

**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

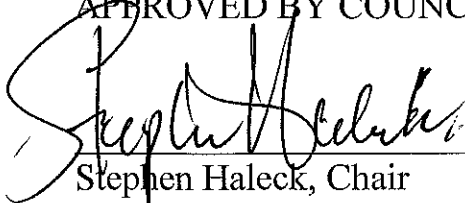
**MINUTES OF THE 146<sup>TH</sup>  
MEETING of the WESTERN PACIFIC  
REGIONAL FISHERY MANAGEMENT COUNCIL**

October 20-23, 2009  
Held at Laniakea YWCA-Fuller Hall  
1040 Richards Street  
Honolulu, Hawaii 98613

Western Pacific Regional Fishery Management Council  
1164 Bishop Street, Suite 1400  
Honolulu, Hawaii 96813

APPROVED BY COUNCIL:

*March 22, 2010*



Stephen Haleck, Chair

Western Pacific Regional Fishery Management Council



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## **1. Introductions**

The following Council Members, as well as NOAA General Counsel (Pacific Islands) and the Council's Executive Director, were in attendance:

- CDR Jay Caputo, U.S. Coast Guard (USCG)
- Manuel Duenas, Vice Chair, Guam Council Member
- Fred Duerr, Vice Chair, Hawaii Council Member
- Stephen Haleck, Vice Chair, American Samoa Council Member
- Dot Harris, Guam Council Member Designee
- David Itano, Hawaii Council Member
- Sean Martin, Chair, Hawaii Council Member
- Don Palawski, U.S. Fish and Wildlife Service (USFWS)
- Bill Robinson, Regional Administrator, National Marine Fisheries Service (NMFS), Pacific Islands Regional Office (PIRO)
- Ben Sablan, Vice Chair, CNMI Council Member
- Kitty Simonds, Executive Director
- William Sword, American Samoa Council Member
- Marianne Teregyo, CNMI Department of Land and Natural Resources
- Laura Thielen, State of Hawaii Department of Land and Natural Resources (DLNR)
- Fred Tucher, NOAA General Counsel ; Pacific Island Regional Office
- Ray Tulafono, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Peter Young, Hawaii Council Member

Martin, opened the meeting on Tuesday, October 20, 2009, and asked Haleck to provide a statement on the tsunami that devastated American Samoa on September 30, 2009. The Council members from American Samoa also provided an update on the community rebuilding efforts following the tsunami. Duenas, on behalf of the Guam Fishermen's Cooperative, presented a \$1,000 check to assist in the rebuilding efforts. Marianne Teregyo, representing Dela Cruz, read a statement provided by Dela Cruz extolling condolences on behalf of the people of CNMI.

## **2. Approval of Agenda**

Duenas moved to adopt the agenda as changed. Haleck seconded. Martin called for discussion. Hearing none, he called for the question.

The motion carried and the agenda was approved.

## **3. Approval of 145<sup>th</sup> Meeting Minutes**

Duenas moved to approve the minutes of the 145<sup>th</sup> Council Meeting. Sablan seconded. Martin called for discussion.

Young requested that his name be added to the introductions section of the 145<sup>th</sup> meeting minutes. He also noted that the Council agreed to have a teleconference to address the five-year budget and requested that be more specifically stated as the action by the

Council. His purpose was to be consistent with all other references of motions and actions that directed the staff to have the teleconference.

**Martin agreed and directed staff to make the appropriate changes.** He asked for further comment. Hearing none, Martin called for the question.

The motion carried and the minutes were approved.

#### **4. Executive Director's Report**

Simonds presented the Executive Director's report to the Council that covered the following topics: Fishery Ecosystem Plans (FEPs), known-MSY working group, opening of the bottomfish fishery, coral reef contracts, completed documents, Sea Turtle Advisory Committee (STAC) meeting, recreational fishery planning activities, and legislation. Simonds noted that a contract had been initiated to facilitate coordination of coral reef activities. She also noted that the Council's (STAC) made recommendations to be considered during this meeting. Regarding recreational coordination activities, Simonds reported that the staff coordinated a meeting in September to discuss Marine Recreational Information Program (MRIP) and other non-commercial fisheries issues, which was also to be reported during this meeting. Lastly, regarding legislation, Simonds mentioned that the "Aspire Bill" that would provide subsidies to sellers and buyers directly was delivered to American Samoa; movement is expected in the next two months on the Coral Reef Conservation Act in the Senate; Duenas is researching if other monuments will be included in a proposed monument bill; and the Council staff participated in listening sessions for the Ocean Policy Task Force.

Robinson clarified that once comments and approval are received for the FEPs, there are 95 days or less to approve them.

There were no questions or comments.

#### **5. Agency Reports**

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

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

In a brief report, Robinson said that the proposed rule and request for comments for Amendment 18 was published around August 15, 2009, and 15,000 comments were received. The final rule is close to completion. Also, the final rule for the vessel ID measures has been published. He noted that the final rule establishing purse seine restrictions as well as sea turtle handling requirements was published on August 4, 2009. And on August 18, 2009, the approval of the American Samoa Marine Conservation Program (MCP) was announced and will be in effect for three years.

Robinson also reported that the specification for the Deep-7 total allowable catch (TAC) was published on August 24, 2009, with a final TAC of 254,000 lbs. Also, an annual report about seabird mitigation efforts was published in August. The loggerhead status was completed in August that identified nine distinct loggerhead populations. There is anticipation of convening a green sea turtle workshop.



He noted that three new people were hired at PIRO to review monument work and represent a new monument program.

Robinson also relayed that an early Draft Environmental Impact Statement (DEIS) has been completed and given to the Navy, with dredging as the most problematic aspect. Additionally, PIRO is being given more energy projects to review, such as wind farm projects.

Harris noted that the DEIS for the military buildup in Guam is going to be over 10,000 pages and suggested Robinson coordinate a review with the Council. Robinson responded that PIRO has been working with the Guam government, EPA, and USFWS to conduct the review. PIRO is currently trying to work out an MOA because they are required to review the EIS and have some money, and therefore need to determine if the survey methodology is appropriate.

Duenas asked about purse seine sea turtle mitigation measures.

Robinson replied that there is no regulatory limit for purse seine takes of sea turtles.

Duenas asked for an update on the Marianas Trench Marine National Monument.

Robinson replied that PIRO has been working with the Fish and Wildlife Service to promulgate a rule that would initially implement what is explicitly in the Proclamation, with the anticipation that there might be further rule-makings down the line. He noted that there are specific prohibitions, such as on commercial fishing, in the Proclamation and PIRO would like to get those prohibitions into regulations so that they can be enforced.

Duenas also asked about habitat and conservation for Apra Harbor mitigation in the dredging area. He said it is one of Guam's sponge areas and its only lagoon. It is an essential habitat for spawning. He expressed concern that the military is not responding to these voiced concerns.

Robinson replied that there has not been a response because the initial DEIS is still being drafted and should include mitigation measures. He added that the Navy usually prefers artificial reef creation as a mitigation measure. But NMFS disagrees and is recommending that the Navy include and analyze mitigation measures, such as reforestation mitigation, etc.

Tulafono inquired about the quantity of American Samoa Limited Entry upgrade applications received by PIRO, and who is the PIRO contact that DMWR can work with on coral reef conservation.

Robinson replied that he would look into it. He also noted that Gerry Davis is in charge of the Habitat Division and would be able to work with American Samoa on the

completed coral reef assessment and help with rehabilitation.

Tulafono also asked if assistance for fishing vessels lost in the tsunami was going to be explored.

Simonds replied that the Council staff had prepared a document based on the provisions of the MSA that deals with disaster that the Council will review later in the meeting to make a recommendation.

Robinson also replied that it is prudent and logical to collect information from American Samoa and Council staff so that NOAA can assess criteria for declaring a fisheries disaster.

Itano inquired about whether the take reduction team for false killer whales (FKW) plans to use the assumption that there are two stocks of FKW or if more research will be conducted to determine stock status and genetic integrity.

Robinson replied that PIRO received a petition under the ESA and will have 90 days to determine if they should be listed. He said that PIRO then has one year thereafter to do a status review. The best available science will be used and whether the information is adequate will be questioned.

Itano then requested that the Council be re-apprised of the false killer whale and DPS issue as information is made available.

Martin noted that in advance of federal rulemaking, some of the Hawaii longline vessels have implemented the new vessel markings, with some now marked to meet the international requirements and others still with the old federal markings.

Robinson replied that the issue is for the USCG.

Simonds asked when the longline Final Rule for the Papahānaumokuākea Marine National Monument would be published.

Robinson replied it will be published in mid- to late November.

## **2. Pacific Islands Fisheries Science Center**

Samuel Pooley, director of NMFS Pacific Islands Fisheries Science Center (PIFSC) provided a brief report. He said that between June and September, over 72 million tons of marine debris collected over two surveys conducted in the Northwestern Hawaiian Islands (NWHI). He also said that PIFSC has been conducting a survey in the Main Hawaiian Islands (MHI) of the deeper slope coral reef resources. He showed slides from recent NWHI lobster assessments and noted that the spiny lobsters in the NWHI have not recovered. PIFSC is working on an analysis to determine if sequential harvesting caused the problem or another cause did.

Pooley then summarized the NOAA Vessel Sette cruise to the Marianas that was conducted with staff from the Coral Reef Ecosystem Division (CRED), Fishery Biology and Stock Assessment Division, and Fishery Monitoring and Socio-Economics Division. The following staff members were introduced as contacts in the island areas and for the Council:

- CNMI - Jake Asher
- Guam - Oliver Vetter
- American Samoa - Kerry Grimshaw and Paula Ayotte
- MHI - Bonnie DeJoseph
- NWHI - Jeff Anderson
- Council - Ben Richards

Pooley also reviewed various projects PIFSC has worked on: the biosampling workshop held in Guam, Barbless Hook Project, and Hawaiian Monk Seal field camp. The field camp went well with pup survival enhancement and shark predation mitigation. Also, a study on juvenile loggerhead turtle dive behavior has been completed.

Pooley noted that PIFSC did a WCPFC bigeye tuna (BET) catch forecast to the best of their abilities without at-sea call-ins. He added that there is no way to forecast a fisherman's behavior perfectly.

Pooley concluded by offering help to American Samoa on what can and should be done there. He also mentioned that Hawaii commercial fishermen have been generous getting biological samples for PIFSC.

Itano commended Guam and NMFS for promoting the collection of biological data and PIFSC on their marine debris cleanup. He asked if anyone has looked into picking up trash at sea, not just on the reefs.

Pooley replied that at-sea clean-up is relatively underfunded, but stimulus money should help initiate a program or project.

Simonds added that the Council was not funded for such a project previously, but that staff is currently putting together a proposal to do at-sea cleanup.

Martin suggested Itano be included in the development of the next proposal.

Duerr added that an international agreement should be initiated that requires labeling of gear. When the gear is lost, it can be returned to its owner, not just thrown in a landfill.

Duerr informed the Council that a blue marlin symposium in Taiwan has been organized and recommended additional blue marlin funding.

Duenas replied that funds from Guam were supposed to be utilized for that, but there is also hope that PIFSC has some money to aid in getting information to fishermen about blue marlin.

Duenas thanked PIFSC for sending Karen and Megan to Guam. He also suggested that the CRED cruise scheduled for February be postponed because there are generally 10 to 12 foot seas at that time, making it difficult to do the surveys. He recommended June to July for the best weather.

#### **B. NOAA General Counsel**

Tucher had no new business to report but noted that at the 145th Council meeting there was a presentation on Limited Access Privilege Programs (LAPPs) under Section 303(a) of the MSA that included representation that American Samoans were unable to hold LAPP privileges. He had questioned that during the meeting. After consulting with other NOAA General Counsel members, he reported that NOAA General Counsel's position is that American Samoans, as nationals of the United States, are eligible to hold LAPP privileges.

There were no comments or questions.

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

Palawski announced that the USFWS has a new field supervisor (Loyal Merhom) at their field office in Honolulu and new Refuge Manager (Bill Swagle) at the Guam National Wildlife Refuge. He provided an update on the USFWS activities related to the new Monuments and on their briefing in American Samoa in September to the Governor, the Secretary of Samoan Affairs, District Governors of the Manua Islands, and members of the American Samoan legislature. He thanked Tulafono for being the facilitator in some of those meetings. Since USFWS is required to develop a management plan for Rose Atoll National Wildlife Refuge, they will hold public meetings in the Manua Islands in mid-November. A meeting is also being planned for Tutuila. For the Pacific Remote Islands Marine National Monument, the USFWS is initiating a planning process for Palmyra Atoll National Wildlife Refuge and Kingman Reef. They hope to issue a Notice of Intent relatively soon and open its scoping period. Next week, the Marine Conservation Biology Institute, based out of Washington, D.C., will hold a workshop for that monument to identify research needs for that Monument. He concluded by stating that, based on how that workshop goes, similar workshops in American Samoa and in the Mariana Islands may be planned.

Martin asked if there were questions for Palawski and, hearing none, moved to the next agenda item.

#### **D. Enforcement**

##### **1. U.S. Coast Guard**

Caputo provided a report on the USCG 14<sup>th</sup> District's fisheries law enforcement activity in the Western and Central Pacific Region from July 3, 2009 to September 28, 2009. They included 1) surface and air patrols of the Papahānaumokuākea Marine National Monument (no violations detected); 2) aerial surveillance patrols of the U.S. EEZ around Kingman/Palmyra, American Samoa and Howland/Baker, and patrols of the Cook Islands, Tuvalu and Kiribati EEZs (21 boardings of foreign vessels, levying a \$10,000

fine, and three apprehensions); and 3) boarding and seizure of Taiwanese flagged longline vessel *Te Hun Fa* sighted by USCG aircraft on two occasions to be fishing within the EEZ around CNMI (vessel was escorted to Saipan). Other USCG activities during the reporting period include a marine debris patrol in the Papahānaumokuākea Marine National Monument and a signed shiprider agreement with Tonga.

Haleck commended the USCG for the outstanding response to American Samoa after the September 29th tsunami.

Itano asked if the USCG has flown over the TAO Buoys in the Central Pacific because several of buoys are believed missing due to purse seiners setting their gear on them. He asked Robinson if proposals exist to create a penalty for purse seiners setting on buoys. Robinson stated that the United States has introduced a proposed Conservation and Management Measure at the WCPFC TCC meeting that would prohibit fishing vessels from tying up to or fish on weather buoys. It has been forwarded to the December WCPFC meeting for potential adoption.

Harris asked if building and deploying weather buoys to withstand a vessel tying up to them been considered. She asked if the buoys are fixed or free floating. Robinson replied that the buoys are fixed, being positioned and designed to collect various types of information, including tsunami warning information. Since they are relatively small, a large vessel mooring to them would likely damage a buoy.

Caputo stated that they did a multilateral operation during the purse seine FAD closure period and potential setting on buoys was one of the things they looked for.

Kingma thanked the USCG for designing the stickers and magnets, which the Council paid to be printed, with contact numbers fishermen can call if they suspect or identify potential illegal activities.

Duenas stated that Guam has recently had six near-misses by typhoons. During one of these near-misses, the USCG captain of the port on Guam shut down all marine activities. Guam's marine industry and tourism go hand-in-hand. Before the storm, there is always calm water; after the storm, Guam's waters are rough for a week. Duenas said there needs to be more education or training for new USCG officers on Guam, because restricting all maritime activities has not happened before, and it hurt Guam's economy. He asked that the USCG look at this issue to prevent its recurrence.

## **2. NOAA Office of Law Enforcement**

Bill Pickering stated that American Samoa (OLE) agent, Edwin Sui, is at Tripler Hospital with his wife, who is in the ICU from injuries sustained from the tsunami. Kevin Painter and another OLE agent have been assisting response efforts in American Samoa. Since the last Council meeting, OLE has had 31 reported cases, three related to protected resources, 27 related to fishing management, and one sanctuary case. The investigation of the monk seal death on Kauai culminated, and the person was found guilty and incarcerated for 90 days. The individual is scheduled to come out of federal custody on

Christmas Eve and will remain on one year probation. OLE is investigating another recent monk seal death on Kauai. OLE participated in a joint investigation with Hawaii DOCARE regarding illegal gill net fishing and the case has been referred to General Counsel for law enforcement. OLE recently finished the case that Caputo mentioned that involved a foreign vessel caught fishing in the EEZ around CNMI. The USCG, CNMI JEA partners, the U.S. Attorney's Offices in Saipan did a good job expediting that case. OLE has been working with Guam JEA partners and the FSM on an individual vessel offloading in Guam that had been accused of illegally fishing in the FSM. A letter received from the Council referring to an alleged incident of shooting dolphins about 12 years ago was investigated by DOCARE officers. OLE contacted individuals that were involved in that investigation and found no evidence that any dolphin was harmed during that time. Since that time, there have been no cases of fishermen shooting dolphins in the region.

Duerr stated that it appears the penalty for illegal foreign fishing within the EEZ is not stiff enough because the vessel owners can sell their catch and just pay their fine. And they know they will not get caught every time.

Pickering answered that for the recent case involving the *Te Hung Fa*, the estimated value of the catch was \$ 44,000, so it was not egregious.

Duerr commented that alleged shooting of the dolphin in South Kona occurred on the weekend. Because of funding problems, no one was in the office then. DOCARE comes out on Monday or Tuesday.

Thielen replied that DOCARE officers work seven days a week, but clerical and dispatch staff do not work weekends.

Teregeyo stated that regarding the *Te Hung Fa*, more collaboration between NOAA agents and the CNMI is requested. DFW had asked on many occasions for more information but it was not provided, which made it difficult to update the Governor. The press seemed to know a lot more than they did. More collaboration is needed to have their enforcement guys alongside the NOAA agents so that they can learn, instead of merely being security guards.

Pickering replied that the OLE case agent worked in conjunction with the CNMI JEA team at all times, but that he will follow up with the agent on these issues. CNMI enforcement personnel were dockside. If there was miscommunication with OLE agents, he is not sure about what. Regarding information flow, he said that there are times where OLE is not allowed to provide information due to certain restrictions. One example is when the U.S. Attorney is in negotiations with the defendant, as well as with the court. Once OLE turns a case over to the U.S. Attorney's Office, OLE is told to stand mute, not only by the U.S. Attorney's Office, but also by the judge who takes a very dim view of agents making any comments about the case outside the courtroom.

Teregeyo said the CNMI officers, while merely security guards, were manning the vessel,

but were uninformed as to what was going on. Unable to get information from the OLE agents, she was disappointed that information unknown to her appeared on the front page of the newspaper.

### **3. NOAA General Counsel for Enforcement and Litigation**

Alex Cole provided the report for General Counsel for Enforcement and Litigation and stated that nine cases were referred to her office during the period since the last Council meeting. Of those, she charged the following cases: 1) F/V *Eclipse* was charged \$ 10,000 for fishing the main Hawaiian Islands longline prohibited area, and 2) F/V *Sea Goddess* was charged \$ 7,500 for shark finning. No permit sanctions were assessed during the period. However, she will be issuing sanctions in the coming weeks for vessels that have failed to pay civil penalties assessed against them. The F/V *Te Hung Fa* was not charged by her but was charged by the U.S. Attorney for CNML. On Duerr's point about assessing higher civil penalties, there is a statutory maximum under the Magnuson Act of \$140,000 per violation. Also constraining penalty assessment is the respondent's ability to pay. In the case of the *Te Hung Fa*, the final settlement was \$500,000; \$200,000 of which has been paid. They have also agreed to have VMS operational for three years. At the end of that three-year period, \$300,000 additional dollars are due, unless the U.S. finds they are unable to pay. Because they are claiming an inability to pay, they have agreed to provide the U.S. Attorney's office with their financials every year for the next three years. The catch was valued at \$44,000, and the value of the vessel was estimated at \$160,000. Therefore, for the settlement of \$200,000, the full value of the vessel and at least the value of the highest estimate of the catch were received. Cole reported on the three Taiwanese vessels that fished in the EEZ around CNMI last August. Each was charged \$130,000, at the time the statutory maximum under the MSA. Having trouble getting payments, NOAA put the vessels forward for IUU listing at WCPFC. At this stage, all three have settlements in principle, with two of them fully settled and removed from the provisional IUU list, and the last vessel is to report VMS positions in the next couple of days. Three vessels will also be carrying VMS for the next two years. A total settlement of \$215,000 total was received from them, and every six months following, for the next two years, they will be making additional payments.

Itano asked about potential violations of the WCPFC FAD prohibition period, and how her office interfaces with the WCPFC on a suspected violation. He also asked if she was aware of any violations of the FAD closure.

Cole answered that when the WCPFC enacts a Conservation and Management Measure, such as CMM 2008-01 to mandate the FAD closure, the U.S. government issues domestic regulations that implement those measures. If there was a violation of that FAD closure by a U.S. vessel, the case would come through the Office of Law Enforcement and then to her, where she would issue a Notice of Violation, as with any other domestic fisheries violation. If it is a violation by another country, the case goes back to that country to prosecute, unless it happens in the U.S. EEZ. There are no cases of violations of the FAD closure on her desk, but several allegations were made at the WCPFC TCC meeting. To her knowledge, however, none of them have been substantiated or investigated.

Duenas asked if a vessel is double fined if foreign fishing incursion into U.S. EEZ waters also occurs within Monument waters is double fined.

Cole replied that since each violation is \$140,000, the answer is yes; a vessel could incur several violations through one action.

Duenas asked about an allegation that a U.S. vessel violated the EEZ of another country and whether that vessel would be prosecuted by that country or under U.S. law.

Cole answered that she is unfamiliar with the case Duenas referred to, but where the vessel was prosecuted depends on what laws have been violated. A vessel could violate the laws of another country and U.S. law. But in general, if a vessel has violated the laws of another country, they usually leave it to the coastal states to do that prosecution unless there was compelling interest to add a U.S. violation. Also, if the coastal state is unable or unwilling to prosecute, then the U.S. government may go ahead with prosecuting the vessel.

While he was also unfamiliar with the vessel Duenas is referring to, Caputo said currently there is a U.S. vessel being investigated by the USCG and Kiribati officials but not for fisheries violations.

#### **E. Public Comment**

Martin asked for public comment on this section of the agenda. There were no public comments.

#### **F. Council Discussion and Action**

Duerr stated that his intent was not to attack DOCARE, but he wanted to note the lack of funding as the issue.

Thielen answered that the State of Hawaii reached a settlement in contracts with HGEA, for two furlough days a month for union employees. While DOCARE employees are under HGEA, they will be rotating officer assignments and maximizing coverage during heavy use periods, such as Friday, Saturday and Sunday to work around the furloughs. Dispatch clerks work only Monday through Friday, which is a funding matter. DOCARE is down to a little over 100 officers for the entire state. It is applying for National Law Enforcement Accreditation, a rigorous, two to three year process. The state is also moving forward with its civil penalty system for minor cases, such as delinquent monthly catch reports from commercial fishermen. While there has been some grumbling, the state started with catch reports because fishers have been asking that regulations be based on data. In a five month period, two-thirds of the commercial fishers now submit reports up from about two-thirds not filing reports previously.

Itano reported he got fined the first month for not turning in his catch report and he commends the state for its efforts on this issue. He also applauds the efforts of Reggie at DAR to get an online system for reporting. As a guinea pig for the system, he felt the



process is quite cumbersome, actually taking longer than the paper one. Reggie is aware of that and is hopeful it will become a quicker and easier way to report.

Thielen said they would like to set up something like an ATM machine at all of the harbors where people could come in and basically punch the screen to report their catch.

## **6. Public Comment on Non-Agenda Items**

No public comments were provided.

## **7. Mariana Archipelago Fisheries**

### **A. Island Reports**

#### **1. Arongol Faleey**

Teregeyo reported that the Army COE approved the buoy permits set to be deployed later this month. The marine sanctuary also cleared the buoy permits. For fishery activities, DFW entered into contract with NOAA to assess invasive species in drainages. General stock assessment surveys were conducted in the conservation area, followed by tagging of select fish species. Monthly sampling is also occurring to assess fish life history. Teregeyo spoke briefly about the Micronesian Challenge, described in further detail in section 7C1. There were 11 FAD systems deployed around Saipan and Rota, with 8 or 9 still on site after the typhoon.

#### **2. Isla Informe**

Duenas noted that more beach areas have pollution advisories. In particular, Pago Bay construction area and run-off due to big rains have raised concerns about pollution. The marina community and fishing activities were shut down due to a pending storm, which affected tourism and fishing. Days prior to the storm, however, have generally calm waters. Duenas said that there are two fishing tournaments: Guam Marinas Fishing Derby and a spearfishing challenge in late August.

### **B. Enforcement Report**

#### **1. CNMI**

Teregeyo gave the CNMI enforcement report, noting 3 MPA violations regarding spearfishing, habitat disturbance in a coral sanctuary, and joint enforcement operations for a fishing vessel in the EEZ illegally. There was also reported illegal harvest by teenagers.

#### **2. Guam**

Duenas raised concern over selective enforcement in the MPAs, saying it is aimed strictly at anti-fishing, but allows rakers, invasive algae, and ATVs.

### **C. Community Issues**

#### **1. CNMI DFW Effectiveness Model for Meeting the Conservation Goals of the Micronesian Challenge**

Teregeyo reported that the Micronesian Challenge was signed in 2006 with the goal to conserve approximately 30 percent of natural resources by 2020. It encompasses the 0-100 m depth contour for the near shore area. There are three measures for management

effectiveness identified by DFW Fisheries: legal/outreach, enforcement and research/management. There is also a framework process established for each species or species/groups covering such items as: describe the resource, identify measures, provide low and high estimates, determine the pertinent biomass, determine the relevant area, etc. Their current model conserves 24.5 to 34 percent. The framework approach served as a gap analysis.

In response to questions, Teregeyo said that anthropogenic effects were included in the habitat survey, but the numbers are not definitive. She also clarified that the increased density of biomass reported is specifically from the area, not region-wide and that the fisheries office specifically assessed only the marine area and cannot present anything pertaining to the terrestrial side.

## **2. Update on Military Buildup**

Calvo reported that Guam has 45 days to review the DEIS scheduled to be released to the public in November. The DEIS addresses mitigation for impacts to natural resources during the dredging of Apra Harbor, deforestation, loss of habitat and loss of access. For offshore disposal of dredge material, the military will use a beam trawl method. The military had a limited study period. During a stakeholder meeting, it was recommended that the military could either treat or dump the dredge material elsewhere. The military presentation said the area where the dredge material will be dumped is not an important fishing site, but the fishermen disagree.

Harris added that many regulatory agencies are experiencing an overload because of the extent of the proposed development. The port applied for federal funding for more than \$100 million in support of the military buildup. Cargo estimates will double or triple during the peak of constructions. The funds must be spent by 2012, due to their source.

Duenas said that there were informal meetings with Region 9 EPA for one of the proposed sites. Two sites are being reviewed: one at the base of a seamount and the other at a base of a few seamounts where important upwelling occurs as well as large fish aggregates. He expressed consternation that these were the only two identified sites and pointed out that the assessment did not include impacts to juvenile fish.

Calvo noted that beam trawls are illegal according to NMFS regulation and asked whether NMFS had been asked by the military for permission to dredge by trawl.

Sablan recommended that we look into who authorized the military to use the bottom trawl.

## **3. Report on Guam Bio-sampling Workshop**

Mitsuyasu gave a report on the biosampling workshop for 18 participants held in Guam on August 10-12, 2009. The workshop provided cross training for the fishery agency staff and fishing community to facilitate collection of biosamples from MUS, provided training and support to the Council contractor who is collecting biosamples from the deep slope species in partnership with the Guam Co-op, and coordinated efforts with PIFSC to

establish a biosample collection program on the islands. The workshop addressed standardized labeling protocols, development of data recording procedures, sample storage, etc. Information collected on the species included length, weight, date, source, and more. Three techniques for removing otoliths from bottomfish were demonstrated and a network of biologists in the Pacific Islands was established to support biosampling of MUS.

Duenas encouraged PIFSC to contract more people to build capacity in the islands. His understanding is that otolith research is backlogged by five years, a project that local fishermen can do, but they need the technical support.

Tulafono echoed Duenas' sentiments and thanked the Council members for inviting their American Samoa constituents to the training workshop. He said they still need training at the local level in American Samoa.

#### **4. Guam Marine Conservation Plan (Action)**

The Governor will submit a letter to the Council requesting the existing MCP be extended.

#### **D. Education and Outreach Reports**

##### **1. CNMI**

Teregeyo said that there have been many presentations with the sanctuaries and that they were present during the last fishing derby.

##### **2. Guam**

Calvo said that the student art contest for the Marianas lunar calendar is going to be held this month and be judged on November 11. The second lunar festival will be held in February 2010.

There was a summer high school marine education program. The Fishermen's Festival held on August 9, 2009 featured exhibits and interactive games.

#### **E. Legislative Reports**

Duenas spoke about a legislative report in Guam for public law 29-127 to create a fish conference for Guam and Bill 190 that recognizes Chamorro fishing rights. Regarding objections to the bill he clarified that many programs in Guam are federally funded local programs and the purpose of the indigenous bill is to review these programs' regulations because it appeared that only fishing was discouraged and/or banned.

Ogumoro said that House bill 16-271 that creates the 2<sup>nd</sup> Marianas Status Commission has been passed. In regard to identifying boundaries of the sanctuary with buoys, Teregeyo clarified that the buoys are required by law and CNMI would receive a penalty from the Coast Guard if they deploy buoys without permits.

Sablan further clarified sanctuary marking requirements.

## **F. SSC Recommendations**

SSC member Robert Skillman presented the SSC recommendations for the Marianas Archipelago.

1. The SSC recommended focusing these survey activities in the CNMI on the banks surrounding Farallon de Medinilla (FDM) before the U.S. Military expands their protracted inshore closures from 3 to 10 nmi, due to increased training activity. This bank is an important source of shallow-water bottomfish for CNMI and may be an important source of larval recruitment for the archipelago.

## **G. Public Comment**

There was no public comment.

## **H. Council Discussion and Action**

***Regarding the potential closure of fishing and boating facilities and operations during storm conditions in the Marianas Archipelago, the Council:***

1. Recommended the development of a consultation process for the USCG and local government agencies, fishing facilities and operations regarding storm conditions to consider the economic and safety impacts of the effects of such closures.

Moved by Sablan, seconded by Tulafono.

Motion carried unanimously.

***Regarding the continued development of the Marianas Archipelago Lunar Calendar, the Council:***

2. Recommended continued support via funding and capacity building for the continuity of this program, because it promotes education and practice of sustainable use of the island's natural resources, including the preservation of the Chamorro and Refaluwasch cultures.

Moved by Sablan, seconded by Duenas.

Motion carried unanimously.

***Regarding the development of the Summer High School Marine Education and similar programs in the Marianas Archipelago, the Council:***

3. Directed staff to continue to assist the Marine Education & Training committee in exploring new marine education opportunities for young people on village, island and archipelagic level 5.

Moved by Sablan, seconded by Duenas.

Motion carried unanimously.

***Regarding the education and outreach opportunities, the Council:***

4. Recommended the continued support of and participation in the Chamorro Lunar New Year Festival and the Fishermen's Festival on Guam to ensure their continued success in promoting cultural and traditional sustainable use of natural resources.

Motion by Sablan, seconded by Tulafono.  
Motion carried unanimously.

***Regarding the impending notice of availability of the upcoming Military Buildup DEIS, the Council:***

5. Directed staff to write a letter to the Secretary of Defense to establish the comment period of no less than 120 days for the people of Guam and CNMI to provide comments.

Motion by Sablan, seconded by Duenas.  
Motion carried unanimously.

***Regarding mitigation for impacts to the natural and cultural resources of the Marianas Archipelago as a result of the military buildup, the Council:***

6. Directed staff to write letters to appropriate federal offices to provide assistance to Guam and the CNMI so that they may acquire funding and expertise in the negotiation and mitigation processes, and include a report on current negotiation and mitigation from NMFS PIRO at the next Council meeting.

Motioned by Sablan, seconded by Duenas.  
Motion carried with one abstention by Mr. Robinson.

***Regarding the NMFS PIFSC coral reef survey of the Mariana Archipelago, the Council:***

7. Endorsed the SSC recommendation to focus survey activities in the CNMI on the banks surrounding FDM before the U.S. military expands their protracted inshore closures from 3 to 10 nmi, due to increased training activity. This bank is an important source of shallow-water bottomfish for CNMI and may be an important source of larval recruitment for the archipelago.

Motioned by Sablan, seconded by Duenas.  
Motion carried with one abstention by Mr. Robinson.

***Regarding the U.S. Navy's proposal to dredge Apra Harbor, the Council:***

8. Directed staff to write a letter to NMFS to seek clarification on whether or not the U.S. Navy was given authorization by NMFS to use bottom trawl gear to conduct resource surveys at the proposed offshore dump sites.

Motioned by Sablan, seconded by Tulafono.  
Motion carried with one abstention by Mr. Robinson.

**8. American Samoa Archipelago Fisheries**

**A. Motu Lipoti**

Tulafono reported that there is still limited electricity in American Samoa after the tsunami. Scientists did an assessment of coral reef damage the day after the tsunami,

which varied from no damage to complete damage. Generally, there were just a few broken coral branches, but ranged up to stacking of broken corals with previously-dead rubble. The damage to the coral does not appear to be very well correlated with heavier damages to the villages. Both floating docks were destroyed as was the concrete dock close to their facility. The other dock adjacent to their building lost its retaining wall and is now destroyed. The maintenance building was also totally destroyed, which contained supplies necessary to maintain the floating dock facilities. The whole office space and supplies contained therein were destroyed, as were the experimental tank facilities. A shed was lost that contained four 55-gal drums of fuel. Ten vehicles were lost, and the fishery laboratory was completely damaged. Three vessels, including the enforcement vessel, are fine.

No data was lost, as data backups in the data office is located upstairs and was unaffected by the tsunami.

## **B. Enforcement Report**

Tulafono reported that there is no enforcement report because the enforcement office was completely damaged during the tsunami.

## **C. Community Issues**

### **1. Update on Proposed National Marine Sanctuaries**

Allen Tom provided an overview of the Fagatele Bay Management Plan, currently undergoing review with the goal to look at the bay itself and the possibility of additional sites throughout the territorial waters of American Samoa. The Governor of American Samoa has approved moving forward with the proposed sites, with the exception of a particular lagoon. Tom said that before discussing the proposed regulations with the Council, he would like to discuss them with the communities first. He added that the tsunami affects the timetable by a couple weeks. Two areas on the list to be protected areas for DMWR will probably be no-take zones. He said that the Governor would like an additional no-take research zone.

### **2. Cannery Closure & Fisheries Development**

Haleck reported that Sea Samoa Packing, which employed more than 2,000 people, was closed in September. While several investors are interested in the plants in American Samoa, currently there are no plans for purchasing. Undamaged freezers of the Sea Samoa Packing plant have been offered to Starkist to use. Starkist is currently rebuilding and they hope to open in 5 to 6 weeks. Everything currently is halted and in assessment to identify what can be rebuilt after the tsunami. Regarding the status of the \$5 million request for equipment, it has been submitted and is being assessed in the current legislative session.

Longline boats are able to leave fish in American Samoa because the receiving facility has enough generators to keep the freezers operational. The canneries themselves are bringing in more generators because they do not have enough power to keep running. There are still 3 to 4 vessels with full holds waiting to unload.

#### **D. Education and Outreach Report**

No report given.

#### **E. Fono Report**

Haleck said that the governor gave support to the Aspire bill, as did Starkist, and the Fono is looking into it. In response to questions about Samoan landing laws and whether there is a long-term lease for the cannery that is shut down or if there are plans to buy it, Sword replied that both canneries have land that is part of a long-term lease. The big question is whether EPA permits that accompany the canneries will expire if not renewed before someone purchases it. There is a big push to get someone to purchase the plant, but not the leased land.

Kelly Finn presented a document outlining the fishery disaster relief measures specified in the MSA. The staff is examining whether American Samoa can declare a fisheries disaster due to the tsunami.

#### **F. SSC Recommendations**

The SSC had no recommendations for American Samoa.

#### **G. Public Comment**

There was no public comment.

#### **H. Council Discussion and Action**

##### ***Regarding American Samoa tsunami disaster clean-up, the Council:***

1. Recommended staff write to the USCG to require their clean-up contractor (PENCO) to clean the entire harbor bottom to eliminate hazards to navigation to fishing boats, especially those utilizing the back of Pago harbor in areas of boat ramps and moorings.

Moved by Haleck, seconded by Sword.

Motion carried unanimously. This motion happened on Friday when Thielen was present (as opposed to Polhemus who sat in for her Wed/Thurs).

##### ***Regarding Disaster Relief from the September 2009 tsunami in American Samoa, the Council:***

2. Recommended that a request be made to the Governor of American Samoa that he request the Secretary of Commerce to make a determination that there is a fishery failure, and that the Secretary establish a regional economic transition program to provide disaster relief assistance to fishermen, charter fishing operations, processors and owners of related fishery infrastructure affected by the tsunami, pursuant to Sections 312 and 315 of the MSA.

There was no discussion about this.

Motioned by Haleck, seconded by Tulafono.

Motion carried with one abstention by Mr. Robinson

3. Directed staff to communicate with NOAA that it wishes to be updated on continuing tsunami recovery efforts and included, as appropriate, in meetings and conference calls on this subject.

There was no discussion about this.

Moved by Haleck, seconded by Tulafono.

Motion carried unanimously.

## **9. Hawaii Archipelago and PRIA Fisheries**

### **A. Moku Pepa**

Polhemus provided the Moku Pepa report. He said that more than 34,000 ulua have been tagged and released during a project. Also, evaluators came to Papahānaumokuākea Monument in August to visit for three weeks. They met with stakeholders and evaluated the property to see if it meets the standards of the World Heritage designation.

There is a new project manager for HMRFS and there've been 750 angler intercept surveys since July. Nearshore recruitment for two recreational fish has been very strong this year. Polhemus reported that the commercial reporting system is now in beta testing.

Lastly, DAR has held about 15-20 information meetings about a bag and size limit for goatfish and parrotfish. Itano said that he attended a bag and size limit meeting and the survey was made available for public input. His input is that he had a hard time filling it out even though he's familiar with the fishery. He advised Hawaii that they should liaise with social scientists that have training in survey methodology prior to releasing surveys in the future. Mr. Itano also said that the moderator said that the more comments received on an issue would sway the decision, but he pointed out to the moderator that the recommendations should also be tempered by science, not just who yells the loudest.

### **B. Enforcement Report**

With DAR, a proof of concept was implemented. It decriminalizes some offenses and turns them into civil penalties. Commercial green licenses are supposed to be turned in on the 10<sup>th</sup> of each month or a \$15 fine results (second month is \$30, third is \$60, and 4<sup>th</sup> results in a suspended license). About 80% of the violators provided their report and paid the \$15 fine. Duerr pointed out that the system seems to be working. Polhemus added that DAR honors legitimate excuses, but after a few months there are no excuses.

### **C. Community Issues**

#### **1. Small Boat Fisheries in Hawaii**

This report presents an empirical snapshot of the Hawaii small boat fishery using results from a cost/earnings study of the fleet conducted in 2007-2008. Intercept surveys were carried out at boat ramps across the State of Hawaii and the instrument was fielded in two waves to capture seasonality within the fishery. A total of 343 interviews were completed. Using these data, we describe various aspects of the fishery including fisher classification, levels of fishing activity, financial performance of fishers, and social aspects of small boat fishing in Hawaii.



This research explores classification issues within the fishery by comparing fisher behavior with self-classification results. Our findings indicate that just over 30 percent of fishers that self-classified themselves as recreational fishers indicated that they had sold fish in the past year. While the scale of fishing activity is closely related to fisher motivation, we find no significant differences in trip-level expenditures across motivations. Fishers in Hawaii have varying degrees of market participation and access based on their motivation for selling fish and geographic constraints. The majority of fishers in our sample reported selling fish to simply cover trip expenses. Commercial fishers reported average gross revenues that covered variable trip expenses for the year, which speaks to this motivation, but a majority of fishers were not able to fish profitably. In light of this finding, there is clearly non-market values present in the fishery that should be taken into consideration in understanding fisher behavior.

In addition, this research makes a first attempt at quantifying the social importance and scale of non-market fish entering communities. While the magnitude varies by fisher motivation, 97 percent of our sample indicated that they participate in fish-sharing networks with friends and relatives, and over 62 percent consider the fish they catch to be an important source of food for their family. In general, we find the social importance of fishing to increase as one becomes more reliant on fishing. The results of this study provide fishery managers with a greater understanding of the current conditions of the Hawaii small boat fleet, in an economic and social context, which is necessary for future management of the fishery.

## **2. Hawaii Community Coordinator Projects**

Kaai of the Council staff provided a brief report. There is a coral reef grant position for an ecosystem coordinator. There are 4-5 discrete projects specific to the islands. The Hawaii island coordinator is convening ten meetings that address each moku and engage the community. This project is resulting in a different demographic than we have seen in the past. For example, practitioners are showing up at meetings and beginning to participate in the process. Lanai is establishing a natural resource management council that is community based. Oahu's community is being engaged through the municipal Neighborhood Board system. Molokai is being engaged through the Moku system and has elected moku representatives from four moku's. Kauai process is meeting with Niihau community members, educators, practitioners and fishermen.

The Hawaii Community Ecosystem Coordinator program was funded through the 2007 Coral reef grant. Originally, the grant was to fund one coordinator for the entire archipelago. The first RFP resulted in 14 applications but none had the requisite skills to address the grant requirements:

1. Identify local resource management issues;
2. Identify community-based management initiatives and needs;
3. Update contact information of traditional practitioners and community leaders;
4. Include updated information on location and boundaries of ahupua'a, cultural sites and cultural and natural resources important to the community;
5. Identify communities and individuals willing to participate in community resource

monitoring, resource information collection and community information exchange activities.

Originally, there were to be four coordinators contracted for this work: Hawaii Island, Moloka'i/ Lana'i, Oahu and Kaua'i/ Ni'ihau. Maui's changing demographics are affecting the existing cultural communities and would require work that the Council was not yet ready to pursue. We have since added Maui and Molokai's coordinators. Five coordinators have been hired to conduct this work:

- Kaleo Kualii, Hawaii Island
- Wayde Lee, Molokai's
- George Purdy, Lanai's
- Jackie Burke, Oahu
- Nathan Kaleo Hookano, Kaua'i/ Ni'ihau

### **3. Fish Labeling Issues**

The Council's Hawaii Advisory Panel recommended in 2007 that proper country of origin labeling of imported fish should not use the Hawaiian terms for fish caught locally. The Council heard a presentation from staff on the issue at its 138th meeting and the Council recommended proper origin labeling of imported fish and that imported fishes should not use the Hawaiian terms for fish caught locally (e.g. onaga, ahi, etc.).

After some investigation by Council staff, they found that the USDA COOL (Country of Origin Labeling) rule is a requirement for retail but not for restaurants. AP members continued to be troubled with this issue and again made the recommendation to the Council in 2009. The Council recommended at its 145th meeting that staff continue to investigate the issue of name recognition of local Hawaii fish and the mislabeling of imported fish with improper local names.

The resulting investigations by Council staff found more information on the rules and regulations for seafood and the extent to which the problem is occurring. Fishermen selling their local fish are competing with imports, but face increased competition when these imported fish are sold with the same local name. There are federal regulations that involve substituting fish species, but not substituting names.

Through this investigation and additional insight from the NMFS PIFSC FSMD, staff will present findings and options for solving this problem, including:

- Develop Seafood Program outreach and education to markets
- Find out origination of the labeling from market or fishmongers or fishermen
- Conduct a letter campaign to markets
- Provide DNA testing

### **4. Haleiwa Shark Viewing**

The Council received a request on August 27, 2009 from Joe Pavsek, owner of North Shore Shark Adventures, that at its October meeting, it renew discussion on regulations prohibiting shark feeding in federal waters. In 2006, the Council considered shark viewing in Hawaii at several meetings, and Council staff conducted a largely attended

scoping meeting in Haleiwa. Council action at the 135th CM in October 2006 directed staff to draft an amendment for federal waters around Hawaii that would:

- Prohibit shark feeding (defined as “the introduction of, or an attempt to introduce, food or any other substance into the water to attract sharks for any purpose other than to harvest sharks or other marine life”);
- Allow for chumming in conjunction with fishing activities; and
- Allow for traditional Hawaiian cultural or religious practices.

Section 317 of the MSRA (December 2006) includes the following:

*Except to the extent determined by the Secretary, or under state law, as presenting no public health hazard or safety risk, or when conducted as part of a research program funded in whole or in part by appropriated funds, it is unlawful to introduce, or attempt to introduce, food or any other substance into the water to attract sharks for any purpose other than to harvest sharks within the Exclusive Economic Zone seaward of the State of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean Area.*

Because the MSRA prohibited feeding sharks for viewing, further Council action was unnecessary, and a letter was sent to PIRO February 2, 2007 stating the Council would not continue development of the amendment. The Council provided a presentation by Kim Holland on recent research based on tour operator logbooks and tagging work in conjunction with the tour operators.

#### **D. Hawaii Precious Coral Fisheries**

##### **1. Report on CITES Corallium Workshops**

In 2007, the United States delegation to CITES proposed to list Corallium (red/pink coral) on the CITES appendix II list, which restricts trade. In March 2009, the U.S. held fact-finding workshops in Hong Kong led by NOAA (Andy Bruckner), and noted that Corallium will be up for Appendix 2 listing again at the next CITES meeting. A second meeting was scheduled for fact-finding at a meeting in Naples, Italy in September 2009, although this meeting mainly focused on the Mediterranean issues with corallium. Precious Corals Plan Team member Rick Grigg was invited by the Italian Government to participate. As a companion to the U.S. proposal is a campaign by SeaWeb called “too precious to wear” that is also pushing for the listing and has recruited big name retail industry for support, such as Tiffany & Co. and Pottery Barn.

#### **E. Main Hawaiian Islands Bottomfish Fisheries**

##### **1. WPSAR Review**

The Western Pacific Stock Assessment Review of the Main Hawaiian Islands Bottomfish Fishery was held June 15-19, 2009, at the Hawaii Tokai International College. The chair for the review was Robert Skillman and the review panel consisted of Milani Chaloupka, Cathy Dichmont, Dave Somerton and Kevin Stones. The panel drafted and presented a preliminary report of its findings at the end of the review. Although the WPSAR Chair presented a report of its findings to the 101st SSC meeting and the 145th Council meeting, the WPSAR review had not been publicly noticed and, as such,

recommendations could not be made to the Council.

## **2. Report on Catch Shares Task Force**

NOAA appointed members to a U.S. Catch Shares Task Force in June 2009. The member from the Western Pacific Region is Samuel Pooley, NMFS PIFSC Director. The task force will assist NOAA and the regional fisheries management councils as they consider and implement catch-share management programs.

## **F. FMP Amendment for Management of Hancock Seamount**

Council staff Sarah Pautzke presented the Council with an update on the draft Hancock Seamount Amendment. At its 145<sup>th</sup> meeting, the Council had considered three options in response to the upcoming end of the current six-year moratorium of the armorhead fishery at Hancock Seamount: 1) no action (implementation of a subsequent six-year moratorium), 2) let the six-year moratorium expire, or 3) create a Hancock Seamount Large Marine Ecosystem Management Area. The Council, at the 145<sup>th</sup> meeting, voted on the third option and directed staff to develop an amendment for the management of armorhead at Hancock Seamount. Pautzke noted that the working draft of the amendment includes a minimum time for rebuilding the stock ( $T_{min}$ ), inclusion of the word "moratorium" to the ecosystem management language, and deletion of the word "large" from the naming convention of the ecosystem management area.

## **G. Hawaii Education Report**

Sylvia Spalding, the Council's communications officer, reported on the Council's Hawaii and Western Pacific Region-wide education and outreach initiatives since the 145<sup>th</sup> Council meeting. Publications and displays included the Council's newsletter, Council process booklet and two marine debris posters among numerous others. Work continues on the Council website, and another newsletter is scheduled for publication this year. Archipelagic fishery management "Get Involved" display and brochure for each island archipelago are also being developed, as well as an information kit, speakers bureau brochure and a tool to evaluate the effectiveness of outreach to fishing and diving clubs and educators in the Hawaii archipelago.

## **H. Legislative Report**

There was nothing to report at this time.

## **I. SSC Recommendations**

Skillman provided the SSC recommendations regarding the Hawaii archipelago.

Young asked whether the SSC discussed focusing on the MHI as a single stock for management and whether the SSC had an opinion on this topic.

Skillman replied that it is addressed in one of the recommendations, although it is worded as single stock "assessment," instead of management.

Young said he wanted to ensure that the SSC recommendation is recommending management of the MHI stock as well as assessing it.

## **J. Public Comment**

Roy Morioka said he is skeptical about the conclusion, with respect to the work done by Meyer, that Galapagos sharks do not frequent shallow waters, as they are responsible for eating baby monk seals.

He also said that that he had asked NOAA OLE about licensing of children under the age of 16 years old and got no response. He said that neither permit provides an exemption for kids under 16 years old, and he is wondering how a child on a boat with an adult who has a CML state fishing permit will be treated. He requested the Council get a response about whether the child needs a permit too.

Regarding the bottomfish stock assessment, Morioka said that public participation was non-existent. He asked whether bottomfish fishermen received a letter or something formal.

In response, Dalzell said that there was a Federal Register notice, a notice in *Hawaii Fishing News*, announcements sent to twenty newspaper and radio shows, and cards sent out to people and clubs on the Council mailing list.

Ken Kuniyuki, who identified himself as an attorney for Northshore Adventures, said that the company was established before the MSRA language about shark feeding and that the government cannot take away their right to the shark tours without due process. He reviewed the minutes of the last Council meeting and argued that the Council reasoning was very weak with no scientific evidence and that the Council ignored the advice of the SSC. He argued that since there was also no testimony to Congress, the statute is subject to challenge. He said that the NOAA General Counsel also does not think that shark viewing is in the Council's jurisdiction and that any decisions would probably not withstand judicial scrutiny.

Young said that, to his understanding, the statute does not prohibit Kuniyuki's client from operating, just feeding the sharks.

Martin said that he accepts the recommendation and will confer with General Counsel.

Janelle Makulena, a high school student, spoke in favor of aquaculture, if used responsibly. She said that while it causes pollution, it should still be considered because resources are depleted due to a high demand for fish. She argued that it produces large amounts of fish and reduces dependence on imports. Therefore, she is in favor of the Council's development of an aquaculture FMP.

Kevin Weng noted that, with regards to a separate MHI bottomfish assessment, some scientific evidence based on genetic studies and preliminary larval dispersal modeling is emerging that the MHI and NWHI are different biological stocks.

## **K. Council Action**

***Regarding the WPSAR review of the Hawaii bottomfish stock assessment, the Council:***

1. Adopted the WPSAR panel recommendation and recognizes the main Hawaiian Islands bottomfish stock as a separate management unit and;
2. Requests that PIFSC prepare a separate stock assessment for the Main Hawaiian Islands bottomfish stock complex only, as per the recommendation of the SSC, which will be used to set future TACs for this redefined fishery.

Robinson said that he was abstaining from the vote because it is not clear that the SSC and PIFSC are in agreement with all aspects of the assessment.

Motioned by Duerr, seconded by Polhemus.  
Motion carried with one abstention by Mr. Robinson.

***Regarding fish labeling issues, the Council:***

3. Recommended the issue be forwarded to appropriate agencies, and that local fish products be labeled as "Hawaiian, Guam, CNMI and American Samoan." All other fish products should be clearly labeled with country of origin

Harris said that Kona coffee is required to be at least 10 percent local coffee to get the Kona label and maybe there should be additional criteria added for fish. She asked if the labeling could be extended to Guam and the other island areas.

Itano said that all other seafood products should be labeled with country of origin and asked if that should be added to the motion.

Motioned by Duerr, seconded by Duenas.  
Motion passed unanimously.

***Regarding Hancock Seamount management, the Council:***

4. Recommended the following be included in the FEP amendment for the Hancock Seamount:
  - Use a  $T_{min}$  of 35 years
  - Make research recommendations to PIFSC and the NPRMA
  - Drop "large" from the Ecosystem Management Area name
  - Include "moratorium" in the text for Hancock Management Area

Robinson asked if "and the NPRMA" could be added to the recommendation to provide research recommendations to PIFSC. There was no objection to the additional language.

Motioned by Duerr, seconded by Duenas.  
Motion carried unanimously.

***Regarding current the MHI bottomfish fishery the Council:***

5. Recommended Council staff explore options for exempting persons less than 16 years of age from fisheries permitting processes.

Polhemus said he would vote against this because it would be amending a state law through an inappropriate venue.

Young agreed with Polhemus, saying it is premature to exempt people prior to the system being unveiled.

Robinson said he was unsure the motion was appropriate, as it appears to be a proposal to amend the FMP and Federal regulations, which is a start to a process, not a decision. He said that first a proposition to amend the FMP needs to happen because it would be premature to come to a conclusion without an analysis.

Simonds said the Council could tell the staff to review the issue and develop options.

Robinson suggested that the ideal solution is to have compatible regulations between the state and federal agencies and that if the Council wants to explore a federal exemption, it would be reasonable to open a discussion with the state about exemptions within its waters too.

Caputo agreed with Robinson about compatible measures, but asked how enforcement would occur for an age limit.

Duenas asked if the motion should be expanded from just bottomfish to other fisheries as well, or if the Council wanted to use bottomfish as a "poster child" to be expanded to pelagics and others at a later date.

Young suggested that the registration process be clarified first and then the Council could work on exemptions. It was noted to Young that the motion was regarding federal waters only.

Duenas said he would like to see an exemption on Guam, even if Hawaii chooses not to allow the exemption.

Itano said that the closest parallel is Alaska with indigenous and traditional fisheries. He expressed concern that children will be in violation because they are fishing with their dads.

Motioned by Duerr, seconded by Duenas.

Motion carried with one objection from Young and one abstention from Polhemus (in for Thielen).

***Regarding bottomfish catch depredation by sharks on the North Shore of Oahu, the Council:***

6. Commended HIMB on its shark study on the North Shore of Oahu, and recommended that this study be extended by provision of acoustic receivers to North Shore bottomfish fishermen in order to evaluate if the same sharks being observed by

the shark viewing operations are depredating bottomfish catches. In order for this to work more sharks will need to be tagged with acoustic transmitters.

There was brief discussion about giving receivers to bottomfish fishermen because of misconception that they must be moored to the bottom. Mr. Itano clarified for Mr. Palawski that the receiver can also be hung over the side of the boat.

Motioned by Duerr, seconded by Duenas.  
Motion carried unanimously.

#### Other Business

Tucher explained that documents were handed out at the Executive Committee and at the Budget section of the Council meeting to facilitate discussion. However, those documents are not to be further distributed because if disclosed, they would violate personal privacy. If someone else wants to see the document, they must submit a request through NOAA. They are to be used for official business only.

### **10. Program Planning and Research**

#### **A. Recommendations for Annual Catch Limits for Known-MSY**

Council staff presented on progress with the MSRA requirements for Annual Catch Limits (ACLs). At its 142nd meeting, the Council approved a process for the development and implementation of ACLs under which the Council would, based on its SSC recommendations regarding allowable biological catches (ABCs), establish and implement ACLs for those stocks with reliable estimates of their maximum sustainable yields (MSYs). As specified under the MSRA, species subject to international agreements (i.e., managed under international organizations and treaties) will not receive ACLs. Species for which MSYs have not been estimated are being prioritized for stock assessments, followed by ACL development and implementation based on the likelihood and consequences of overfishing.

At the 101st SSC, Council staff advised that the SSC must soon set ABCs for U.S. insular fisheries. There are only a few SSC meetings left before the deadline or ABCs will be set by NMFS. The MSRA requires that SSCs establish fishery-specific ABCs. An SSC recommends an ABC that is no more than an OFL (overfishing limit) set for a fishery where an MSY estimate exists. The Council then sets an ACL (annual catch limit) for that fishery based on the SSC's recommended ABC. The WPRFMC insular fisheries with MSY estimates that need ABCs are as follows:

- Hawaii Precious Coral Beds
- Hawaii Akule
- Hawaii Opelu
- Hawaii Deepwater Shrimp
- CNMI Deepwater Shrimp
- Hawaii Bottomfish Complex
- American Samoa Bottomfish Complex
- CNMI Bottomfish Complex



- Guam Bottomfish Complex

At its 101st Meeting, the SSC noted that this is a critical task with a very short deadline and has agreed to create a small working group to review the data needed to develop ABCs for some of the species for the October SSC meeting. SSC members Polhemus, Kleiber, Deriso, Trianni and Sabater agreed to serve and the SSC recommended that Hampton also be asked to participate. Council staff convened working group meetings on August 25th and October 1st in order to develop recommendations for ABCs to the SSC and hence for the SSC to recommend to the Council.

Duenas asked about the MSY for deep water species in Guam that he felt was wrong. He asked for verification about how the numbers were established because they were previously incorrect for Guam. The numbers compared to the creel survey were inconsistent.

Dalzell stated that he was unfamiliar with the original data and was equally concerned. The recommendation from the working group is to separate the deep and shallow water groups. He clarified that the numbers are generating based on sampling for American Samoa, CNMI, and Guam, which has associated sampling error, unlike Hawaii that uses absolute numbers.

Duenas also commented on shrimp fishing on Guam that had been tried but had not been established on a continuing basis. He was also concerned about the establishment of an ACL for akule that was the top rated fish on Guam. Itano noted the importance of rainfall on akule abundance and MSY in Hawaii.

Polhemus noted that ACLs were not permanently fixed and referred to the MHI bottomfish TAC that has been set annually, based on stock assessment improvements. He noted that what was once thought to be a single black coral species may now be three individual species, which would have to be taken into account in establishing an ACL.

Harris concurred with the comments made by Duenas that establishing policy for sustainable management was difficult in the face of uncertainty about the data.

Simonds noted that the Council was convening a data workshop in November to address these uncertainty issues relating to fishery data.

SSC chair Skillman noted that the stock assessment and WPSAR review of the assessment were conducted in the wrong order. However, no reviews have been conducted of the stock assessments for bottomfish in American Samoa, Guam and Northern Marianas, nor for *Heterocarpus* shrimps, akule, opelu and precious corals. Reviews could potentially address some of the issues.

## **B. Data Collection**

### **1. Update on MRIP**

The Marine Recreational Information Program (MRIP) is continuing to move forward by

developing pilot projects that can help revise the old MRFSS survey. Staff met with regional MRIP team members to develop projects to submit that would help revise HMRFS and make it useful for the Council. These projects include developing an owner/captain-based survey approach as well as documenting recreational catch from snorkeling and other tour companies.

In addition to MRIP, a National Saltwater Angler Registry will be implemented on January 1, 2010, for all anglers/spear fishermen in the U.S. EEZ. Staff has provided materials for Guam, CNMI and American Samoa to request exemptions from the Registry. In Hawaii, seeking an exemption is not easy because no regional survey or marine fishing license exists. Therefore, the regional MRIP team is looking at other approaches to revise the survey to capture information from owners/captains only.

The MRIP Operations Team met on September 23-24 in Woods Hole, MA and the Executive Steering Committee (ESC) met September 28 in San Antonio, TX to discuss the future of MRIP and get an update on its progress.

## **2. Recommendations on Recreational Fishery Permitting and Reporting in the Western Pacific Region (Initial Action)**

Although much information is available on major fisheries under the Council's jurisdiction, detailed information on some smaller fisheries is incomplete. For most areas and fisheries under the Council's jurisdiction, a combination of creel surveys (for both commercial and recreational vessels) and various types of dealer reporting systems (for commercial catches only) are used to provide information to fishery managers. In Hawaii, recreational fisheries data are collected through HMRFS; the State requires reporting of fishing effort and catch by all commercial fishermen (i.e. those who sell one or more fish during the year). However, there are many fisheries where the data is not being collected, resulting in management decisions made on the best available science.

Individually, these gaps can be addressed through increased funding and resources. A better approach may be to have a single reporting requirement for all fishing of Federal MUS throughout the region that indicates who fished, where they fished, what they fished for (and caught), and their fishing effort or any other information needed.

## **3. Non-Commercial Fisheries Advisory Committee Meeting Report**

The Council held its first meeting of the Non-Commercial Fisheries Advisory Committee on September 30, 2009 by web-conference from the Council Office. The Committee discussed non-commercial fishery issues including MRIP and looked at options for collecting non-commercial fishery data through mandatory permitting and reporting.

## **C. Recommendations for Aquaculture Management in the Western Pacific**

### **1. Proposed Changes to the Council's Aquaculture Policy (Final Action)**

At its 137th Council Meeting, March 13-16, 2007, the Council adopted a Policy for dealing with aquaculture in the Western Pacific region. At its 145th Council meeting, the Council asked staff to include a section for tracking escapes of fishes from aquaculture facilities.

The Council may choose to adopt a revised version of its Aquaculture Policy at this meeting.

## **2. Options for Aquaculture Management in the Western Pacific (Initial Action)**

In 1993, NOAA General Counsel issued an opinion stating that “fishing” encompasses aquaculture. In the Western Pacific Region, there have been no aquaculture facilities in the Exclusive Economic Zone (EEZ); however, there are two current operations in State of Hawaii waters with another three in the proposal stages. To date, the Council has been given courtesy visits from all potential offshore aquaculture projects as well as been kept informed through meetings at the Hawaii Aquaculture Development Program. Currently, the Council has an aquaculture policy to deal with potential projects on a case-by-case basis. This policy is given to potential projects as guidelines that the Council would like to see abided by when developing their facilities.

With the growing industry of offshore aquaculture and the lack of direction by NMFS on how to manage it, the Council may want to look at developing additional management measures for offshore aquaculture. Options for management include:

- Managing by the current aquaculture policy
- Developing an FMP for aquaculture similar to the Gulf Council;
- Developing FEP amendments for managing aquaculture in our current FEPs; or
- Wait on NMFS to develop guidance on offshore aquaculture.

## **D. Recommendations for Framework Process for Council Actions (Initial Action)**

The framework process for Council actions in each of the FEPs needs to be revised to provide firm legal basis for taking final actions under the MSA for (at a minimum) quotas, TACs, ACLs and other types of catch (or effort) limits in a one-meeting process. This revision should clarify the MSA process that the Council will use to make and transmit its recommendations, as well as the process that NMFS will use to review and approve/disapprove or partially approve them. It should also clarify the document(s) that will be used and provided to the Council and the public and transmitted NMFS to comply with MSA, NEPA, ESA, MMPA and other applicable laws and statutes. The Council, at its 146th meeting, was presented with options for revising the framework process across all FEPs. The Council may choose to adjust the existing framework processes and/or items that can be addressed via framework action. Polhemus voiced support for option 2 – adding additional items to the list of frameworkable items in light of the newly required ACLs in the MSRA.

## **E. Research**

### **1. Information and Data Needs for Archipelagic FEPs**

Council staff Mark Mitsuyasu provided a brief background on the FEPs and identified the data and information needs for them. The FEPs were finalized in September 2009 and a staff working group has reviewed the Council’s efforts to date to develop and support the FEPs. The staff is identifying how to operationalize the FEPs: Identify and leverage communities in the Council process, identify communication tools and frequency and opportunities for improvement, and identify activities and work elements for the FEPs.

Identified needs include: informing the FEPs about biological and trophic relationships and habitat requirements, monitoring and review of the FEP performance, developing FEP management actions, as needed, and conducting outreach/education to support FEP initiatives and activities. Mitsuyasu presented integrated projects to inform the FEPs, including a biosampling workshop in Guam and deepslope habitat and ecosystem workshops in September. He then outlined efforts to engage the community including hiring island coordinators in Hawaii to carry forward a Council community consultation process, seminar classes, and networking and liaising with small boat fishing clubs and tournaments. There are also efforts to leverage the Council family, including the non-commercial advisory committee, the joint advisory panel meeting, and training and meetings through webex.

## **F. Habitat**

### **1. Habitat Assessment and Improvement Plan**

The Marine Fisheries Habitat Assessment Improvement Plan (HAIP) is a report that has been developed by a team of scientists from NMFS Headquarters and Science Centers. The HAIP Team gathered input on direction and content of the Plan through focus-group discussions and formal questionnaires directed at NMFS staff engaged in habitat science, stock assessments, and resource management at the six NMFS Science Centers and Regional Offices, the Office of Science and Technology, the Office of Habitat Conservation, and science program managers at each Center. Several briefings on HAIP development were made to NMFS leadership, some Fishery Management Council Habitat Committees, and staff of NMFS Science Centers and Headquarters. The scope of the HAIP is restricted to managed stocks within Fishery Management Plans, with particular focus on the 230 stocks in the Fish Stock Sustainability Index (FSSI). The conclusions and recommendations of the HAIP, however, can be applied more broadly to other managed and protected species.

Parke reported that NMFS is currently on their third draft of the HAIP, which was circulated to the Councils and NMFS agencies. The final HAIP is expected in late November/early December. He pointed out that having habitat information is important to take stock assessments to the next level. He said that many Council members had expressed concern about data quality and the FEPs are lacking some habitat data. Habitat knowledge will help reduce data gaps and improve decision-making because habitat is the basis for any ecosystem modeling. There are four goals: assist NMFS, improve identification of EFH and HAPC, reduce habitat-related uncertainty in the stock assessment, and reduce uncertainty in the assessments due to limited habitat knowledge. He described the development, application and improvement of the habitat assessment and the three tiers of excellence. Parke also described the recommendations in the HAIP, including funding linking to NMFS mandates, development of criteria to prioritize stocks that would benefit from habitat assessments, development of demonstration projects, identification and prioritization of data inadequacies for stocks and their respective habitats, and increased collection of habitat data.

### **2. Report on Deep-slope Habitat Workshop**

Mitsuyasu presented a summary of the workshop on deep-slope bottomfish ecosystems

and monitoring that was held by the Council, NMFS and the State of Hawaii to develop a comprehensive integrated scientific research plan to support resource management and conservation requirements of deep-slope bottomfish stocks in the Hawaiian archipelago. This workshop was held on September 16-18, 2009 at the Council office and was attended by over 40 participants representing NMFS, the State of Hawaii, the University of Hawaii-Hawaii Institute of Marine Biology and other interested parties. The participants in the workshop had to understand resource management and conservation requirements, review contemporary research programs, perform gap analyses, prioritize future research and identify partners, and develop a research plan.

Duenas said that this workshop should be more spatially defined per island area because the boundaries can be somewhat hazy. Mitsuyasu replied that there is a need to identify where habitat is and what habitat is required for different life phases.

#### **G. Compensation for Fishermen Excluded from Pacific Monuments**

President Bush's designation of the Marianas Trench Marine National Monument instructed the Secretaries of Commerce and the Interior to prohibit commercial fishing in the Islands Unit and to ensure that any sustenance, recreational or traditional indigenous fishing in the Islands Unit be managed as a sustainable activity. Similarly, commercial fishing was prohibited in the other Pacific monuments established at Rose Atoll and the Pacific Remote Island Areas (PRIAs). With the prohibition of commercial fishing, there may have been fishermen who were displaced that would be entitled to compensation by the federal government, similar to those that were displaced by the NWHI monument.

Council staff Finn provided a report to the Council on compensation availability for fishermen excluded by the Pacific monuments. She described the background of the Pacific monuments: President Bush established three monuments through proclamation in the Federal Register without any analyses or public comments by using his authority under the Antiquities Act. The monuments permanently displace fishers from their fishing grounds, and data show that participants and communities will be affected by this loss. Therefore, the government could compensate those fishery participants and communities. American Samoa already had large vessel exclusion zones prior to implementation of the Rose Atoll Monument. Within the PRIA monument, there were important fishing grounds for the Hawaii-based longline fleet targeting bigeye and yellowfin tuna. Smaller volumes of pelagics and bottomfish were also caught in the PRIA by troll and handline. The Mariana Trench monument includes the three northernmost islands, represents lost future fishing operations out to 50 nm, and impacts a long range bottomfish fishery and fledgling longline fishery from Saipan such that economic benefits have not yet materialized. Finn presented various options for action: have NOAA develop a compensation package, have staff and NOAA collaborate on development of a compensation package, or have staff gather information about compensation through APs, PTs, and REACs. Itano said that staff should also consult with other constituents.

#### **H. National and International Education and Outreach Reports**

Council Staff Sylvia Spalding reported that the Council has been active in its national and

international education and outreach through such groups as National Marine Educators Association (NMEA) and the International Pacific Marine Educators Network. Spalding also discussed efforts to establish a Traditional Knowledge Supplement to the national Ocean Literacy Essential Principles and Fundamental Concepts, as well as other national and international outreach and education efforts.

She said Council will have a booth at the US Coral Reef Taskforce meeting and at the NMEA Conference. The Council staff co-chairs NMEA Traditional Knowledge committee. In September, Council staff will attend the Association of Aquariums meeting to pursue partnership initiatives with aquariums on sustainable fisheries. The Wildlife Society Annual Conference has invited the Council to speak about traditional ecological knowledge as well as write an article about it for a journal. Lastly, the Council staff is working with the regional fishery councils on a potential Managing Our Nation's Fisheries III conference.

### **I. SSC Recommendations**

Skillman presented the SSC recommendations, which are as follows:

**(1) The SSC considers the MSY estimates for the stocks treated by the working group to be the best available science.** For fisheries in this assemblage with no current harvest, the SSC proposes to apply a default ABC control rule such that the ABC is set at  $0.70 F_{MSY}$  (= yield 91 percent OFL = 91 percent MSY = ABC) as a precautionary measure, so as to maximize yield, while minimizing biomass impact and account for scientific uncertainty. An alternative value may be specified if additional data or modeling is available to support it.

**The SSC also recommends the Plan Teams re-examine all MUS lists to determine which species should be retained in the fishery and which should be proposed as Ecosystem Component Stocks.**

**(2) The SSC recommends that EFH definitions and depth ranges for bottomfish be conducted separately for each archipelago.** The SSC also recommends that the analysis be further refined so that the bottomfish complex can be broken into shallow, mid- and deep water categories with depth ranges based on either 40 m or 50 m depth bins. The SSC suggests that the analysis concentrate first on the MHI Deep Seven and possibly uku and that the exercise could then serve as a pilot for further refinement of EFH designations for the other archipelagos.

Itano clarified that the depth categories would be 0-40m, 40-80m, and 80m and beyond.

Duenas thanked the SSC for recognizing that there are several complexes of species.

### **J. Public Hearing**

**Roy Morioka** commented that he is a local advocate for data collection. To implement a registry before state exemptions are considered and a complementing survey process is completed, however, dumbfounds him. Why would anglers be

registered and then exempted? He said that the process was delayed in 2009 to give states time for their legislatures to approve management plans and asked why they could not be delayed again until 2010 when everything is fleshed out so as not to inconvenience fishermen. He suggested that NOAA GC advise if that's possible. He also spoke to recreational data collection saying the Council should table the matter until the meeting is held with PIRO and the non-commercial advisory committee during which they will define exact data needs.

**Bill Mossman** clarified that he is a member of the non-commercial advisory committee. A vote was taken at the committee meeting, during which it was unanimously decided that the preferred data collection method is a statistical sample survey as opposed to gathering data through mandatory permits and catch reports.

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

##### ***Regarding EFH definitions and depth ranges for bottomfish, the Council:***

1. Endorsed the SSC recommendation that EFH definitions and depth ranges for bottomfish be conducted separately for each archipelago. The Council also recommended that the analysis be further refined so that the Bottomfish complex can be broken into shallow, mid- and deep water categories with depth ranges based on either 40 m or 50 m depth bins. The Council suggested that the analysis concentrate first on the MHI Deep Seven and possibly uku and that the exercise could then serve as a pilot for further refinement of EFH designations for the other archipelagos.

There was no discussion about this motion. It was moved by Itano, seconded by Tulafono and carried unanimously.

##### ***Regarding Acceptable Biological Catches for FEP stocks, the Council:***

2. Endorsed the SSC recommendation that considers the stock assessments resulting in MSY estimates for the stocks currently harvested to be the best available science. For fisheries in this assemblage with no current harvest, the Council agreed to apply a default ABC control rule such that the ABC is set at  $0.70 F_{MSY}$  (= yield 91 percent OFL = 91 percent MSY = ABC; see Walters et al. 2005) as a precautionary measure, so as to maximize yield, while minimizing biomass impact and account for scientific uncertainty. An alternative value may be specified if additional data or modeling is available to support it.
3. Directed the Plan Teams to re-examine all MUS lists to determine which species should be retained in the fishery, and which should be proposed as ecosystem components.

Polhemus proposed saying, "the Council agrees to apply" and "the Council recommends." Skillman clarified that he discussed the first sentence with another SSC member and suggested the wording be closer to the SSC recommendation. He suggested the first line have "which considers the stock assessments resulting in MSY estimates..." and to delete "by the working group." Harris recommended altering language in part 2 to say "Directs the Plan Teams to re-examine..." There were no objections to rewording

by the maker of the motion or seconder.

Moved by Itano and seconded by Tulafono.

Motion carried unanimously.

***Regarding the Framework measure, the Council:***

4. Recommended staff develop an omnibus amendment to potentially revise frameworkable actions in the context of MSRA of 2006 and make the framework process consistent across all FEPs.

Polhemus suggested adding "in context of MSRA of 2006" so that they comport with current statutes because they were set up prior to reauthorization.

Moved by Itano, seconded by Tulafono and carried unanimously.

***Regarding MRIP, the Council:***

5. Recommended that prior to and following the implementation of the 2010 recreational fishery fisher registry, NMFS conduct a major education and outreach campaign. The Council further recommends that the Council, NMFS and State of Hawaii work together to determine the direction of MRIP in Hawaii.

There was no Council discussion.

Moved by Itano and seconded by Tulafono.

Motion carried unanimously.

***Regarding Recreational Permits and Reporting, the Council:***

6. Recommended NMFS, State and Territory fishery agencies continue to revise existing programs to fill data gaps.

There was no Council discussion.

Moved by Itano and seconded by Tulafono.

Motion carried unanimously.

***Regarding the Council's aquaculture policy, the Council:***

7. Approved the revised Policy as presented, recognizing that further revisions may be required as NOAAs policy evolves and is implemented.

There was no Council discussion.

Moved by Itano and seconded by Tulafono.

Motion carried unanimously.

***Regarding aquaculture management, the Council:***

8. Recommended the development of an omnibus amendment to all the FEPs for aquaculture management in the Western Pacific Region.

There was no Council discussion.



Moved by Itano and seconded by Tulafono.  
Motion carried unanimously.

***Regarding aquaculture in Tinian, the Council:***

9. Recommended that staff send a letter to CNMI DFW and the Mayor of Tinian alerting them of the disastrous situation that Hawaii currently faces regarding the escape of cultured *Gracilaria salicornia* and *Kappaphycus spp.* and their negative impacts on coral reefs.

Polhemus suggested changing language to “regarding escape of cultured” and “its negative impact on coral reefs.” Teregeyo asked to include *Kappaphycus spp.* It was clarified by Polhemus that Hawaii just had an issue with *Kappaphycus* not with other grass.

Moved by Itano and seconded by Sablan.  
Motion carried unanimously.

***Regarding bio-sampling in the region, the Council:***

10. Recommended that staff continue to work with NMFS to support and facilitate bio-sampling efforts in the Region. In addition, the Council requested PIFSC provide a report to the Council on how the bio-samples collected through this effort will be prioritized, processed and analyzed.

There was no Council discussion.

Moved by Itano and seconded by Sablan.  
Motion carried unanimously.

***Regarding National Education and Outreach, the Council***

11. Recommended that the executive director discuss with the executive directors of the other Councils the following:
  - To continue efforts to have NOAA provide additional funding allocated on a regular and consistent basis to the Councils for education and outreach and, in the meanwhile, for NOAA to provide in 2010 funding based on NOAAs 10 percent set aside requirement, but not less than \$50K.
  - To support initiatives to partner with aquariums on outreach and about US sustainable fisheries and regional fishery management councils; and
  - To organize and host, in partnership with NOAA NMFS, a Managing Our Nation’s Fisheries III conference in 2011.

Harris asked if the motion should be extended to reminding NOAA of the 10 percent set-aside, which was an accepted correction. Polhemus clarified the title of the MONF III conference.

Moved by Itano and seconded by Sablan.  
Motion carried unanimously.

***Regarding compensation for fisheries displaced by the new national marine monuments, the Council:***

12. Recommended the Secretary of Commerce/NOAA be requested to develop a compensation package in consultation with the fishing industry and with the Council. The Council also requested Guam, American Samoa and CNMI fishery agencies conduct surveys to determine if there are fishermen who have fished in the monument areas that are not represented in the current data set.

Palawski said that he is dubious that the creation of the monuments would impact the purse seine fishery, which has expanded and the Council discussed as an issue. He also asked if the creation of the PRIA monument would actually prevent the longline fishery from obtaining their limit because the impacts were not included in the presentation. Duenas clarified that the American purse seiners fish Howland/Baker, which affects American Samoa. Martin echoed Duenas, but also said he is unable to pinpoint the exact impact. Polhemus asked if the international provisions have yellowfin tuna catch limits. Dalzell said that for the Western Pacific, there is a longline yellowfin tuna catch limit for Hawaii only.

Moved by Itano and seconded by Duenas.

Motion carried with 2 abstentions by Robinson and Young.

**11. Pelagic and International Fisheries**

**A. Action Items**

**1. Recommendations for Management of Hawaii Longline Tuna Quota (Action)**

In July 2009, NMFS published a proposed rule for WCPFC bigeye catch limits for the U.S. longline vessels under the WCPFC Implementing Act, and has requested the Council to take action on yellowfin catch limits. NMFS also requested the Council to consider additional measures (beyond the publication of the 2009-2011 bigeye catch limits) to effectively manage the longline fishery.

For fresh fish longline fisheries catching less than 5,000 mt annually (such as the Hawaii-based longline fleet), the reduction applies only to 2009, with 2010 and 2011 catches to be maintained at the 2009 level, i.e., at a 10 percent reduction. If the actual 2004 bigeye tuna landings of 4,181 mt (9,198,200 lb) are used as a baseline, the Hawaii annual longline bigeye quota would be 3,763 mt (8,278,600 lb). CMM 2008-01 states that the catch of yellowfin tuna is not to be increased in the longline fishery from the 2001-2004 levels. The 2001-2004 average yellowfin catch by the Hawaii longline fleet was 771 mt (1,696,200 lb).

It is expected that the Hawaii longline fleet would reach the 3,763 mt quota in December, although in some years the bigeye catch limit could be achieved as early as October or possibly earlier. The months from October to February are prime bigeye fishing months for Hawaii-based vessels in terms of market demand. Restrictions on targeting or retaining bigeye during this time would be expected to have higher negative economic impacts than other time periods.

These requests have created the need for the actions to minimize adverse impacts to the human environment, including fishery participants and fishing communities; to optimize yields and socioeconomic benefits; and to maintain viable longline fisheries in the Western Pacific Region. The amendment document considers a range of approaches for managing the regions longline fisheries under tuna catch limits. Appropriate approaches are likely to vary by species and area fished (i.e. WCPO bigeye is likely to be managed differently than EPO yellowfin).

1. No Action – under this approach, bigeye tuna catch limits established by the Pacific tuna RFMOs for U.S. longline fleets would be implemented through NMFS rule-making.

2. Region-wide limited entry longline program – under this approach, the longline fisheries in Hawaii, American Samoa, Guam and CNMI would all be brought into a single limited-entry program with a single permit that would allow fishing and landing inside any WPR EEZ.

3. Region-wide port access program – under this approach, the separate limited entry programs would remain in place but all WPR longline vessels would be allowed to land in all ports. However, only vessels holding a valid Hawaii permit could fish in Hawaii's EEZ, only vessels holding a valid American Samoa permit could fish in American Samoa's EEZ, etc.

4. Catch shares or limited access privilege program (a.k.a. LAPPs/IFQs/ITQs) – under this approach, tuna catch limits would be apportioned among individuals to fish them when they wish.

5. Sector allocations – under this approach, tuna bigeye and/or yellowfin catch limits would be apportioned among Hawaii longline sectors (e.g. shallow vs. deep set) to prevent the entire fishery from having to cease targeting/retaining bigeye and/or yellowfin tuna when one sector reaches its quota.

6. Trip limits for non-target sector – under this approach, a limited number of bigeye tuna would be allowed to be landed from each shallow-set trip. This limit would likely be 17-20 bigeye, as this is their average catch and would be intended to prevent waste, while still making it uneconomical to target bigeye tuna for part of a supposedly shallow-set trip.

7. Temporary bigeye or yellowfin prohibition triggered by reaching X percent of quota – under this approach, targeting/retaining bigeye and/or yellowfin would be prohibited when a certain portion of the quota was reached. Bigeye and/or yellowfin tuna fishing would then open to take advantage of the winter season/market.

8. Seasonal tuna prohibition – under this approach, targeting/retaining bigeye and/or yellowfin tuna would be prohibited during a pre-specified portion of the year. Bigeye fishing would then reopen to take advantage of the winter season/market.

9. Change fishing year – under this approach, the fishing year would begin in October or whatever month would maximize the likelihood of maximizing fishery revenues as well as providing a steady, optimal, or at least workable flow of fish to markets.

10. Monthly landing limits – under this approach, monthly landing limits would be implemented for the fishery (or sector). This option aims to ensure that there is a constant supply of fresh fish at the auction.

11. Three-year rolling catch limits -- under this approach, a three-year rolling bigeye and/or yellowfin quota would be established for the Hawaii longline fishery. If catches were below the annual limit in a given year, then the underage would be transferred to the following year, or vice versa where catches exceed the annual limit and would be subtracted from succeeding years.

12. Effort limits – under this approach, the Hawaii deep set longline fishery would operate under an effort regime that limited the number of vessels that could be out of port and fishing on either a daily or monthly basis.

Martin stated that several of the alternatives were concerned with constricting effort in various ways. However, there is no guarantee that those measures or groups of those measures will result in meeting the objective at the right time. Martin also wanted more details on the confidence intervals around the projected catch estimates being used to indicate when the fishery should be closed.

NMFS scientist Chris Boggs responded that they were all approximate and the selection of a particular date depended on the amount of risk of exceeding the catch limit. The lower the risk then the earlier the fishery would close.

Harris asked about the potential to change the fishing year and the opposition to this by the WCPFC. Dalzell responded that WCPFC Conservation and Management Measures text applies to a fishing year from January to December, and there was no provision in there to switching to something like September to August, August to September. Dalzell added that there had been no official communication saying WCPFC would not consider it but discussions on the margin of the TCC had indicated opposition to this measure.

Martin noted that, having been to TCC and listened in the margins, the scientific community does not know how to factor a non-calendar year into the system. Another complicating factor is how to make the transition between calendar and non-calendar years.

Polhemus stated that the preceding discussion highlights the potential problems of trying to use purely output controls for the longline fishery. Output controls are expensive, data-intensive and administratively complex, requiring a lot of time to ensure they are conducted correctly. He suggested that effort controls be considered to maintain the fishery below the bigeye catch limit.

Itano sought clarification about the catch limit monitoring and the impending closure. Robinson explained how the bigeye catches were being monitored and that the fishery would close once the projected catch limit was reached. The closure would not be absolute, but rather prohibit the landing of bigeye by Hawaii longliners fishing in the WCPO.

Young asked if this measure was intended to be put in place in 2009 or 2010, as time seemed to be running out in 2009.

Dalzell clarified that the measure being proposed was for 2010 and 2011 and in the longer term, the fishery may move to having individual catch shares.

Duerr asked if an overage in a given year can be deducted from the following year.

Robinson responded that not many fisheries are managed in this way because it was hard enough under normal circumstances to stay within the catch limit.

Young agreed with Polhemus that effort limits should also be considered.

Duenas expressed concern about the unchecked catch of bigeye by purse seine vessels, which were regulated by FAD closures and vessel days, as opposed to catch limits for the longliners.

Asked to give the SSC recommendation on this issue, Skillman stated that the SSC recommends the no-action alternative for the short term, but suggests that it would be advisable to monitor the effects of any closure on fishermen, markets and consumers. For the long-term, the SSC advocates a rapid decision on a suitable management regime to implement the RFMO quotas in the Hawaii longline fishery.

The SSC suggests that such a suite of measures could include the following:

1. Catch shares or ITQs or LAPPs, including the immediate establishment of a control date.
2. Input controls, such as hook, set or trip limits.
3. Management of catch limit based on a non-calendar fishing year to minimize market disruption.
  - Include a provision for secondary closure toward the end of the calendar year to ensure that calendar year catches remain within the WCPFC catch limits.
  - Submit a proposal to WCPFC to allow flexibility in setting fishing year for catch/effort reporting so that the secondary calendar closure would not be necessary.
  - Allow rolling quota so that quota is met on average.

Duenas asked if there was any public comment on this issue.

Jim Cook stated that he was here to speak for himself. "I'm a vessel owner in the Hawaii longline fleet. I'd like to endorse the recommendation of the SSC. Thank you."

## **2. Recommendations for Territorial Longline Quotas (Action)**

The Pelagics FMP provides the regulatory and management structure for US pelagic fisheries operating in the Western Pacific Region. The WCPFC has provided 2,000 mt BET catch limits for American Samoa, Guam and Northern Mariana Islands (collectively, the Territories), as well as no BET catch limits if undertaking responsible fisheries development. The Pelagics FMP does not currently contain the management structure that would provide the Territories the assignable interest to utilize those catch limits through domestic charter arrangements.

This draft amendment to the Pelagics FMP would:

- 1) Establish longline bigeye tuna catch limits for the Territories,
- 2) Delegate limited management authority under the FMP to the Territories for the utilization of their longline bigeye catch limits, and
- 3) Establish criteria for integrating vessels under charter arrangements with a Territory's domestic fleet. In addition, this amendment would satisfy the US obligation as a Contracting Party and Member of the WCPFC to recognize, implement and manage the special rights of the Territories provided under the WCPFC.

Young drew attention to the status of bigeye and the overfishing condition of the stock, and the disparity in developing a scheme to allocate territory catches to the Hawaii fleet. Moreover, he noted that under the MSA, the Council is obligation to take action when a stock is being subject to overfishing and this was incompatible with harvesting an additional 1,000 to 2,000 additional mt per territory.

Polhemus referred to the Council's Pelagics Plan Team recommendation that "Council staff investigate how increasing fishing mortality on bigeye tuna in the Territories above the limits provided by Conservation and Management Measure 2008-01 and the FAO Code of Conduct provisions as a standard when increasing fishing mortality on a stock that is subject to overfishing and nearly overfished."

Robinson sought clarification about the number of landings a vessel operating under a charter must make in American Samoa.

Kingma responded that this provision extends to vessel groups or entities or singular vessels, for whatever is provided by the charter arrangement.

Itano sought clarification on existing arrangements under PIAFAs. He also did not believe that a bigeye targeting fishery could develop economically in American Samoa or Guam. CNMI might have the potential for such a fishery, however. He also noted the incongruity of 1000 mt allocation to the U.S. territories and the need to reduce fishing mortality on bigeye tuna.

Kingma responded that the territory limits are now 2,000 mt or no limit. The WCPFC's

Scientific Committee is recommending an additional 15 percent of the fishing mortality, which would be 50 percent of the baseline level of 2004. 2004 was used to establish the Conservation and Management Measure. Fifty percent of 2,000 is 1,000.

Caputo of the USCG stated that if this scheme was to use foreign vessels then there would be significant hurdles.

Robinson spoke to the logical disconnect about allowing territories to have no bigeye catch limit or a 2000 mt catch limit, in the face of needing fishing mortality to be reduced on this stock. This was due to language in the Code of Conduct and the WCPFC Convention text that addressed the aspirations of the Small Island Developing States and Territories.

Haleck stated that Chicken of the Sea Packing has closed up and left American Samoa. StarKist would open again within a few weeks, following the tsunami. Haleck added that facilities and infrastructure were severely damaged by the tsunami. However, the intent of the American Samoa Government was to develop and rebuild the infrastructure and facilities to be able to cater to the Territory's fisheries. From the American Samoa point of view, the government was looking at this charter agreement as a regular tool to receive funding and also means to rebuild infrastructure and provide jobs for its people. Haleck stated that this was why the American Samoa Government had signed an agreement.

Duenas stated that Guam was the largest transshipment port in the Pacific for foreign fleets. There were three or four daily flights to Japan. As a result, many of the foreign fleets offload on Guam, even with penalties from the FSM. They pay up to five to ten thousand dollars per offloading on Guam. Regarding PIAFAs, he thought that the consensus was that island governments would prefer to work with U.S. and not foreign vessels. Duenas also expressed concern about the continued high catch of bigeye by purse seiners. He stated that in 2000, the purse seiners had caught 13,800 mt and growing to 55,000 mt over the last eight years. Nothing has been done to minimize this catch. The Commission allows for U.S. territories to have an allocation. However, it seemed unfair to put roadblocks in the way of the territories making use of this allocation. Moreover, the U.S. paid \$18 million per year for access for the 40 purse seiners in the Western Pacific. These vessels were part of the fleet that was catching juvenile bigeye tuna. How was this responsible fisheries development? No conservation measures were being asked of the purse seiners. Duenas stated that he was in favor of charter arrangements as outlined in the amendment.

Harris echoed the sentiments expressed by Duenas.

Duerr states that it was unfair for the U.S. Government to protect the U.S. purse seine fishery at the expense of the U.S. longline fishery. Why were longliners being penalized, while nothing was being done to the purse seiners?

Robinson stated that the U.S. position was for a total purse seine closure for two months but no consensus could be achieved on this at the WCPFC. He stated that the Fisheries

Service was supportive of the Conservation and Management Measure that clearly recognizes the Small Island Developing States and Participating Territories, including the U.S. Territories. Under the provision of Conservation and Management Measure, the territories have the right to responsibly develop their fishery without significant constraints. He added that the obstacle was that the fishery in American Samoa and those in the U.S. EEZs off Guam and CNMI are federally managed fisheries. This proposal addressed establishing a limited authority for the territories. The problematic aspect right now, at least for the NMFS is the minimum threshold for operating as an integral part of the chartering fleet. He thought that some form of minimum landing requirement was a step forward in the right direction.

Robinson added that this issue was a problem and concern for NMFS because the U.S. did not want to set a precedent or create a model that would be abused by other fleets.

Itano stated that it was not true to say that the purse seine fleet was under no restriction because the fleet did have the FAD closure two months in 2009. They will have a two-month FAD closure in 2010.

Sword drew attention to the decline in landings in American Samoa that was unlikely to improve with the loss of one of the canneries. Consequently, there was a need to support and build up fisheries so he was in favor of charter arrangements.

Sword's comments were supported by Sablan who also wanted to encourage fishing development there in the CNMI.

As requested by Duenas, Boggs gave the Pelagic Plan Team recommendations, as follows:

1. That members provide additional comments to Council staff on the pros and cons identified in Table 3 of the options paper to include management options for yellowfin as well as bigeye. The deadline for comments on these options is September 21, 2009.
2. That if the Council proceeds with a LAPP program for bigeye and yellowfin tuna for the Hawaii longline fishery, and that if such a program is based on catch history, that of the six options for documenting catch history, the most reliable method for such documentation is permit number.
3. With regard to Amendment 20: That Council staff investigate how increasing fishing mortality on bigeye tuna in the territories above the limits provided by CMM 2008-01 paragraph 32 (2000 mt) and to those specified under paragraph 34 (unlimited 'responsible' development) could be consistent with "responsible" under the FAO Code of Conduct provisions as a standard, when increasing fishing mortality on a stock that is subject to overfishing and nearly overfished. Anticipating some difficulty in reconciling the FAO Code of conduct with such an increase in fishing mortality, the Pelagics Plan Team further recommends that the Territorial longline bigeye tuna catch limits should be limited to 2,000 mt or less.



4. That Council staff include in the draft amendment alternative sets of criteria, such as one that includes port of landing, recent history of landings, port of vessel servicing and vessel office location, for determining if vessels operating under domestic charter arrangements are integral to a Territory's domestic fleet, as required under CMM 2008-01 paragraph 2 and to be discussed at WCPFC 6.

As requested by Duenas, Skillman gave the SSC recommendation on this issue as follows:

Given the continued decline of the status of bigeye stock, the SSC does not support any increase in bigeye catch by any entity authorized by the Commission and declines to endorse any specific alternatives related to this Draft FMP Amendment.

Duenas asked for public comment.

**Jim Cook** stated that he is "a vessel owner in the Hawaii longline fleet. I represent myself and no other entity. A lot of the discussion today seems to be turning on the definition of integral, and it's curious to me that the WCPFC did not enter into discourse on the definition of integral. They granted the island communities their unlimited or their 2,000 ton quota, and they left it up to them, as to what would be integral, and it's most appropriate. And when we end the discussion that we're having here, that basically they're talking about integral and the discussion of what benefits are accruing to you. It seems to me that it's up to the territories to decide for themselves what is integral and not the US Government. Further, when we look at integral, I ask you to look at one thing, I think we're all from the US, we're all islanders and we're all integral."

**Leland Oldenburg** said he is a fisherman." I would just like to remind the Council of information that they already have. But only approximately four percent of the production in the Pacific is caught by us and we represent the US fishery. And 50 percent of our catch is even out of the Commission area. If you're looking 20 North to 20 South, a lot of our fish isn't even in the Commission. And if the bigeye is overfished, it's not us that's doing it. It's a Pacific problem, Pacific-wide, and we can only accept responsibility for four percent of it. And if everybody was contributing their part, as we do, we wouldn't have the problem. But I've been to these WCPFC meetings and I don't see anything happening. We're the only ones that are doing anything, and I don't feel that we should be held up as the standard for the rest of the world. Everybody needs to make their own commitment, and that's all. Thank you."

### **3. Recommendations for Options for Shortline Management in the Main Hawaiian Islands Longline Exclusion Zone**

There is some speculation that shortline use may increase in the near future due to the closure of the commercial bottomfish fishery in the NWHI in 2011; other sectors of the economy going further into recession; or implementation of the longline fishery bigeye tuna quota and potential concomitant early annual closure of the fishery if/when the quota is reached. Concerns have been expressed by some fishery participants and managers that

currently the use of shortline gear is unregulated, except for the required adherence to the State of Hawaii's commercial marine license (CML) reporting requirements. Whereas Hawaii-based longline fishery participants must adhere to a multitude of regulations, including a prohibition on fishing in the longline-closed area around the main Hawaiian Islands (MHI) that varies seasonally and by area from 25 to 75 nm. Increased shortlining activity may lead to gear and user conflicts between shortliners and other gear types (e.g., longliners outside the longline-closed area, trollers and other non-longline pelagic fishers (NLPF) inside the closed area), depending on how many vessels participated and in what areas, and on localized depletion of bigeye or other pelagic species.

Itano asked whether shortline data catches were exclusive to MHI or if they were combined with Cross Seamount. Finn clarified that they were exclusive of Cross Seamount and were for the remaining MHI. **Itano recommended that the gear be defined, the data be cleaned up so that just pelagic shortline gear is being examined, and that it is monitored closely. He followed up saying that at this point it is probably premature to do anything about it.**

Martin responded that option 2 was part of an amendment package that went to and was disapproved by the Secretary; he asked if the Council is trying to go down the same road.

Robinson said that he was unsure it was the same road because the reason for disapproval was duplication. However, if there is a big management need that requires information, it may create a different situation. Duenas suggested that the Council could select a combination of the options, such as 2, 4, and 5.

Duenas asked if the Council could ask fishermen to do volunteer reporting to tell the Council how they are doing in federal waters. Itano replied that he is working closely with fishermen on an acoustic study and that NMFS should put people on boats. Harris recalled a Council member talking about the complexity in filling out forms and said that to obtain quality data, the burden on the fishermen needs to be considered -- forms must be as simple as possible.

#### **4. Options for Management of Tuna and Seamount Monchong at the Cross Seamount**

At the 145th Council meeting, the Council decided not to proceed with a limited entry program for the offshore non-longline pelagic fishery in Hawaii, which has periodically been an issue for over 20 years. Instead, the Council directed staff to develop an options paper for the October 2009 Council Meeting that provides available data for the consideration of a TAC on the Cross Seamount for both tuna and monchong. The options paper summarizes catch data from the Cross Seamount, focusing primarily on seamount monchong and bigeye tuna.

1. NO ACTION -- under the no action alternative, any total allowable catch would be set for catches of seamount monchong and bigeye tuna on the Cross Seamount.

2. TAC-based on average catch -- under this alternative, the Council would

establish a TAC for seamount monchong and bigeye tuna based on catch history from the Cross seamount.

3. TAC-based on equilibrium surplus production models -- under this alternative, a TAC for seamount monchong and bigeye tuna would be set based on surplus production models.

4. TAC-based on dynamic surplus production models -- under this alternative, a TAC for seamount monchong and bigeye tuna would be set based on dynamic surplus production models.

Martin commented that there would be a problem enforcing a TAC on the Cross Seamount. Kingma replied that there is a potential for monitoring vessels on Cross SM with VMS, but it would be costly. He also suggested that there are other tools to monitor small boat fleets in the MHI that are not as costly as VMS. Itano suggested that since little is known about the seamount monchong, it is premature to develop a TAC. He commented that there is a largely un-surveyed population of monchong around the MHI. **Itano recommended close monitoring and further research to get better data.** He also said that there is a significant tagging effort starting next month to collect telemetry data.

Harris agreed that the Council should act proactively, but not prematurely. She asked Dalzell for the reasons not to act right now. He responded that PIFSC stock assessment scientists could do better analyses of the data than he had conducted to date.

Thielen commented that the Council needs a better dialogue with the fishermen to explain why detailed data is required for stock assessments

## **B. Longline Fishery Quarterly Reports**

### **1. American Samoa Longline Fishery**

### **2. Hawaii Limited-entry Longline Fishery**

A round-up was presented of the latest quarterly reports from the two U.S. longline fisheries in the Western Pacific.

Hamm reported that total catch is up by 9 percent, which represents over 8,000 additional fish. The total catch for albacore is up 18 percent, bigeye tuna is down by ~1 percent, yellowfin tuna is up 2 percent, and billfish up by 55 percent, which is a new maximum for the 2<sup>nd</sup> quarter.

Duerr said that marlin is very sensitive to changes in the water temperatures and asked if that influenced the increased billfish catch. Hamm replied that he had not looked at that and does not know if PIFSC has either, but a request to analyze that data could be made. Itano asked if the number of hooks was close to the record. Hamm responded that it is less, but the number of hook sets has increased slightly this year.

Russell Ito presented the report for the Hawaii longline fishery. In the second quarter, 123

vessels made 364 trips, 311 of which were deep set bigeye targeting trips. A total of 3,785 tuna sets were made and 825 sets for swordfish. This fishing effort resulted in 21,000 bigeye tuna, 12,800 monchong, 12,000 blue shark, 9,500 swordfish and 6,900 mahimahi.

### **C. Hawaii Longline Shark Bycatch Information**

A recent paper accepted for publication summarizes catch data for sharks collected by fishery observers during 1995–2000 and 2004–2006 in the Hawaii-based pelagic longline fishery, which targets swordfish and bigeye tuna in shallow-set and deep-set sectors, respectively. The blue shark was the predominant shark species caught throughout the study period (84.5 percent of all sharks). Five other species (bigeye thresher, oceanic whitetip shark, shortfin mako, silky shark, and crocodile shark) were relatively common (1.0–4.1 percent). Two major developments affected shark catches in this fishery during the study period. The first was the prohibition in 2000 of shark finning in most circumstances.

The second development, management measures taken in 2000 and 2001 to protect sea turtles, included a closure of the shallow-set swordfish-targeted sector for more than three years. This closure caused decreases in shark catches because this sector was typically characterized by high catch rates. The shallow set sector was reopened in 2004. Comparisons of nominal catch-per-unit-of-effort (sharks per 1,000 hooks) revealed significant differences in catch rates between the two fishery sectors and the two periods. Blue shark and shortfin mako catch rates were significantly greater in the shallow-set sector than in the deep-set sector of the fishery, whereas the opposite was true for the deeper-dwelling bigeye thresher and crocodile shark. Catch rates for blue shark, oceanic whitetip shark, bigeye thresher and crocodile shark were significantly lower in 2004–2006 than in 1995–2000. For blue shark, in particular, the combination of reduced catch rates, the finning ban and an apparent capacity to resist the stress of capture on longline gear resulted in low (4–5.7 percent) minimum mortality estimates. Therefore, we conclude that the Hawaii-based pelagic longline fishery has made substantial progress in reducing shark mortality.

Young asked whether the substantial mortality reduction of blue sharks accomplished was associated with incidental catch or bycatch. Walsh clarified that it pertained to bycatch and that the minimum estimate is 5 percent, but an educated guess is that the reality is probably more along the lines of 10–15 percent mortality. Young commented that there may be ways to further minimize shark catch, including identification of fishing areas to avoid, setting hooks at greater depths, and consideration of different baits.

Walsh responded that with regards to bait, the advantage has already been realized through the switch from squid to mackerel, which resulted in significant reductions in blue shark catch. Walsh continued that in terms of setting depth, the deep-set fishery is already minimizing shark catch by setting deeper. He suggested not drawing too many conclusions from the spatial distribution of shark catch from year-to-year, although it may be beneficial to examine within a year and within a season to see if patterns emerge in blue shark catches spatially. Walsh recommended waiting for CPUE information before making any management recommendations because catch rates have become

fairly stable. Young argued that per MSA, the Council has an obligation to reduce bycatch and mortality. Itano replied that Dr. Richard Brill looked at blue shark post-hooking mortality and determined that they are a robust species with a very low mortality rate. He also commented that the Council has an obligation to reduce bycatch interactions and bycatch mortality – the key is promoting de-hooking and discouraging wire leaders. Walsh agreed.

Martin commented that the observer program provided significant amounts of data and added that another way to reduce shark mortality would be to ban the import of shark fins into the US. Duenas asked if blue sharks are in trouble. Walsh clarified that the IUCN has them listed as vulnerable, but in this jurisdiction, there is no compelling evidence of a serious problem. Duenas asked if the current shark mitigation management measures have a significant impact on fishery management, to which Walsh replied that the measures correspond to tens of thousands of sharks not killed. He further clarified for Young that mortality was reduced because of the ban on finning, although there is still some mortality and some bycatch. Wash clarified for Sword that there is not enough data to determine what the impact of purse seines is on shark bycatch. Itano offered that the IATTC in the eastern Pacific has detailed information about shark bycatch, including published information about the purse seine fishery bycatch. In the western Pacific, the data is from observer programs and is pretty well documents, primarily for the silky shark. **Young then suggested that there be regular reporting about shark bycatch to the Council.**

#### **D. Report on U.S. Purse Seine Fishing in the Western Pacific**

Robinson provided a report on the US purse seine fishing. The fleet completed a two-month FAD closure with observers on all trips. There were reports of creative fishing, due to the FAD closures that have led to questions about what constitutes a FAD, including whether a vessel could be a FAD. From the US perspective, this was not a preferred management measure. Instead, the US preferred to tie up all purse seine fleets for two months, instead of just the FAD closure adopted by the WCPFC.

Parties to the Nauru Agreement (PNA) have adopted a vessel day scheme and are encouraging the WCPFC to adopt that for the high seas. The US purse seine fleet fishes outside the purse seine scheme because it fishes under the South Pacific Tuna Treaty, which is in effect until 2015. Negotiations to extend the treaty will begin next week. The main objective of the FFA will be to bring the US into the vessel day scheme.

Tulafono asked if any bigeye tuna were caught during the two-month FAD closure. Robinson replied that he has not seen the catch report but the theory behind the closure was that juvenile yellowfin and bigeye tuna aggregate beneath the FADs and that by closing the FADs, the purse seine catch of juveniles would decrease. Harris said that the existing scheme to stop fishing on the FADs was meant to coincide with the time frame that vessels are dry docked for servicing, but concurrently there was no ban on fishing in general by purse seiners. She asked what the effectiveness of the moratorium was on fishing FADs. Robinson replied that to a certain extent, it was effective because fishing did not occur on the FADs. However, it did not stop all fishing; a major problem was

that the US was the only country in support of that. Harris added that it was hard to get the other countries to agree, to which Itano added that the primary issue was exemptions for countries like the Philippines and Japan. He said that the Taiwanese were the most affected.

Itano said that they were not able to arrive at a robust definition of FADs and the issue was given to the TCC to consider. Whale sharks are included in the definition of a FAD. He then asked if measures to prevent cheating by purse seiners were being considered. Robinson replied that the PNA countries gave a presentation that showed the definitions. The US regulations are pretty similar to those of the PNA countries with quite a few countries that have not promulgated regulations, including the Marshall Islands. In response to a request by Itano, Robinson said he could supply a copy of the US regulations.

Martin commented that on page 12 of the report (Document 11D1); there is a shift of the US purse seine vessels landings in American Samoa. In 2008, it dropped 42 percent. He asked if this was an anomaly because it seems to be a shift away from the territories. He also questioned the baseline number of days established for the conservation management measures of the WCPFC and how the US will deal with a revitalized fleet and incorporation of a number of days based on 2004 levels. Robinson replied that at first observation, that is accurate. There are a large number of new vessels with foreign-built hulls that are fishing farther west and unloading in transshipping areas, such as the Marshall Islands and Bangkok. He could not speak in detail about the US strategy, but pointed out that the 40 licenses the US have preceded the deployment of the other countries' vessels. Simonds asked whether Robinson supports the vessel days, which counters the original agreement that the Council had with PIRO. Robinson replied that he expects the FFA will try to negotiate the US into the vessel day scheme, which it does not support. Simonds pointed out that the Commission did say that it would be acceptable if countries wanted to use catch, instead of days, for purse seiners. Robinson replied that theoretically the vessel day scheme will work, but there is no confidence in its implementation.

Sword asked if Robinson could share a similar data report, to which Robinson replied that they are required to submit that report annually and would be happy to provide it to the Council.

Duenas argued that the primary concern is that Hawaii has 160 longline permits. He suggested that there could be a conservation measure that puts a moratorium on permits not in use. He challenged those in attendance to identify a conservation effort that applies across the fisheries, instead of for just one area or fishery. Robinson replied that there is no short answer. The US is implementing the terms of the conservation and management measures for both the longline and purse seine fleets and it is correct that the absolute bigeye tuna bycatch has increased for the purse seine fleet. He would not be surprised if the management measures are demonstrated to be inadequate. Duenas said the management regime for albacore in the north is similar to the purse seine for effort because only longline is given a hard limit. He questioned the disparity.

## **E. International Fisheries/Meetings**

### **1. WCPFC**

#### **a. Science Committee**

Council staff presented on the recent WCPFC Science Committee meeting. The 2008 WCP-CA catch of skipjack (1,634,617 mt – 67 percent of the total catch) was the second highest ever; yellowfin catch (539,481 mt – 22 percent) was easily the highest on record and 77,000 mt higher than the previous record; and bigeye catch (157,054 mt – 6 percent) was the second highest on record, mainly due to a high estimated catch from the purse seine fishery. Albacore catch (95,043 mt – 4 percent) was the lowest in the past ten years.

Young asked if all gear types could be represented with an allocation, to which Dalzell replied probably not because a lot of juveniles are caught in the purse seine fisheries and larger fish are caught with longlines. Purse seine fisheries on FADs are probably the only thing the Council could fix. Skillman suggested that a steady state equilibrium fishery could be achieved if the Council could manage the three fisheries, but unfortunately foreign fisheries make that a difficult goal. Duenas observed that newcomers to the fisheries are in the other groups – removing FADs and changing the depth of the fishery could help.

#### **b. Northern Committee**

Duenas provided the summary of the Northern Committee meeting. Three countries have expressed particular concern about the reduction of effort in 1) the EEZ management with the Japanese impacts on artisanal fisheries and 2) Korea's concern about impacts beyond the artisanal fisheries. The ISC peer review must also be performed by people with the appropriate expertise and the Council may offer assistance through the SSC members. The Northern Committee also expressed the opinion that the vessel day's scheme is not a conservation effort.

#### **c. Technical Compliance Committee**

Duenas provided a report from the Technical Compliance Committee. The major items discussed were observers, VMS, transshipment, non-member carriers and bunkers, charter arrangements, compliance with CMMs, ad hoc data, US proposals, and the draft IUU. The regional observer program is not fully implemented, which is required by 2012. Transshipment was not a major issue this year. Regarding non-member carriers and bunkers, the US had a strong position to have them continue operations. The draft measure is for them to continue on the record of the longline vessels, and there is a push to have them on the record with a home country. For charter arrangements, it is unknown how many are being chartered and how the catch is attributed. For the provisional IUU list, several Taiwan vessels were caught fishing in the U.S. EEZ around CNMI. Some people were unsure why the US proposal on data buoys was given and this issue was carried forward to December.

Robinson added that when listing if IUU vessels were discussed, there was a trend in some countries to try to force flag states to provide incomplete information that could

then be used to penalize those particular vessels. He argued that individual vessels should not be punished for failure of the flag state to provide complete information. Martin added that the US Government provides information for the WCPFC registry, and fishers within that jurisdiction should be paying attention to the accuracy of the provided data.

## **2. North Pacific Seamount RFMO**

Mitsuyasu gave an overview of the meeting that was held in Seattle this autumn. Participating states in the RFMO are Korea, Russia, Japan (the Interim Secretariat) and the US. Mexico and China were invited to participate, but did not.

Interim measures for armorhead and alfonsin have been passed. The US proposed closures at Colahan and C-H Seamounts, and only C-H was approved for closing. The RFMO is looking at all non-pelagic species, VMEs, fishing entities and Secretariat options, with a Web site containing their documents and definitions. The next meeting is in January in Korea.

## **F. Sea Turtle Advisory Committee Recommendations**

Council staff Asuka Ishizaki presented the Sea Turtle Advisory Committee recommendations from the fifth meeting convened on August 5-6, 2009. The purpose of the meeting was to review ongoing Council-funded projects and to discuss future project directions.

The following recommendations were presented to the Council:

### ***Regarding the Baja Projects, the STAC:***

1. Recommends that the Council consider funding an extra \$2,500 to \$5,000 for the project to complete the remaining buoyless bottom gillnet trials in this ENSO-affected sampling year.
2. Recommends that the Council continue to consider necropsy work to identify cause-specific loggerhead mortality in the Baja California Sur region.

### ***Regarding the STAJ nesting beach management project, the STAC:***

3. Recommends that the Council continue to support egg relocation where appropriate and when evaluated as a valid conservation strategy.

### ***Regarding the STAJ genetics project, the STAC:***

4. Recommends that the extensive backlog of bycatch samples be considered in a future project proposal as well as a more expanded sample of rookeries throughout the Archipelago.

### ***Regarding the leatherback conservation projects in Papua, Indonesia, the STAC:***

5. Recommends that the Council consider (1) coordinating with the leatherback working group (including WWF, ELNA, UNIPA, NOAA partners) to consider options for predator control at leatherback rookeries in Papua, and (2) funding for a scheduled



meeting of the Western Pacific leatherback working group convened originally in Brisbane in February 2009.

6. Recommends that the Council continue to consider Western Pacific leatherbacks and in particular the Bird's Head leatherback nesting populations to be of a high priority for conservation of Pacific leatherbacks.
7. Recommends that the Council no longer fund nesting beach monitoring projects at the Wermon leatherback rookery because there is no immediate need.

***Regarding the Huon Coast Leatherback Project, the STAC:***

8. Recommends that the Council consider a review of the PIT tag capture-mark-recapture leatherback turtle data for demographic parameter estimation prior to making a final decision to phase out this project.
9. Recommends that the Council develop an exit strategy to phase out funding for this project given consideration as well from the PIT tag review proposed.

***Regarding the TREDs and SPREP Database Program, the STAC:***

10. Recommends that the Council continue support for TREDs and its ongoing development and improvement.
11. Recommends that alternative sources of long-term funding should be explored by the Council, such as corporate donor funding.

***Regarding the fishery impacts offset analysis, the STAC:***

12. Recommends that the Council consider supporting sea turtle aging studies as a high research priority.
13. Recommends that the Council consider preparing a paper on the policy issues of offsets as a valid conservation strategy.

***Regarding the project updates from committee members, the STAC:***

14. Recommends that the Council continue to support sea turtle laparoscopy studies as a high research priority to derive better information on key demographic parameters, such as breeding rates.
15. Recommends that the Council, in support of the STAJ position, continue to note that the hatch-and-release practice in Japan is not an acceptable practice to ensure long-term survival of the Japanese loggerhead stock.

**G. Pelagic Plan Team Recommendations**

Boggs presented the Pelagic Plan Team recommendations from the September 15, 2009 meeting, which considered agenda items 11A.1 and 11A.2 to produce recommendations regarding those issues.

The following recommendations were presented to the Council:

1. That members provide additional comments to Council staff on the pros and cons identified in Table 3 of the options paper (now developed into a full amendment document), and which will include management options for yellowfin as well as bigeye tuna. The deadline for comments on these options is September 21, 2009.

2. The Pelagics Plan Team recommends that if the Council proceeds with a LAPP program for bigeye and yellowfin tuna for the Hawaii longline fishery, and that if such a program is based on catch history, that of the six options for documenting catch history, the most reliable method for such documentation is permit number.

3. With regard to Amendment 20:

The Pelagics Plan Team recommends that Council staff investigate how increasing fishing mortality on bigeye tuna in the Territories above the limits provided by CMM 2008-01 paragraph 32 (2000 mt) and to those specified under paragraph 34 (unlimited 'responsible' development) could be consistent with "responsible" under the FAO Code of Conduct provisions as a standard, when increasing fishing mortality on a stock that is subject to overfishing and is nearly overfished. Anticipating some difficulty in reconciling the FAO Code of conduct with such an increase in fishing mortality, the Pelagics Plan team further recommends that the territorial longline bigeye tuna catch limits should be limited to 2,000 mt or less.

The Pelagics Plan Team recommends that Council staff include in the draft amendment alternative sets of criteria, such as one that includes port of landing, recent history of landings, port of vessel servicing and vessel office location, for determining if vessels operating under domestic charter arrangements are integral to a territory's domestic fleet, as required under CMM 2008-01 paragraph 2 and to be discussed at WCPFC 6.

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

SSC member Robert Skillman presented the SSC recommendations for Pelagic and International Fisheries as follows:

1. The SSC recommends the no-action alternative for the short term, but suggests that it would be advisable to monitor the effects of any closure on fishermen, markets and consumers. For the long-term, the SSC advocates a rapid decision on a suitable management regime to implement the RFMO quotas in the Hawaii longline fishery. The SSC suggests that such a suite of measures could include:

1. Catch shares (ITQs or LAPPs), including the immediate establishment of a control date.
2. Input controls, such as hook, set or trip limits
3. Management of catch limit based on a non-calendar fishing year to minimize market disruption.
  - Include a provision for secondary closure toward the end of the calendar year

to ensure that calendar year catches remain within WCPFC catch limits.

- Submit proposal to WCPFC to allow flexibility in setting fishing year for catch/effort reporting so that secondary calendar closure would not be necessary.
- Allow "rolling" quota so that quota is met on average.

2. Under WCPFC 2008-01 the "Small Island Developing States and Participating Territories" are provided with 2000 mt bigeye tuna catch limits, as well as no limits if undertaking "responsible fisheries development." Given the continued decline of the status of the bigeye stock, the SSC does not support any increase in bigeye catch by any entity authorized by the Commission, and declines to endorse any specific alternatives related to this draft FMP amendment.

3. The SSC recommended that both state and federal reporting of monchong catches should clearly differentiate pelagic (*Tarachtichthys* spp) and seamount (*Eumigistes* spp.) so as to allow better assessment of stock status.

The SSC also recommended that funding be sought by the NMFS PIFSC for a comprehensive study of pelagic and seamount monchong life history.

The SSC further recommended that NMFS conduct a stock assessment of seamount monchong (*Eumigistes illustris*) in the Hawaii Archipelago.

In addition, the SSC recommends that if a TAC is considered for seamount monchong that it be inclusive of the stock in the Hawaiian Archipelago as a whole, rather than only the Cross Seamount.

SSC made no conservation recommendation for bigeye tunas caught on the Cross Seamount. Monitoring should be continued.

**The SSC requests that Council staff include on the agenda for the next meeting the recommendations made by local fishermen during public comment at the SSC's 102<sup>nd</sup> meeting. Several SSC members volunteered to consider and summarize the issues prior to the 103<sup>rd</sup> SSC.**

4. The SSC notes that shortlines are not defined under the Council's pelagic FMP. The SSC recommended exploring the possibility of adopting the State of Hawaii definition of "shortline" for Council use.

5. The SSC endorsed the PPT recommendations, echoing its concern about the WCPFC regulation that allows unlimited bigeye catch by developing countries and territories as long as they are "responsibly" developing their longline fishery. The SSC is further concerned that the alternative limit of 2000 mt is larger than warranted by information given in the latest bigeye assessment document for the WCP.

6. The SSC supports in principle the convening of a bigeye population dynamics and

stock assessment workshop which reviews the various models and approaches employed, and to have SSC members and staff work on the scope, participants and meeting agenda prior to the 103 SSC.

#### **I. Public Hearing**

There was no public comment at this time. However, members of the public commented under items 11.A.1 and 11.A.2

#### **J. Council Discussion and Action**

##### ***Regarding bigeye catch limits for the Hawaii-based longline fishery, the Council:***

1. Recommended the continued development of a longline bigeye catch shares program for the Hawaii longline fishery and consider a control date at the next Council meeting for future management of bigeye tuna allocations in the Hawaii longline fishery.
2. Recommended PIFSC monitor the effects of any fishery closure on fishermen, markets and consumers.
3. Directed staff to expand the FEP amendment document to include detailed alternatives related to input controls and non-calendar fishing year scenarios.

Motion made by Duenas and seconded by Sablan.

The motion passed unanimously.

##### ***Regarding the draft amendment to the Pelagics FMP on the issues associated with bigeye longline catch limits for American Samoa, Guam and the Northern Mariana Islands (Territories), the Council:***

4. Recommended as preferred alternatives (as described in 11.A.2(1) rev 1):
  - Alternative 1C- Establish an annual longline bigeye catch limit of 2,000 mt for each of the territories.
  - Alternative 2B- Provide limited authority to the territories to utilize their longline bigeye catch limits through arrangements (charter, lease, or similar mechanisms) or otherwise with FMP permitted vessels
  - Alternative 3D- Establish the following criteria to determine if a vessel(s) operating under a charter arrangement is integral to a territory's domestic fleet

##### Criteria for US. Vessel(s)

1. Valid charter permit/license issued by territory
  - a. Vessel(s) operating under territory charter arrangement must obtain a territory permit/license as well as operate under existing FMP regulations
2. Vessel(s) must make at least three annual landings to offload catch in the ports of the chartering territory, if adequate infrastructure is available (as determined by the chartering territory) to make it commercially feasible

- a. If 3 landings are not feasible in the first year of the arrangement due to lack of infrastructure, at least three landings shall be made in the second year of the arrangement
    - i. The remainder of landings must be made in US ports
  - b. Reasonable increases in landings in the chartering territory shall be made in subsequent years of the chartering arrangement
- 3. Vessel(s) that make landings in the ports of the territory pursuant to # 2, must be serviced/provisioned in the chartering territory.
- 4. Commercial entity chartering the vessel must be legally established in the chartering territory.
- 5. Provide benefits to the territories to promote responsible fisheries development (Benefits must be consistent with a territory's Marine Conservation Plan and shall include at least one of the following, and as determined by the chartering territory)
  - a. Funding- deposit of funds into the Sustainable Fisheries Fund to be disbursed in accordance with MSA section 204.
  - b. Infrastructure development- provide for, or contribute to, infrastructure improvements identified in a territory's MCP including projects, such as cold storage facilities, fish processing facilities and vessel docking and offloading areas.
  - c. Training- provide training activities that benefit residents in the territories and that are consistent with responsible fisheries development including: fishing operations, fish handling, fish processing, fish wholesale and retail markets.
  - d. Employment- provides employment opportunities for residents of a territory in positions that directly involve fishing operations, observers, fish handling, processing or marketing.

The motion was proposed by Duenas and seconded by Tulafono.

The motion was put to a roll-call vote. Council members Duenas, Harris, Haleck, Tulafono, Sword, Duerr, Itano, Sablan and Teregeyo voted in favor of the motion. Council members Thielen and Young voted no, and Council member Robinson abstained. Council Chair Sean Martin recused himself from the vote.

***Regarding a bigeye stock assessment workshop, the Council:***

- 5. Recommended the SSC and staff convene a bigeye population dynamics and stock assessment workshop to review models and approaches used in bigeye stock assessments.

Motion made by Duenas and seconded by Sablan.  
The motion passed unanimously.

***Regarding a TAC for the Cross Seamount, the Council:***

6. Recommended PIFSC conduct a comprehensive life history study and stock assessment of seamount monchong (*Eumigistes illustris*) in the Hawaii Archipelago.
7. Recommended, for the purpose of stock assessment and monitoring, both state and federal reporting of monchong catches should clearly differentiate pelagic (*Tarachtichthys* spp) and seamount (*Eumigistes illustris*)

These two motions were considered together. Motion made by Duenas and seconded by Sablan. The motion passed unanimously.

***Regarding the deep-set longline swordfish trip catch limit, the Council:***

8. Recommended staff review the impact of the catch limit on swordfish incidental catch and draft an options paper with alternatives that may include, among other options, modifying the swordfish catch limit, removing the limit altogether, as well as the no-action alternative.

Motion made by Duenas and seconded by Sablan.  
The motion passed unanimously.

***Regarding shortline management in the longline exclusion zone, the Council:***

9. Directed staff to prepare a regulatory amendment to define shortline fishing gear. The Council further recommends that catch and fishing effort in this fishery be closely monitored by PIFSC and the State of Hawaii.

Motion made by Duenas and seconded by Sablan.  
The motion passed unanimously.

***Regarding proposals for consideration at the sixth regular session of the WCPFC, the Council:***

10. Recommended the US develop a proposal that would require members and cooperating non-members to assess their fisheries using the FAO Code of Conduct for Responsible Fishing.
11. Recommended the US develop a proposal to allow flexibility in setting fishing year for implementation of catch limits.

Motion made by Duenas and seconded by Sablan.  
The motion passed with all voting yes, except for abstentions by Robinson and Young.

***Regarding bigeye incidental catch in the US purse seine fishery, the Council:***

12. Recommended that, because the US purse seine fleet is now one of the larger fleets in the region and its catch of bigeye has concomitantly increased, NMFS should develop and implement a FAD management plan that will effectively reduce juvenile bigeye catch by this fleet in the WCPO.

Motion made by Duenas and seconded by Sablan.

The motion passed with all voting yes, except for an abstention by Robinson.

***Regarding the Sea Turtle Advisory Committee Recommendations, the Council:***

13. Concurred with the following STAC recommendations regarding future direction for existing Council sea turtle projects:

- Continue to support egg relocation where appropriate and when evaluated as a valid conservation strategy.
- Consider (1) coordinating with the leatherback working group (including WWF, ELNA, UNIPA, NOAA partners) to consider options for predator control at leatherback rookeries in Papua, and (2) funding for a follow-up meeting of the Western Pacific leatherback working group convened most recently in Brisbane in February 2009.
- Continue to consider Western Pacific leatherbacks, and in particular the Bird's Head leatherback nesting populations to be of a high priority for conservation of Pacific leatherbacks.
- No longer fund nesting beach monitoring projects at the Wermon leatherback rookery, because there is no immediate need.
- Consider a review of the Huon Coast project PIT tag capture-mark-recapture data for demographic parameter estimation prior to making a final decision to phase out this project; subsequently, develop an exit strategy to phase out funding if necessary.
- Continue to support TREDs and its ongoing development and improvement, and explore alternative sources of long-term funding, such as corporate donor funding.

Motion made by Duenas and seconded by Sablan.

The motion passed unanimously.

14. Concurred with the following STAC recommendations for future priorities and considerations:

- Continue to consider necropsy work to identify cause-specific loggerhead mortality in the Baja California Sur region.
- Consider the extensive backlog of North Pacific loggerhead bycatch samples in a future project proposal as well as a more expanded sample of rookeries throughout the Japanese Archipelago.
- Consider supporting sea turtle aging studies as a high research priority.
- Consider preparing a paper on the policy issues of offsets as a valid conservation strategy.
- Continue to support sea turtle laparoscopy studies as a high research priority to derive better information on key demographic parameters, such as breeding rates.
- In support of the position held by the Sea Turtle Association of Japan, continue to note that the hatch-and-release practice in Japan is not an acceptable practice to ensure long-term survival of the Japanese loggerhead stock.

Motion made by Duenas and seconded by Sablan.

The motion passed unanimously.

## **12. Administrative Matters and Budgets**

### **A. Financial Report**

#### **1. Five-Year Budget and Program 2010-2014**

Simonds reported that Federal budgets are late this year and NMFS did not receive funds for LAPPs and turtle research. All Councils are asking for an extension.

In July, the Council distributed detailed budgets from the past. The Councils are working together to determine how best to decide the next round of five-year budget requests, and it was noted that most other Councils were not nearly as specific as the WPFMC. It was also noted that personnel budgets are not available to the public.

Congress has not acted for 2010, and the Council requests were based on the Administration's budget request. Based on agreement among the Councils, Simonds explained, the allocation made to the Councils is then divided amongst the individual Councils. It was noted that travel costs and audit fees have increased.

A Council member asked for clarification about how to request additional funds when a Council member sits on another organization in representation to the Council. It was explained that an additional funding request would go to the PIRO or PIFSC director or headquarters.

It was confirmed that SSC members were not paid this year. Advisors will be funded if there is leftover money, and SSC members who work for the federal or state agencies do not qualify for a stipend. Required by the MSRA, an additional industry advisory committee is being created that may require additional funding.

There were two points of view about meeting in Kona for the 145<sup>th</sup> meeting with respect to the Billfish Tournament:

- 1) Complaints were received that it was difficult to run the Tournament and participate in the meeting
- 2) Fishermen were happy because they were able to do both. It was clarified that the Council had been invited to host their meeting at the same place and time by the Tournament.

### **B. Administrative Report**

Simonds provided the administrative report. The Council is looking for a new economist. The audit was completed; the Council qualified as a low-risk audit.

### **C. Meetings and Workshops (Calendar)**

#### **D. Council Family Changes**

Mitsuyasu said that Minling Pan and Don Kobayashi were added to the SSC, and Justin Hospital has been added as an ex-officio member to the Plan Teams (replacing Minling).



#### **E. Recommendations on Changes to SOPP (Action)**

With regards to the SOPP, there is no updated FR notice. It was suggested that the Council should review SOPP based on July meeting. It was clarified that the SOPP must be approved at the Region level first, and then the DOC will approve it.

#### **1. NMFS Operational Guidelines**

Language from the oath of office that is taken was added to the Council standards of conduct. GAO recommendations were also added.

Because of concerns about using grant monies for lobbying, the lawyers request 24 hours notice to review the request to testify to determine if the testimony is appropriate. An exception is if the testimony is purely narrow and factual information. It was emphasized that the Council members or staff cannot make recommendations about legislation.

There was clarification that, as a private citizen, Council members may always speak to their representatives to Congress, particularly because Council members are not fulltime. As Council members, however, testimony options are very limited and require General Counsel review.

Federal Register Notice language was added to the document, including inclusion of an Internet address for the SOPP when it becomes available. Copies of the SOPP will be available at no cost and also will be available online.

Text for recusals from voting by Council members was clarified. Notice of emergency meetings text was also clarified.

Text from the MSRA was included in various section and term limits of four years were also included. The fishing industry and advisory committees were added and it was clarified that in Hawaii, charter boats are considered commercial and thus could qualify to serve on an advisory panel. The sea turtle advisory committee and other committees were also added with terms of four years.

There was also a suggestion of requests for information from the legislatures to be forwarded to the administrative assistant to maintain a log.

It was clarified that the Council can change items before taking Council action because this is not considered last minute. It is considered last-minute after the Council has voted.

A section was added and altered on requesting public documents. Additional changes were suggested, and Mitsuyasu altered the document accordingly.

NOAA Regional Counsel (RC) noted that he had not seen the language about the standards of conduct and had not cleared it. It was asked if the Council needs a two-thirds vote if the Council decides to deviate from the guidelines in the SOPP. NOAA RC clarified that the standard majority vote requirements of MSA should be followed.

## **2. GAO recommendations**

The GAO recommendations will be reviewed in March. There were no comments or questions.

## **F. Executive and Budget Standing Committee Recommendations**

Martin presented that there were four recommendations coming from the Committee as follows: adopt the SOPP pending revision from NOAA GC, approve the budget as presented, approve adding of Pan and Kobayashi to the SSC, and approve the addition of Hospital to the Plan Team.

## **G. Public Comment**

No public comment.

## **H. Council Discussion and Action**

Tucher of NOAA GC said that the Council's Standards of Conduct in the SOPP clarifies certain ethical restrictions in a person's professional, but not personal, capacity. The provision now covers Council concerns but cautioned that paragraph 4 on page 4 may say so much that the meaning is lost. He said that it alerts an individual of ethical issues, but the primary concern should be with the ethical regulations in 50 CFR. He also reviewed a provision in the SOPP on the last pages (pp. 24-25) in which the language was cleared by GC but did not make it into the final document because he was out of town. The provision expands on the records available and subject to disclosure.

### ***Regarding Administrative Matters and Budget, the Council:***

#### ***1. Delayed the discussion and vote on the SOPP until the next Council Meeting.***

Moved by Duenas and seconded by Haleck.

Young commented that he was troubled that there were many items not included that relate to having reports available to Council members and the public. He argued that Council members do need quarterly reports and records. The SOPP also had contained language stating that approved minutes would be made available, which is now not identified. He commented that this will result ultimately in members of the public needing to FOIA documents that were originally and routinely provided for in the SOPP. He argued for transparency and posting of public non-confidential documents.

Thielen offered a friendly amendment to pages 24-25 that would correct the lettering. She also asked for a friendly amendment to (K) pertaining to requests for public records, suggesting that additional documents available for public inspection at the Council office shall "include, but not be limited to" and include "minutes" thereafter. She recommended a friendly amendment to add the section which Young referred to with respect to the minutes.

Duenas accepted some changes in the re-lettering, but not the "not limited to" text. Thielen clarified that she is not suggesting "the list and only the list" be posted. Duenas

and Haleck accepted the changes.

Duenas called a point of order because the item brought up by Young, to include in the SOPP quarterly and financial reports to be available to Council members, was voted on in the previous Council meeting in American Samoa. The Council had agreed to the SOPP that excluded the language that Young was now requesting be added in again. Duenas said that we would have to have a motion to reconsider it because the Council originally voted to remove it. Young moved to amend the proposed SOPP by inserting a new paragraph D under Council Staff. Martin expressed discomfort at bringing it up again at this Council meeting without being able to review the language Young was requesting. Young said that he had the language and could provide it to be presented to the Council.

It was clarified for Tucher that there was a prior action to remove identical language by the Council, so this motion would reinsert the entire text previously removed. Tucher then replied that Duenas was correct: there must first be a reconsideration of the text before bringing the motion forward. Martin suggested that because this is not the final SOPP being discussed and guidance is expected within the next few weeks, Young should develop language for consideration at the next Council meeting.

Motion to table this vote until the next council meeting was made by Duerr and seconded by Tulafono.

Motion carried with 2 nays from Thielen and Young; Tosatto sat in for Robinson.

***2. Approved the programmatic multiyear budget for FY2010-2014 as presented and directs staff to complete and transmit the grant award application to NOAA.***

Thielen commented that the new budget only contained three tables for administrative, sustainable fisheries and protected species programs, which was not as helpful as the document distributed at the Kona Council meeting in July. She recommended returning to the previous format, arguing that the information is relevant for policy decisions. Duenas said he was happy with the information presented because the projections are more like wish-lists that will probably not get funded. He also pointed out that the 2008 audit was good.

Harris suggested that, given the events in American Samoa, the Executive Director needs the flexibility to respond to disasters and expressed concern about finalizing a budget. Thielen responded that if the Council felt it was important to respond to emergencies, then there should be a line-item in the budget that identifies certain reserve funds or it could be explained in a budget narrative that certain line items can be expanded to include emergency response. She expressed concern about looking retroactively at a budget to ensure nothing illegal transpired instead of doing it proactively. She also said that during the year, the Council could amend the budget as necessary. Martin said he agreed that a level of detail he is comfortable with would be broad categories that would provide the Executive Director flexibility needed due to different sources of funding.

Young asked for clarification of the motions: 1) Thielen has a motion, and 2) Duerr has a motion for an expanded report. Martin clarified that he did not hear a motion, just

concurrence between Duerr and Thielen. Sablan asked for the question. Young asked if any money in the Council budget was directed towards implementation or support of the ahakiole programs that are part of the legislation, to which Simonds responded "no."

Moved by Duenas and seconded by Sablan.

Motion carries with two abstentions by Thielen and Tosatto, and one nay by Young.

**3. *Recommended that Donald Kobayashi and Minling Pan be added as members to the Council's Scientific and Statistical Committee.***

There was no Council discussion.

Moved by Duenas and seconded by Sablan.

Motion carried unanimously; Tosatto sat in for Robinson.

**4. *Recommended that Justin Hospital be added to the Archipelagic and Pelagic Plan Teams as the PIFSC Ex-officio member, replacing Minling Pan.***

There was no Council discussion.

Moved by Duenas and seconded by Sablan.

Motion carried unanimously; Tosatto sat in for Robinson.

**5. *Recommended staff draft a resolution for CDR Young in honor of his service to the Council.***

Moved by Duenas and seconded by Caputo.

No vote and no objections.

**13. Other Business**

**A. Ethics Guidance**

Tucher provided ethics guidance to the Council members by providing the rules of conduct per the GAO report. The topics included financial disclosure, restrictions on voting and participation in deliberations, contacting the federal government on behalf of others, and lobbying restrictions after leaving the Council service. He clarified that for people who served 60 days or less, disclosure is a normal remedy to bring a person into compliance. There is a requirement to file financial disclosure forms annually regardless of whether the information changed. This requirement protects Council members under the conflict of interest rules. A Council member must also supply a disclosure regardless of financial interest in fisheries (i.e. state workers must also comply), and if a Council members has less than or equal to 10 percent interest in a decision, they may vote. A Council member may also deliberate if they have identified their financial interest.

**B. Closed Session**

**C. Election of Officers**

**Appointed the following members as its officers for 2010:**

Council Chair	Stephen Haleck
Vice Chair Hawaii	David Itano
Vice Chair American Samoa	William Sword
Vice Chair CNMI	Ben Sablan

Vice Chair Guam

Manuel Duenas

Moved by Duenas and seconded by Sablan.

Approved by acclamation.

**D. 147th Council Meeting**

The 147<sup>th</sup> Council meeting will be in March in the Marianas, probably during the second or third week. The SSC meeting will also be held there.

Harris congratulated the new officers and thanked Martin for his leadership and counsel. Haleck thanked Martin for his hard work, patience and trust. Simonds thanked Martin for standing by her through the years.

Haleck told the Council he had a copy of a letter from the Governor of American Samoa to Nancy Ward of FEMA requesting assistance to clean up debris resulting from the tsunami. He asked the Council to endorse the letter and to perhaps add to it a request that the Coast Guard contractor clean the entire harbor. This was put in the form of a motion and is also noted in the American Samoa notes.

**Regarding the FEMA request for assistance to clean up debris from the tsunami, the Council:**

Recommended staff write to USCG to require its clean contractor to clean the entire harbor.

Moved by Haleck and seconded by Sword.

Motion carried unanimously.

(Council Meeting adjourned.)

