there is less information on nesting beach trends, however new nesting beaches in the Western Pacific have recently been found. The current leatherback hard cap is 16, and the cap range of 16-21 results in up to three adult female leatherback mortalities. There is uncertainty if this exceeds the Susceptibility to Quasi Extinction (SQE) risk levels, but staff does not anticipate this resulting to significant population impacts. It is expected that there will be more information available to the Council prior to taking final action.

Kingma provided information on Dr. Snover's (PIFSC) SQE model that was presented at the Council's loggerhead workshop held in December 2007. The SQE threshold of 0.9 indicates that the population is at half the current level and that this level is to be avoided. A SQE level of 0.4, indicates that the population is at risk of reaching the 0.9 level or the quasi-extinction threshold. Dr. Snover's model suggest that if a population is at 0.4 or higher it is at risk and that between 0.3-0.4 there are marginal risks of reaching quasi-extinction. The Japan loggerhead population is currently evaluated to be at the 0.3 level and that increases of adult female mortalities could raise that SQE level. Four adult female loggerhead mortalities results in a SQE value of 0.33 whereas 8 adult female mortalities results in a SQE value of 0.37, which is below the at risk threshold level of 0.4.

Kingma presented the anticipated impacts from Topic 1 to fishery participants and

regional economy, where increases in fishing effort as proposed for Alternatives 1B-1F would see similar increases and benefits to fishery participants in the range of 15.3 million to 45.17 in ex-vessel revenue. Similar increases would be expected in direct and indirect business sales as well as increases in personal and corporate income, jobs, and state and local taxes.

Kingma presented the anticipated impacts to administration and enforcement focusing on the costs of observer 100% coverage, where the costs would range from $ 2 million per year (status quo) to $ 12 million per year (Alternative 1E). It is expected that the Alternative 1F (remove effort limit) would cost approximately $ 4- 5 million in 100% observer costs as effort increases.

Kingma presented anticipated impacts from Topic 2 (set certificate program) and provided that the set certificate program has no effect on target and non-target species or protected species. Maintaining the set certificate program (Alternative 1A) does impact fishery participants in that there is a potential burden for fishery participants every year to apply to obtain set certificates as well as the requirement to attach set certificates to each logbook. Set certificates are freely transferrable amongst the fleet, so a small market has developed for set certificates amongst participants. As the fishery gets closer to reaching a turtle hard cap, the value of the set certificate decreases. Information suggests that set certificates bought and sold for roughly around $100 per certificate. Maintaining the set certificate program also poses some impacts to administration and enforcement as there is annual cost of approximately $ 5,000 to administer the program and enforcement agencies must verify that set certificate was attached to the corresponding logbook. If the set certificate program is discontinued, the burden on fishery participants to annually apply and acquire certificates would be eliminated. However, some revenue could be lost or revenues saved depending on whether or not fishery participant was buying or selling the set certificate.

Kingma presented the anticipated impacts from Topic 3 (time/area closures) and indicated that initial modeling from PIFSC indicates that reductions in revenues would likely occur from Alternatives 3A and 3B, which suggest that catches of target and non-target species would be decreased. As the fishery would still be operating, it would be displaced to areas outside of closed areas that could have higher or lower catch per unit effort. Similar impacts are expected for sea turtles. Although in 2006 several loggerhead interactions were observed in that temperature band, the fishery could be displaced in areas of higher potential interactions or lower. Impacts to fishery participants would expect to see some decrease in revenue from Alternatives 3A and 3B. Impacts to administration and enforcement are anticipated, primarily for enforcement as it would be very difficult to set time/area closures or an area closure based on sea surface temperatures, which exhibit high intra and inter-annual variability.

Kingma concluded his presentation.

Council Chair Martin asked for questions of Kingma on the information presented.

Mr. Gaffney asked Kingma why the data set selected is not looking at the entire history of the fishery. Kingma replied that the entire data set for the history of the fishery has been used in the Draft SEIS/FMP amendment, specifically in the distribution of annual effort. However, the current regulations from 2004-present include different gear and bait requirements (circle hooks and mackerel bait) has likely changed catch rates for various species and the new regulations has also likely changed fleet behavior.

Dr. Dela Cruz asked if the hard cap is based upon the sex of the turtles that were caught.

Kingma stated that the turtle hard cap is not based on the sex of the turtles that are caught, however, the population's sex ratio is important when considering the impact on adult female

mortalities. From 46 loggerhead interactions, taking into account estimated post-hooking mortalities rates, sex ratios, and life history stage of the turtle and its potential to reach sexual maturity, it is estimated that less than three adult females would be killed out of those 46 loggerhead interactions.

Ms. Thielen asked for more information on how staff developed the range of interaction hard caps for Alternative 1F (Remove Effort Limit) and what the current hard caps are based on.

Kingma responded that the current hard caps were determined in the 2004 BiOp using existing information. The range of loggerhead and leatherback caps of 40-50 and 16-21, respectively, as presented for Alternative 1F, is based on available information used to project adult female mortalities. We have better information for loggerheads and less information for leatherbacks, especially regarding nesting beach trends, however based on the existing information and that more leatherback nesting is believed to be occurring in the Western Pacific than previously thought.

Ms. Thielen stated that wanted to make sure what the source of the hard cap range was. Thielen asked if the low, medium and high limits, were those proposed by the SSC or by the Council staff?

Kingma replied that Council staff developed the cap range as the SSC did not make a recommendation on a specific cap range.

Ms. Thielen stated that it was her understanding that the SSC recommendation was to go back and update the Biological Opinion not to come up with any specific turtle cap numbers?

SSC Chair Dr. Callaghan stated that the SSC believes that this fishery should be regulated based on the capture of swordfish and tuna, and not on the capture of turtles. In other words, that the fishery be able to fish as many sets as they like so long as they don't catch too many turtles. Then the determination of how many turtles is too many turtles is up to the Endangered Species Act consultation process.

Ms. Thielen asked Dr. Callaghan if the SSC recommendation would be to stay with the existing turtle cap numbers but maybe request a revisitation of the take number based on more current data.

Dr. Callaghan answered yes, and if they fish as much as they wanted, the SSC assumes that there would be a new consultation that would be required to take place.

Mr. Duenas stated that is an action item requiring to see what information we have and what the science says, and then it will be again reviewed as to its accuracy within the models. Staff has identified a cap range based on existing information and analysis done by PIFSC. PIRO will also look at these numbers during the consultation process. Bill Robinson should respond to questions about the consultation process.

Ms. Thielen asked if the SSC also made a recommendation regarding something based on the number of hooks.

Dr. Callaghan stated that it has been the practice to regulate the fishery effort based upon the number of sets and to measure the turtle take based upon turtles taken relative to a certain number of sets. The SSC has been concerned that over the years there has been an increasing number of hooks used per set. So we're suggesting that from this point on the fishery be measured in terms of number of hooks rather than in number of sets.

Mr. Duenas called on Dr. Sam Pooley, PIFSC Director.

Dr. Pooley stated that the reason sets have been used is based on the method to extrapolate data for the deep-set fishery, which is further based on a trip basis and the focus is on a level of refinement that hasn't fit into the extrapolation for the deep-set fishery. For the shallow-set

fishery, it doesn't really matter which one you use.

Mr. Bill Robinson clarified for those not familiar with ESA issues and process that the purpose of the consultation is not to tell the Council how many turtles it can take. It is the reverse, in that it takes a proposed management action by the Council, then PIRO determines what the take is, and then PIRO determines whether that take in fact jeopardizes the continued existence of the population or not. The Council's final decision will be based upon modeling that involves a lot of factors, such as distribution of fishing effort, female adult equivalence mortality, etc. PIRO will continue to refine the information and make decisions on the parameters that go into the model for analysis for the purposes of doing the Biological Opinion. As PIRO does that, the same information will be provided the Council and Council staff so that the analysis the Council will consider, to the maximum extent possible, be consistent with the analysis that PIRO does in the Biological Opinion. The Biological opinion will not be completed until after the Council makes its final recommendation in June. However, in doing the work up front, and it being shared with the Council, the Biological Opinion should be completed fairly quickly after the Council makes its final recommendation.

Kingma added that the cap numbers presented are based on information and discussions with PIRO and PIFSC, and staff believe that the range of cap limits presented is reasonable and based on the best available information,. Furthermore, that the mid range numbers are on the conservative side, and that the numbers will undergo further analysis prior to final Council action.

Ms. Thielen clarified with Mr. Robinson that in order to revisit the take numbers, it would have to be in response to the Council making a recommendation on the number of turtles that can be taken, and that would trigger the action. She asked Robinson if the Council does need to come up with some number for the turtle take.

Mr. Robinson replied yes, that in order for PIRO to complete the Biological Opinion, and even for NMFS to focus on completing the modeling, the Council needs to choose a preliminary preferred alternative at this meeting. This will allow PIRO to prepare the Biological Opinion based upon that recommendation and it allows the Council staff to get further on down the list on the impacts of the specific proposal. The preferred alternative could be based on limiting effort or it could be based upon, as the SSC recommends, simply limiting the number of interactions through hard caps.

Ms. Thielen asked Dr. Callaghan why the SSC did not come up with the recommended cap number if the Council is supposed to, because she would like to have heard from the SSC before making a specific recommendation. She asked if the SSC aware that it had to pick a number for the Council and Dr. Callaghan stated that the SSC was not aware of that.

Kingma stated that the SSC was presented a range of interactions associated with Alternatives 1A-1E, however chose to go away from limiting effort and instead recommended to remove the effort limit.

Mr. Duenas clarified that this initial action will be scientifically reviewed, however, at this time Council staff has presented a cap range that is based on the best information available.

Kingma added that is initial action and that the SSC will review this at their next meeting in June.

Ms. Thielen stated that her question has been answered, but that while she respects Council staff, she would be more comfortable in selecting a number if there had been more guidance from the SSC.

Mr. Duenas stated that before the Council takes final action, the SSC will have the

information they need to consider making a recommendation. It is clear that the Council must initiate this process, or nothing will occur.

Mr. Gaffney asked if it is it appropriate for the Council to be considering an EIS and a fishery amendment when it seems to only be looking at a subset of the overall impacts. In other words, this EIS appears to be a superb analysis of two species or three species in a vacuum, the swordfish fishery and two species of turtles. It seems to ignore the fact that that fishery takes place in a larger ecosystem and that there are numerous other impacts, such as the expansion of the number of hooks, not just on turtles, but on other fisheries, on other aspects of the ecosystem. Is it appropriate to be refined down to just three species within the ecosystem?

Mr. Robinson stated that within the NEPA process, it is important to take into account the cumulative impacts of all actions that affect the baseline status of the species in question.

Kingma responded that the analysis covers impacts to target and nontarget species, seabirds, marine mammals, fishery participants, regional economy, etc. For example, there is list of every species caught in the fishery from 1991 to present, and for years 2004 to 2007, we used observer data (100 percent observer coverage) and included the discard rate and discard condition for all species caught in the fishery. In the presentation we focused on the critical issues, specifically interactions with loggerheads and leatherbacks.

Mr. Gaffney stated that it seems the secondary impacts of actions on the valuable sport fishery in the State of Hawaii are often ignored. While the species involved in that sport fishery has been listed, the impacts on that and on other fisheries, besides the swordfish fishery, have not been adequately considered in the document. Also, there are several references to some of the species, specifically blue marlin that are old or outdated. There is more recent information indicating that broadbill swordfish spawn off the Kona Coast, and that blue marlin spawn year-round off the Kona Coast. The document says that spearfish is not an important fishery and also says that spearfish is an open ocean pelagic, not coastally related. Those statements are incorrect. The document needs to address how an increase in the number of hooks in this fishery is going to impact the sport fisheries of the State of Hawaii.

Kingma responded that as indicated in the document the spearfish catch by the shallow-set fishery is nearly 5,000 pounds/year, whereas the Kona charter boat fishery likely catches significantly more than that. The document is still in draft form and can be revised prior to going out to the public to add information as suggested. In Standing Committee, there was discussion on looking at the impact of the shallow-set fishery on the California charter fisheries, and that can be incorporated into the document. An important point to remember is that the North Pacific swordfish stock is healthy, therefore it is no anticipated that increased effort in the shallow-set fishery will have an effect on charter fisheries targeting swordfish.

Mr. Gaffney responded that data shows that the sport fishery in Hawaii was impacted by the startup of the longline fishery in Hawaii, there's a clear decline in the catch of the sport fishery. An increase in hooks is more than likely to create another decline in the catch of the sport fishery.

Mr. Young said that he is concerned that we are managing the fishery at the risk of threatened and endangered species. If we've already reached a hard cap, why would we want to increase the risk of threatened and endangered species? Just because the fishers and the longliners want to put out more hooks and more sets, they have not put out more sets in the three or four years that it's been reopened. They should be commended for the significant reduction of interactions with turtles. But why would we, as a body, want to potentially increase those interactions by allowing an unlimited number of sets, and therefore, and unlimited number of

hooks out there? The fishery was closed by a lawsuit and reopened with an agreement or settlement. It would not surprise me that if we made an unlimited number of sets, all we're doing is opening this issue up for another lawsuit. The fishery does have a hard cap and we have a responsibility, even though the Maximum Sustainable Yield may be out there based on the quantity of stock, as managers, we have a responsibility to make sure that we don't violate the Endangered Species Act. I think that's all we're doing, is setting ourselves up for further lawsuits.

Mr. Martin stated that the Council is already managing the fishery based on our impacts with protected species. It is agreed that swordfish MSY is some number greater than the current effort. I appreciate the SSC's approach that we should be managing the fishery based on MSY, I think from a practical matter, that's maybe not realistic, and it's not realistic because of the potential for interactions. The fishery was opened in 2004 based on 50 percent of historical effort and using existing information to develop sea turtle hard caps that were appropriate at that time based on the information that was available. There's new information on turtles, nesting beaches, the Council conservation projects, transferred effects, etc. Interactions are one part of it, but mortalities are really the basis of a jeopardy opinion. The Council's Baja conservation project got a small group to retire gill nets and that's going to save seven to nine hundred loggerheads a year, those are mortalities, not interactions. There are also significant mortalities in Japanese coastal fisheries. Here we're talking about a range of 40 to 50 turtles that are interacted with and a range of around three adult female mortalities. The shallow-set fishery is an important fishery to the State of Hawaii. It's an important fishery to the people of the region. It's an opportunity to expand the fishery building upon a lot of hard work from a lot of people to develop mitigation measures that have been proven throughout our region and around the world. From the industry's perspective in Hawaii, we have shown and demonstrated around the world that you can do things that make a difference and stay in business. The Hawaii fleet is a minuscule player in the larger scheme of fisheries and has turned heads around the world, and this should be recognized.

Kingma clarified that the existing caps (17 and 16) were calculated based what the effort limit of 2120 sets would result in. It doesn't mean at that time that 18 was jeopardy to the population. That was just a number that was agreed upon as an appropriate cap based on the model fishery.

Mr. Robinson stated the 2004 Biological Opinion was based on the agreement to restrict it to 2,120 sets, but it was also based upon experimental studies done in the Atlantic. Robinson commented that we have better data now from three and a half years of 100 percent observer coverage on the fishery, so we're much more capable of determining what the impacts are.

Dr. Dela Cruz asked that based on the success stories presented regarding the NGO efforts of the loggerheads of Japan and Mexico and the efforts to reduce mortality, would it be safe to increase the cap level, maybe even triple it, from 17 and 16 to maybe 40, 50, or even 100? Would it jeopardize the population of these protected turtle species?

Kingma responded that the hard cap range that was presented (40 to 50 for loggerheads and 16-21 for leatherbacks), believed by staff to be conservative and an appropriate level of interaction caps. The information received for loggerheads in the initial modeling is that it appears a cap of double what is currently proposed would not significantly harm the loggerhead population. Not as much is known about leatherbacks. The process is not set up where one can ask NMFS for the number which triggers a jeopardy conclusion. What NMFS will do is that they will look at what the Council proposes and determine whether or not that is jeopardy or no jeopardy. However, what was presented was based on the best available information and staff

believes that the proposed cap range is a conservative estimate of what's acceptable for the status of these populations.

Mr. Young expressed concern that he was troubled by a reference made in the presentation that there was "available turtles under the hard cap." He stated that it looks like we are to set a target on the number of turtles which are either threatened or endangered, and believes contrary to the Endangered Species Act, and that we should be avoiding interactions.

Kingma responded that the statement was in the context of the existing hard cap and the distribution of set certificates and the market available for set certificates among Hawaii longline fishery participants. Kingma further explained that it is known that the monetary value of set certificates decrease as the number of interactions near the hard cap. Staff are aware that some people don't view the concept of interactions with endangered or threatened species as what the law provides.

Mr. Martin stated that he will recuse himself from voting, although he will participate in the discussion.

Mr. Duerr asked what percent of the total population are impacted from the turtles interacted with. He added that he asks that question because in other places habitat destruction and trawl fishing contributes to 90 percent of the turtles that are taken.

Kingma responded that the Hawaii shallow-set fishery contributes to a very small fraction of the total mortalities for loggerheads and leatherbacks.

Mr. Duerr stated that the demand for swordfish is high in US and we do import a lot of swordfish. The Hawaii fleet is competing for the swordfish, and US imports from countries that don't even have regulations and they take all kinds of turtles. The more we regulate or constrain our fishery, in actuality, more turtles could be caught from outside fisheries.

Kingma affirmed Mr. Duerr's concerns and mentioned a recent study, to be published in the Journal of Marine Policy, looks at transferred effects of 2001-2004 closure to areas that were open for fishing. The results of that study suggested that the transferred effect on sea turtle populations is roughly 2,800 mortalities.

Mr. Martin asked Robinson how NMFS considers transferred effects in the consultation process.

Mr. Robinson responded that NMFS currently does not have a policy or method of taking those into account in the Biological Opinion. As for the benefits of conservation programs, NMFS does not have a quantitative way of directly offsetting takes with benefits in a quantitative way. NMFS does take into account the results of the projects in the overall baseline and assessment in the status of the stock. Mr. Robinson concluded that the mechanics of the Endangered Species Act are built on not necessarily stopping actions that incidentally take threatened or endangered species. The Endangered Species Act allows actions to go forward that indirectly interact with such species as long as those actions don't jeopardize the continued existence of the species.

Ms. Thielen asked if there are habitat conservation plans for turtles.

Mr. Robinson stated that there is certainly room for that within the Endangered Species Act, as there is designation of critical habitat under Section 6 of the Act. There is a provision for conservation plans in Section 10, for a state, for example, to get a permit to allow incidental take in state regulated activity. Robinson clarified that he was making the point that NMFS does not yet have a quantitative method for offsetting fishery interactions with turtle conservation projects.

Mr. Duenas reiterated that the Council's initiated conservation programs have protected

over 100,000 leatherbacks and loggerheads hatchlings which should be recognized. Circle hooks are now being lauded all over the world as the solution. There is a perception internationally that the U.S. over-regulates its fisheries. He asked if cooler temperatures produce more female or male hatchlings.

Kingma responded that higher temperatures tend to produce females. This statement was corroborated by PIRO staff in attendance.

Mr. Duenas asked if there has been only one deeply-hooked (hooked in the esophagus) leatherback observer since the reopening of the fishery in 2004.

Kingma responded that yes only one deep-hooked leatherback since 2004 as leatherbacks tend to mostly get flipper hooked or entangled.

Mr. Duenas sought clarification on the number of dead turtles brought to the boat since 2004.

Kingma answered that no dead turtles have been observed since the reopening of the fishery in 2004.

Mr. Duenas asked what the range of the swordfish vessels is and whether or not they are fishing inside the EEZ.

Kingma replied that there may be some historical sets in the EEZ, but the primary fishing grounds are 500 to 1,000 miles north of the Hawaiian Islands, between 30 to 35 Degrees North. He added that the Northwestern Hawaiian Islands protected species zone (50 nm longline exclusion zone) that was established by the Council and in place for 18 years is thought have protected spawning swordfish.

Mr. Martin asked Kingma to review the SQE information and graphs again.

Kingma presented information regarding the SQE threshold levels of 0.9, stating that if the population is determined to be above the 0.9 level than the population is assumed to have been reduced by half, which is not where we want to be. From 0.4 to 0.9, there is some risk associated with reaching or achieving this quasi-extinction threshold. Increases in adult female mortalities out of a population incrementally increase the risk towards quasi extinction or above 0.9. The initial modeling which is based on nesting beach trends indicates that the Japan loggerhead population is currently at 0.3 SQE, and that eight additional adult female mortalities doesn't exceed the 0.4 level, with the 0.4 level and above associated with risk to quasi-extinction.

Mr. Duenas asked where the projected interactions and hard caps fall on the scale and Kingma replied that for the cap range presented for Alternative 1F, the number of interactions will result at below three adult female mortalities, or at 0.33 or below on the SQE graph. This appears to be on the safer side of the scale in terms of the risk of reaching this quasi-extinction threshold for loggerheads.

USCG representative LtJG Deems provided the USCG perspective on the swordfish fishery expansion issues and reported that the USCG does not really have a position on Topic 2 (set certificate program), and that for Topic 3 (time/area closures) the USCG has sufficient resources to enforce well defined closed areas, but those based on sea surface temperatures that are highly variable in location would be extremely problematic. Deems mentioned that for Topic 1 (fishery effort) the USCG has concerns with expanded fishing effort and vessel safety especially since the fishing grounds are well north of the Hawaiian Islands and distant from USCG resources. Deems added that it is very important that fishing vessels maintain their fishing gear to keep it safe and also to keep their safety gear up to par.

Mr. Duenas stated that because the fishery is subject to 100% observer coverage, the

vessels safety requirements are checked prior to placing observers on vessels.

Mr. Martin asked Deems how much resources has the Coast Guard historically dedicated towards enforcement of the shallow-set fishery versus the deep-set fishery, and that maybe the Council could support the USCG in its efforts to obtain more resources?

LtJG Deems answered that only the CUTTER WALNUT has patrolled the swordfish grounds since the fishery reopened and that Congress, the President and the Commandant determine funding and allocation of resources. There are cutters that transit the area which can be available.

Dr. Callaghan then provided the following recommendations and notes from the SSC: With respect to set effort limits, the SSC recommends that set limits be removed as a fishing effort constraint. Effort limits, if necessary, should be set with respect to the status of the target stock, in this case, swordfish and tuna, and these effort limitations should be expressed in terms of hooks, not sets. In making this recommendation, the SSC assumed that the fishery would still be regulated by incidental turtle take hard caps as established through the ESA Consultation and suggested that these hard cap figures must take into consideration post-hooking mortality estimates. The SSC also assumed that the fishery would continue to have its -- all of the required methodology, circle hooks and observers, and so on. The SSC also recommends that turtle interactions be expressed on a per 1,000 hook basis rather than on the current per set basis. With respect to set certificate program, given that the SSC has recommended elimination of the set limitations the set certificate program may no longer be necessary. With respect to time/area closures, the SSC recommends no action on time/area closures. However, the SSC recommends the continuation of the National Marine Fisheries Service TurtleWatch Program, which seems to have been quite effective.

There were no recommendations from the Standing Committee and there were no public comments on this issue.

Council discussion and action on this issue began with Mr. Duenas asking Kingma to read the first recommendation as follows:

Regarding the regulatory modification for the Hawaii longline shallow-set fishery, the Council recommends: One, that Topic 1, shallow-set effort, Alternative 1f, remove effort limit, be selected as a preferred alternative, recognizing that the status of the NP swordfish stocks appear healthy and that limiting effort is unwarranted at this time and providing that any interactions with loggerhead and leatherback sea turtles will continue to be regulated with annual turtle hard caps and if exceeded for either species the fishery would close for the remainder of the calendar year..

Mr. Haleck made a motion to adopt this recommendation, which was seconded by Mr. Tulafono. There was no further Council discussion but before the votes could be tallied Mr. Robinson commented that he believed the recommendation should refer to the limit being met or achieved [rather than exceeded]. Both the maker and the second of the motion agreed to this change.

Ms. Thielen stated that she could not support the motion unless it included 100% observer coverage and moved to amend the motion. Mr. Duerr seconded her motion. Ms. Simonds noted that the even without this change the motion would not change the observer requirement which is already in place. Ms. Thielen responded that she wanted to be sure that circumstances beyond the Council's control such as funding shortfalls would not reduce observer coverage without the Council's approval. Mr.Young stated that the focus of the motion was change and that he supported Ms. Thielen's perspective.

Mr. Duenas reminded the Council that this was initial action to get the ball rolling on this issue, and that he would prefer to hear from fishery scientists regarding necessary observer levels before requiring 100% coverage.

The Council voted on the amendment to add the 100% observer requirement, the amendment passed with Mr. Robinson, Young, Duerr, Gaffney, Sablan and Ms. Thielen voting in favor, and Mr. Duenas, Tulafono, Haleck, Sword and Dr. Dela Cruz voting against. Mr. Martin recused himself and Mr. Lamorena was absent.

Dr. Dela Cruz inquired as to why Mr. Martin recused himself given that he is representing the swordfish fishery. He said he found that unfair to the fishery and stated that he opposed the recusal.

Mr.DeRoma clarified with Mr. Martin that his recusal was voluntary for the purposes of appearances to ensure that the debate and work on this area was perceived to be, and was in fact, impartial. Mr. Martin added that he would continue to participate in the Council's discussions where he felt it appropriate and that although his recusal was not required he wanted to be sure to avoid any undue appearances.

Mr. Gaffney then proposed a further amendment to remove the text stating that limiting effort is unwarranted at this time as he felt there was not enough information to know that limiting effort is unwarranted. Mr. Duenas asked for clarification as he noted that Kingma's presentation included information that the swordfish fishery is healthy. So, therefore, effort limits on the swordfish are unwarranted. Mr. Gaffney responded that his concern was for turtles or other parts of the ecosystem. Mr. Young seconded the motion and the amendment was passed, with Mr. Duenas and Dr. Dela Cruz voting against it, Mr. Martin recusing himself, and the remaining members voting in support. The Council then passed the twice amended motion with Mr. Martin and Mr. Young both recusing themselves and the remaining Council members voting in support.

Mr. Haleck then presented the following recommendation in the form of a motion: That based on the best available information the annual sea turtle caps be set at 46 for loggerheads and 19 leatherbacks, respectively, and provided that these proposed hard turtle caps fall within the range of 40-50 interactions per year for loggerheads and 16 to 21 interactions for leatherbacks, which as presented represents equal to or less than three adult female turtle mortalities per year of each species. Furthermore, these numbers do not appear to threaten the continued existence of loggerhead and leatherback populations.

Mr. Tulafono seconded the motion.

Mr. Young remarked that the analysis was done by Council staff and he was not sure whether other scientists were participated or reviewed it. Kingma responded that the information was based on input from the SSC, PIRO's Protected Resources Division and from Dr. Snover at PIFSC. He noted that there were further draft recommendations to be considered by the Council that would request a full analysis of the likely impacts by NMFS, Council staff and the SSC prior to the Council's final action.

Mr. Robinson added that NMFS and PIRO, working with PIFSC have begun to refine the parameters and the science that go in their Biological Opinions, and have provided that to the Council staff to use in their analysis so that all parties would use consistent data and inputs into the model. This collaboration will continue and it may be that the final analysis is slightly different from what is now available.

Ms. Thielen commented that she will vote against the motion as she doesn't feel she has sufficient information to support it. Mr. Duenas stated that he was proud to support the staff's

work and clarified that the information provided by Kingma was based on the best currently available information. He went on to say that initial action is required for NMFS to begin the process of evaluating the action, however any numbers adopted today were not set in stone and could well be changed later.

Ms. Simonds agreed with Mr. Duenas that NMFS must have a specific action and number of interactions to begin the necessary ESA consultation and asked Kingma to explain why the range of 40-50 loggerheads was being discussed, as well as the source of the leatherback number. Kingma reviewed that part of his presentation regarding the SQE model and noted eight adult female loggerhead mortalities would not put the susceptibility to quasi-extinction risk above the .4 threshold, which is well below the dangerous 0.9 threshold. Under the proposed recommendation there would be expected to be less than three adult female mortalities which appears to be a safe and very conservative range, and hopefully this would not jeopardize any populations, especially given that nesting beach trends appear good.

Ms. Simonds added that NMFS has indicated that it feels comfortable with the 40-50 range. Regarding leatherbacks we don't have a similar model so the proposed recommendation would increase the interactions by three. Again, some number must be provided to NMFS in order for them to begin their consultation. Kingma noted that the current limit of 17 leatherbacks has never been reached so 19 is a high estimate – and that this would also be a hard cap that would be followed by a fishery closure if met. Mr. Martin noted that the Council has never tried to push to take the "last turtle" and that he regards this as a conservative recommendation.

The Council passed the recommendation; Mr. Young, Gaffney and Ms. Thielen voted no, Mr. Martin recused himself, Mr. Robinson abstained and the remaining Council members voted in support.

Mr. Haleck made the following recommendation in the form of a motion: That these interaction numbers and associated adult female mortalities be fully analyzed by NMFS and Council staff and a comprehensive review by the SSC prior to taking final action.

Mr. Tulafono seconded the motion.

Ms. Thielen asked if Council staff supported the SSC's recommendation of doing the turtle caps on a per hook rather than a per set basis, and moved to amend the motion to direct staff to provide a recommendation on this topic. Kingma commented that the turtle caps are not managed based on sets or hooks so the choice between the two has no effect. It would just be another way of presenting the data.

Mr. Young seconded the motion and the amendment was passed by the Council with Mr. Martin recusing himself and Mr. Robinson abstaining. The Council then passed the main motion as twice amended, with Mr. Martin recusing himself and all other Council members voting in support.

Mr. Haleck then made the following recommendation in the form of a motion: That for Topic 2, fishery participation, Alternative 2b, discontinue the shallow-set certificate program, be selected as preferred because without a regulatory effort limit there is no need to track effort with set certificates as well as it appears set certificates are both burdensome to fishery participants and to administration and enforcement.

Mr. Sablan seconded the motion.

Mr. Gaffney asked Mr. Robinson whether PIRO saw any value in the set certificate program. Mr. Robinson responded no as the observer requirement already allowed tracking of sets.

The Council voted in favor of the motion with the exception of Mr. Martin who recused

himself.

Mr. Haleck made the following recommendation in the form of a motion: That for Topic 3, time/area closures, Alternative 3a, do not implement time/area closures, be selected as preferred because the available information suggests that time/area closures based on a narrow sea surface temperature band may displace fishing effort to areas with more or less potential to interact with sea turtles or areas with lower swordfish CPUEs.

Mr. Sablan seconded the motion. The Council voted in favor of the motion with the exception of Mr. Martin who recused himself.

Mr. Haleck made the following recommendation in the form of a motion: That the proposed action include the continuation of the Council's sea turtle conservation projects and that in NMFS' Biological Opinion related to this action NMFS include the results of the conservation projects in the environmental baseline as well as credit the results of the conservation projects as offsetting to the impact of the Hawaii shallow-set fishery.

Mr. Sablan seconded the motion.

Ms. Thielen proposed a friendly amendment to include at the end of that sentence "as appropriate." She stated that from looking at the conservation projects, she is not sure whether there will be a direct correlation to the turtle population.

Mr. Haleck offered no objection to the amendment.

Mr. Young asked how does this proposed credit apply as it relates to the hard cap?

Mr. Duenas answered that Ms. Thielen's addition to add "as appropriate" means that the scientists will have to figure that out.

Mr. Young stated that he would encourage any habitat restoration, any ability to increase opportunities for expansion of the turtle populations, but that he is not comfortable with the wording that talks about an offset.

Ms. Simonds suggested that the term "offset", and the term "crediting", have been around for a while. The Fish and Wildlife Service is looking at crediting under the Endangered Species Act different activities that people might perform that they would consider as credit towards an activity that may affect endangered or threatened species. The same with this offset, we've been discussing this with the National Marine Fisheries Service for several years, and what we simply want them to do is to look at all of these things, to talk to their sister agency, and let's discuss how this might come about. This is really for the future, not now, but on the table for NMFS and Fish and Wildlife Service.

Mr. Young stated that it doesn't say that. It says that the baseline as well as credit the results of the conservation programs as offsetting to the impact of the fishery. It's not talking about, and we'll talk about more details and if and how and is that going to happen. This says, it will happen. It's not saying that we're going to talk about it.

Mr. Duenas stated that Ms. Thielen's amendment to add "as appropriate" will lead scientists to consider it, and that's all we're asking. He stated that he is a proponent of giving credit for bottomfish closed areas or protected areas and to give credit for those things, however, that he is concerned on why it should be limited to Council projects. There are numerous other programs out there that are also assisting the conservation of sea turtles. It is not only the Council's sea turtle conservation program but other entities out there have the same type of programs.

Ms. Simonds asked if this is acceptable? Otherwise, we could change a few more words, like that "may offset".

Mr. Duenas asked Mr. Young if that satisfies his concern?

Mr. Young stated that it is getting closer, but that he may just abstain.

Ms. Thielen offered that she would support inserting "may" before offset, because this is something that's moving forward for discussion, and that she is more familiar with the types of credits that may be provided in forest projects, with endangered species like birds. She stated that to keep in mind for future that normally you only get a credit, such as what was mentioned for these other projects out there. These people may or may not be getting credits for their projects because they may not be wanting credits for their projects. So what it is doing is it's giving an incentive to a certain body that wants credits to do conservation or pay somebody else to do conservation, but that you only get to claim that credit once. She mentioned that the reason she raises this is that there may be other fisheries in Hawaiian waters that have impacts on turtles and this is worded to provide the credit for the Hawaii shallow-set fishery. She stated that she didn't know if that's intended by the maker of the motion, but offered that for consideration

Mr. Duerr stated that it leaves too much for interpretation, and it doesn't even say successful conservation projects. He said that you can have a conservation project that's not successful. The Council knows what it means, but someone else may interpret it differently.

Ms. Simonds stated that she thinks that is fine, but that not to worry about it because this will have to go through a battery of reviews all the way up the government. If it's successful, it will warrant something, and if it's not, it won't.

Mr. Gaffney stated that one other minor word change would get the text closer to what the Council is talking about, and that's is conservation projects in the environmental baseline, and may credit the results of the conservation projects, as opposed to, as will as well as credit. He stated that his change would be offering it as an opportunity as opposed to a mandate.

Mr. Duenas confirmed with Mr. Gaffney his intent as, "NMFS include the successful results of the conservation projects in the environmental baseline and may credit the results"? . .

Mr. Gaffney added that it would be a choice rather than a mandate.

Mr. Duenas replied that the choice is to offset.

Mr. Young added as well as the credit.

Mr. Gaffney stated that yes and the credit and that his point is include both the credit and offset as an option.

Mr. Duenas stated that no, it is being offset based on the credit. It's not offsetting because it's an offset. Credit the results of the conservation projects as they may offset. He offered that one doesn't "may" something and may something based on something. Either credit it or don't credit it. As it states credit the result as they may offset. He stated that the qualifier, is the "may", they may or may not choose to offset. This is recommending that NMFS consider these projects and that this is making t more technical, where it's really something that NMFS really has to look at. He stated that he would like to ask for that amendment, because there are too many "mays."

Mr. Young stated that the "may credit" is the more appropriate because the activity "may offset" the impact. He offered that the key is not to automatically say there is a credit because its unknown if its's appropriate or not.

Mr. Duenas asked that the text already qualified the projects to be successful, so how can it say may when says it has to be a successful project?

Mr. Young answered yes, and that it may a good thing for this Council to do those types of projects because they help restore turtle populations, but that doesn't automatically mean that there should be a credit.

Mr. Duenas stated that there is a gentleman's amendment on offer and there needs to be a second.

Mr. Young seconded the motion.

Mr. Gaffney stated that the way its on the screen may be part of the confusion. He offered that he does not want the "and" in "conservation projects in the environmental baseline and may credit", but that he wanted only "may" in there.

Mr. Duenas stated that he thinks the whole meaning of the paragraph would be changed.

Mr. Deroma offered that the sentence no longer makes sense, and that by NMFS being the actor, to include the successful results of the conservation projects in the environmental baseline, that there's nothing to join those two clauses.

Mr. Gaffney agreed to put "and" back in the sentence.

Mr. Duenas asked for more discussion on amendment on motion and clarified Ms. Theilen what the vote would be on.

Mr. Young stated that he disagreed with Mr. Duenas' characterization that Mr. Gaffney's amendment changes the meaning of the text, but offered, that it qualifies it. He mentioned that that the amendment text does not make it an automatic, that it says there's a choice, and that it does not change the whole philosophy. He further stated that it supports the idea that the Council should be doing programs to help protect the turtles, but that those activities may credit things that may offset impacts.

Mr. Duenas responded and told Mr. Young that he is a member of the Council and the Council's activities reflect on the Council's ability to perform and assist with environmental problems. To change and to devalue the Council's work by saying that people out there should—may—look at our work as a positive or a bad thing, that discredits the Council's ability to perform and do things right for the environment.

Mr. Duenas called for the question by asking all those in favor say aye on this motion.

Mr. Young voted aye.

Ms. Thielen voted aye.

Mr. Gaffney voted aye.

Mr. Duenas asked for those opposed and stated that he votes nay.

Mr. Duerr voted nay.

Mr. Sablan voted nay.

Mr. Tulafono voted nay

Mr. Haleck voted nay

Mr. Robinson voted to abstain.

Mr. Martin recused himself.

Mr. Duenas stated that for the record there were four ayes and six nays, one recusal, and on abstention.

[the transcript is unclear on who voted the forth aye and sixth nay, either Dr. Dela Cruz or Mr. Sword].

Mr. Duerr asked for a point of order for Mr. Duenas to clarify what the next vote was on?

Mr. Duenas clarified that the maker and the second of the first motion agreed to the friendly amendments except those offered by Mr. Gaffney and that the vote would be what is on the screen which was amended three times by a gentlemen's agreement. Mr. Duenas asked for discussion on the motion. Hearing none, he called for the question.

The motion passed with nine ayes, no nays, two abstentions (Young and Robinson) and one recusal (Martin).

Mr. Haleck made the following recommendation in the form of a motion: Number 7, that the Council requests that NMFS consider issuing a multi-year Incidental Take Statement, ITS, to

allow for some flexibility in the re-consultation process if the annual hard cap is exceeded because of an inability to close the fishery on a timely basis.

Mr. Sablan seconded the motion.

Ms. Thielen asked for clarification regarding the meaning of the "ITS re-consultation process". Mr. Robinson stated that the incidental take statement is part of the Biological Opinion and the consultation that authorizes the incidental take and identifies what the authorized level of take is. In past Biological Opinions, for example when the hard cap was reached in 2006 if in the hours it took to close the fishery an 18th turtle was taken, NMFS would have had to re-initiate consultation and do a whole new Biological Opinion. So this recommendation for a multi-year incidental take statement would avoid requiring re-initiating consultation and doing the whole thing over again if the hard cap is exceeded simply because the word didn't get out quick enough. Kingma added that this is not a new precedent as the 2005 BiOp for the deepset fishery has a similar multi-year ITS.

Mr. Robinson noted that the difference between the two, though, is the deepset incidental take statement is not a hard cap. So if the ITS is exceeded in one year there is a little more flexibility to see what happens in the second year. However if more than 50 percent of the three-year total is taken in the first year, then the consultation has to be re-initiated. It's a little bit different with the shallow-set because it's a hard cap and it closes the fishery and one would have to figure out what would be done regarding paybacks and overdraws, and things like that. It may not be possible, but it's something PIRO would look very carefully and would likely favor if it were realistic and effective and done in such a way that it doesn't jeopardize the turtle population.

Mr., Young asked why the Council wouldn't recommend a more formal analysis instead of just saying, please consider it. Mr. Robinson responded that technically the consultation will be Agency consulting with itself. So NMFS would have to make the proposal to themselves and then examine that proposal and decide whether it would work or not.

The Council passed the motion with Mr. Martin recusing himself and the other members voting in support.

Mr. Haleck offered the following recommendation in the form of a motion: That Council staff, PIFSC, and PIRO work expeditiously to initiate a video monitoring pilot project to investigate its potential as an effective substitute for costly, 100% human observer coverage.

Mr. Sablan seconded the motion.

Mr. Gaffney moved to amend the motion to drop the word "human" and replace it with "onboard" as his understanding of video coverage is it would still require a human being even though the human being wouldn't be onboard the vessel. There were no objections from the maker of the motion or the second and this change was made.

The Council passed the main motion as amended with Mr. Martin recusing himself and the other Council members voting in favor.

Mr. Haleck made the following recommendation in the form of a motion: The Council staffworking with National Marine Fisheries Service clearly describe in the DSEIS the different Incidental Take Statements for various U.S. pelagic fisheries operating in the Western Pacific Region.

Mr. Sablan seconded the motion.

Mr. Robinson asked whether the motion was referring to the Hawaii deepset longline fishery and the American Samoa longline fishery.

Ms. Simonds asked Mr. Robinson what other tuna fisheries in the Atlantic and the Gulf

are covered under incidental take statements. Mr. Robinson responded that he presumed that they all were.

The Council passed the motion with all members voting in favor.

Mr. Gaffney made a motion to direct Council staff, working with National Marine Fisheries Service to clearly describe in the DSEIS the other fisheries potentially impacted by these actions.

Mr. Young seconded the motion.

Mr. Duenas asked if Mr. Gaffney's interest was in the actions regarding the swordfish fishery. Mr. Gaffney agreed that it was the swordfish actions that he meant.

Ms. Thielen suggested refining the analysis to the commercial, recreational and sport fishing industry sectors that are fishing the same fisheries.

Ms. Simonds commented that she felt Mr. Gaffney's concern might be regarding missing information such as a study done on blue marlin larva by Dr. Andrew West. Mr. Gaffney agreed that he would like that included. Ms.Simonds noted that that Council staff have been trying to get a copy of Dr.West's study for some time without success but that it would be included if Mr. Gaffney could provide a copy.

Mr. Gaffney stated that all up-to-date information should be included but his main concern is that he wanted to see impacts on other fisheries included. Mr. Duerr concurred, especially given the anticipated registration of recreational fishermen, noncommercial fishermen, and looking at the impact that that has on the industry.

Mr. Duenas asked if the text could be clarified to focus on domestic fisheries based in Hawaii and Guam. Mr. Gaffney agreed to do so and the recommendation was revised.

Mr. Duenas remarked that there are longline closed areas around Hawaii and that the swordfish boats normally travel far to the north to fish and thus he was unclear about the likelihood of impacts to other Hawaii fisheries. He referenced a report requested by the late Richard Shiroma that clearly showed, based on what records were available, marlin were being harvested by the recreational fishery at a rate almost ten times greater than the longline fishery. In addition, California has their own sanctuary area and closed area so it didn't seem like there were likely too much interactions to worry about, given that the current harvests are below 75 percent of MSY.

Mr. Martin noted that given the potential for the swordfish fishery to expand, it's important to recognize that the Hawaii fishery does, on occasion and is allowed to actually under Hawaii regulations, land fish in California. So there can easily be times when the shallow-set fishery will move out of Hawaii or leave Hawaii to go to the mainland and land fish on the mainland. So the impacts are worthy of consideration and analysis.

All Council members voted in favor of the amended motion.

2. Squid permits (Action Item)

Marcia Hamilton, Council staff, reviewed the Council's previous actions for the monitoring and management of Pacific pelagic squid and informed the Council that NMFS anticipates revisions to the High Seas Fishing Compliance Act (HSFCA) that will require all domestic vessels to have FMP permits in order to be eligible for HSFCA permits. It is for this reason that new Alternative 3a is being presented for Council consideration. Hamilton presented the issues, alternatives and anticipated impacts regarding each of the previously considered alternatives, as well as new Alternative 3a.

Hamilton stated that the overall objective of this amendment is to establish an appropriate

monitoring and management mechanism for the domestic harvest of Pacific pelagic squid. This includes addressing the need for FMP permits prior to the issuance of HSFCA permits. She also explained that HSFCA permits for Pacific squid fishing have expired and will not be reissued by NMFS until the fishery gets NEPA, Marine Mammal Protection Act and Endangered Species Act analyses. Although NEPA requirements were covered in the Seabird and Squid FEIS, PIRO is waiting for this amendment to trigger the ESA and MMPA analyses.

Hamilton highlighted that under Alternative 3a the permitting, preparing and observer requirements will apply to all domestic vessels that are greater than 50 feet in length overall, because smaller vessels are not expected to fish on the high seas. She also emphasized that her presentation was a summary and that further details were contained in the draft amendment provided to the Council members and public.

Mr. Gaffney asked whether a 52-foot sport fishing boat from Kona that catches squid for live bait would need to be permitted under Alternative 3a. Hamilton responded that it would if the vessel fished for or caught one of the species under consideration.

There was no further discussion or public comment regarding this issue. Mr. Duenas moved to adopt Alternative 3a as its preferred alternative and directed staff to finalize the amendment (including its Environmental Assessment) and transmit it to NMFS for approval and implementation. Mr. Sablan seconded the motion and, with the exception of Mr. Lamorena who was absent, the Council voted in favor of the motion. Mr. Duenas then made a motion to request that NMFS expedite all ESA, MMPA and other analyses necessary to reissue HSFCA permits for Pacific pelagic squid fishing. Mr. Sablan seconded the motion and, with the exception of Mr. Lamorena who was absent, and one abstention by Mr. Robinson, the Council voted to in favor of the motion.

B. International Fisheries

1. 4th International Fishers Forum (IFF4)

Paul Dalzell gave a brief report on the Fourth International Fishers Forum which was held in Puntarenas, Costa Rica. This was the fourth meeting of an initiative initially begun by the Government of New Zealand but the past three IFF meetings have been convened by the Council in collaboration with other governments and fishery agencies. IFF4 was the most ambitious meeting to date and was held in from 12-14 November in Puntarenas, Costa Rica. The conference co-hosts were the Instituto Costarricense de Pesca y Acuicultura (Costa Rica Fisheries and Aquaculture Institute) and Western Pacific Regional Fishery Management Council. The international meeting of 250 fishermen, management authorities, seafood retail industry representatives, fishing technology experts, marine ecologists and fisheries scientists facilitated the sharing of information and experiences on sustainable fishery practices and approaches to minimize problematic interactions with sea turtles, seabirds, sharks and cetaceans in longline and gillnet fisheries. One of the most interesting outcomes of the meeting was the recognition that mitigating gillnet impacts on protected and sensitive species is not a lost cause and there is room for optimism that safer gillnetting techniques can be developed. The meeting ended with the Puntarenas Declaration to express agreement and support for the implementation of twelve specific actions to improve the sustainability of artisanal and industrial fisheries, including addressing issues related to bycatch, allocation, fishing capacity, ecosystem-based approaches to fisheries management, illegal fishing and compliance.

Manny Duenas commented that this program had evolved over the last five years and was one of the best programs for disseminating the model fishery in the Pacific. Paul Dalzell added that thre meeting had given an award to Martin Hall for his work in conducting a whole range of hook exchange projects throughout Central and South America, which added to our knowledge of the performance of circle hooks in a variety of small scale longline fisheries.

2. Western Central Pacific Fisheries Commission

a. Report on WCPFC 4

Bill Robinson presented a report on the the Fourth Annual meeting of the Western and Central Pacific Fisheries Commission held in Guam between December 3 - 7 2008. Overall, the U.S. accomplished most of its objectives for the meeting that related to adoption of monitoring and control of surveillance measures. But the Commission was unable to agree on further conservation and management measures, particularly for bigeye and yellowfin tuna or sea turtles. The Commission adopted a framework and a schedule for implementing a regional observer program. They agreed on a low-cost solution for housing the Commission's VMS system and an active and inactive list of fishing vessels in association with the Vessel Register and the authorization to fish. Dr. Charles Karnella of the U.S. and NMFS PIRO was asked to continue to chair the inter-sessional working group on the Regional Observer Program for another year.

After difficult negotiations with Japan the Commission adopted technical specifications for mitigation measures contained in the current seabird conservation and management measure and adopted a revised management measure, which included the full specifications. The sea turtle conservation and management measure proposed by the U.S. was withdrawn due to resistance from the FFA, Australia and New Zealand to any measure requiring circle hooks. The measure was referred to next year's meeting, and there was agreement to work inter-sessionally with the members to try and put a new sea turtle proposal before the meeting next year. The Commission put three vessels on the IUU list, two Ecuadorian purse seine vessels and one Taiwanese longliner. However, it was agreed that the Taiwanese vessel could be removed inter-sessionally whenever the Federated States of Micronesia settled its case with Taiwan.

The main business of the Commission was to consider further restrictions on purse seine and longline fisheries. A proposal for a 90-day purse seine closure on FADs was floated, along with a longline catch reduction of 25 percent from the 2001 to 2004 average catch levels for certain countries. It was not accepted by the Commission because the Asian block of countries would not agree to a FAD closure longer than a month and would not agree to any longline restrictions until a new stock assessment was completed in the spring and summer of this year. Also, there was an attempt to put together a proposal on transshipment. That was unresolved by the end of the meeting, but there had been an agreement to work inter-sessionally on a transshipment proposal. PIRO has been working with the State Department in putting together a transshipment proposal, which will be circulated to the other member countries for consideration at this upcoming meeting.

The priorities for the next meeting, which is in Busan, Korea in December of 2008, will be to focus on the conservation and management of yellowfin and bigeye tuna and try to pass a new conservation and management measure. Robinson also noted that the meeting was supposed to be in Pohnpei. Every other WCPFC meeting was supposed to be Pohnpei, in the Federates States of Micronesia. But the Pohnpei did not have the infrastructure to handle that many people. The Government of Guam was generous enough to offer Guam as a site for the annual meeting. They deserve our thanks for that. Robinson also thanked the Council, John Calvo and others who provided support to not just the U.S. Delegation, and to Manny Duenas and the Fisheries Co-op for hosting a relaxing social hour down at the Co-op each night.

Ray Tulafono noted that this was the first WCPFC plenary where the three US territories participated as non-voting members of the Commission.

b. Commissioners

Bill Robinson reported that five U.S. Commissioners were nominated to the White House for appointment. These included Robinson himself, the Federal Commissioner, our Chairman, Sean Martin, Paul Crampe, representing the purse seine industry, Maria Voikavich, from the Pacific Council also representing the albacore troll fishery, which is based primarily in California, and Tom Grasso, representing environmental groups. The White House had not at this point made any permanent appointments. On the first day of the meeting in Guam the State Department appointed four alternate commissioners for the purpose of the meeting.

c. Advisory Committee

Robinson stated that the implementing legislation for the WCPFC requires the establishment of an Advisory Committee. The Advisory Committee advises the U.S. section, which is the government, State Department, Department of Commerce and the U.S. Commissioners. The Advisory Committee was to include the Chair of the Western Pacific Fishery Management Council's Advisory Committee, one individual appointed from the Fish and Wildlife Department of each of the three territories and 15 to 20 individuals representing a cross-section and balance between those who have an interest and a stake in the fishery. The other requirement of the implementing legislation was that the Secretary of Commerce appoints the Advisory Committee in consultation with the U.S. Commissioners. In September, NMFS published a Federal Register Notice and solicited nominations and applications for the Advisory Committee. A second solicitation was conducted in October. A list of some 42 nominees and applications for the Advisory Committee and a conference call was held with the U.S. Commissioners to discuss how to go forward with making selections for the Advisory Committee. It was agreed that the Commissioners would reconvene after they had consulted with their Councils and others.

d. Implementing Regulations

The only other aspect of the implementing regulations that Robinson reported on was the the requirement for an MOU between the three West Coast Councils and the Department of Commerce to clarify the rule of the councils in the international negotiating process at the WCPFC. There have been several drafts going back and forth of an MOU. The current draft was

with the Department of Commerce and the Department of State for comment.

3. Northwest Pacific Bottomfishing Agreement

Bill Robinson reported on the third inter-governmental meeting on the management of high seas bottomfish fisheries in the Northwestern Pacific Ocean that was held in Honolulu in October, 2007. . The parties to the meeting reported on implementation of the interim measures agreed upon at the previous meeting in Busan, Korea and discussed modifications to these measures. Work continued on the text of the document that would govern fishing activities under the agreement and the Scientific Working Group continued to work on identifying data needs for assessments and identifying vulnerable marine ecosystems. The basic agreement for interim measures is to freeze the existing footprint for the fisheries in the area in terms of where and the number of vessels operating, including the level of effort, requirement to provide data and carry observers. There wass also an agreement not to fish in areas considered to be vulnerable marine ecosystems, but the group is continuing to engage in a discussion about the definition of a vulnerable ecosystem. But these requirements would likely apply both in the North Pacific and the South Pacific. The next meeting of that group is planned for Russia in May 2008.

4. South Pacific RMFO

Bill Robinson reported on the South Pacific Regional Fisheries Organization, the convention for which is currently being negotiated. The fourth meeting to discuss the establishment of that RFMO was held in Noumea, New Caledonia in September and the fifth meeting would be held in Ecuador between March 10-14, 2008. The majority of activity at both meetings was the continued discussion of various issues with regard to the text of the proposed convention. At the fourth meeting it was announced that Dr. Robert Allen, who had recently retired from being the Director of IATTC was appointed as the Executive Secretary of the Interim Secretariat. The sixth meeting to continue negotiating at convention is scheduled for Australia in October 2008.

Sam Pooley, Director of the NMFS PIFSC commented that at the Scientific meeting of the Northwest Pacific Seamount Convention, the Science Center had proposed to conduct an ROV survey of the Emperor Seamounts with Japan to look at what had happened in the 20- 30 years since the Council closed those seamounts. Unfortunately, Japan had to cancel that cruise. but the centre remains hopefull that an ROV can be deployed in the future.

Manny Duenas asked Bill Robinson if there was any likelihood of combining the two new RFMOs. This possibility seemed remote, the South Pacific RFMO will focus on the ocean south of the equator and the North Pacific will be focusing on bottomfish fishing predominantly in the seamounts between CNMI and Japan.

5. Meeting of US Commissioners for Living Marine Resources

Sean Martin reported on the meeting of Living Marine Resources Commissioners. This included representatives from the Pacific Halibut Commission, IATTC, WCPFC and ICCAT. The meeting afforded an opportunity to share experiences and receive some guidance from International Affairs Office of NOAA on moving forward and providing consistency between

different commissions.

6. CLIOTOP

No report given

C. SPC Report on insular fishing in the Pacific

Jean-Paul Gaudechoux, Fisheries Information Advisor with Secretariat of the Pacific Community (SPC), began by thanking the Council for the opportunity present its work program activities. He explained that the SPC Special Session of Heads of Fisheries, which was held in Samoa in early February, resulted in the adoption of the Pacific Islands Regional Coastal Fisheries Management Policy, to ensure long term fisheries sustainability. Gaudechoux drew the attention of Council member to the materials in their briefing documents which outlined the guiding principles and strategies that were included in the Policy. Gaudechoux also noted that a spinoff of this policy would be the development of a Fisheries Yearbook for coastal fisheries analogous to the Tuna Yearbook produced by the SPC Oceanic Fisheries Program.

Council Member Many Duenas thanked the SPC for its efforts to assist the Pacific Islands develop their fisheries. Council Member Ray Tulafono echoed these sentiments.

D. Pacific Pelagic Advisory Panel Recommendations

No presentation or discussion

E. Pacific Pelagic Plan Team Recommendations

No presentation or discussion

F. Marianas FEP REAC Recommendations

G. SSC Recommendations

Paul Callaghan. SSC Chair presented the SSC report.The SSC heard a summary of the recent Draft Amendment 18 to the Pelagics Fishery Management Plan. They were asked to think about and give advice on three things, set effort limits, set certificates and time/area closures. With respect to set effort limits, the SSC recommends that set limits be removed as a fishing effort constraint. Effort limits, if necessary, should be set with respect to the status of the target stock, in this case, swordfish and tuna, and these effort limitations should be expressed in terms of hooks, not sets. In making this recommendation, the SSC assumed that the fishery would still be regulated by incidental turtle take hard caps as established through the ESA Consultation and suggested that these hard cap figures must take into consideration post-hooking mortality estimates. The SSC also assumed that the fishery would continue to have iall of the required

methodology, circle hooks and observers. The SSC also recommends that turtle interactions be expressed on a per 1,000 hook basis rather than on the current per set basis. With respect to Set Certificate Program, given that the SSC has recommended elimination of the set limitations the Set Certificate Program may no longer be necessary. With respect to time/area closures, the SSC recommends no action on time/area closures. However, the SSC recommends the continuation of the National Marine Fisheries Service TurtleWatch Program, which seems to have been quite effective.

H. Standing Recommendations

Manny Duenas gave the Pelagics and International Standing Committee report. Mr. Chairman, we met at 9:15 on Monday morning. Duenas noted that the Standing Committee heard two action items, namely the Hawaii Swordfish Fishery Effort and the Guam Purse Seine Close Area. The Committee adopted the SSC recommendations for reporting to the Council for full consideration.

I. Public Hearing

There were no public comments at this time.

J. Council Discussion and Action

See above, Sections 15.A.1 and 15.A.2.

16. Program Planning and Research

A. MSRA Implementation

1. ACLs (Action Item)

Mr. Dela Cruz called on Council staff member Marcia Hamilton to present on Annual Catch Limits (ACLs).Hamilton began by reviewing text the new requirement under Magnuson-Stevens Reauthorized Act (MSRA). The MSRA directs each council to develop Annual Catch Limits (ACLs) for each of its managed fisheries that may not exceed the fishing level recommendations of its SSC. The FMP shall establish a mechanism for specifying ACLs in the plan, including a multi-year plan, implementing regulations or annual specifications at a level such that overfishing does not occur in the fishery, including measures to ensure accountability, which are called Accountability Measures. Unless otherwise provided for under an international agreement, the above amendments shall take effect in fishery year 2010 for fisheries determined by the Secretary to be subject to overfishing and in fishery year 2011 for all other fisheries.

Hamilton also presented MSRA text indicating that not later than 24 months after the date of the enactment of the MSRA [i.e. the end of 2008] each Council shall transmit amendments to comply with this section. she went on to review previous Council recommendations regarding ACLs. These were primarily based on SSC recommendations. First regarding shared stocks the Council recommended that each Council should address those resources directly under its control but in accordance with international obligations. Regarding stocks shared with states, Councils should work with local authorities to encourage their responsible management.

The Council has also previously recommended that ACLs be implemented based on a risk-ranking process with those that are at highest risk of overfishing getting ACLs first. The Council suggested as one potential risk ranking tool the Australian "Ecological Risk Assessment" (ERA) model. Hamilton informed the Council that since their last meeting, staff held an ERA workshop with PIFSC and PIRO staff as well as SSC members to investigate this approach. Dave Kirby attended from Australia and demonstrated the ERA model. Although interesting and useful for many purposes, it turned out not to be designed to measure the risk of overfishing.

At an ACL workshop held in Honolulu last year by NMFS Headquarters staff, a "two-bin" approach to implementing ACLs was suggested. The first bin would contain "OY" or major target species and the second would contain "Ecosystem Component" species which comprise all other management unit species (MUS) in a given FMP and would not receive ACLs. Both the SSC and the Council rejected that approach, primarily because NMFS staff stated that the species in the Ecosystem Component would then be designated as MUS for the purpose of information collection only and active management of any these species under the MSRA would not be allowed until MSY values were estimated for them. Both the SSC and Council were concerned that that would reduce the management capability for the majority of Western Pacific FMP MUS because there are no MSY estimates for many nonpelagic species.

The Council also recommended that a risk assessment evaluation for Western Pacific MUS be initiated by PIFSC as soon as possible. As described above, the Council held a workshop to investigate the usefulness of the ERA approach, however it was found not be to designed or appropriate for assessing the risk of overfishing.

Regarding data poor stocks, the Council expressed concern with the idea expressed by NMFS in their Honolulu workshop that Restrepo types of controls should be used in these situations as MSY estimates are not available. Restrepo controls basically say that in data poor situations, the allowable catch should be a fraction of recent average catches. The Council recommended that other approaches also be accepted if well documented, and provided several additional approaches as examples. Following up on this recommendation the Council recently held an MSY proxy workshop to consider alternatives to MSY that would be acceptable in setting ACLs.

The Council also expressed concern with the implication that lower-valued species are less vulnerable and higher-valued species are more vulnerable to overfishing. It would appear to be the case that if a species is worth a lot of money, people are going to fish harder for it. However it is also important to look at the cultural and economic importance of the species to local and regional markets, as well as existing nonmarket fish distribution channels. If these are strong they can also increase the risk of overfishing.

Regarding stock complexes Headquarters staff had put forth four potential criteria that they thought should be met before a group of species would be defined as a stock complex and thus eligible for a combined ACL. The SSC and Council noted that if those four criteria were met, it actually wouldn't need to be a complex. However if a complex is used and some species within that complex are used as indicators, it should be the low productivity species as these are slower to reproduce and at greater risk of overfishing.

Regarding pulse fisheries such as akule, it's difficult to set an ACL for species that may have a big boom one year as if the ACL is set based on a big year and the next year is a low year, there is a potential for overfishing. However if the ACL is set based on a low year, when the pulse comes the ACL will unnecessarily restrict harvests. The SSC and Council recommended using multi-year averaging for pulse fisheries if there's enough data to capture the cycles over time. Hamilton then turned to the task at hand which is meeting the two immediate MSRA requirements. The first one is establishing a mechanism for specifying the ACLs. The second is implementing the ACLs in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing, in our region, those are bigeye and Main Hawaiian Islands bottomfish. She first presented a range of alternatives put together by Council staff and reviewed by the SSC for establishing ACLs mechanisms. She noted that she had put the term ACL in quotations throughout her presentation as, after talking to some folks at PIRO, she was not entirely sure what an ACL is beyond the MSRA text and was thus using the term in a general sense. She informed the Council she had asked Mark Nelson from PIRO to provide a little more information on how Headquarters is now looking at the definition of an ACL. PIRO anticipates that NMFS will provide specific guidance on establishing and implementing ACLs sometime later this year.

Regarding Issue 1, under Alternative 1A, ACLs would be determined and implemented based on risk of overfishing with those most at risk being addressed first. Under Alternative 1B, ACLs would be determined and implemented only for those MUS where MSY values are known. This alternative would not consider risk but instead the availability of MSY estimates. Under Alternative 1C, ACLs would be determined and implemented for all MUS simultaneously. Alternative 1D is the no action alternative, as required under NEPA. Alternative 1E came from the SSC and would determine and implement ACLs where MSY values are known and use risk ranking to prioritize ACL implementation for the remaining species. This can be seen as a compromise or combination of Alternatives 1A and 1B.

Hamilton then presented a brief summary of the impacts of the above alternatives. She noted that Alternative 1A would use available resources efficiently and address risk. It would also make all MUS eligible for ACLs, in contrast to the two-bin approach in which the ecosystem component species would not be considered for ACLs. On the negative side, not all of the MUS get their ACLs at the same time.

Alternative 1B would use available information, but would not consider the risk of overfishing for each MUS. In addition MSY estimates are lacking for many Western Pacific MUS, and this alternative would be inconsistent with the MSRA.

Alternative 1C would determine and implement ACLs for all MUS simultaneously; however the basis for setting them is unclear without MSYs or MSY proxies. It would also require tremendous Agency resources to determine, implement and monitor and it's unclear if that's feasible.

Alternative 1D would be cheap and easy but it's inconsistent with MSRA, and overfishing of some MUS may occur.

Alternative 1E would use the best available information and then risk order. However, and this applies to many of the alternatives, an MSY is not an ACL and further work will be needed. For example many pelagic species have Pacific-wide MSY estimates and it seems unlikely that they are going to be the appropriate MSY estimates for any of the fisheries managed by this Council. This will also be an issue for MUS that are shared with State waters. It is unclear whether MSRA directs Councils to set ACLs only for fishing in EEZ waters, or for all fishing on a given species. Hamilton then presented a range of alternatives for Issue 2 which is the implementation of ACLs for bigeye and Main Hawaiian Islands bottomfish.

Under Alternative 2A ACLs would be implemented for these species based on existing quotas. So this would be the RFMO quota for longline bigeye and the Main Hawaiian Islands bottomfish cap. These would be the amount of fish the fishery was allowed to catch before it would be closed. Alternative 2B would implement ACLs that differ from existing quotas. Alternative 2C would be the no action alternative. Alternative 2D is again from the SSC and would set the ACLs based upon stock assessments with consideration of regional impacts and of international agreements. The SSC was thinking about the tuna species that have been addressed by international agreements and they felt that at least some of the quotas the RFMOs are setting do not consider regional impacts, specifically fishing in our region is not considered by these scientists and by some of the MultiFAN stock assessments to have the same impact on the species as fishing in other regions, and they felt that this should be taken into account. In other words, the SSC feels that the RFMO quotas are perhaps not based on the best available science.

Hamilton then presented a summary of the anticipated impacts of the above alternatives. Alternative 2A would be consistent with the international agreements and NMFS' stock assessments; however the SSC would say that the international quotas are not always based on the best available science. Alternative 2B would be inconsistent with international agreements and NMFS stock assessments and the basis for using different ACLs is a bit unclear at this point. Alternative 2C would again be cheap and easy, but inconsistent with MSRA. Alternative 2D would use the best available science but there could be problems if the ACL was higher or lower than the RFMO quota and this could affect international negotiations and the strength of the U.S. position in these negotiations.

Hamilton then reviewed the recommendations that came from the Council's advisory groups regarding Issue 1. As stated the SSC recommended determining and implementing ACLs where MSY are known and use risk ranking for the remainder. Similarly the Plan Team recommended setting ACLs where MSY values are known, but undertake efforts to explore ways to establish ACLs for other species for which little to no information is available, possibly through ERAs and workshops, or perhaps using MSY proxies. The Advisory Panel recommended determining and implementing ACLs only where MSY values are known, and the Standing Committee did not have a recommendation on this issue.

She then presented the recommendations regarding setting ACLs for bigeye and Main Hawaiian Islands bottomfish. The SSC wanted to use the regional stock assessments and also suggested that RFMOs should make better use of stock assessments to consider regional differences in fishing impacts and that NMFS should hold expert workshops to identify the five to ten species in each FMP most at risk of overfishing. The SSC recommended that this expert ranking should

consider both the likelihood and consequences of overfishing. The thinking behind the SSC's recommendation was to get moving on the risk ranking and it was felt that scientific experts could probably examine the catch and effort data and available information, stock assessments and such, and probably be able to provide an expert-based intuitive ranking of the five to ten species in each FMP most at risk of overfishing. This would give the Council something to get started with. The Plan Team, Advisory Panel and Standing Committee did not have recommendations on this issue.

Hamilton then asked Mark Nelson to come up and talk about what he believes Headquarters will include in their proposed guidance on ACLs. She stated that it expected that the proposed guidance will be issued around June of this year, with final guidance expected in September. Mr. Nelson began by emphasizing that the proposed guidance is not yet finalized and could be changed. He also stated that he had heard that June or July is the expected timeframe but it could be delayed and he feels that moving forward on a rule which has not been published yet may be a little premature. He went on to present several slides regarding the likely proposed guidance, beginning with the need to define the terms overfishing limit (OFL), acceptable biological catch (ABC), annual catch limit (ACL) and annual catch target (ACT). He stated that the OFL corresponds with the MSY and the ACT would correspond with the Optimum Yield. The difference between the OFL and down through ABC, ACL and ACT are various levels of buffers to deal with scientific and management uncertainty. The buffer between OFL and the ABC would be the scientific uncertainty of the point estimate of the stock assessment and the OFL. He went on to say that the is something that people at the Science Center will be able to calculate and provide to the SSC, given that the Council would need to come with a acceptable level of risk. He compared this to the risk assessment model that PIFSC has done for the bottomfish fishery. Given an acceptable level of risk for overfishing, the Science Center would then calculate an ABC, which they would present to the SSC for review and recommendation to the Council.

Mr. Nelson stated that at this point the Council would set the ACL anywhere at ABC or below it. The ACT would be analogous to what has been called the total allowable catch and would be the harvest quota that is being aimed for. Then there would be another buffer set between the ACT and the ACL to account the ability to manage to that point. This is where the accountability measures would come in as if the ACL was exceeded the accountability measures would kick in. Mr. Nelson noted that it is expected that the Council would have a lot of flexibility in deciding what the accountability measures would be, whether it's closing the fishery, dealing with overages, payback, so on and so forth.

He then summarized the likely proposed guidance in six easy steps: First the Science Center, mostly likely, or maybe an RFMO, would come up with some sort of stock assessment that would calculate the overfishing level. Then the Council would apply its acceptable risk level which would lead to the ABC. The ABC would go to the SSC, which would make a recommendation. Then the Council would set an ACL at or below an ABC. Finally the Council would set a buffer between the ACL and the ACT based on the management ability to meet that target. If the Council felt that the ACT could be managed very closely, it could set the ACT very close to the ACL. He emphasized that the accountability measures only kick in if the ACL is exceeded.

Dr. Dela Cruz thanked Mr. Nelson for his presentation and asked if the Council members had any questions for Mr. Nelson or Ms. Hamilton. Mr. Gaffney asked if the Council could get a copy of Mr. Nelson's presentation as he found it to be a useful dictionary of terms, Mr. Nelson agreed to provide it but again emphasized that the proposed guidance could differ from his presentation.
Mr. Robinson asked Mr. Nelson for his feelings on the level of consistency between what's in the proposed rule and the alternatives being considered by the Council. Mr. Nelson responded that several of the alternatives were fairly involved and could be contrary to the proposed guidance. He went on to say that he thought it would be a shame for the Council to move down a path and then have to change course once the guidance finally comes out.

Hamilton asked to clarify a few points, saying that it looked like it would be helpful to ask NMFS to give a full presentation on this issue at the next Council meeting and that hopefully their thinking will have solidified at that point, and the Council could make adjustments to their course as necessary. She also noted that the issue of management uncertainty is likely to be very important in the Western Pacific region and especially in the Mariana Archipelago. Management uncertainty reflects the ability to monitor and control a fishery to keep it at its ACL. The less certainty there is on this, the smaller the ACL is supposed to be. Given that CNMI and Guam they share only one enforcement officer and there is no comprehensive monitoring program the management uncertainty is probably about 99 percent. So under Mr. Nelson's proposal the ACLs would be minuscule, but because there's no enforcement, it seems that people would just keep fishing. There is a currently a severe lack of Federal resources to reduce the uncertainty regarding monitoring and enforcement.

Mr. Robinson noted that the MSRA indicates that the Council is not required to implement ACLs for stocks (such as bigeye) that are managed by international fishery management organizations to which the U.S. is a party. However there are other fisheries that take bigeye, such as the troll and handline fishery and it seems to him that the key word in the international exemption is "stock", if a stock is managed by an international body to which the U.S. is a party, then that again exempts the Council from requiring an ACL domestically.

Hamilton responded that she took his point about the use of the word "stock" and noted that because the RFMO did not find it necessary to put quotas on non-longline catches of bigeye, Alternative 2A would not do so. As far as being exempted from being required to have an ACL, the Council is not prohibited from doing so.Mr. Robinson then commented that he was just a little reluctant to go too far down the road without having the proposed guidance from the Agency just so the Council doesn't have to back up. He went on to say that on the other hand there's a lot of work that can be done to get us down the road without conflicting too much with what the proposed rule is, particularly working on risk assessment methodologies, and that sort of thing.

Hamilton responded that she agreed but this initial Council action would get the process rolling and that NMFS has indicated that there's not going to be flexibility with the MSRA timeline that requires an amendment by the end of 2008. She stated that she was worried that if the Council doesn't get started now, it's going to be a mad scramble, especially if the final guidance doesn't

come until September. So the thinking is to get started on this complex issue now, with final Council action expected in June or October.

2. Council Five-year Research Priorities
Mr. Dela Cruz called on Council staff member Paul Dalzell to present on the new MSRA requirement for Councils to prepare and transmit to their NMFS five-year research priorities. Dalzell reviewed the applicable MSRA text and noted that it does not include a statutory timeline. He then presented potential research priorities which Council staff had compiled based on previous recommendations from the Council and other groups such as PFRP and NMFS/NOAA. Staff grouped these recommendations into four groups and presented them to the 97th SSC meeting. SSC members added several additional topics and then prioritized them within groups, as shown in Dalzell's presentation.

3. Status of MRIP
Mr. Dela Cruz called on John Boreman to present on MRIP, the Marine Recreational Information Program.

Mr. Boreman thanked the Council for the opportunity to present and participate in the Fishers Forums. He said it was enlightening and found that they still have a lot of work to do, but felt that they were on the right track.He said that the goal of the Marine Informational Initiative is to build a new program to improve the collection, analysis and use of recreational data. He said that he uses the word "recreational" because that is what Congress used and noted that when he gets back to Washington he'll work on educating Congress that fishing is more than just going out there for fun. He said that one of the jobs of the Executive Steering Committee is to rethink how we're going to characterize this. The overall goal is to become the trusted source for saltwater recreational fishing data, saltwater noncommercial fishing data.

Boreman presented a brief background on the initiative and reported that they had a survey in place for most of the United States and territories since 1979 with the Marine Recreational Fisheries Statistical Survey, MRFSS. Over the years it's been used more and more, greater demand for the data, beyond the capabilities and limitations of the data. With that, it came to a head around a decade ago in certain parts of the country where they were trying to use the data for allocations among states setting quotas in recreational fishing, as well as allocations between commercial and recreational fishing. That created a lot of heartache, a lot of attention and the data, itself, was subject to a lot of criticism. People started picking the data apart, finding things that are wrong with the data.

About seven years ago or so, the agency took it upon themselves to start investigating, looking for the potential sources of bias, getting feedback from people, wherever they may be, and starting projects in that time. The NMFS engaged the National Research Council to do an independent review of all the marine recreational surveys that are conducted in this country. That review came out in a report in April of 2006 that they presented to Capitol Hill. Congress turned around, and in their Magnuson Act amendments required us to totally redo the marine recreational surveys and at the same time instituted a National Saltwater Registry.

He said that if they succeed here, a world where people will believe in the data because they

hope that they will be helping them collect the data, they will want to cooperate in data collection, as well as the analysis, and the decisions themselves, these are the management decisions that usually get debated in Fishery Management Councils will be decisions about regulations and allocations, as opposed to debate centering on the accuracy of the underlying data.

Starting in 2006 with the recommendations that NMFS put together currently in our agency, as well as the amendments to the Magnuson Act. Shortly thereafter, around the same time, NMFS started to reorganize themselves to establish an Executive Steering Committee, an Operations Team, an Outreach and Communications Team and a Registry Team. He said that under the Operations Team they have initially established six working groups but since condensed that down to five working groups. He said that the NMFS has somewhere between 80 and 100 people around the country involved in this process from all walks of life, managers, stock assessment scientists, state scientists and managers, as well as the representatives from the recreational fishing industry.

Boreman reported that NMFS is spending about three and a half million dollars this year on research projects to help ferret out what the biases are on our current survey and what we've learned from our current information, as well as starting to investigate new methodologies for collecting the information. The initial results will be available sometime around June, at which time NMFS is going to put together a blueprint for what the new design may look like and get that out for public comment. Based on public comment, NMFS is going to have a draft plan we're going to submit and hopefully have the framework implemented by January of 2009, which is mandated by Congress. As new information comes in as NMFS develops these new methodologies, they can float them into this blueprint and refine the new survey design over the next few years. He said that they intend to start this new survey perhaps regionally, perhaps on a lower scale.

He said the survey will start in 2009 running it side-by-side with current surveys, not only the MRFSS survey, but the survey in Texas, the surveys on the West Coast, the Hawaii MRFS survey, and so on, and learn from one to the other, and see how well one picks up on addressing the biases and levels of precision that the other isn't.

Boreman also reported on the redesign of the current programs and noted that a lot of the recommendations by scientists were extremely valid. One important thing that they did mention in their survey is it recommended a universal sampling frame for all saltwater anglers. Right now, the survey is randomly picking numbers out of a phone book in just the coastal counties of the United States. That's very inefficient, a very low hit level in terms of hitting a household that we actually do have recreational fishermen, and it is missing a large part of the country, too. So they recommended redesigning the sampling frame for households and focusing on those people who go fishing, developing a virtual phone book. They said this has to be across the board without exceptions, even though we may have a problem doing it without any exceptions or exemptions. Some of the concerns the scientists raised were that estimates of catch and effort may be biased too high or too low.

He said the NMFS feels that the survey needs to be regionalized, it needs to be customized in

each part of the country because fisheries are different in each part of the country. What that calls for is an intense effort for database management. So MRIP has a working group that is just focusing on setting up some national standards for how to combine this data, how to be inter-digitize among all the different individual surveys and collecting and getting the national overview that is needed.

In terms of funding, Boreman reported that the current data collection program, the MRFSS Program, receives about $8 million a year by the Agency, and that's in addition to what the states are spending, which is another couple of million or so. So that's basically a $10 million program. In FY07, the new funding received for MRIP was about two and a half million. This year, NMFS received three and a half million on top of the two and a half million. In the President's budget for the MSRA, NMFS asked for about six and a half million dollars. Of this request, three and a half million out of that six and a half million was specifically for this program. NOAA Fisheries recently approved two and a half million dollars in new funding for at least 16 projects being conducted this year. He then presented a list of things that NMFS is looking at:

- A nationwide project to support new methods of estimating catch and effort.
- Nationwide project to develop common data standards across all saltwater recreational data collection programs.
- A regional project with new ways to count released fish.
- A regional project to conduct effort surveys using a list of fishermen.

Boreman listed a few of the issues being worked on currently:

- Better estimating total mortality
- Better estimating night fishing
- Increasing fisher participation in data collection
- Investigating the best way to use the registry requirement

In terms of the saltwater registry, Boreman said the National Research Council strongly recommended a universal registry with no exceptions. He said that Congress did authorize a national registry in response to the NRC's recommendation, but didn't authorize it for state waters, just federal waters, just EEZ waters. He said that the only time the national registry would be applied in state waters is that if there are anadromous fish that are being caught in the state waters and that are under a Federal Fishery Management Plan. He said that Congress decided they didn't want to overrule the state's rights but it makes it a little more difficult for them and gives them further incentive to partner with the state agencies in order to have a sampling frame for marine recreational fishing that covers both state waters and the EEZ as seamless as possible.

Boreman said that the registry covers fishing in the EEZ and has to be in place beginning January 1st, 2009 and that there's no fee before January 1st, 2011. In terms of the fee, he said that one of the issues there is that if they do charge a fee, they cannot use those funds for management, research or to recover the administrative cost of running the registry. That money would revert directly to the Department of Treasury to pay off the national debt. He said that is an issue right now that's causing a lot of the states right now who don't have license programs to move forward and get a license program, figuring if they're going to have their anglers pay a fee for fishing, that fee should roll back into the state and be used for state management rather than

just disappear into the federal coffers.

He also reported on exemptions to the registry. He said that if the state has a license program that's collecting the contact information that we need for our national registry, and the purpose of the registry is to develop that contact information so we can improve efficiency in calling people who have gone fishing or intend to go fishing. Also, another exemption could be if the State is already collecting the information that we need that we would be using that contact information for. In other words, they're already estimating fishing effort in their state and the number of participants by age, and so on and so forth, then they can get an exemption as long as they provide NMFS with those data. Either the state individual survey or a regional survey conducted across several states, or in this case, several territories. They have been talking about doing something like that in the Western Pacific.

He said that he is not anxious to have a national registry because it would be going under his office and there are not getting the funding to support it right now. So it would be another job that they'd have to do, so he'd just as soon as have the states do that.

Boreman said the key to the success of the new survey is understanding the uniqueness of the fisheries. He reported that his team was in Hawaii several weeks ago touring the Hawaiian Islands and also talking with representatives from Guam and the Northern Marianas on conference calls just to get feedback on what the issues are out here.

He said that a proposed rule on the National Saltwater Angler Registry is in OMB right now. They're supposed to take no more than 90 days, but there are ways they can use to delay that. Hopefully, it will move through quickly. When that does come out, he said that he encouraged everyone to take a look at it to make sure the definitions are okay, and how they're handling the exemption process is okay. If not, they need to know about it, because this is going to affect everyone who out there in a noncommercial fishing mode. He said that hopefully by August or so, they hope to release the program blueprints so everyone can get a sense of what the new survey structure is going to look like and provide comments on that, too, before they commit themselves in January '09 for the real deal.

Mr. Dela Cruz asked for questions. He called on Mr. Martin. Mr. Martin thanked Boreman for travelling a long distance to report at the meeting.

Mr. Dela Cruz called on Mr. Duerr. Mr. Duerr asked what the most common obstacle has been in presenting this all over the country.

Boreman replied that the people who are opposed to any type of national registry are the biggest obstacles. To address these obstacles, they are developing education and outreach programs and hiring professional people who do this for a living. They need these people who know how to handle the media and get the word out. In the Western Pacific, funding is being put into putting together brochures and ads to start the process of educating people.

Mr. Dela Cruz called on Mr. Tulafono.Mr. Tulafono asked if Boreman was going to American Samoa.Boreman replied that if Tulafono arranged it, he would be there.

Mr. Dela Cruz called on Mr. Sablan. Mr. Sablan said that the CNMI has different ethnic groups including the Chamorro, Carolinians, and the Chamolinians so that they can be sensitive to the cultures. He said he would like that taken into consideration. Boreman replied that it was a problem they ran into in other places as well and they would take that into consideration in the future.

Mr. Dela Cruz asked for further questions. Hearing none, he moved on to the next agenda item.

4. NEPA Coordination

Mr. Eric Kingma, Council staff, presented a brief report on NEPA activities of the Council and coordination with the Fisheries Service.

He reported that the Bottomfish Amendment 14 Final Supplemental EIS had its ROD signed off on recently. He reported that there is another NEPA document that's outstanding, the Final Programmatic EIS for the Fishery Ecosystem Plans. That one is, he believes, near the final stages of that review and the ROD should be signed by this summer.

The last item Kingma reported on which is document 16.A.4.1 in the books, is a letter from the Executive Director of the North Pacific Fishery Management Council. It's regarding the Magnuson-Stevens Reauthorization Act. In that act there is a provision -- an entire section for the Fisheries Service in consultation with the Regional Fishery Management Councils and the public and the CDQ to revise the Environmental Review Process for the Magnuson-Stevens Act and NEPA. The threshold intent there is to come out with one review process. The Congress directed the Fisheries Service to get the work done in less than a year time.

Kingma reported that this hasn't happened. In the letter it states the North Pacific Council, the Mid-Atlantic and South Atlantic were chosen out of the eight Regional Fisheries Management Councils to represent all the councils in the consultation process. These three councils submitted a draft strawman of revised procedures and the Fisheries Service accepted that.

Ten months later they called it back during one of the CCD meetings or CCC meetings to look at a draft proposed rule on this revised process. Kingma thinks that the representatives of the Fishery Management Councils are saying is this is an inadequate consultation process that the Fisheries Service has engaged the councils in, and the letter really strongly makes that point. He thinks the councils should consider this letter and the points made therein, or perhaps consider a recommendation to support the North Pacific Council's letter in recommending that the Fisheries Service should take these concerns seriously and adequately consult the councils on this process. Because this is a major issue for the councils and it was one of the additions to the Magnuson-Stevens Reauthorization Act so obviously Congress is serious and he hopes the Agency deals with this properly.

Another issue Kingma highlighted in this report is that some of the issues with the proposed rule that the Fisheries Service provided to the North Pacific Council and the other two councils is that the Magnuson Act seems to be subsumed under NEPA now in this proposed process. Kingma however, thinks Congressional intent had it the other way around, where the review process, the drafting, the public review periods, the reduction in duplication between FMP amendments and EIS would be melded together so you come out with one process that's easy for the public, easy for the Council and the Agency and the decision-makers to track and

follow.

He feels the NPRFMC letter highlights that there seems to be a shift in the Congressional intent or what the Agency is doing by subsuming Magnuson under NEPA and that there could be a problem for councils in that NEPA would be the ultimate guiding statute and not the Magnuson Stevens Act.

The letter also highlights this other proposed rule which Kingma read directly:

"The Secretary would have the option of determining that additional conservation and management measures are necessary. So this is a thought that the Secretary of Commerce or the Fisheries Service could add additional conservation or management measures that the Council would not have considered in their NEPA document or FMP amendment. So it could be taking away the authority of what the Magnuson Act has provided the councils".

Kingma thinks that's definitely an alarming issue and one that this Council should take a look at.

In conclusion, he hopes in the coming months that the Fisheries Service does take this issue and the issues raised by the North Pacific Council seriously that there will be a better consultation process and that these concerns are addressed in the proposed rule.

5. SSC, Peer Review, Stipends

Mr. Dela Cruz called on Council staff member Paul Dalzell to present on new MSRA text regarding SSCs, peer reviews and stipends. Dalzell explained that the Magnuson-Stevens Reauthorization Act (MSRA) provides for stipends for non-government members of SSCs. However, at this time, no guidance has been issued to Council by the Department of Commerce on the payment of stipends to SSC members.

However, the Council is planning to schedule several three day workshop ahead of the SSC meeting for the foreseeable future to deal with issues such as risk assessment, ACLs and research plans. This means that SSCs would meet from Wednesday to the Thursday of the following week. Given a day either side for travel, which 11 of the SSC members must do for the meeting, this gives a total of 9 working days. Using the same formula in the PFMC letter this gives a total number of working days of 378 days. These same 11 people are also non-federal employees (although two are territorial employees) and therefore potentially eligible for stipends.

Manny Duenas asked if MSRA allows for Advisory Panel members to receive compensation.

The Council's Executive Director, Kitty Simonds responded that this and other Councils have informed the NMFS leadership that AP members should also be eligible for stipends. But at this time the leadership is only discussing stipends for SSC members. So the Councils are awaiting that budget. Sean Martin noted that having attended several Council Chairs' meetings, it was clear that the amount of money available for SSC stipends was painfully inadequate, and NMFS needs to seriously look at the funds that it allocates for stipends in the future.

6. Proposed revisions to EFP process

Mr. Dela Cruz called on Council staff member Marcia Hamilton to present on NMFS' proposed

revisions to the Experimental Fishing Permit (EFP) process. Hamilton reviewed the new MSRA text directing the Secretary of Commerce, in consultation with the Councils, to promulgate regulations that create an expedited uniform and regionally-based process to promote the issuance where practicable of Experimental Fishing Permits not later than 180 days after the enactment of MSRA. Hamilton explained that EFPs are primarily used by the Science Center, but NMFS wanted to get comments from every Council during their Council meeting. She noted that the comment period on NMFS" proposed rule was going to end yesterday, but was extended so this Council could provide comments.

Hamilton noted that the Council's briefing materials include a document that notes that NMFS had a conference call with the Councils, the Regions and the Science Centers to discuss their draft proposed rule. The draft was then modified based on that conference call and published in the Federal Register in December 2007. There are several issues regarding the proposed rule that may be of concern to the Council and the Council may wish to comment upon.

The first is whether fish harvested under a Letter of Authorization, which is sort of a streamlined Experimental Fishing Permit, or an EFP, should be counted against a quota, a TAC or an ACL. So if fish are coming out for research, how are they handled regarding quotas or TACs or ACLs.

The second one is permit fees. NMFS deliberately didn't talk about this in the proposed rule because they felt they weren't ready to, but they are thinking of having a fee. Experimental fishing is often done by chartered fishing vessels which are commercial fishing vessels specially chartered for the research trip. The question is what would be the appropriate fee for this application for these chartered vessels. The Council may want to comment on appropriate fee levels which will not deter participation. NMFS feels that it's a lengthy process to get through these applications and they want the fee to cover their administrative costs. But if it's too high, people aren't going to be willing to apply for it.

The third issue is "compensation fishing". This is where commercial fishermen are compensated for the trip by keeping and selling the catch if it's not needed for further scientific analyses. For example, a stock assessment, they don't need to dissect the fish. They just need to catch the fish. However the proposed rule is not clear whether research on charter fishing vessels in our region would be categorized as scientific research, or not. And if it is, it is not clear if the vessel operator could sell the fish harvested for research or only the fish officially harvested as compensation fishing could be sold.

On the conference call there was talk of the fish belonging to NMFS, which could sell them and then use the proceeds to compensate the fishermen. To many on the call, that seemed unwieldy. Does NMFS really want to own or sell fish? It would seem preferable to just let the fishermen take the fish and sell it and keep the revenue as his compensation, or part of his compensation.

The next issue is whether an EFP would be needed for fishing that is not otherwise prohibited. The proposed rule implies that it would be needed but that doesn't make sense if there are no rules or regulations against the kind of fishing done.

The last issue is about cooperative research to test, for example, turtle-friendly fishing gear.

Under the proposed rule it would appear to be conservation engineering. But what about the fish that's caught? Again, could that be sold by the vessel owner? And what about bottomfish or other fish caught as part of a stock assessment, what happens to that fish? Does it belong to the vessel owner or does it belong to NMFS?

Mr. Dela Cruz asked the Council members if they had any questions. Mr. Duenas remarked on a research study done in Guam about eight years ago on the red-gilled emperor. The researchers went to an offshore bank and they fished and they retrieved the fish and they took out the gonads and they did all their testing. Then when the scientists were done, the biologists that were onboard, the crew went commercial fishing. They also used that as a baseline study on CPUE. Mr. Duenas noted that what concerned him was the establishment of a baseline followed by 12 hours of intensive commercial fishing which would seem to destroy the baseline. He asked what controls are in place to control chartered vessels when they go fishing for experimental purposes? Hamilton responded that the proposed rule doesn't speak to that, but she had heard anecdotally there have been instances in Hawaii where vessels chartered for scientific research have come across a really good catching area and they don't want to move, but the scientists said, no, we're doing an experiment, you have to move. So that is an issue, as well as deciding at what point does the experiment end and the commercial fishing begin. And the "inside information" gained by fishermen participating in the research must also be considered.

Mr. Dela Cruz asked if there were any more questions from the Council members. Hearing none he moved to the next agenda item.

B. Update on status of FMP actions

Hamilton began her customary update of Council members on the status of their previous recommendations with the Mariana Longline and Purse Seine Area Closures. She noted that the Council had taken final action on them that day and added that Council staff sent the draft document to PIRO for comments prior to the meeting but none were received. Council staff expect to get them sometime after this meeting, then there would be another round of review. The standard process is that then once PIRO has assessed it to be complete, they inform the Council that it's ready to receive the official amendment package transmittal. The Council does the official transmittal for Secretarial Review and Approval. That's called Day 1 in the case of FMP amendments. Then the proposed rule is published. The Secretary has 95 days after Day 1 to approve or disapprove the amendment. Then the final rule is published.

The Council also took final action on the American Samoa Purse Seine Area Closure (with initial and separate action to begin examining the use of FADs). This document was also sent to PIRO for comments prior to the meeting but none were received. Council staff expect to get them sometime after this meeting, then there would be another round of review and the same process as above.

The Council also took final action on reopening the American Samoa longline modifications. This document will be updated and then go to PIRO for review.

The issue of Hawaii Offshore Handline Permits and Potential Limited Entry was not addressed at this Council meeting but is on the agenda for the 141st Council meeting in June where final

action is anticipated. Then a couple of more reviews, the same process.

The draft amendment addressing Hawaii swordfish effort was sent to PIRO for comments on February 6th and PIRO did send comments which were addressed in the Council's document. The Council may take final action at the 141st meeting in June or it may not happen until October, depending on the events proceed and how the science becomes available.

Regarding squid management the Council took final action at this meeting. Council staff expect to get comments back from PIRO at some point on the document that we sent to them. Then one more review, goes through the process, proposed rule, approval, disapproval, final rule.

The Council hasn't taken final action on the amendment to allow future CDPs as PIRO has recommended pulling it back to expand upon the document to include the implementation process. Council staff will be working on that document.

The Council took initial action on ACLs at their 139th meeting and further action was taken today. Council staff anticipated final action in June, but that might no happen until October. Again, depending on how science and documentation and reviews proceed. But that one really needs to get transmitted by the end of the year.

The Hawaii Marine Conservation Plan was sent to PIRO for approval on November 7th. There is no word yet on whether its been approved or disapproved. At this meeting the Council took final action to approve the American Samoa MCP. The next step will be for the Governor to send it to PIRO for approval and to approve or disapprove it, then PIRO will notify the Governor and the Council. The next MCP to be considered will be Guam, then CNMI. By then, three years will probably be up and the Council will start over again with Hawaii, because these are three-year plans.

Bottomfish FMP Amendment 14 to Address Overfishing has been approved and the final rule is expected to be out as soon as possible as the fishery is approaching its TAC and NMFS wants to move quickly to get that fishery closed, but they need to coordinate with the State. The proposed rule is attached to the Council's document.

At the 134th and the 135th Council meetings the Council made a series of recommendations about the Northwestern Hawaiian Islands Monument, This document was sent to PIRO for review August 10th, who responded that they were was backed up and would get back to us at a later date on that. Council staff hopes to be hearing from them soon.

Finally we've heard that there's been progress on the Biological Opinions, the ESA Consultations needed to process the FEPs. The FEPs themselves are over at PIRO and Council staff hope to be get any necessary comments or other feedback relatively soon. Then needed changes will be made, followed by formal transmittal, the proposed rule approval or disapproval and the final rule.

Hearing no questions from the Council members Mr. Dela Cruz moved to the next agenda item.

1. CNMI Bottomfish Logbooks
Mr. Dela Cruz asked Hamilton to continue with the presentation on CNMI bottomfish logbooks. Hamilton explained that the impetus for this was to preserve indigenous cultures through the use of local language for fish names. The Council previously recommended and NMFS did include the Samoan names along with the English names in the logbooks. As eloquently described by Council member Frank McCoy, if folks stop using their traditional language and traditional fish names, a little bit of the culture dies. So the purpose of this action is to retain indigenous cultural and traditions and languages. As a starting point Council staff put together a table of local fish names as used in the Mariana Archipelago FEP. This was sent to the local management agencies for feedback and some responses were received, but some of it was not completely clear. So this is just a starting point right now. Council staff thought that perhaps the Council would recommend that NMFS include fish names in the local indigenous languages, in all the federal logbooks and reporting forms. Sales reports are also going to be required for some folks in CNMI and a blanket recommendation that says, in all logbooks and reporting forms.

Hearing no questions from the Council members Mr. Dela Cruz moved to the next agenda item.

2. Barter/Trade Issues
Mr. Dela Cruz asked Hamilton to continue with the presentation on barter and trade issues. Hamilton noted that the Magnuson Act defines commercial fishing as fishing which the fish harvested either in whole or part are intended to enter commerce through sale, barter or trade. So commercial fishing includes barter and trade under the Magnuson Act. The concern was that this definition might not be appropriate for the fishing or fisheries in this region, because there is subsistence and artisanal fishing, which involves bartering, trading and traditional sharing of fish. The Council may want to refine the definition of commercial fishing so that it can separate out these small-scale fisheries and give them their own management system. The North Pacific Council has dealt with this issue in its halibut fishery by allowing low levels of sales by subsistence fishermen, as shown in the Council's document which includes the Federal Register Notice.

The FR notice says commercial fishing means fishing the resulting catch of which either is or is intended to be sold or bargained, but does not include subsistence fishing. Subsistence fishing is defined as: Subsistence halibut means halibut caught by a rural resident or a member of an Alaskan Native Tribe for direct and personal or family consumption as food, sharing for personal or family consumption, as food or customary trade. It goes on to say that subsistence fishing for halibut is allowed by one who holds a Subsistence Halibut Registration Certificate. They may engage in a customary trade of subsistence halibut through monetary exchange of no more than $400 per year.The Council may want to consider beginning to investigate what would be appropriate definitions and beginning to separate out those barter, trade, subsistence, artisanal fisheries.

Mr. Dela Cruz asked Hamilton to move to the next agenda item, with Council members' questions to be taken afterwards.

C. Potential Permit Fees

Hamilton referred to a letter in the Council members' materials that was received from NMFS Headquarters. Attached to the letter was a draft policy indicating that it's NMFS' desire to charge fees for all fishing permits - there would be no free permits. However there are a couple free permits in Council managed fisheries at this time. Also provided to Council members was text from the Magnuson Act; "Any Fishery Management Plan that is prepared with respect to any fishery may require a permit to be obtained from and fees to be paid to the Secretary with respect to any fishing vessel, et cetera, et cetera." This means that at this time under the Magnuson Act FMP permits and permit fees are a discretionary provision, not a requirement. The Council also has a Federal Register Notice published last January by the OMB, Office of Management and Budget, and they called this Agency Good Guidance Practices. This talks specifically about the process by which policies can be enacted that would have significant economic impacts on fishery participants, and this kind of seems to fit that description. If NMFS' proposed policy fits that description, it's supposed to be put out for public comment and review and go through a regulatory process rather than being done informally, as seems to be what's being done here. However the policy is not signed yet, so perhaps NMFS is considering going through that process.

Mr. Dela Cruz asked if the Council members if they had any questions regarding Hamilton's presentations. Mr. Duerr stated that a $400 limit on sales would be extremely low given the price of fuel today and indicated that an appropriate threshold might be double that.

Mr. DeRoma commented that under Magnuson Act,t the definition of commercial fishing it clearly says that if you are using fish for barter and trade purposes, i.e., barter and trade where the intent attempt of the fish is to enter the stream of commerce, that is commercial fishing. The Alaska regulations were promulgated not under Magnuson, but under a North Pacific Halibut Act -- Treaty Act. That act does not have a definition of a commercial fishery or commercial fishing. So there's substantially more leeway on the Secretary's behalf in developing a subsistence type exemption. He noted that establishing such a definition under the Magnuson Act is not impossible but it is not guaranteed to succeed either.

D. Status of Marine Conservation Plans

Mr. Bill Robinson reported on the status of the MCPs. He said that PIRO has received the Hawaii Marine Conservation Plan. He gave a brief update on the approval process. Up until now the approval process was that the Marine Conservation Plans were approved in Headquarters by the AA and sometimes it took a real long time. The regional offices have been seeking delegation to the Region to approve Marine Conservation Plans in the future. That delegation was received. They're in the process of developing a procedure within the Region to review and approve those plans, and that should be completed very shortly. He hopes they can approve the Hawaii plan first, and the other plans very quickly after they come to the region.
Mr. Robinson was asked by Mr. Dala Cruz if PIRO received CNMI's Marine Conservation Plan to which Robinson said yes.

E. Western Pacific Cooperative Research Priorities

Ms. Kelly Finn presented an overview of the Western Pacific Cooperative Research Priorities. She first gave an overview of the Cooperative Research Program (CRP). Cooperative research provides a means for fishermen to be involved in gathering data, which is used in management decisions. Congress funds this in part to help NMFS increase the confidence of the fishing community in the data that's used to manage their fisheries. She described the history of this program in the Western Pacific Region:

In 2001 NMFS came out to the Council and presented this program to Council members and told them that there were funds available.

In 2002, the Council and NMFS held workshops out in the island areas, American Samoa, Guam and CNMI, to explain the process. They put together a list of potential research priorities for each area.

After that point, funding was never fully realized to the extent that they could fund more than one project. So other than funding these workshops, the Northwestern Hawaiian Islands lobster tagging is the only project that has been funded through this program.

The new Magnuson-Stevens Act, when it was reauthorized, included Section 318, which specifically addresses the Cooperative Research Process. Another thing that's changed is that the funding for this program has increased to over $10 million, and it's currently not known how much of this funding will end up in our Region, but it could potentially be one-sixth of that, or over a million dollars.

Section 318(b) of the Reauthorized Magnuson-Stevens Act specifically addresses the Council's role in the Cooperative Research Process. It states:

Funds will be made available for the support of projects to address critical needs identified by the Councils in consultation with the Secretary, which would be NMFS, and that the Council will also play an important role in joining together researchers from different agencies with fishery participants that would be interested in participating on research projects.

Section 318(c) goes on to talk about the funding. It says:

In making the funds available the Secretary shall award funding on a competitive basis based on these regional fishery management needs and research will be selected that solves priority issues identified by the councils.

Then they have five categories that will be receiving funding and priorities.

The first category is to collect data for the use of stock assessments.

The second category deals with assessing bycatch and post-release mortality occurring in a fishery.

The third category is the conservation engineering projects, which are also related to bycatch reduction.

And also, this includes reducing bycatch in high seas fisheries and transferring technologies to other nations that also fish on the high seas.

The fourth category is identification of habitat areas of concern and habitat conservation.

The last category is to collect and compile economic and social data.

Council staff put together a matrix of critical needs, and then potential projects that could meet these needs by making a list under each of the five categories and including a sixth category, Other Council Needs.

The first need was to complete stock assessments. Potential projects would be: Gathering bottomfish life history data out in these areas. Life history data on other species of importance, probably reef fish, which identified by the Council risk ranking, which was already talked about.

Other stock assessment information could be gotten through tagging studies of pelagic species, bottomfish species and fishery-independent studies on bottomfish.

To improve fishery monitoring, testing new technology-based systems such as the E-logs and Automated Information Systems and testing out a logbook program to determine the rec catch and effort.

To improve bycatch reduction, under the second category, testing methods of longline fishing to avoid catch of epipelagic species, Post-release mortality studies on loggerheads, Assessment studies on Japanese pound net fisheries to quantify sea turtle bycatch.

The projects that are in yellow were added by the SSC at their recommendation.

To aid in reduction of bycatch in high seas fisheries: Developing and distributing outreach material to export our protected species mitigation measures to foreign fleets, Conducting fishery-related marine mammal interaction research.

Under the fourth category, monitor habitat conservation effectiveness:

To conduct studies in the different MPAs or Marine Managed Areas using fishermen to design and participate in the studies, looking at larval distribution of bottomfish in the Northwestern Hawaiian Islands and Main Hawaiian Islands to determine the degree of connectivity.

For habitat identification: studying the seasonal movement pattern and residence times of pelagic species around American Samoa, tagging studies to examine residency of yellowfin and bigeye in Hawaiian waters.

The fifth category, to compile economic data:

Gathering baseline economic research in the outer island areas, such as a cost-earnings study to promote fishery development in island areas, and investigating potential avenues for fishery development in the island areas.

To address noncommercial fishery issues:

Develop community-based noncommercial monitoring and assessment, which would include involvement of community members.

In the additional Council need category, to improve fisheries by studying the problem and solutions to shark depredation. And to increase understanding of our fishery communities, document historic use patterns and cultural values of the marine and terrestrial environments and document historical changes to shorelines and develop references for changes over time.
Then she explained the matrix which was put together to determine how the process will unfold. In other words, how it goes form this list of critical needs to getting the research done.

There's three different options, which is basically who takes the lead at each step, including:

Generate a list of critical needs.

Identify projects to support critical needs.

Review projects and prioritize.

Select the projects.

The solicitation process and RFPs.

Proposal review and awarding the contracts.

Monitoring the projects.

And a periodic review of the program.

At each step there are different agencies that could be in the lead, but there are some qualifiers which I put in the far-right column. Because a few of the steps would have to be done by specific entities and for certain steps NMFS would have to take the lead in a certain role.

This was presented at the SSC meeting. Their additions and changes to the list of potential projects were the ones that were in yellow. For the process, they had no recommendation.

This was also presented at the Advisory Panels. In CNMI, their recommendation was to focus on nearshore fisheries and that the Advisory Panel should be involved in the program development. The Plan Team in CNMI recommended to provide better biological and catch information on the Northern bottomfish and coral reef fisheries.

F. Legislative Report

Mr. Mark Mitsuyasu reported in lieu of Charlie Ka'ai'ai, who was not present. In the Council briefing books is a report that includes a number of bills that were introduced in the Hawaii Legislature this year relating to fishing and some of the issues that the Council follows.

Also, in there is a list of the congressional type bills that have been introduced over the past year or so that we also have an interest in. The most important bills that we were tracking this session had to deal with the bottomfish fishery and I think Laura Thielen provided an update on that, where those bills were.

Mr, Mitsuyasu asked Ms. Thielen with regards to the two Hawaii bills, if they're still alive in the legislature. Ms. Thielen stated that they're still alive, and that she received notice that they're going to be heard in the Senate on Tuesday.

G. SSC Recommendations

Miss Hamilton reported in lieu of Dr. Callaghan.

Under Program Planning, the SSC had discussed two issues, regarding the five-year research priorities. The five-year research priorities stand for themselves in the presentation by Kelly Finn. She discussed their input into that. Regarding the Annual Catch Limits, the SSC recognized that the Annual Catch Limits are influx and in development and made the following recommendations:

Regarding the alternatives for ACL mechanisms, the SSC recommends adopting a modified alternative that includes using ACLs for those stocks having MSYs and using the likelihood and consequences of overfishing to prioritize remaining species for ACL development and implementation.

Regarding the alternatives for longline bigeye and Main Hawaiian Island bottomfish, the stocks where overfishing is occurring, the SSC recommends that ACLs be set based on the latest stock assessments with consideration of regional differences in fishing impacts and including those identified in the bigeye Multi-FAN stock assessments.

The SSC also recommends that RFMOs make better use of spatially-structured stock assessments to consider regional differences in fishing impacts, which may bear on domestic ACL requirements.

Finally, the SSC recommends that NMFS hold an expert workshop to identify the five to ten species in each FMP most at risk of overfishing.

The expert ranking process should include a ranking of both the likelihood and consequences of overfishing for different species. They said risk also encompasses consequences. Their best example was the consequence of overfishing yellowfin, a Pacific-wide stock that many countries depend upon, would perhaps be a lot more severe of overfishing, for

example than the Main Hawaiian Islands bottomfish. Although those consequences would be important for folks in Hawaii and in our fisheries, they wouldn't match the worldwide impact of overfishing yellowfin.

H. Standing Committee Recommendations

Mr. Dela Cruz reported that the Standing Committee Report on Program Planning and Research, the only recommendation of the Standing Committee is as follows:

The Standing Committee unanimously endorsed the continued development of the Cooperative Research Process priorities and process.

I. Public Hearing

There was no public comment on Program Planning.

J. Council Discussion and Action

1. ACLs

The Council's discussion and action on ACLs began with a motion by Dr. Dela Cruz to direct Council staff to prepare a draft omnibus amendment addressing ACL mechanisms and ACLs for bigeye and Main Hawaiian Islands bottomfish stocks that includes the following preliminarily preferred alternatives for Council review and final action as follows: A: Regarding ACL mechanisms: the Council recommends adopting a modified alternative that includes using ACLs for those stocks having MSYs and using the likelihood and consequences of overfishing to prioritize the remaining species for ACL development and implementation and that NMFS hold an expert workshop to identify the five to ten species in each FMP most at risk of overfishing. The expert ranking should include a ranking of both the likelihood and the consequences of overfishing for different species. B: regarding ACLs for bigeye and Main Hawaiian Islands bottomfish stocks for overfishing is occurring the Council recommends adoption of Alternative 2A, set ACLs based on the existing quotas. The Council also recommends that RFMOs make better use of spatially-structured stock assessments to consider regional differences in fishing impacts, which may bear on domestic ACL requirements.

Dr. Dela Cruz' motion was seconded by Mr. Sablan. Mr. Young asked what would happen to stocks that don't have MSYs or are not at risk or at overfishing. Hamilton responded that, as described in the full document provided to Council members, all MUS would be risk ranked and eligible for ACLs. Mr. Young asked if this was covered in the motion as it appeared to him that it covers those with MSYs and those ranked for the risk of overfishing. Hamilton clarified that all MUS would be prioritized for ACL development and implementation.

Mr. Young stated that he felt it would be inconsistent to use the current bottomfish quota as an ACL as it is likely to be reduced next year. He stated that he would prefer to wait until the June meeting when next year's bottomfish quota is expected. Hamilton responded that the motion's description is only a summary and doesn't include everything in the document. She commented that she could see that the word "existing" is problematic but if one reads the document it states that if and when the bottomfish quota is changed, that ACL would also change. It is not

anticipated that these ACLs or quotas are static. It's the same with the bigeye quota, it changes each year. She ended by saying that perhaps the motion's problematic wording could be improved by the Council.

Mr. Young asked why the Council should take action now, why not set the ACL in June. Hamilton responded that Council staff were looking at Alternative 2A as a concept regarding setting ACLs for bigeye and Main Hawaiian Islands bottomfish, not a specific number. The concept is that the ACLs would be based on the quotas as issued by RFMOs or set for Main Hawaiian Islands bottomfish each year, with the ACLs changing as the quotas are changed.

Mr. Young stated that setting the bottomfish ACL at the current quota of 178,000 pounds would put the fishery at a risk of becoming overfished, and perhaps the Main Hawaiian Islands bottomfish are already overfished. He went on to say that the motion, as written, doesn't say it's a concept of a process. It says, Council recommends adoption ACLs based on existing quotas. That means that ACL is 178,000 pounds. That's not a concept. That's a real specific number, and he is wondering why the Council would do that now when they could wait until June to set the ACL.

Mr. Martin stated that his understanding is that the Council would only be endorsing the approach and would consider the Main Hawaiian Islands bottomfish quota in June. Mr. Duenas agreed and noted that this action would be to start the mechanism by which the Council would start developing the ACLs. From his perspective he agrees with this approach and believes that choosing an approach to ACLs is a separate issue from determining the bottomfish quota. In addition, this would only be initial action, with the Council to take final action at a later date.

Mr. Young responded that under MSRA the Council must eliminate overfishing, as well as establish ACLs. He believes that if the Council took the above action it would aggravate the overfishing of Main Hawaiian Islands bottomfish as the scientists have indicated that next year's bottomfish quota may need to be around 97,000 pounds. If the Council took the above action, the ACL for bottomfish would be 178,000 pounds and this would be inconsistent with the scientist's recommendations. Mr. Martin stated that he disagrees that Alternative 2A would adopt an ACL number; he sees it as adopting an approach. Ms. Thielen asked if the Council might just vote on the first part of the motion and table the second issue until the June meeting. Mr. Duenas responded that he had no problem with removing references to Main Hawaiian Islands bottomfish but felt that the bigeye issue was already on the board as it is being addressed by the RFMO. He went on to say that including Main Hawaiian bottomfish in the motion would not preclude further or different actions in June.

Mr. Robinson stated although he does see Alternative 2A as choosing a concept rather than a number that he thinks that this action would be premature as NMFS has not yet published its guidance. In addition he believes the guidance will not focus only on ACLs but will include a process for establishing an overfishing limit that's set by the SSC, making adjustments for scientific uncertainty and establishing an ABC, reducing the ABC to the level of an ACL, for example. And then based upon management uncertainty, an ACL may be equal to or greater the ACT.

Ms. Simonds asked Mr. Robinson whether he anticipates the ACLs being something other than quotas. Mr. Robinson responded that in the vast majority of instances the ACLs will be annual quotas, although it may be possible that in some circumstances a different approach can be taken. He stated that he expects the true fishing limit to be the ACT, not the ACL and that the quota will be set in June and he doesn't believe it is imperative that the Council establish the ACL process this early.

Ms. Simonds remarked that there have been previous incidences when NMFS was slow to come out with guidance and then got sued for not meeting the associated timelines for FMP actions. She added that this is why Councils are concerned and are moving ahead, and that NMFS had previously stated that the ACL guidance would come out in 2007 but it has yet to appear.

Hamilton asked whether the word "existing" could somehow be modified to demonstrate that it's a concept, not a number, to allow staff to continue development for further consideration in the June and October meetings. She also noted that she had used the term ACL in a general sense as to date the only official information has been the MSRA text. Mr. Duenas suggested just removing the motion's text on item B and taking action on the rest of it as this would allow the Council move forward in identifying the top priority species. Ms. Thielen made a motion to do so, which was seconded by Mr. Young. Mr. Robinson noted that it may be that the Council will decide that all fishing mortality needs to be accounted for and may want to assign research catch and experimental catch to the ACL, subtract it, and set an ACT for the commercial fishery that's less than the ACL because the ACL covers more than commercial fishing mortality. He believes that these are concepts that need to be further discussed and evaluated.

The Council voted to adopt Ms. Thielen's amendment to the original motion, with the exception of Mr. Lamorena who was absent. They then voted (with the exception of Mr. Lamorena) to adopt the amended motion as follows: The Council directs Council staff to prepare a draft omnibus amendment addressing ACL mechanisms and ACLs for bigeye and Main Hawaiian Islands bottomfish stocks that includes the following preliminarily preferred alternatives for Council review and final action as follows: A: Regarding ACL mechanisms: the Council recommends adopting a modified alternative that includes using ACLs for those stocks having MSYs and using the likelihood and consequences of overfishing to prioritize the remaining species for ACL development and implementation and that NMFS hold an expert workshop to identify the five to ten species in each FMP most at risk of overfishing. The expert ranking should include a ranking of both the likelihood and the consequences of overfishing for different. The Council also recommends that RFMOs make better use of spatially-structured stock assessments to consider regional differences in fishing impacts, which may bear on domestic ACL requirements.

2. Council's five-year research priorities

Regarding the Council's five-year research priorities the Council (with the exception of Mr. Lamorena who was absent) voted to endorse the 97th SSC's priorities for 5-year research and directed staff to expand upon them in a draft document for final SSC and Council review before transmittal to the Pacific Islands Fisheries Science Center and the Secretary of Commerce for

their consideration in establishing research priorities and budgets for the region. The draft document should include research into all relevant fisheries in the Western Pacific Region.

3. MRIP

Dr. Dela Cruz reported regarding the MRIP:

The Council recommends that recreational fishery representatives from American Samoa, CNMI and Guam be added to the MRIP Workshops in order to provide the workshops firsthand knowledge, as well as communications to and from fishing communities.

He offered this recommendation in the form of a motion, which was seconded. Motion carried.

4. NEPA coordination

Dr. Dela Cruz reported regarding NEPA coordination:

The Council directs staff to send a letter to NOAA leadership expressing the Council's endorsement of the views conveyed by the North Pacific Council in regards to NOAA Fisheries lack of appropriate consultation with the Regional Fishery Management Councils as explicitly stated in the MSRA in the process to develop new environmental review procedures for fishery management actions. The letter should also state that the Council does not support any NOAA reversal of Congressional intent by subsuming the MSA process within the NEPA process, thereby eroding Council authority pursuant to the MSA and MSRA.

Mr. Dela Cruz offered this recommendation in the form of a motion. Mr. Sablan seconded the motion. Motion carried.

5. SSC Stipends

Mr. Dela Cruz reported regarding SSC stipends:

The Council directs staff to send a letter to NMFS stating that it supports stipends for SSC members if additional funding is provided to pay such stipends.

He offered this recommendation in the form of a motion. Mr. Sablan seconded the motion. Mr. Tulafono asked whether this would include the government employees that are on the SSC. Mr. Duenas responded that the Magnuson Act is very clear as to who gets compensated, and it doesn't say government employees. Ms. Simonds agreed that it doesn't include federal, local, or whatever government. Motion carried.

6. EFP Process

The Council's discussion and action on the EFP process began with a motion by Dr. Dela Cruz to direct Council staff to send a comment letter on the December 21, 2007 proposed rule (FR 72657) regarding changes to the Experimental Fishing Permit program stating that the Council supports the EFP program and appreciates NMFS' efforts to streamline it. The EFP program should allow for regional control to address regional issues and conditions. Fish harvested under EFPs and/or LOAs should not be counted against existing fishery quotas, TACs or ACLs. EFP application fees and paperwork requirements should be kept low so as not to deter participation. Chartered fishing vessels should be explicitly included under the definition of "scientific research vessels". All fish caught on chartered vessels under EFPs or LOAs and not further

needed for research purposes should be eligible for sale by the vessel owner as part or full compensation for their participation. This includes fish caught during scientific research, compensation fishing, gear testing, or conservation engineering. Activities not otherwise prohibited (e.g. data collection for the purpose of product development, market research or public display) should not require an EFP or LOA. Conservation engineering should include work to maintain or increase target fish catches while reducing or mitigating bycatch impacts.

The motion was seconded by Mr. Haleck.

Mr. Young noted that the presentation and document call it an Experimental Fishing Permit. It seemed to focus that these were given only for research types of things when the NOAA guidance talks about it being an Exempted Fishing Permit and it can be for a variety of other things. He noted his concern that this opens up potential for getting around fishery regulations by having an exempted activity. Mr. Robinson responded that although he hasn't been involved in this process here, other Councils generally carefully review each Exempted Fishing Permit application and their recommendation is made to the Regional Administrator as to whether it was appropriate and whether the Regional Administrator should in fact issue the Exempted Fishing Permit or not. Mr. Robinson informed the Council that the Letter of Authorization is for scientific research from a scientific research vessel whereas an Exempted Fishing Permit can be for a lay person or a commercial fisherman or a business who wants an exemption from a prohibition from the regulations to do research or development. He stated that his intent would be to have those applications reviewed by the Council and to have recommendations made by the Council, whether they should be approved or not approved, or whether conditions should be attached to them.

Mr. Robinson continued that he believes a dead fish is a dead fish, and all mortality should be accounted for, including research exempted fishing mortality. So although he agrees with seven of the eight of the comments here, the one comment where it says, fish harvested under EFPs or LOAs should not be counted against existing fishery quotas, TACs or ACLs, he thought they should be counted in some way as a part of total fishing mortality. Mr. Young stated that although the discussion was referencing an Experimental Fishing Permit, he would prefer that it be called an Exempted Fishing Permit. Hamilton noted that the NMFS guidance discussed experimental, exempted and scientific research and the terms are often used interchangeably. Mr. Martin clarified that the NMFS guidance discusses the issuance of Exempted Fishing Permits under the Experimental Permit Process and suggested that this be in the motion's introductory text. Hearing no further discussion Mr. Martin called for the question and the Council approved the change.

Mr. Robinson stated that he remained concerned about accounting for all fishing mortality as even research fishing can result in significant catches. Mr. Duenas suggested that this question should be handled on a case-by-case basis and commented that research fishing should not result in a loss of fish available to the fishing community. Ms. Thielen moved to amend the motion to state that it should be determined on a case-by-case basis whether fish harvested under EFPs and/or LOAs should be counted against existing fishery quotas, TACs or ACLs. Mr. Tulafono seconded her amendment. The Council (with the exception of Mr. Lamorena who was absent) approved the twice amended motion as follows:

Regarding the Exempted Fishing Permits issued under the Experimental Permitting process, the Council: Directed Council staff to send a comment letter on the December 21, 2007 proposed rule (FR 72657) regarding changes to the Experimental Fishing Permit program stating that:

- The Council supports the EFP program and appreciates NMFS' efforts to streamline it.
- The EFP program should allow for regional control to address regional issues and conditions.
- It should be determined on a case-by-case basis whether fish harvested under EFPs and/or LOAs should be counted against existing fishery quotas, TACs or ACLs.
- EFP application fees and paperwork requirements should be kept low so as not to deter participation.
- Chartered fishing vessels should be explicitly included under the definition of "scientific research vessels".
- All fish caught on chartered vessels under EFPs or LOAs and not further needed for research purposes should be eligible for sale by the vessel owner as part or full compensation for their participation. This includes fish caught during scientific research, compensation fishing, gear testing, or conservation engineering
- Activities not otherwise prohibited (e.g. data collection for the purpose of product development, market research or public display) should not require an EFP or LOA.
- Conservation engineering should include work to maintain or increase target fish catches while reducing or mitigating bycatch impacts.

The Council's discussion and action on the use of local fish names in federal reports began with a motion by Mr. Dela Cruz as follows: the Council recommends that NMFS include fish names in the local indigenous languages in all federal logbooks and reporting forms, that is sales reports. The motion was seconded by Mr. Sablan. Hearing no further discussion, Mr. Dela Cruz called for the question. The motion was approved by the Council (with the exception of Mr. Lamorena who was absent).

The Council's discussion and action on subsistence fisheries began with a motion by Mr. Dela Cruz as follows: regarding barter/trade subsistence and artisanal fisheries, the Council directs staff to draft a background paper summarizing issues and providing draft alternatives associated with the definitions and regulation of the Region's barter/trade subsistence and artisanal fisheries. The motion was seconded by Mr. Sablan. Mr. Gaffney moved to amend the motion to add the words "and cultural historic practices" Mr. Duerr seconded the amendment. Given no objection from the maker of the original motion, this was accepted as a friendly amendment. Hearing no further discussion, Mr. Dela Cruz called for the question. The amended motion was approved by the Council (with the exception of Mr. Lamorena who was absent).

The Council's discussion and action on subsistence fisheries began with a motion by Mr. Dela Cruz as follows: regarding fishing permit fees, the Council directs staff to send a response to NMFS, Samuel Rauch, stating that it prefers to retain the flexibility provided in the MSA regarding permittees and to determine whether permit fees are appropriate based on local and regional needs and conditions. The motion was seconded by Mr. Sablan. Hearing no further discussion, Mr. Dela Cruz called for the question. The motion was approved by the Council

(with the exception of Mr. Robins who abstained and Mr. Lamorena who was absent).

7. CNMI Bottomfish Logbooks

Mr. Dela Cruz reported regarding CNMI Bottomfish Logbooks and the use of local fish names in federal reports, the Council recommends that NMFS include fish names in the local indigenous languages in all federal logbooks and reporting forms, that is sales reports. He made this a motion Mr. Sablan seconded. Motion carried.

8. Barter/trade subsistence and artisanal fisheries

Mr. Dela Cruz made this motion regarding barter/trade subsistence and artisanal fisheries, the Council directs staff to draft a background paper summarizing issues and providing draft alternatives associated with the definitions and regulation of the Region's barter/trade subsistence and artisanal fisheries. Mr. Sablan seconded the motion.

Mr. Gaffney suggested after the word, issues, the cultural historic practices, in the form of a motion.

Council directs staff to draft a background paper summarizing issues and cultural historic practices. Thereby providing draft alternatives associated with the definition of regulations (inaudible). Mr. Duerr seconded this motion. Motion carried.

9. Fishing Permit Fees

Mr. Dela Cruz made the motion that regarding fishing permit fees, the Council directs staff to send a response to NMFS, Samuel Rauch, stating that it prefers to retain the flexibility provided in the MSA regarding permittees and to determine whether permit fees are appropriate based on local and regional needs and conditions. Mr. Sablan seconded the motion. Motion carried with one abstention, Mr. Robinson.

10. Status of the Marine Conservation Plans

Mr. Dela Cruz made the motion that regarding the status of the Marine Conservation Plans, the Council requests that NMFS provide a written description of the process that it will use to review and approve Marine Conservation Plans and that this process include the timely notification to the Council with their acknowledgement of receipt and subsequent approval, disapproval of such plans.

Mr. Sablan seconded the motion. Motion carried with one abstention, Mr. Robinson.

11. Western Pacific Cooperative Research Priorities

Mr. Dela Cruz made a motion regarding Western Pacific Cooperative Research Priorities, that the Council endorses the critical needs identified in an options paper presented at its 140th Council meeting and directs staff to submit them to the Secretary of Commerce. The Council further directs staff to continue to develop the process for the development, prioritization, review, selection, and monitoring of cooperative research priorities and projects for consideration by the Council at their June meeting. Mr. Sablan seconded the motion. Mr.

Gaffney wanted something added regarding sports fishing.
The motion was amended to add the words "all relevant fisheries in the Western Region" which would include recreational fishing. The motion passed.

12. CDP

Mr. Dela Cruz made the motion regarding Community Development Program, the Council directs staff to work with PIRO to address the CDP implementation process for consideration of the Council at the June meeting. Mr. Sablan seconded the motion. Motion carried.

13. Other

Mr. Dela Cruz made the motion that the Council recommend that the staff provide assistance to the CNMI Government to facilitate the dialogue into the CNMI and the U.S. Navy to defer all live fire bombing activities to the Island of Farallon De Medina to conserve and protect the physical integrity, natural environment and wild and marine life. The Council has previously provided a similar facilitation role with the two parties on this issue. Mr. Sablan seconded the motion.

Mr. Gaffney stated he was in complete support of this and asked as to what Council can do to facilitate that communication. Ms. Simonds replied that the council had this exact same request several years ago and that they did facilitate a meeting of the military in Hawaii after going through months of letter writing, and things like that with the Admiral. What they came up with is they need to continue their bombing, why don't we just move the bird, because it's one bird. So that was just totally unacceptable. Then everything went by the wayside. And now the military is doing it again. So the Council could do the same thing, just to facilitate a meeting in Hawaii.

Mr. Gaffney suggested that the Council pay for Walter Ready to come to CNMI. He was extremely successful with a small group 25 years ago on Kahoolawe.

Mr. Sablan explained for the information of the Council, that House Resolution No. 15-222HS1, is what prompted this motion and that council members have a copy of this bill with you in your box or in your folder. Motion carried.

17. Administrative Matters and Budget

A. Financial Report

Kitty Simonds referred the Council to their financial report documents. Regarding the 2008 Cooperative Agreements and Grants, the Council received $1.998 million for administration, $1.5 million for turtles, $517,000 for coral reef, $202,000 for NEPA/Regulatory Streamlining, and $18,000 for WPac FIN. Overall, the region funding was reduced for sea turtles. Normally this region gets $7.8 million, from which the funds are shared among PIFSC, PIRO and the Council. This year turtle funds were reduced to $7.1 million. The Council's portion was reduced by $75,000.

There were no funds were received for CDPP. Simonds referred to a letter from Mrs. Bordallo to the Admiral requesting him to consider funding the MSA Program for '08. Bordallo

was successful in getting $500,000 included in the House Appropriations budget for CDPP. However, the funds were lost in bargaining between both houses.

The Council is seeking additional funding for sea turtles to host an international meeting in Malaysia, which would also be supported by NMFS International and the State Department. This responds to a previous report to the Council suggesting that gill nets are the biggest problem in Baja and Japan. The State Department and NMFS have been asked to raise these gillnet problems with those two countries in bilateral discussions.

In addition to Malaysia, the Council will continue to participate in other international meetings. Simonds noted in her report the bycatch meeting in Brussels, IATTC in Busan and Northern Committee Meeting in Japan among others.

In addition to Coral Reef and Sea Turtles, Simonds noted that the NEPA/Regulatory Streamlining budget totals $202,000.

Simonds reported that the Council takes a 15 percent administrative fee from each of the grants, other than Administration. These administrative fees are used for salaries of different personnel who work on those program areas.

Chairman Martin asked for questions related to financial reports. Hearing none, he asked for the Administrative Report.

Simonds noted to Council members, that the Council compensation document is labeled "Not for Distribution."

B. Administrative Reports

Simonds pointed out that the briefing book contains many documents and materials for the Council Coordination Committee meeting which include further information on appropriations.

Referencing the Administrative Report in the book, Simonds reported that the most important change was related to the hiring of new staff because Ellen, the faithful Admin Assistant for 24 years, retired. Two new administrative employees were brought on as the administrative assistant and travel coordinator. Recruiting for additional staff will continue. The budget includes approved positions that remain vacant because of the past and current funding levels. These are approved positions from 15 years ago. The vacant positions continue to be included in the budget in the event additional funds become available during the year.

The Council received a number of FOIAs since the last Council meeting. The staff is working with the NMFS FOIA Officer on those items. FOIA is really the best way for the public to get information that is not normally distributed to the public.

Martin asked for comments and questions. Hearing none, Martin asked Simonds to report on the Council SOPP.

C. SOPP Review

Simonds reported that the Councils SOPPs were sent to D.C. two years ago. The SOPPs were provided to Headquarters several times over the past 12 years, but NMFS has not moved on approving them. The Councils transmittal of SOPPs to NMFS two years ago was in an effort come up with a uniform SOPP. None of the Councils have received anything feedback from the GC on the SOPP. Therefore, the WP Council SOPPs that was reviewed and approved two years ago is still at Headquarters under review.

Martin asked for questions on the SOPP. Not hearing any, he asked Simonds to report on Meetings and Workshops.

D. Meetings and Workshops

Simonds referred members to the list of Council travel in the budget packet provided. She noted that the vice-chairs were asked to select two meetings that they would attend in 2008. Vice-chairs elected to attend the Council Coordination Committee meeting in Saint Thomas in May 2008. Hawaii hosts the Coral Reef Task Force Meeting in Kona this August. The Council will participate and staff are developing materials and displays on the Council's fisheries. The budget includes funds to bring in Council representatives from other island areas for this meeting. A question was raised regarding the meeting venue in Kona which was not identified at this time.

Duenas requested that in the future, meetings of the Council not be scheduled during holidays, in particular during Holy Week.

E. Council Family Changes

Mitsuyasu reported that the only council family changes were requested from Ray Tulafono, American Samoa, DMWR. The proposed change is to add Benjamin Carroll to the Coral Reef Plan Team, and to place Doug Fenner on the Precious Coral and Crustacean Teams. No comments or questions were heard on this change.

F. Other Business

Simonds reported on a letter received from the Coastal States Organization asking all the Councils for their comments on how the Councils and states can better partner on managing ocean activities. They will be at the CCC meeting in Saint Thomas this May. She added that the WP Council used to participate in Coastal State meetings about 20 years ago before they faded for a little while. However, since the President's U.S. Commission on Ocean Policy and the Pew Commission Reports, the Coastal States Organization has been working very hard over the last several years. A response to the CSO letter will be crafted upon return to Honolulu.

There were two other letters received, one a letter from Tina Owens and the second from David Kennedy to the Chair which included attachments of letters from some of the local Guam

Departments and the All Islands Coral Reef Secretariat complaining about "disruptive behavior by members associated with the Council."

Bill Robinson, several weeks prior to the Council meeting, shared a draft letter to Kennedy from Vangie Lujan, the Chair of the Secretariat. The letter included an attachment of recommendations on what to do about the Council, which, among other items, requested elimination of the Council's Coral Reef funding and removing of some of these "disruptive" people. Simonds offered to meet with the Directors in Guam during the week of the Guam Council meeting.

While in Guam, Simonds reported that she met with the two Directors separately. The result was to call a meeting of the Council and local agency staff to discuss the issues raised in the Lujan letter. However, the very next day, an official letter from Dave Kennedy on this issue was received which included a copy to the Guam Governor. As a result, Simonds also met with the Governor.

The joint Council and Gov. Guam staff meeting was held on the day after the Guam portion of the 140th Council meeting. The joint meeting ended up being very good and productive. Simonds noted that she would report back to Jim Balsiger about the meeting, as well as the Governor. Among the items discussed at the joint meeting, one of the main problems has been that everyone is so busy. Paul Bassler, Head of the Department of Agriculture, wasn't familiar with the Councils and its role. Discussions about the perception of Council people in the Marianas also occurred. For example, Bassler thought that Manny was a full-time employee of the Council and therefore thought that Manny was always speaking for the Council. It was explained that Manny represents Guam's interest on the Council, but he doesn't represent the Council's interest in Guam. Bassler's agreement to write a letter retracting his previous letter is the type of things that were being worked out. Discussions also took place regarding the All Islands Committee recommendations and the actions taken by Lujan.

The most important outcome of the meeting was that everybody will get together more frequently. The Guam group is going to get together once a month to talk about their differences, and tasks.

Martin asked for questions.

Duenas apologized to the Council for any actions that may have been misconstrued as representing the Council. He reiterated his understanding the SOPP and all of the rules and regulations governing the Council, and that he is Guam's representative on the Council and not vice versa.

At the end of the program planning section [subsequently moved to this section at the suggestion of Mr. DeRoma] Mr. DeRoma, General Counsel for NMFS PIRO, made an announcement regarding the meeting. His statement was as follows "Basically, it was brought to my attention a couple days into the meeting that although Council staff sent the meeting notice to the NMFS Regs Unit for publishing in the Federal Register, the notice never made it in the Federal Register. What that means is that the Council meeting has occurred without a statutory prerequisite for

Notice in the Federal Register. The good news is that all of the work that the Council has done this week can be used in the future.

But the bad news is that there will have to be an interim meeting between this meeting and the next where the action items here are brought before the Council, the public is given an opportunity to comment on it, and then the Council would vote those issues.

What I foresee the process unfolding -- or how I see it unfolding is as follows, and I conferred with my boss and the other NOAA lawyers this morning, and they all validated this, basically there will be a follow-on public notice in the Federal Register about what has happened, that the meeting occurred without the benefit of the Federal Register Notice, documenting though that local publication was completed. Then the Notice would also state that the meeting materials from this meeting and all record materials, recordings, et cetera, are available at the Council offices for public inspection or view. The Notice would also state that there would be a later meeting, or perhaps even set the meeting in that Notice, and will inform the public that the Council will be taking action on action items from this non-Federal Register meeting.

The Council would then hold its interim meeting, review the items from this meeting upon which it took action, open the meeting for public comment and then vote on those items, and then close the meeting".

Mr. Martin asked if there were any questions for Mr. DeRoma and called on Mr. Gaffney who asked if everything the Council just voted on has to be voted on again. Mr. DeRoma answered that without question, final action items have to be voted again. Initial action items have to be voted again. Regulatory actions, which affect the regulated community, need to be revoted on but internal Council workings, do not.

Mr. Young asked if without the Notice in the Federal Register, if this is not an official meeting. Mr. Deroma replied that that is correct. There was some talk as to whether or not to proceed with the end of the meeting. Mr. DeRpma pointed out that it's not an officially noticed meeting in the context of the Magnuson Act, but it is a meeting in the sense that the council is a deliberative body assembled to do business.

Ms. Simonds suggested the Council may want to send a letter to NMFS Headquarters because they were the ones who neglected to have the notice published in the Federal Register.

Mr. Deroma described it as similar to abandoning the agenda. If the Council so desires to send a letter or make its view known, then it's perfectly appropriate.

Ms. Simonds responded that they would because we really think that since it was the fault of the Service, that they should pay for this meeting. And it cost us about maybe $60,000 to hold all two weeks of the meetings, and we are going right to the head of the NMFS about this. Because in the past, there was a different way of dealing with Federal Register Notices, and ever since they started this this online.org thing, the Council is left out of the loop. One of the things we may suggest is that once the lawyers and the Administration has approved our agenda, then we, the Council, should send it to the Federal Register.

Mr. Deroma said the Council could do the subsequent re-do meeting by teleconference explaining that since the Council has deliberated so there is the record of proceedings. In a sense, the re-do meeting will be incorporating by reference everything the Council has done here.

Ms. Thielen asked if it would be legally acceptable for us to have a single motion that says, everybody agrees that they're voting exactly the same way that they did in this non-meeting. Mr. Deroma replied he would rather not. Particularly, because the key issue here is going the extra step to make sure that the Magnuson requirement of full public participation and

notice is completed. So when the Council reviews the actions from this meeting, my preference would be to do them one-by-one. So that on each issue, members of the public, if there are any that wish to contribute, have the opportunity to be heard on these issues. But going through every presentation again, and whatnot, is not required.

Ms. Simonds stated that because we don't want this re-do meeting to be longer than four hours that the council will have the action and the Council will vote, because they've already discussed it. Mr. Deroma concurred saying that essentially, they would follow the truncated version of what you do where the action would be proposed as a motion. There would be a second, there would be discussion and opportunity for public comment as well, and then Council action.

Mr. Deroma did recommend against foreclosing Council discussion of the action items and would encourage that.

Mr. Duenas asked how soon can we have the re-do meeting. Mr. Deroma replied no less than the 23 days that the regs require. And then the Federal Register fixes the agenda at 14 days out.

G. Standing Committee Recommendations.

Martin said that the Standing Committee met and Simonds covered most of what was discussed at the meeting. There are two Standing Committee recommendations.

The recommendations from the Executive and Budget Standing Committee are:

1) Recommend staff review the 138th Council meeting minutes and transcripts to verify the complaint by Tina Owens that Ed Ebisui introduced Leimana DaMate as a member of the public and report back to the Council at its June meeting.

2) The second recommendation is recommends that Benjamin Carol, American Samoa DMWR, be placed on the Coral Reef Ecosystem Plan Team and remove Doug Fenner, American Samoa DMWR, from that team and be placed on the Precious Corals and Crustacean Plan Team.

Those are the two recommendations from the Standing Committee.

H. Council Discussion and Action

Peter Young raised the issue about receiving the portion of the 138th Council meeting minutes that was requested by Tina Owens. The following motion was made and approved.

Regarding Administrative Matters, the Council recommends staff review and provide to Council members the 138th Council meeting relevant minutes and transcripts to verify the complaint by Tina Owens that Ed Ebisui introduced Leimana DaMate as a member of the public and report back to the Council at its June meeting.

Martin offered the following motion regarding Administrative Matters, the Council recommends Benjamin Carol, American Samoa DMWR, be placed on the Coral Reef Ecosystem Plan Team and remove Doug Fenner, American Samoa DMWR, from that team and be placed

on the Precious Corals and Crustacean Plan Team.

The motion was second and carried.

Martin asked for any other items for Administrative and Budget and noted that there are two remaining agenda items to take up.

Regarding Administrative and Budget items, Martin recognized Peter Young.

Young said he had asked Martin during one of the breaks to be able to get a copy of all of the "stuff" that was distributed to the Executive Committee relative to the budget. He said Martin responded that at the appropriate time during the meeting when everything is assembled, Young would get that information. Young said all he received was one piece of paper about Council compensation.

Martin pointed out that the document included Council compensation. Simonds added that the back of the document included Staff compensation.

Young reiterated that he had asked for all of the financial things that had been distributed to the Budget and the Executive Committee and that his request was clearly stated that way.

Martin asked Young again to clarify what additional information he was specifically requesting. Young said any and all of the financial information that was distributed to the Executive and Budget Committee.

Duenas asked if there was something else, because that is all he received. The only other document was the synopsis and there was nothing else he had that Young did not.

Young said having not received any of it and not seen it, he doesn't know what is there. So he was just asking for all of it. All he knows is that during the Executive and Budget Committee meeting there was some discussion on financial stuff, and he don't seem to have that. It was not on the CD that was provided to Council Members.

Simonds said that nothing for Administration is on the CD. Financial and admin information is in the booklet.

Young asked again is all the financial and budget information that was distributed to the Executive and Budget Committee for this meeting was in the booklet. Simonds confirmed.

Young asked for someone acknowledge whether that's true or not.

Duenas addressed the Chairman, by stating that the only other financial document he received was the Cooperative Agreement Grants that lists everything all the way up through Coral Reef money. Everything else is communications.

Young asked what the document looks like and if that has all of the financial stuff in it.

Simonds said that the document he is requesting is the spiral bound material. She reiterated, as first reported, the only thing missing from there is what was just distributed.

Young asked if the additional compensation document was in the spiral bound material.

Simonds confirmed that it was. The spiral bound did not include compensation for staff and Council members. The document just distributed was for 08 compensation.

Young said he just wanted to make sure that he had all the financial and budget information.

Martin added that much of what's in the spiral bound is documents that were used in Washington, D.C. for when they talked about the NOAA budget overall. That is why there is a spiral bound.

18. Public Comment on Non-Agenda Items

Martin said he has one public comment card from Miss Owens. He asked if anyone else who would like to provide public comment and if so to please fill out a card.

He asked Miss Owens for her comments.

Tina Owens: "Thank you, Mr. Chairman, Members of this Council. The focus of my comments is on the Council actions and the process. As a federal entity that is supposed to work with the public trust, the integrity of Council actions is entirely tied to how open and transparent its decision-making process may be. As you know, I've had serious concerns about the lack of an open and transparent Council process.

My concerns are based, among other things, on my personal experience with the Council. In the last year, alone, I have been kicked out of a public meeting put on by this Council. I have been kicked out of the Council's public library in its Honolulu offices. I have been stalled in my formal Freedom of Information Act Request to get Council documents covering its basic operational underpinnings, such as budgets, grant requests and reports that the Council contracts.

My concerns are also based on West Pac actions in other contexts. For example, the Council now stands accused of improperly and aggressively meddling in the affairs of Guam, CNMI and American Samoa. Indeed, as I understand it, Council Vice-Chair Manny Duenas apologized to the Council for his actions related to that controversy, and he has just done so again. This is interesting to me for a couple of reasons.

First, I have witnessed firsthand West Pac meddling in affairs outside its jurisdiction. The Puwalu Series of meetings in Hawaii are a current example. How the Council can justify spending federal money working and lobbying on Hawaii State fisheries issues has never fully been explained. But it sure has happened.

Second, I have experienced firsthand aggressive attacks from West Pac members and staff. So the recent accusations do not surprise me at all. As long as you sit on or work for the Council you are public servants. As such, you work for me and every other U.S. citizen. You should not act outside of the authority granted you by Congress and, yet, you continually do so.

In a situation similar to those you face now in Guam, CNMI and American Samoa, the investigation of West Pac by the Federal Government, such as the Commerce Department IG and the Congressional Director of GAO. I certainly encourage and support those investigations since I believe the best way to get West Pac on track to integrity is through a thorough vetting of its problems.

As I mentioned before, I've been stalled in my efforts to get information from West Pac, and it was only several days ago, a full four months after submitting my FOIA request, that I got -- received any documents at all. Despite the delay and the incomplete response, I do want to thank you for those documents. They're interesting both for what they reveal about West Pac -- excuse me, for what they reveal about West Pac operations, as well as for what they don't reveal.

I provide here two examples: One, I have seen that Executive Director, Kitty Simonds, is compensated over $220,000 for her work. I have seen that this compensation includes roughly $21,000 in profit-sharing. I have not seen any explanation of or justification for the profit-sharing item. To say the least, this is an odd item to include in the salary of the Executive Director of an entity that is public in nature and is not -- or at least, is not supposed to be in the business of making a profit on any of its work.

Mr. Chairman, as you are the individual charged with overseeing Miss Simonds, I ask you, under what authority does this profit-sharing occur and what are the profits of West Pac? What is the justification for this item?

Number two, I have also seen that West Pac has spent at least $340,000 of federal money so far on the Puwalu effort. Yet, I've been unable to tell under what legitimate West Pac Program the Puwalu occurred. I have seen that West Pac has paid money to at least one contractor to help set up and facilitate the Puwalu. Yet, I have not seen under what program this or any other contractor's work on the Puwalu is covered.

Mr. Chairman, please tell me what legitimate Council program covers the Puwalu. Please confirm for me that contracts have or have not been entered into for the Puwalu work and that the payments for such work have occurred under such contracts. Can you tell me that, sir?"

Martin said he would not answer those questions, but would provide you with a written response.

Owens: "Thank you. Well, I will continue to aggressively pursue information from West Pac through a FOIA and other legal means and I will not stop my efforts until there is an open and transparent decision-making culture at West Pac. Thank you for allowing me to speak."

Martin recognized the second public commenter, John Gourley.

Gourley: "Thank you. I'll make it very quick. I just wanted to -- Miss Owens brought up and ya'll brought up this issue and -- first of all, I'm speaking as a private citizen. I am not representing any group. I'm representing myself, who has lived here for 18 years and has been actively involved in working with Fish and Wildlife, helping them with fishery management issues, and interested in fishery and conservation issues.

This issue with the Council meddling in local affairs in the CNMI, I don't understand. I don't think it's happening, and I know there are some people on island that have axes to grind against the Council. Personally, I think these axes are being ground.

We have gone to the Council -- we, and I know some of the other government people, we go to the Council for help in fishery matters. Yet, we live out here in the middle of nowhere. We need help with fishery matters. So we go to you for advice, suggestions.

Then we choose to accept it or ignore it. That's not meddling in our affairs.

I keep hearing this, meddling in affairs and, quite honestly, I can't imagine this body sitting in front of me wants to get into managing reef fish in the CNMI. You've got your hands full now. Look at your books now. They're seven-inches thick. Could you imagine managing the CNMI reef fisheries?

It doesn't make sense, and I just wanted to say that out in public as a private citizen. Thank you."

Martin asked for further public comment, not hearing any called for Council discussion and action.

19. Other Business

Martin asked for Other Business?

Duenas, for the record, apologized for any shame brought to the Council and again, reiterated that he did not represent the Council, that he does not represent the Council on Guam, but he is Guam's representative on the Council. He also stated that he is not a full-time employee of the Council and that he gets compensated when he comes to the meetings.

Haleck echoed the comments by Council member Duenas concerning some of the comments heard about the Council meddling with local government affairs. It's not happening in American Samoa. There's no way that representatives from American Samoa on this Council is meddling or influencing or interfering with any of the local government affairs or decision-making, as far as day-to-day operations. He is at the meeting to represent American Samoa on this Council. As soon as this Council is adjourned, they are citizens and U.S. Nationals.

Tulafono echoed the same sentiments. As a Council member he is very concerned

because these are the type of accusations that really reflects bad on the Council. The negative accusations are not happening in American Samoa. For the record, he stated that he is a Council member representing American Samoa to this Council, but is not representing the Council in American Samoa. He clearly stated that he is the Director of the Department of Marine and Wildlife Resources, which is responsible for all of the fishery affairs in the Territory. He added that as a Council member, he does not like the accusations that suggests that the Council is meddling in the affairs of the Government of American Samoa and its people.

Dela Cruz stated likewise for the record, that this Council is not interfering, meddling or sabotaging the CNMI internal affairs. He disagrees entirely with the accusations heard with these proceedings. He expressed disappointment that these accusations are appearing.

Sablan echoed the same concerns with Dr. Dela Cruz. He doesn't know who in the CNMI is meddling with NGOs or government employees in the CNMI. As a matter of fact, he has not met with Fran Castro, Angelo Villagomez or anybody on those issues.

Dela Cruz stated that on behalf of their great Governor, he would like to thank the Council for holding this meeting on Saipan and wished everyone a Happy Easter and a safe trip back home.

Duenas stated that it was his understanding there's a new organization in Hawaii called the Western and Central Pacific Network and that they are very concerned about Marianas out in the middle of the Pacific. He assumed they are Pew funded. He hopes that they have respect for the Marianas people and engage them before they start using their name out in the Western Pacific. He stated, "If you're from the Central Pacific, stay in the Central. If you want to call yourself Western, move to Guam, move to the Marianas. But don't use that term to make people think you're representing us out here. Thank you."

Martin concluded the 140th Council meeting.