



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

**MINUTES OF THE  
147<sup>th</sup> MEETING of the WESTERN  
PACIFIC REGIONAL FISHERIES  
MANAGEMENT COUNCIL**

**March 22-23, 25-26, 2010**

Held in Saipan, Northern Mariana Islands

*Fiesta Resort and Spa*

and

Tumon Bay, Guam

*Guam Hilton*

Western Pacific Regional Fisheries Management Council

1164 Bishop Street, Suite 1400

Honolulu, Hawaii

APPROVED BY COUNCIL: June 29, 2010 \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Steven Haleck".

Steven Haleck, Chair

Western Pacific Regional Fishery Management Council



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## **1. Opening Ceremony**

Chairman Haleck opened the meeting. Vice Chair Sablan introduced Special Guest, Governor Benigno Repeki Fitial of CNMI, who welcomed the Council to Saipan and welcomed all attending the 147<sup>th</sup> Council meeting. He thanked the Council members for their commitment and service. Fishing has been part of CNMI culture and identity and is a traditional source of survival and sustenance. For over 30 years, the Council has been instrumental in conservation and management of the fisheries of the region through the prevention of overfishing, minimization of bycatch, and protection of fish stocks and habitat. He was encouraged by the Council's community-based approach and involvement of local fisheries management, which emphasizes increased productivity and sustaining of quality.

## **2. Introductions**

The following Council Members, as well as NOAA PIRO General Counsel, the Council's Executive Director, and the SSC Chairman were in attendance:

- Ignacio Dela Cruz, CNMI Department of Land and Natural Resources (CNMI DLNR)
- Manuel Duenas, Vice Chair, Guam Council Member
- Fred Duerr, Vice Chair, Hawaii Council Member
- Jay Gutierrez, Guam Designated State Official
- Stephen Haleck, Chair, American Samoa Council Member
- David Itano, Hawaii Council Member
- Sean Martin, Hawaii Council Member
- Don Palawski, U.S. FWS (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
- Fred Tucher, NOAA General Counsel, Pacific Islands Regional Office
- Ray Tulafono, American Samoa Department of Marine and Wildlife Resources (DMWR)
- CDR. Mark Young, U.S. Coast Guard (USCG)
- Peter Young, Hawaii Council Member
- Paul Callaghan, Chairman of Council Statistical and Science Committee (SSC)

## **3. Approval of Agenda**

Moved by Sablan, seconded by Duenas.  
Motion passed.

#### **4. Approval of the 146<sup>th</sup> meeting Minutes**

Moved by Sablan, seconded by Duenas.  
Motion passed.

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

Simonds presented the Executive Director's report to the Council that covered the following topics: Annual Catch Limits; Catch Shares; statewide meetings held with bottomfish fishermen in Hawai'i; the Second National SSC Workshop; the five-year Essential Fish Habitat Review; Marine Spatial Planning; the Marine Conservation Biology Institute meeting held regarding research needs in the Monuments; the meeting held with the Samoan Administration in relation to the noncommercial fishery management regime; the Comprehensive Data Workshop; the Memorandum of Agreement between the three Pacific Councils, the State Department and the Department of Commerce; Protected Species Program staff attended the Japanese Sea Turtle Symposium in Japan; the Monk Seal Recovery Team meeting; the Request for Proposals for the 2010 program for turtles; and the upcoming Turtle Advisory Committee meeting.

With regard to recreational activities, Simonds reported that the Saltwater Angler Registry was implemented. At least two of the Island Governments have requested exemptions. The Council is awaiting the letter of request and exemption package from the Government of Guam.

There were no questions or comments.

#### **6. Agency Reports**

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

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

Robinson, Regional Administrator for PIRO, reported on the activities at PIRO since the last Council meeting. Robinson approved the Council's five Fishery Ecosystem Plans in December, and published the new regulations and implemented the FEPs in mid January.

During December of last year and January of this year, all eligible bottomfish and lobster permit holders accepted compensation offers effectively ending the commercial fishery in the Papahānaumokuākea Marine National Monument.

On December 7<sup>th</sup>, the Western and Central Pacific Fisheries Commission International Bigeye Longline limit for the Hawaii longline fishery was established at 3,763 metric tons. In 2009, there was effectively no gap in fishing as a result of implementing the quota. The quota was implemented for three years: 2009, 2010, and 2011. Additionally, vessel identification requirements were modified to become compliant with the WCPFC; the final rule was published January 21<sup>st</sup>.

In December, Pelagics Amendment 18 became effective, which eliminated the set limit requirement and increased the North Pacific loggerhead turtle incidental take limit from 17 to 46. A lawsuit challenging the BiOp and the underlying science has been filed.

No progress was made on a rule to be done jointly with U.S. Fish and Wildlife Service (FWS) to prohibit fishing in the three new monuments. Boundaries and other nonfishing-related management measures could be included in the regulations. There may be a proposal to implement the commercial fishing prohibition as part of the overall package that the Council submits.

On January 1st, the Marine Recreational Information Program (MRIP) went into effect. To date, about 700 Hawaii fishermen have registered with the program.

Fourteen Hawaii-based longline fishermen and vessel owners completed Protected Species Workshops; 50 percent attended the workshops at the Commercial Fishing Village at Pier 38. The remainder participated online.

The False Killer Whale (FKW) Take Reduction Team (TRT) convened its first meeting to address incidental mortality and serious injury of the Hawaii Pelagic Insular and Palmyra Atoll's stocks of false killer whales in the Hawaii longline deep and shallow-set fisheries; its plan is required within six months. Also, in response to a petition to designate the Hawaiian Insular Population of Hawaiian false killer whales as a Distinct Population Segment, list it as endangered, and designate critical habitat, a 90-day finding was published January 5<sup>th</sup> concluding that the petition provided substantial scientific information supporting the petition. As a result, the Science Center is establishing a Biological Review Team (BRT) to conduct the Status Review. The BRT has one year from the 90-day finding to complete that Status Review.

A report by the joint FWS/NOAA Biological Review Team was produced in October recommending that nine loggerhead turtle Distinct Population Segments, including one in the North Pacific, be designated and that the North Pacific stock was in danger of extinction. NMFS published a proposed rule proposing those nine Distinct Population Segments and proposing to list the loggerheads as endangered. The Council was invited to utilize its expertise and comment during the comment period on whether North Pacific loggerheads should remain as threatened as they currently are, or whether they should be uplisted to endangered as proposed.

In October, a petition was received to list 83 species of coral as threatened or endangered under the Endangered Species Act. On February 10<sup>th</sup>, a 90-day finding was published concluding that the petition did provide substantial scientific information supporting the petition. Two Biological Review Teams, one for the Atlantic and one for the Pacific, will be established by the Science Center.

On January 4<sup>th</sup>, a petition was received to list the bumphead parrotfish as an endangered species under the Endangered Species Act (ESA) and designate critical habitat. A 90-day finding is expected to be published in April.

The review of the Draft Environmental Impact Statement for the relocation and dredging of the inner Apra Harbor for a nuclear powered aircraft carrier turning basin was completed; the conclusion was that it fails to adequately characterize the impacts to coral reefs and underestimates both the impacts and required mitigation for dredging. The Resource Agencies, in particular Environmental Protection Agency (EPA), FWS, and NMFS, have recommended

that the Navy not proceed until it collects the information necessary to assess the loss of function of the ecosystem, as well as develops mitigation proposals that that address the loss of function. They also recommended that the Navy develop a proposal for mitigating impacts to non-coral aquatic resources and attain coral assessment data to determine recovery potential; they stated that artificial reefs did not represent an environmentally-preferable mitigation alternative because they do not replace ecological functions. Additionally, the Navy failed to comply with the required Federal consultations under the Magnuson-Stevens Act (with regards to Essential Fish Habitat) and under the ESA. The Navy has agreed to formally consult with NMFS regarding a Section 7 Consultation. Although the Navy has not agreed to do an EFH consultation, NMFS will do the consultation and supply recommendations to the Navy.

Robinson reported his retirement will begin April 2<sup>nd</sup>. Tosatto, Deputy Regional Administrator, will be Acting Regional Administrator until the Agency chooses a new Regional Administrator.

### Discussion

In response to a question by Council member Itano, Robinson clarified that Sustainable Fisheries, as well as the Protected Species Workshops, will be housed at Pier 38.

Information was asked for by Council member Duenas on the effects of the conservation measure that was implemented for bigeye and yellowfin tuna on the purse seine fishery by the Commission. The response was that there are no numbers yet on the effects to the purse seine fleet from the three-month closure to fishing on FADs and the 100% observer coverage requirement, although analysis shows the overall regime fell short of providing the overall reduction of mortality of bigeye tuna that was anticipated. This was partially because the 30% target reduction for mortality was based on the 2001-2004 average of effort. For 2012-2014, there will be a greater reduction than the 30% initially targeted. Concern was voiced about the reduction's impact on the Hawaii longline fleet; the Council would like to be informed about the '09 purse seine catch.

NMFS was thanked by Council member Martin for communicating effectively about the attainment of the bigeye quota at the end of '09.

With regards to the listing of loggerhead turtles, it was noted by Council member Duenas that data from Japan reported an increase of nesting of loggerhead turtles, which would not justify the uplisting being sought. It was reiterated that the rule proposing the uplisting seeks public comment based on a report by the Biological Review Team. The Council was encouraged to utilize the public comment period to examine the science used by the BRT and submit comments.

Council member Itano recommended to FWS that the Status Review Teams should be balanced. It was questioned whether the basis for the FKW insular stock definition is going to be actively challenged within the review process. It was also noted that the bumphead parrotfish was never a common species in the U.S. Territories and asked if the listing will apply throughout its range or just in the U.S. Territories. The reply was that it is important during a Status Review and deciding whether to uplist a species, especially with regard to the false killer whales, to determine if it's a distinct population and if it satisfies requirements in terms of population

dynamics. Robinson believes the status of the population as a whole was considered, but only applies to measures in the jurisdiction.

With regards to bumphead parrotfish, Council member Duenas commented that it is a seasonal fish found in the southern areas of Guam, which is presently affected by algal blooms. He noted that they have very little market value but a very strong cultural value. Two other Council members, Tulafono and Sablan, echoed agreement, stating that bumphead parrotfish are rare in American Samoa, as well as the Napoleon wrasse and 83 species of corals; they are also rare in CNMI. It was requested that the Department in American Samoa be able to finish ongoing surveys prior to listing any species because the Federal listing of endangered species would have such an impact on their efforts for fisheries development. It was also stated that while there are species of particular concern, it is hoped that consultation will be conducted with communities impacted by the listings, particularly in regards to the cultural aspects.

With regards to the coral listings, it was asked what the basis was for the statement regarding substantial support for the listing of the corals. It was explained that after 90 days, a determination was made that there was sufficient information in the petition to warrant a Status Review. Once the Status Review is completed, a decision will be made as to whether to list or not. The determination on the bumphead parrotfish is expected next month.

The impacts of the military buildup will have great effects on resources, such as the bumphead, by ammunition from training and freshwater intrusion from the additional 80,000 people. It was noted that there will be substantial impacts to the ocean environment from the buildup. Council member Duenas urged review of the Military Buildup DEIS by independent contractors. Robinson said that the Agency made strong comments in response to the DEIS; the Agency's official position is that it will not be satisfied until the Navy submits a thorough DEIS. He added the EPA has officially classified the DOD DEIS as unsatisfactory.

Council member Martin asked for reconsideration to the upcoming FKW TRT Meeting locations to O`ahu to provide the industry better access.

Clarification was asked for on the timeline for the WCPFC Implementation Act regulations to become effective. The response was that those regulations become effective 30 days after being published in the Federal Register.

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

The Director of NMFS Pacific Islands Fisheries Science Center, Pooley, reported on the R/V Sette and R/V Hi'ialakai cruises, the Cetacean Transect Survey, the Marianas bottomfish component of the cruise (looking at deeper reef assemblages, as well as some shallow assemblages), coral cruises in American Samoa, tagging of melon-headed whales, examining impacts of the expansion of the low productivity zone, the swordfish stock assessment, and the NOAA team deployed to American Samoa following the tsunami to survey reef habitat, remove debris, and work with the Pacific Islands Fisheries Group. Various workshops were held and there are upcoming workshops. There is also a planned vessel economic study in Hawaii, plans for future positions to be filled, joint work being conducted with the Southwest Fisheries Science Center, ESA Reviews, a Humpback Whale Status Review, ESA Biological Reviews, work with

the Pelagic Fisheries Research Program, and the NOAA small boat acquisition program.

Pooley offered clarification regarding the Status Review: there was an assessment for each of the nine loggerhead Distinct Population Segments for their risk of extinction. The Office of Protected Resources in Silver Spring makes the next decisions.

### *Discussion*

It was clarified in response to a question by Council member Martin that mostly PIFSC logbook staff will be located at Pier 38.

More information was asked for by Council member Martin on the cetacean biopsies. The reply was that biopsies are collected by shooting a dart to collect tissue. **A presentation was requested for the next Council meeting on this issue.**

More clarification was asked on the process of the BRT by Council member Duemas. It was explained that the team meets confidentially and issues a draft report, which is then sent out for external peer review. The WPSAR Review has been done and will be taken into consideration. The report is then finalized, made public, and passed to the Regional Office. Consideration of local knowledge varies across NMFS, but the intention of the director is to include a fisheries-knowledgeable person on every BRT (e.g., Chris Boggs on the False Killer Whale BRT). Council member Itano said that he hopes experience gained from tagging melon-headed whales will support the need to modify FKW survey methods. Pooley agreed, stating that they look to include the behavior of the FKW as well as oceanography.

It was noted by Council member Duenas that the humphead wrasse is not a case of two distinct populations, but rather an occurrence, and cautioned the Science Center about making any judgment calls pertaining to the entire Guam ecosystem. Guam is surrounded by seamounts that contain distinct occurrences of this species. The reply was that the DPS is probably not a significant issue for corals and the bumphead parrotfish, but is for FKW. It was noted by Council member Sablan that CRMO has finished a study on the management of the Napoleon wrasse and bumphead parrotfish in CNMI that awaits publication.

Council member Itano complimented the Science Center on the hapuupuu maturity work contained in the report and supported more biological study work, but noted he did not see this item in the list of priorities. It was clarified that the Life History Program has ramped up; this type of work was not identified in the report because the list contains only projects that are not yet funded.

Council member Sablan stated that people have been collecting biopsies from dolphins, but there is concern that the surveys do not include all the islands in the archipelago. There was also concern raised by Council member Duenas over the peer review process of the survey work results. Pooley replied that science is an iterative process; all information used for decision-making is required to be peer-reviewed.

Council member Martin encouraged the director to continue efforts for small vessel acquisition and asked if there were any initiatives for intercepting marine debris. The reply was that the

Marine Debris Program is now run out of the National Ocean Survey (NOS); there are other parts of NOAA that have looked at intercept and tracking methods through various approaches, but priorities are not clear at this stage.

### ***B. NOAA Regional Counsel***

NOAA RC Tucher reported on five issues:

- NOAA Office of General Counsel has a new General Counsel, Lois Schiffer
- The Senate Commerce, Science, and Transportation Committee is scheduled to consider Senate Bill 2871 on March 24<sup>th</sup>, which includes technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act
- NOAA is still working on draft final rules related to certain administrative functions of the Regional Fisheries Management Councils; a proposed rule was published March 27, 2009 and a Supplementary Proposed Rule was published December 7, 2009
- A few cases were summarized that are currently being litigated

### ***Discussion***

Council member Sablan asked for background information on a statement issued regarding serious problems in fisheries law and enforcement. The reply was that the topic is included under Enforcement and Litigation, and an internet link could be provided for the report.

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

The FWS Representative to the Council, Palawski, updated the Council on FWS planning and operational efforts for refuges in the Pacific, a workshop to define research and studies needed in the Pacific Remote Island Areas (PRIA), the monitoring cruise on the R/V Hi'ialakai in the PRIAs, scoping meetings held in November in American Samoa regarding the Comprehensive Conservation Plan, and an update on the Mariana Monument Advisory Council.

### ***Discussion***

Council member Sablan asked if FWS had any concerns about the major impacts the military buildup will have on CNMI, noting the airspace on Pagan may be impacted. The reply was that it most definitely is concerned and there are plans to conduct extensive terrestrial studies in April and May on all islands.

Council member Duerr asked how Section 413 regarding noncommercial fishermen will address appropriate traditional indigenous fishing techniques and the use of gill nets made of natural material as opposed to monofilament. There was no discussion about this because the Omnibus Amendment will be discussed later in the meeting.

In response to an inquiry, there was clarification that the Marianas Monument Advisory Council will include three members from the Mariana Islands. It was also asked if a baseline will be documented for the existing areas with a review in three years.

Palawski commented that he greatly appreciated the information that resulted from the Intergovernmental Hearing meeting in American Samoa in December on the issue of Rose Atoll.

He said that one of the best things about the meeting was the information about cultural aspects that need to be incorporated in the plans. Council member Duenas requested that the FWS and all other Federal Government Agencies give Manua special consideration given their remoteness, especially concerning recreational fishing. There was also a request that activities conducted on the deep bottomfish resources be documented and preserved as a record of what has occurred in the past. Palawski agreed about the importance of such documentation and is presently in the data-gathering mode.

Palawski was thanked for his effort and for being respectful of the concern voiced in regards to Rose Atoll, especially on the definition of “no take.” The hope is that the definitions of fishing for sustenance would allow for some option for people to ensure their way of life comes close to the level of Tutuila, and allow resource barter and use that have been accessible to the people for centuries.

#### ***D. Enforcement***

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

The Coast Guard Representative to the Council, CDR Young, reported briefly on the Coast Guard’s efforts in communication, collaboration, and coordination; the recent partnership with the U.S. Navy in the region working on increased Maritime Domain Awareness; the Fight for Fish; and being provided information on fishing vessels operating in the region. Coast Guard (USCG) officers were onboard the recent R/V Sette cruise for an information-sharing endeavor and collaboration with the NOAA Global Drifter Buoy Program. The success of the magnets and stickers with reporting information was reported.

Also, the USCG has been conducting high seas boardings for the WCPFC and collaborating with the Australia Fisheries Management Authority, which resulted in a shark finning violation. During three transits, seven reports were identified as potential illegally-operating vessels, which was passed on to enforcement counterparts in some of the appropriate Pacific Island Nations.

The USCG has undergone personnel changes. Admiral Manson Brown was promoted and Admiral Sally Brice-O’Hara was selected to become the new Vice Commandant for the USCG. The new incoming District Commander will be Admiral Charlie Ray. Also, CDR. Young will be retiring and transitioning to a position at Hawaii DLNR, Department of Conservation and Resource Enforcement. Lastly, the seat vacated by Admiral Brown on the Mariana Monument Advisory Council will probably be filled by the District 14 Commander.

Council members Duerr, Duenas, Sword, and Martin complimented the USCG Fight for Fish pamphlet and expressed appreciation for the USCG enforcement efforts. Another Council member noted a recent confusion about the WCPFC marking requirements for U.S. longline boats and the need for more training for USCG rule implementation. The USCG Representative agreed and commented that the Region needs its own Regional Fisheries Training Center.

The USCG Representative was asked by Executive Director Simonds if Navy vessels will be listed as official inspection vessels for the Commission, to which he replied that they are moving that way, similar to counterdrug mission operations in the Caribbean and Eastern Pacific.

Council member Itano offered a slight rewording for the USCG pamphlet such that it would no longer sound like a fishery collapse has occurred.

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

Scott Yamashita, a representative from the Office of Law Enforcement (OLE), reported that 97 incidents were reported, of which 40 were related to Protected Species and 15 were related to the Sanctuaries. More whales seem to be around this year. With regards to monk seals, two were killed: one with a \$5,000 reward offered and the other under investigation. Industry compliance on the bigeye tuna closure at the end of 2009 was very high. Replacement of older VMS units is ongoing. OLE now has a dedicated agent for the Sanctuaries Program, as well as an agent attending the TRT Meetings. With respect to the IG investigation, a new management team is in place since the Region was created.

There were no comments or questions.

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

NOAA RC Tucher reported for NOAA GC for Enforcement and Litigation. Council members were referred to the internal review and response to the IG Report in NOAA's Way Ahead, a publicly-available document available at [www.NOAAnews.NOAA.GOV](http://www.NOAAnews.NOAA.GOV).

There were six cases referred for prosecution during the period, among other items in the report:

- A written warning was issued under the Endangered Species Act (ESA) for the take of a threatened sea turtle
- A respondent was charged under the ESA with approaching an endangered humpback whale within the prohibited 100 yard sector. A NOVA was issued for \$700
- Owner and operator of the F/V Laysan were charged under the ESA for fishing inside a Special Preserve Area (SPA) in the Papahānaumokuākea Marine National Monument (PMNM) and for failing to notify the park prior to entry to the Monument. A NOVA was issued for \$8,250
- A respondent was issued a written warning under the ESA for taking an endangered monk seal
- Owner and operator of F/V Raise were charged under the Magnuson-Stevens Act (MSA) with intimidating a NOAA-approved observer. A NOVA was issued for \$2,500
- Owner and operator of F/V Seeker were charged under the MSA for using a high seas fishing vessel on the high seas without a valid high seas permit. A NOVA was issued for \$2,000
- Owner and operator of F/V Kaiwe Kai were charged under the MSA for two counts of engaging in commercial fishing within an SPA (Midway Atoll Special Management Area). A NOVA was issued for \$13,000
- A respondent was charged under the ESA with the take of three threatened green sea turtles. A NOVA was issued for \$2,000
- Owner and operator of F/V Buoy 2 were charged under the ESA for fishing within the PMNM. A NOVA was issued for \$12,000
- Owner and operator of FF/V Dara Quane Chang were charged under the MSA with fishing inside the U.S. EEZ around CNMI without a permit. A NOVA was issued for

\$140,000

- Total penalties assessed this period equalled \$184,950
- Vessel and owner of the F/V Asara had all permits sanctioned for nonpayment of civil penalties. Since then, payment has been received and the permit sanction lifted
- Ten cases were settled during the period for a total of \$48,250 in penalties
- On January 22, 2010, NOAA sent CNMI four checks totalling \$124,737.68, which constitute the partial penalty collected (minus directed enforcement costs) for the prosecution of the owners of four Taiwanese-flagged vessels caught illegally fishing in U.S. EEZ of CNMI from August 2008 - August 2009

There were no comments or questions.

### ***E. National Marine Sanctuaries Program***

Allen Tom provided an update of the National Marine Sanctuaries Program. He updated the Council on the Fagatele Bay National Marine Sanctuary Management Plan Review, the Rose Atoll Proposed Marine Sanctuary, the time frame for the Draft Environmental Impact Statement (DEIS) as scheduled for late fall or early winter, ongoing efforts to ship a hyperbaric chamber to America Samoa, and a small research ship that was acquired. Additionally, funds have been secured to rehab the Visitor's Center and the Humpback Whale Sanctuary has started its Management Plan Review.

Additional sites that could be included in the National Marine Sanctuaries Program include: Aunuu, Larsen's Bay, Rose Atoll, Tau, Swain's Atoll, and north of Tutuila. All sites were vetted through the Governor's office.

Bio-geographical work of the entire archipelago by the National Ocean Service in Washington, D.C. is available online and can be provided via an email to Tom.

The Sanctuary Program received feedback from the villagers and communities who want to see fishing continued, but do not want anybody else coming in and fishing; this must be analyzed in the context of the sanctuary. The Executive Order that created Rose Atoll Marine National Monument said that the Marine Sanctuary Program would look at creating another area of a marine sanctuary on top of the monument; that process is ongoing. A contractor will be selected at the end of the month to write the DEIS for Rose Atoll and all other sites being considered, and alternatives that are to be included.

Tom briefly discussed their marine debris and coral damage survey conducted around Tutuila; the report will be available soon. Also, funds have been provided to be used for assessing existing MPAs in CNMI and a possible Visitor Centers for the Marianas Trench Monument. Lastly, PMNM is up for a World Heritage Nomination and the Sanctuary is opening a new Visitor Center at the old Lahaina Courthouse; he welcomed displays from the Fisheries Council.

### ***Discussion***

Council member Duenas commented he preferred the biological criterion utilized as the basis for creating Fagatele Bay in American Samoa, which was to protect and rehabilitate an area by working with the community, as opposed to selection of an ok-area for a sanctuary that does not

particularly need one. Tom responded that they may go back to Leone Village to assess that, because it was not discussed originally.

Council member Itano was surprised by their consideration of Swains despite its low coral biodiversity; he asked what the benefit would be of designating such a remote area. The reply was that the family is interested because foreign vessels have been fishing there, and such a designation may dissuade them or at least allow for penalties to be assessed.

With regards to the eight to nine sites proposed as well as Rose Atoll, Council Chairman Haleck asked if the Sanctuary Program would have an enforcement vessel or collaborate with the Coast Guard and if any scientific assessment has been conducted on the proposed sites. Tom replied that internal discussions are ongoing regarding enforcement, and there are some biological assessments done in addition to the one for Rose Atoll. Council Chairman Haleck recommended more outreach be conducted, especially for the people in more remote areas, and asked what would happen if the Village Council in Aunuu chose not to have the program. Tom said there are plans to begin community dialogue in the next month or so working with DMWR, and if the Aunuu Village did not want the program, the Sanctuary Program would go back to the Governor's Office. Executive Director Simonds voiced concern about how the DEIS will handle the complicated overlay of government agencies with respect fishing regulations when the monument becomes a sanctuary. Tom responded that his understanding is that fishing regulations in Federal waters will be under the Council process.

Council member Tulafono voiced concern over the confusion caused by having multiple programs in one area. He is considering pulling their program from Aunuu and possibly Larsen's Bay in an effort to lessen the confusion for the villagers. Council Chairman Haleck then asked if permits are required from the Sanctuary Program to fish within the Sanctuary areas. The reply is that currently there is no permit needed in the first zone of Fagatele Bay.

Council member Duenas favored allowing the people of Manua to continue sustenance fishing. Tom replied that the decision will be made in D.C. in consultation with the Governor.

For CNMI, Council member Sablan spoke in favor of doing baseline studies of the three sanctuaries to show potential benefits.

### **Council Meeting Aside:**

Council Chairman Haleck announced that an error was identified in the Federal Register Notice in which the start time was specified as 8:30 p.m. rather than a.m. Although the correct time was available via other media, such as on the Council website and in the mass mailing, to be cautious, the Council will vote on the "Recommendations on the Management Measures for Noncommercial Fishing and the Rose Atoll Monument" the following day.

## **7. Marianas Archipelago 1-Saipan**

### ***A. Arongo Flaey***

Council member Dela Cruz reported regarding the Fisheries Research Section (FRS) Checklist of Fishes project tracking fish in CNMI; the checklist currently has 1,261 species of fish listed for

2010. He also reported on collaborative work with the USFWS sampling watersheds, completion of the annual underwater visual surveys of fishery resources in CNMI Marine Protected Areas (MPAs), implementation of Phase II of the telemetry study at Managaha Marine Conservation Area, and the sending of more than 680 otolith samples from five fish species to the Fish Aging Lab at James Cook University in Townsville, Australia for age evaluation. The FRS also developed an approach to determine the current status of CNMI with respect to the goals and objectives of achieving 30 percent Effective Conservation of nearshore marine resources by 2020 as agreed upon under the Micronesian Challenge.

Over the past four years the Fisheries Research Section procured, assembled, deployed and maintained systems for the Fish Aggregating Device (FAD) Program. New systems were deployed during FY09 and are currently being utilized by fishermen around Saipan, Tinian and Rota. Current FAD positions were entered into the GIS Program for reference. Nautical charts and benthic topographical maps were reviewed to determine sites best suited for deep-set and shallow-set FADs. Communication was established with Steve Beverly, a Fisheries Development Office for the Secretariat of the Pacific Community, to assist the FAD Program with FAD site selection and training for fishermen. A contract for the installation of oceanographic sensors and telemetry systems was continued from the previous year. A review of all FAD locations was conducted using GIS maps and known information of each site; current, depth, average lifespan, usage and distance.

#### Discussion

Council member Duenas commended the good work of the FRS.

#### ***B. Legislative Report***

Council member Dela Cruz briefly commented on the current CNMI legislation of interest to the Council, which included:

- The Northern Islands Village and Homestead Act of 2008, House Bill 16-146 was signed by the Governor of CNMI and is now Public Law 16-50. The new law allows residents in the Northern Islands who still don't have a deed or title on public lands they are occupying a chance to claim ownership on the property.
- Committee on Insular Affairs, Ocean and Wildlife Public Hearing. H.R. 3511 and 4493 were introduced in the U.S. Congress by Delegates Gregorio Kilili Sablan and Madeline Bordallo, respectively, which call for a Visitor's Center associated with the Marianas Trench Marine National Monument.
- House Bill 17-07 (Second Marianas Political and Economic Status Commission Act of 2010) was introduced by Representative Stanley Torres that will create a Second Marianas Political Status Commission to examine whether CNMI should continue its political relationship with the U.S.
- The CNMI Fisheries Act I is going to be re-introduced to the CNMI Legislature.

#### Discussion

Council member Duenas commented that the Guam Fishermen's Co-op (GFC) endorsed the measure offered by Congressman Kilili.

### *C. Enforcement Issues*

Council member Dela Cruz noted that there were no MPA violations this reporting period. Enforcement Officers conducted education and outreach activities with over 395 individuals at schools and the Managaha Marine Sanctuary. He noted the payments on illegal fishing were received, as reported earlier and thanked everyone involved.

#### Discussion

Council member Duenas asked if there were any scuba violations in CNMI waters after institution of the ban on scuba gear because he heard there continues to be illegal scuba fishing and does not recall hearing about them during the Council meetings. Council member Dela Cruz was unaware of any illegal scuba violations in Saipan.

Council member Duenas asked if there was any evidence the illegal fishing incursions were seasonal or it just happened when the Coast Guard was present in the area. Council member CDR Young replied that the Coast Guard utilizes all information at their disposal to respond to potential incursions and the environmental conditions indicated there may be potential for illegal activity in the region. He added the Coast Guard continues to patrol outside of those times as well.

#### **Council Meeting Aside:**

Council Chairman Haleck announced comments on action item “Recommendations on the Management Measures for the Noncommercial Fishing in the Mariana Trench Marine National Monument” (D.1) will be taken in Guam.

### *D. Action Items*

#### **1. Recommendations on Management Measures for Non-Commercial Fishing in the Marianas Trench Marine National Monument**

Kingma, Council staff, presented background information, purpose and need for action, terms used in a regulatory sense and working definitions, alternatives of potential regulatory definitions, management alternatives, some of the impacts and issues, Council action alternatives, and next steps.

In January of 2009, President George W. Bush established three National Marine Monuments by Proclamation that identified the Secretary of Commerce as having the primary fisheries management responsibility and the MSA as the statutory authority for fishing regulations. There are ongoing jurisdictional discussions on the management authority between the Department of Interior and Commerce. Last year, NFWS requested the Council recommend definitions and regulations for fishing activities in the monuments.

In the Marianas Monument, Islands Unit, Proclamation 8335 states that any sustenance, recreational or traditional indigenous fishing in the Islands Unit be managed as a sustainable activity and that the management plans shall provide for traditional access by indigenous persons for culturally significant subsistence, cultural, and religious uses. The Proclamation also prohibited commercial fishing within the monuments.

In the MSA, Congress recognized that it is important, if not essential, to maintain access to fisheries for local people, as well as traditional, indigenous people, and to ensure that fishery resources adjacent to the Pacific insular area, including resident or migratory stocks within the EEZ adjacent to such areas, be explored, developed, conserved and managed for the benefit of the local people. Part of the Council's mission is to maintain opportunities for fishing and maintain access to sustainable fisheries.

Definitions in the MSA include:

- Commercial fishing in which the fish harvested are intended to enter commerce or enter commerce through sale, barter or trade
- Barter means to trade by exchanging one commodity for another
- Trade means exchange of property, usually without the use of money
- Commerce means the exchange or buying and selling of commodities on a large scale involving transportation from place to place
- Re-imbusement of expenses include fuel, bait, ice, provisions, etc.
- Recreational fishing means fishing for sport or pleasure
- Subsistence fishing means fishing to obtain food for personal and/or community use rather than for profit sales or recreational
- Under the Community Development Program (CDP) subsistence fishing means harvesting of marine resources for personal and/or community use or for gifts of food to extended family members or friends that perpetuate community relationships and identity
- Under the Council and FWS CDP, traditional indigenous fishing practices means methods of fishing and fishery utilization developed from aboriginal, customary and traditional uses and practices that can be conducted within existing regulations. Under the program, modern gear is allowed to be considered traditional indigenous fishing. Commercial sales are allowed and also indigenous ethnicity.
- Customary exchange is a term developed in economic anthropology to refer to nonmarket exchange of goods, services and social support. In the Western Pacific Region, it's very prevalent that customary exchange occurs. It's primarily the giving and sharing of resources that establish, support, reinforces social relations between family, friends, created kin, relations between chiefs and followers in important cultural ceremony or context. Cash may also enter into customary exchange as a contribution that offsets some of the expenditures, or expenses, that may have become necessary to obtain the resources necessary for participating in these activities or in customary exchange.

Under the CNMI Constitution, an indigenous person is defined as a person who is a citizen or national of the United States and who is of at least one-quarter Northern Mariana Chamorro or Northern Mariana Carolinian blood or a combination thereof, or an adopted child of a person of Northern Mariana descent if adopted while under the age of 18 years.

Definition of indigenous under the Guam law is the Chamorro people, the Native Inhabitants of Guam, are those persons who became U.S. citizens by virtue of the authority and enactment of the 1950 Organic Act of Guam and descendants of those persons.

Kingma presented seven potential regulatory alternatives for allowed fishing that included variations on whether fishing was allowed for sustenance, variations on whom the fishing must

be for (personal or community consumption), whether it can be expense fishing (barter, trade, sales), whether it is for the Islands Unit only, and where it must be consumed.

He also presented four potential regulatory definitions for recreational fishing that included whether sales, barter, and/or trade are prohibited, and one definition that addressed charter and tournament fishing.

Five potential regulatory definitions for traditional indigenous fishing were presented that discussed fishing methods and whether fishing for expense sales, barter, and/or trade was allowed.

Three potential definitions were presented for use of resources for culturally significant subsistence, as well as cultural and religious uses. They included variations on allowance of expense sales, barter, and/or trade.

Kingma suggested using a single operating definition would be easier for implementation and administration, such as:

1. Fishing conducted for sustenance, recreation, traditional, indigenous and cultural subsistence, cultural or religious uses with expense sales, barter or trade of catch prohibited.
2. The same definition, however, a variation on what you can do with the catch, with expense sales prohibited, barter or trade of catch allowed.
3. The same definition, but allowing for expense sales, barter or trade of catch.

At the 144th Council meeting the Council's preliminarily preferred the alternative that grouped all of the allowed fishing activities under all of the proclamations under one alternative with variations on whether expense sales, barter, and/or trade was allowed. The definition that allowed expense sales, barter, and trade of catch was preliminarily preferred by the Council. However, public comment and comment from FWS stated that it may be inappropriate to lump the definitions together because there are variations in the proclamations on identified fishing. For example, there are no provisions or allowances for traditional indigenous fishing in the Pacific Remote Islands NMN. Also, there may be a need to establish a permitting and reporting mechanism or requirements for all fishing activities in the Monuments.

Kingma presented spatial management alternatives and acknowledged that most monument areas have steep drop-offs. The alternatives include establishing a no-take protected area from 0-50 fathoms around the Islands Unit of the Marianas Trench and areas of the PRI that currently have no no-take areas designated, a no-take area for 0-12 nm for all monuments, or a no-take area for 0-50 nm for all monuments.

There have been low levels of fishing in the Islands Unit and very little noncommercial fishing. There are biomass estimates for coral reef species and bottomfish, and they are considered healthy. Pelagics are highly migratory. The Council does not believe allowing noncommercial fishing in the monument areas would have significant impacts on any stock that we manage. Kingma discussed that the only potential impact of gear on coral reef fish is the impact caused by gill nets that are left untended or are lost/discarded, which have the potential for indiscriminate

fishing and habitat damage. A primary impact to fishery participants is the barrier to continued participation and reduced opportunities to fish in areas that represent ancestral fishing grounds. There are significant distances to travel from Saipan, Guam, Tinian, and Rota, which is costly. Additionally, there are incurred costs by NMFS for administration of any permits and a logbook reporting program, as well as costs associated with enforcement.

### Discussion

Discussion of the action item was deferred to the Guam session.

Council member Itano stated that customary exchange is applicable to present day situations, while Council member Callaghan pointed out that customary exchange can also occur at a later time. Council member Sword stated that the customary exchange definition is excellent, while Council member Duenas pointed out that sometimes there is demand from community members without an expectation of compensation.

Council Chairman Haleck thanked the SSC for creating the definition of customary exchange because it explains the true culture of the Pacific Islands. Council member Palawski also expressed appreciation and asked how Council members felt it would apply to recreational fishing in CNMI.

## ***E. Community Activities and Issues***

### **1. Economic Stimulus**

Council member Dela Cruz reported that the CNMI American Recovery and Reinvestment ACT (ARRA) Office is located under the Office of the Lieutenant Governor and is overseen directly by the Secretary of Commerce that provides oversight, encourages public section participation, and works with the Office of the Public Auditor to ensure compliance with Federal requirements for job creation and economic activity. To date, CNMI has received over \$90 million for projects under the Act, funding, for example, the Kagman Watershed Project and the Laolao Bay Coastal Restoration Project. In addition, \$220,000 is available to create partnerships with local schools and communities focused on education in marine sanctuaries, and another \$200,000 for the design and construction of the Garapan Public Market. The Department of Lands and Natural Resources is the recipient of both grants.

There were no comments or questions.

### **2. Report on Student Symposium**

Ogumoro, Council Staff, reported that the Marianas Archipelago High School Fisheries Symposium, integrating traditional and western science in CNMI, was held on March 13 at the Fiesta Hotel. It was designed so that students could increase awareness of today's fisheries and coral reef issues, as well as designed to present an overview of the local marine-related educational and career opportunities. Over 250 students from both public and private high schools throughout Saipan participated. Students, teachers and exhibitors expressed overwhelming interest to do this on an annual basis.

There were no comments or questions.

### **3. Report on Marianas Community Workshop**

Ogumoro reported that community meetings were conducted on Saipan, Rota and Tinian on March 11th, 12th and 13th to engage communities in a number of fishery issues and programs in CNMI. This included fishery management measures for the Marianas Trench Marine National Monument, Federal bottomfish fishing permit requirements, community-based management and grant opportunities, and the Mariana Archipelago lunar calendar and fishing traditions. On Rota, the community wanted copies of the lunar calendars. Many people wanted monument maps, bottomfish regulations, outreach on bottomfish permits and training in filling out logbooks. The Tinian community showed interest in learning traditional fishing techniques. They had no comments on the monument. The bottomfish permit was news to them, and one attendee indicated interest in fishing for *Heterocarpus*. Saipan participants wanted to know how enforcement is done, expressed concerns about the submerged land deal, and who was on the Advisory Committee for the Monument.

#### ***F. Update on Military Activities and Mariana Islands Range Complex***

##### **1. Marianas Islands Range Complex**

There was no report given on Item F.1. Council member Sablan directed the Council members' attention to the report contained in the briefing binder.

##### **2. Military Buildup**

There was no report given on Item F.2. Council member Sablan directed attention to the report contained in the briefing binder.

#### ***G. NMFS PIRO CNMI Sea Turtle Coordinator Report***

Teregeyo reported that the DLNR Sea Turtle Program has been funded from 2006 to 2010. Funding this year was reduced to cover a contract for the Marine Turtle Program Coordinator hired directly by NOAA PIRO without any input from the CNMI partner, DLNR. The funding was reduced from \$70,000 to \$49,995.

Teregeyo explained two survey methods used to determine the turtle population in CNMI, as well as in-water tagging methods. From 2006, four stranded juvenile turtle samples were sent to Dr. Thierry Work for analysis. There have been six strandings of green sea turtles in 2009, one live stranding, and eight poached turtles, which were previously reflected in Council Enforcement Activities Reports. Also, all data is uploaded to the TREDs database. The surveys have been adjusted downward due to the reduction of funding received.

#### **Discussion**

Council member Duenas urged the Council to support the restoration of the funds for the Turtle Program, as well as increase the level of funding to \$150,000. He also voiced his support for the University of Guam to develop a program to support the sea turtle recovery program.

Council member Dela Cruz commented that it helps to cooperate and work collaboratively. He added that DLNR is in the process of arranging with NOAA to hire a turtle biologist for their

turtle program to establish a baseline population level of the green sea turtle in all of the islands in the Marianas Archipelago. He hopes NOAA will be amenable to the request.

#### ***H. Education and Outreach Initiatives***

Ogumoro presented the Education and Outreach Initiatives as follows:

- The Marine Education and Training is a newly-funded program to improve communication, education and training on marine resource issues throughout the Western Pacific Region and to increase education for marine-related vocations among coastal community residents.
- Three applicants from CNMI missed the March 15th deadline. The applicants included: the Saipan Mayor's Office with a project to fund a scholarship for students who are interested in pursuing marine-related fields, the Indigenous Affairs Office with a project to fund a talk show on traditional fishing practices, and the Carolinian Affairs Office to fund a project to educate young adults on the chinchulu practice.
- The Community Development Project proposal had five applicants submit letters before the February 18th deadline. One was not approved because of conflict of interest. Four applicants received a Notification to Proceed to complete their full application before the April 4th deadline.

There were no comments or questions.

#### ***I. Marianas FEP-CNMI Advisory Panel Recommendations***

Peter Itibus, Advisory Panel member, presented the recommendations from the AP meeting held in Honolulu on December 15th and 17th, 2009, as follows:

- A single operating definition for fishing activities permitted in the Island Units of the Marianas Trench shall be defined as fishing conducted for subsistence and sustenance, recreational, traditional indigenous or culturally significant subsistence, cultural or religious uses, with customary exchange and recovery of trip expenses permitted.
- The Marianas Trench MNM Advisory Council should include a representative from Guam.
- An evaluation of the potential market impacts on Guam and CNMI should be conducted regarding the emerging longline fishery in CNMI.
- The NOAA-funded study of the University of Guam and CNMI Coastal Resources Office study of humphead wrasse and bumphead parrotfish and any associated management recommendations be thoroughly reviewed by the Advisory Panel, Plan Team and Scientific and Statistical Committee, as well as Guam's Department of Agriculture and Forestry, and CNMI Division of Fishery and Wildlife.

There were no questions or comments.

#### ***J. Marianas FEP-CNMI Plan Team Recommendations***

Ray Roberto, Plan Team member, reported recommendations from the FEP Plan Team (PT) meeting held in Saipan on March 15<sup>th</sup> as follows:

- Regarding the establishment of a no-take MPA within the Mariana Monument, the Monument already provides sufficient protection and the PT does not support

establishment of further MPAs.

- Regarding the requirements of permits and reporting of catch from the Monument areas, the PT supports the need to collect history of catch and further information through a permit and reporting system. However, the PT recommends granting the CNMI Division of Fish and Wildlife exemption from needing to obtain a permit in order to do research in the monument.
- Regarding the definition to allow extractive activities, the PT supports Option No. 3, which allows expense sales, barter or trade of catch. In addition, the PT suggests constraining barter and trade within CNMI and Guam.
- The PT recommends the Council convene a workshop in early May to discuss and develop an appropriate method by which the Annual Biological Catches and ACLs can be determined for PMUS and BMUS species in the Mariana Island Archipelago.
- The PT expressed uncertainty in the data that is available for estimating the ABCs and establishing ACLs, which may not be reliable.
- On the issue of Federal permit exemptions for the youth, Council staff reported on the proposed management to exempt youth from the Federal permit requirements. The action is primarily related to the noncommercial permit requirements for the Main Hawaiian Islands bottomfish fishery. However, the rule may likely be applied to future noncommercial permit requirements throughout the region when it is established.
- The PT supports the option to exempt the youth from permits, but do not provide specific recommendations for the age.
- Another item discussed was the CNMI and Guam modules. Local agency staff reviewed the updated draft for reef and bottomfish modules for CNMI and Guam. Numerous comments, questions and suggestions were received on the various modules for revision. The respective PT members will update their modules and forward the final report to the Council upon completion.
- The PT recommended that a collection of tissue material for genetic analysis be conducted to determine stock range of these species in the islands. In addition, the PT recommends that this effort be coordinated with the FWS and DAWR, as well as the Hawaii Institute of Marine Biology.

### Discussion

Council member Duenas asked for clarification regarding the decision by NMFS PIRO Protected Species to fund the humphead wrasse and bumphead parrotfish the genetic analysis. Makaiau, NMFS PIRO Sustainable Fisheries, replied that the funding is coming from the Protected Species Program in Silver Spring to collect information from species the Agency has designated as Species of Concern. Council member and PIRO RA Robinson added that the bumphead parrotfish and humphead wrasse have been on NMFS National Species of Concern List for some time and the potential listing was generated from the “petition to list,” which came from the public. Council member Itano cautioned that genetic studies can have different results depending on the Principal Investigator with regards to showing distinction or broad mixing. Depending on who interprets the genetic evidence, there may be a finding of a substock or a subgroup of fish according that is critically endangered. He suggested having their own experts and scientists examine studies of any kind.

Tulafono asked if funding is available to do such a study in American Samoa.

### ***K. Marianas FEP-CNMI REAC Recommendations***

The CNMI Regional Ecosystem Advisory Committee (REAC) recommended:

- That NMFS restore or increase the original funding level for the turtle monitoring program in the amount of \$70,000.
- The Council direct staff to write a letter to NMFS Headquarters expressing concerns regarding circumventing the local fisheries management authority in a process by providing direct funding assistance to a nonfishery agency to develop fisheries management regulations for CNMI.
- Supports the DLNR plan for incorporating capacity building.
- The condition of issuing permits for activities to be conducted in the Northern Islands.
- Regarding bottomfish management in CNMI, work with NMFS PIRO to:
  - A. Revise regulations for bottomfish in the CNMI to exclude nonbottomfish from the regulations.
  - B. Revise CNMI bottomfish closures to reduce the Southern Island closure to 30 miles and remove the ten mile closure around Alamagan. The 50-mi closure around the Southern Island is proving too costly for the few bottomfish vessels >40 feet long to stay in business, especially the increasing cost of fuel. Since the remote fishing station at Alamagan is no longer in operation, the 10-mi closure around the island should be considered for removal to allow those vessels to fish closer to shore.
  - C. Allow DFW Enforcement Section to access VMS information from bottomfish vessels in the CNMI. Before the bottomfish regulations were adopted, there was no need for the local enforcement agency to monitor the activities of bottomfish vessels >40 ft long. With the regulation now in effect, current information between the Federal Government and the local enforcement agency in monitoring these vessels is appropriate and necessary.
  - D. Request NMFS provide a bottomfish permitting and reporting training workshop for CNMI. In support of the humphead wrasse and bumphead parrotfish study, recommends CRM coordinate with DFW and DAWR to collect fin clips for genetic analysis to determine stock range of these species in the islands.

There were no comments or questions.

### ***L. SSC Recommendations***

SSC Chairman Callaghan presented the SSC recommendations for the Marianas Archipelago. Regarding the definitions of permitted fishing in the Islands Unit of the Marianas Trench Marine National Monument, the SSC:

1. Recommends that the Council adopt a single operating definition for all types of noncommercial fishing permitted in the Islands Unit of the Marianas Trench National Monument.

This definition, consistent with the intent of the Marianas FEP PT recommendation, is based on the traditional concept of customary exchange and reads as follows: Fishing activities permitted in the Islands Unit of the Marianas Trench Marine National Monument shall be defined as fishing conducted for subsistence, recreational, traditional indigenous or culturally significant subsistence, cultural or religious uses with customary exchange and recovery of trip expenses permitted.

2. Further recommends that a permit and catch reporting system be developed for all permitted fishing in the Marianas Trench Marine National Monument Islands Unit and that the Commonwealth of the Northern Marianas Islands Department of Fish and Wildlife be included in the administration and monitoring of permits and logbooks.

In addition, the SSC concurs with the American Samoa and Marianas FEP PT recommendations that the American Samoa DMWR and the CNMI DFW also be exempted from permit requirements related to scientific research or exploration in their respective national monuments.

### *M. Public Hearing*

**Laurie Peterka** thanked Kingma for his presentation on the definitions, iteration of the various issues with the management measures for noncommercial fishing in the Marianas Trench MNM, and his efforts taken to simplify alternatives of the fishery and have a single definition on customary exchange. However, she felt it is not realistic and may provide an opportunity for legal loopholes. She requested the Council take into consideration the CNMI Constitution, Article 14, Section 2 in their deliberations on this issue.

**Brian Jones**, high school teacher in Saipan, requested the Council consider putting a Visitor Center on Saipan and offered letters of support from many students and local businesses. He spoke of recent submarine dives and the positive effects it had on the students. He also offered photos of the dive trips to the Council members.

**John Gourley** applauded the efforts of the Council in attempting to further define various aspects of noncommercial fishing activities with respect to the Pacific Island culture and traditions. He said the definition of commercial fishing developed on the U.S. Mainland does not fit very well in the Islands and supports modifying the definition. Fishing definitions were developed for the Marianas Trench MNM in concert with CNMI elected leaders. An agreement was struck between the CNMI and U.S. Government. Unfortunately, CNMI is still waiting for action from the U.S. Government. What was not in the agreement was a no-take MPA that was modeled after the NWHI Monument and the Pew Monument Plan, and was outright rejected by most of the CNMI people, their elected leaders, Guam fishermen, Guam elected leaders, the Council on Environmental Quality and the White House. He is in support of the original intent of the Marianas Trench MNM: a conservation measure tailored to the needs and wants of the people of CNMI to allow for sustainable use of natural resources.

Gourley continued that with respect to the Coastal Resources management project on the wrasse and the bumphead parrotfish, the sole purpose of the project was to develop an archipelagic fishery management plan for these two species of fish and collect population data. He added the project is biased toward management for data. The local DFW office is not working on this project nor is any fisheries biologist in CNMI. Guam does not have a direct role in the project as well. They did write a letter in support of the project, but apparently the University of Guam is directly working with the Coastal Resources Management Project for fisheries in CNMI. He has serious concerns when the Federal Government is giving federal money to agencies that don't have management authority over fishing when the whole purpose of the project was to develop a management plan that circumvents the DFW, which is the local management agency, and the

Council.

**Richard Seman** asked Robinson if the CNMI Government, NMFS, and the USCG are working toward amending the existing cooperative law enforcement agreement for the inclusion of the Marianas Trench MNM. Robinson responded that at the time the enforcement agreement was signed, the monument proclamations were not in existence. Therefore, the list of statutes for the CNMI enforcement agency covered under the Joint Enforcement Agreements do not include the monuments, so yes, the existing cooperative law enforcement agreement should be amended.

*N. Council Discussion and Action*

This item was taken out of order.

*Regarding the Marianas Islands, the Council:*

1. Requests NMFS to increase the original funding for the Turtle Monitoring Program in the CNMI to the amount of \$150,000.

Moved by Sablan, seconded by Dela Cruz.

Motion passed with one abstention by Robinson.

2. Supports DLNR's plan for incorporating capacity building as a condition of issuing permits for activities to be conducted in the Northern Islands.

Moved by Sablan, seconded by Dela Cruz.

Motion passed with two abstentions by Robinson and Young.

3. Directs Council staff investigate regarding bottomfish management in CNMI to:

A. Revise regulations for bottomfish in CNMI to exclude nonbottomfish gear from the regulations.

Moved by Sablan, seconded by Dela Cruz.

Motion passed with one abstention by Robinson.

B. To revise the CNMI bottomfish closure to reduce the southern islands closure to 30 miles and reduce the 10-nautical mile closure around Alamagan to one nautical mile.

Moved by Sablan, seconded by Dela Cruz.

Motion passed with one abstention by Robinson.

C. Allow CNMI DLNR Enforcement Section access to VMS information for all vessels around the CNMI.

Moved by Sablan, seconded by Dela Cruz.

Motion passed with one abstention by Robinson.

D. Requests NMFS to provide bottomfish permitting and reporting training workshops for all inhabited islands of the CNMI.

Moved by Sablan, seconded by Dela Cruz.  
Motion passed.

4. The Council requests the NOAA-funded study by the University of Guam and CNMI Coastal Resources Office of humphead wrasse and bumphead parrotfish and any associated management recommendations be thoroughly reviewed by the Advisory Panel, Plan Team and Scientific and Statistical Committee, as well as Guam's Department of Agriculture and CNMI's Division of Fisheries and Wildlife. In addition, the Council recommends that UOG and CRM coordinate with DAWR and DFW to collect fin clips for genetic analysis.

Moved by Sablan, seconded by Dela Cruz.  
Motion passed with one abstention by Robinson.

In addition, the Council directs staff draft a letter to NMFS Headquarters expressing concerns regarding the circumvention of the local fishery management process and authority by providing direct funding assistance to nonfishery agencies in order to develop fishery management regulations for the CNMI. The Council recognizes the need to carefully consider the natural baseline differences in various locales and not misinterpret low abundance as evidence of a decline. For example, the bumphead parrotfish is typically found in low abundance in the Northern Islands of the Marianas Archipelago and American Samoa.

Moved by Sablan, seconded by Dela Cruz.  
Motion passed with one abstention by Robinson.

5. Requests that NMFS Pacific Islands Fisheries Science Center evaluate the potential economic impacts on Guam and CNMI regarding the emerging longline fishery in the CNMI.

Moved by Sablan, seconded by Dela Cruz.  
Motion passed with one abstention by Robinson.

6. Requests Council staff to draft a letter to NMFS regarding the pending Endangered Species Act petition listing for various corals and bumphead parrotfish. The Council recognizes the need to carefully consider natural baseline differences of bumphead parrotfish amongst locales and not misinterpret low abundance as evidence of a decline.

Moved by Sablan, seconded by Dela Cruz.  
Motion passed with one abstention by Robinson.

## **8. American Samoa Archipelago**

### ***A. Motu Lipoti***

Council member Tulafono reported that efforts have been concentrated on cleanup of marine

debris, especially with the villages with their community-based program. He recognized the assistance provided by the NOAA team that came the last week of November to assist in assessing and mitigating the effect of marine debris in American Samoa. Almost five tons of marine debris was collected. The repair and renovation of DMWR has been completed.

FEMA awarded \$120,000 for the repair of the floating docks, \$300,000 for the dock behind DMWR office, and ~\$500,000 for the pier on the opposite side of the office.

There were no questions or comments.

### ***B. Fono Report***

This item was taken out of order.

Council member Tulafono reported that the Governor's proposal for purchase of the remaining assets of Samoa Packing is still pending. Also, Council member Tulafono was asked by the Senate Committee on Government Operations to testify on the Senate Bill to ban the use of nonbiodegradable plastic bags presently used by shopping entities in American Samoa. The Senate Bill is on its way to the Governor for approval.

There were no comments or questions.

### ***C. Enforcement Issues***

This item was taken out of order.

Council member Tulafono reported that monitoring for incoming fisheries and wildlife products is still ongoing at the airport.

There were no comments or questions.

### ***D. Action Items***

#### **1. Recommendations on Management Measures for Noncommercial Fishing in the Rose Atoll Marine National Monument**

This item was taken out of order of the Agenda.

Kingma reported that there are many redundancies from the previous presentation on Noncommercial Fishing. The purpose and need to establish noncommercial fishing regulations and management for Rose Atoll. Under the Proclamation, noncommercial, sustenance, and traditional indigenous fishing may be permitted and recreational fishing must be sustainable. Maps were shown of the boundaries of the Monument and existing vessel closed area, which reduces the available fishing area within the archipelago, in which there is a significantly high hook density.

The three potential regulatory definitions for Rose Atoll for noncommercial fishing vary by whether expense sales, barter, and/or trade are allowed. The three potential definitions for recreational fishing include fishing for sport or pleasure and also vary by whether expense sales,

barter, and/or trade are allowed.

There are eight potential definitions for sustenance fishing in which where and by whom catch is consumed, as well as if catch is allowed to be subject to expense sales, barter, and/or trade, vary. Four regulatory definitions for traditional indigenous fishing were explained that may or may not have an indigenous person requirement and the allowance for expense sales, barter, and/or trade varies.

Kingma described single regulatory definitions that include noncommercial, recreational, and sustenance fishing that vary by whether they allow expense sales, barter, and/or trade.

He also described permit and reporting alternatives which include no action, or requiring federal and catch reporting, noting that there are already some requirements for coral reef fishing around Rose Atoll. The Rose Atoll is a low-use MPA under Federal regulations in the Council's Coral Reef FMP and now the American Samoa FEP. There were four alternatives presented spatial management that include No Action, establishing a no-take protected area from 0-50 fathoms around Rose Atoll MNM, no-take from 0-50 fathoms around Rose Atoll and other PRIAs, or a no-take protected area from 0-50 nm around Rose Atoll MNM such that fishing is prohibited in the entire area within the boundaries.

Impact to fishery participants include that the Manua residents would like to maintain fishing access in Rose Atoll. With regards to administration and enforcement, a separate monument permitting program would need to be created, monitoring and logbook reporting may be required, there is a potential need for enforcement if expense sales are allowed, and if any spatial management is recommended, vessel positioning requirements would be necessary.

The next steps are similar to the Marianas MNM, except there is an additional layer with the Rose Atoll MNM because the National Ocean Service and the Sanctuary Program are involved. The Sanctuary Program is going through the process to add Rose Atoll to the Fagatele Bay National Marine Sanctuary, perform a management review, as well as develop a DEIS.

### Discussion

Council member Palawski commented that he was under the assumption that Rose was a no-take zone out to 50 fathoms. Kingma replied that he thought it was a low-use MPA and would check, and later confirmed that Rose Atoll is an existing No-Take MPA from 0-50 fathoms under FEP regulations.

Kingma also stated, in response for a request for clarification regarding the boundary lines for the monuments compared to the 50-nm closure around Rose Atoll, that the boundaries are equal distance, but there are places in the southern portion and eastern portion of the monument where the boundaries extend beyond the larger vessel closure.

Council member Gutierrez asked whether, in cases where sales are greater than the expenses, if it would still be considered expense sales. Kingma replied no, as that entail profit, and clarified that expenses should be considered on a trip-by-trip basis. Council member Duenas commented that expenses over a cumulative period of time should also be evaluated.

Kingma presented a draft definition for customary exchange.. After a brief discussion, the draft definition read: *Customary exchange as the nonmarket exchange of marine resources from fishers to community residents for goods, services, cultural, social and religious reasons, and includes cost recovery through monetary reimbursements and other means for actual trip expenses that may be necessary to participate in fisheries in the Western Pacific Region.*

Minor edits were made. Council member Palawski raised a concern with the use of the word “actual” in the definition in reference to a definitive amount or expenses. Council member Itano suggested changing “cost recovery” to “compensation.” NOAA RC Tucher advised avoiding terms such as compensation; it would be better to use terms like reimbursement or restitution.

Council member Tulafono offered a proposal for a 12-mile closure with a five-year review as a compromise option, which was supported by Council members Itano, Duerr and Duenas.

PIRO RA Robinson commented the Proclamation clearly requires and emphasizes consulting with the local Territorial Government and encouraged taking all things into consideration to come up with the best recommendation possible. Council member Tulafono added that the desires of the people of American Samoa should be considered in the proposal.

## ***E. Community Activities and Issues***

### **1. Economic Recovery and Stimulus**

This item was taken out of order

Council member Sword reported that the stimulus and recovery is slow, including dock repair; things are still in the planning phase. There are indications the upcoming Gamefish Association Tournament will be successful.

### **2. Report on Disaster Relief**

Council member Tulafono reported that the request for the Disaster Relief Assistance package under the MSA and the IFA has been completed and is under review by the Governor’s staff.

Executive Director Simonds stressed the importance of getting the package to the Secretary of Commerce as soon as possible.

## ***F. Education and Outreach***

Spalding, Council staff, reported that most Outreach and Education is funded through grants because there is no dedicated funding for it. Presently the grants are through the Coral Reef Conservation Program, which are for 18 months.

Spalding went through the list of ongoing and completed projects, which included:

- Info kits for diving, fishing and boating clubs in Hawaii.
- Podcasts for middle schoolers and fishermen.

- Dialogue being held with NMFS and NOAA in Headquarters to receive dedicated funding for Outreach and Education in the Councils.
- Journal was published in collaboration with the eight Councils on fisheries.
- Efforts are underway to have a booth at the National Marine Educator's Association Conference.
- Lunar calendars.
- Co-chairs the Traditional Knowledge Committee for the National Marine Educator's Association.
- Helped organize an Indigenous Knowledge Symposium at the Wildlife Society.
- Working as one of the lead organizers for the International Pacific Marine Educator's Conference.

### ***G. American Samoa Plan Team Recommendations***

This item was taken out of order.

Kingma presented the recommendations from the American Samoa FEP PT teleconference on March 8<sup>th</sup>. The PT meeting was held for the sole purpose of reviewing management measures for the Rose Atoll Monument. The recommendations were:

1. A three nautical miles no-take area should be established around Rose Atoll to ensure that no fishing for coral species or bottomfish or any other demersal MUS be allowed at Rose Atoll Marine National Monument.
2. Fishing for pelagic resources should be allowed from 3-50 nm around Rose Atoll. Fishery participants should be allowed to sell, barter or trade their catch to recover expenses.
3. Permits and catch logbooks should be required for fishing in the monument and DMWR should be included in the administration and monitoring of the permits and logbooks.
4. That DMWR should be exempted from permit requirements related to scientific research.

### ***Discussion***

Council member Duenas asked if FWS is looking at a similar precautionary approach for entry as it did in the PMNM. Council member Palawski clarified that the restrictions were included in the Proclamation for the NWHI Rules for Access. Thus, the same restrictions do not exist for access in these proclamations. The restrictions will be determined in the management plan process for Rose Atoll.

Council member Itano questioned why three miles was designated; he felt one mile would be sufficient protection from demersal impacts. He agreed that any take of pelagic like yellowfin and skipjack would be completely irrelevant to stock status. Kingma replied that the three miles is related to the FWS pre-Monument claim of jurisdiction out to three miles.

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

SSC Chairman Callaghan presented the SSC recommendations for the American Samoa Archipelago as follows:

1. Regarding the definition of permitted fishing in the Rose Atoll MNM, the SSC recommends the Council adopt a single operating definition for all types of noncommercial fishing, and that this definition, which is consistent with the intent of the American Samoa FEP PT recommendation, is based on the traditional concept of

customary exchange, and reads as follows:

- Fishing activities permitted in the Rose Atoll Marine National Monument shall be defined as fishing conducted for noncommercial, subsistence, traditional, indigenous, or recreational purposes with nonmarket customary exchange and recovery of trip expenses permitted.
  - With regard to spatial management for coral reef protection, the SSC concurs with the American Samoa FEP PT recommendation that a three nautical mile no-take area be established around Rose Atoll to ensure that no fishing for coral reef species or bottomfish or any other demersal MUS occur within the MNM.
  - With regard to Federal permits and catch reporting, the SSC concurs with the American Samoa FEP PT recommendation to require permits and catch reporting for all fishing in the monument and that the American Samoa DMWR be included in the administration and monitoring of the permits and logbooks.
2. The SSC further recommends that the permit application and catch reporting procedures should be designated at the time with the permit applicant in mind and not pose a barrier to the participation in permitted fishing activities. The SSC notes that these permits and reporting requirements should be applied to any recreational fishing that may be permitted and that these requirements may help ensure that any recreational fishing is sustainable.

The SSC concurs with the American Samoa and Marianas FEP PT recommendations that the American Samoa DMWR and the CNMI DFW should also be exempted from permit requirements related to scientific research or exploration in their respective monuments.

### Discussion

NOAA GC Tucher noted customary exchange on a large scale starts to blur the line with commercial. The SSC recommendation appears to be modified by the term “nonmarket”; if the SSC recommendation means by “nonmarket” that commercial exchange would not occur on a large scale or in a commercial sort of framework, it would be enforceable. SSC Chairman Callaghan replied that the intention is that the fisher would be able to sell his fish only to get sufficient money to pay for the cost and expenses of making the trip; a profit would not be involved. In other words, the revenue would not exceed the costs. Tucher further clarified that the nonmarket customary exchange would be similar to the previous example where it was gift-giving or value-for-value, not necessarily contemporaneous and would not involve large-scale exchange.

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

There was no public comment at this time.

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

#### ***Regarding the American Samoa Archipelago, the Council:***

1. Defines customary exchange as the nonmarket exchange of marine resources between fishers and community residents for goods and/or services for cultural, social or religious reasons, and may include cost recovery through monetary reimbursements and other means for actual

trip expenses, for example, ice, bait, food, fuel, that may be necessary to participate in fisheries in the Western Pacific Region.

Moved by Tulafono, seconded by Sword.

Motion passed with one abstention by Robinson.

2. Recommends a single operating definition for fishing conducted for sustenance, traditional indigenous purposes and allow for the customary exchange of fish harvested in the Rose Atoll Marine National Monument.

Moved by Tulafono, seconded by Sword.

Motion passed with one abstention by Robinson and one nay vote by Young.

3. Recommends a no-take area from zero to twelve nautical miles around Rose Atoll with the Council to review the no-take regulations after three years.

Moved by Tulafono, seconded by Sword.

Motion passed with one abstention by Robinson.

4. Recommends that permits and catch reporting be required for all fishing in the Rose Atoll National Marine Monument and that the American Samoa Department of Marine and Wildlife Resources be included in the administration and monitoring of the permits and logbooks.

Moved by Tulafono, seconded by Sword.

Motion passed with one abstention by Robinson.

5. Recommends that the American Samoa Department of Marine and Wildlife Resources be exempted from permit requirements related to scientific research or exploration.

Moved by Tulafono, seconded by Sword.

Motion passed with one abstention by Robinson.

6. Recommends that a request is made to NMFS to provide funding to DMWR for sea turtle monitoring and management in the amount of \$150,000 for American Samoa.

Moved by Tulafono, seconded by Sword.

Motion passed with one abstention by Robinson.

7. Recommends that the staff draft a letter to the U.S. Coast Guard requesting that an enforcement vessel be located in American Samoa in support of the new monument management regime and other fishery management matters.

Moved by Tulafono, seconded by Sword.

Motion passed with one abstention by Robinson.

## 9. Program Planning and Research

### A. Action Items

#### 1. Recommendations on Process for Establishing Annual Catch Limits (ACLs)

Dalzell presented a summary of National Standard 1 (NS1) requirements on ACLs and Accountability Measures (AMs), status of past Council Actions, proposed approaches to Comply with NS1 and the role of the Science Center in establishing and monitoring ACLs and AMs. The MSA requires any Fishery Management Plan (FMP) shall establish a mechanism for specifying ACLs in the plan, including a multi-year plan, implementing regulations or annual specifications at a level so that overfishing does not occur in the future and also to include measures that ensure accountability. The Council is required to set a limit or be able to establish the process of setting the limits. The National Standard 1 requirements and the Final Rule published January 16th, 2009. The requirements are:

- Determine the MSY.
- Status determination criteria.
- Optimum yield.
- ABC control rule.
- Mechanism for the Allowable Biological Catch (ABC) Control Rule.
- Mechanism by which Annual Catch Limits will be set by the Council.
- Accountability Measures set by the Council to ensure the catch limit is not exceeded.
- Determine stocks or stock complexes that have statutory exceptions from the ACLs.

Dalzell provided a brief history that included the proposed approaches to comply with NS1 requirements, classification of stocks in the fisheries, ecosystem components, the tier system and the schedule for setting ABCs, ACLs and AMs.

#### Discussion

Council member Duenas pointed out an inconsistency in the presentation for the biomass numbers of emperors in Guam. He felt many species were under-estimated. He also asked how the demersal fishery management organizations figure into the process. Dalzell replied that updated numbers were not included in the presentation, which is why it appears inconsistent. Additionally, stock estimates are not separated per island and are based on a small number of surveys. He pointed out the issue before the Council is to move this action forward by determining species to be included as actively managed in the fishery, and establishing a mechanism to set the ACLs.

Council member Martin asked for clarification of the RFMA boundaries. Dalzell replied that the boundary potentially extends from the equator northwards in the entire North Pacific and Kingma may be better able to delineate the boundaries.

Council member Itano noted a number of taxonomy inaccuracies in the tables and offered assistance to correct them. Dalzell welcomed his assistance.

## **2. Recommendations on Management Measures for Noncommercial Fishing in the PRIA Marine National Monument**

Council member Martin deferred Agenda Item 9.A.2 until Thursday in Guam.

## **3. Recommendations on Framework Measures for Fishery Ecosystem Plans (FEP) of the Western Pacific**

Pautzke, Council staff, presented the framework procedures for FEP amendments, a process by which managers can expedite FMP management actions. Since the Council drafted an amendment to address the Pelagics framework process, the FEPs were implemented. There are differences between the framework sections of the FEPs and the implementing regulations. The Council is considering amending all of the framework processes to be consistent across fisheries within the FEPs and within fisheries across FEPs.

The primary issues are:

- Framework process is inconsistent across fisheries within FEPs.
- Framework process is inconsistent within fisheries across the FEPs.
- New measures are not allowed to be done via framework action.
- The allowable frameworkable items are out of date or incorrect.

The amendment is meant to clean up and make processes consistent across fisheries and across FEPs, and identify which items could be frameworkable. Examples were given for items across fisheries within FEPs and across FEPs within fisheries. Frameworkable items are already established measures and previously-analyzed measures in the current context of the fishery. Annual Catch Limit and Accountability Measure adjustments are not included in the amendment because they are not yet established in regulation, so are not represented in alternative 2B. Both options 2B and 2C disallow new measures to be subject to framework action.

The Council was requested to select a preferred alternative for framework procedures and frameworkable items. Alternative 1A would result in No Action, while alternative 1B would align the framework procedures and adopt the procedure outlined to the Council. Alternative 2A maintains the current list of frameworkable items, 2B amends the list and allows new items to be subject to framework action, while alternative 2C removes the identifying list and replaces it with general text that permits only previously-established measures that have been analyzed in the current context of the fishery to be frameworkable.

There were no questions or comments.

## **4. Recommendations for Management Measures for Aquaculture in the Western Pacific**

Kingma reported that NOAA General Counsel has affirmed in a legal opinion that aquaculture is considered fishing within the EEZ in the MSA. Currently, the Council has an aquaculture management policy, as does the Gulf of Mexico Fishery Management Council. There is also a policy proposed at the Federal level.

Currently, the State of Hawaii is the leader in maritime aquaculture, or mariculture, and does have an existing management process. Hawaii has two offshore aquaculture operations for Pacific threadfin (moi) and kahala (kemapchi). There are proposed operations for Hawaii for ahi and opakapaka.

Six management alternatives were presented to the Council for consideration, including requiring permit and reporting for aquaculture activities, permitting aquaculture operations in designated areas, requiring aquaculture operations to follow a Council-established review process, limiting the number of aquaculture operations sited in the EEZ, and a prohibition of any aquaculture. More than one alternative could be chosen.

Impacts include unknown national policy and legislation; additional information collected for management of wild stocks, escapes, protected species; administrative burden for the permitting process; relief of social issues and habitat impacts; and additional burden on the Council during the review process, among others.

#### Discussion

Council member Duenas stated that he liked the idea of permits and reporting with a limited entry program and also a five-year review similar to the earlier recommendation in American Samoa.

Council member Itano acknowledged the existing Council aquaculture policy, but dislikes that it allows aquaculture of nonnative species in the open ocean. He voiced support for the permitting and reporting requirement, a Council process review, and limiting the number of aquaculture operations as permitting is developed. Council member Martin agreed. Council member Itano suggested developing a formalized review process. Council member Martin advised that the project on the Big Island has well-qualified individuals who could be advisors.

### **5. Recommendation for Management Measures for Hancock Seamount**

This item was taken out of order.

Pautzke reported Hancock Seamounts are located in the top of the NWHI and has never had a domestic fishery. The Council's Rebuilding Plan for the fishery has been via several six-year moratoria since 1986. The current moratorium expires in August 2010. Three options were considered at the 145th Council meeting. Final action is going to be taken at this Council meeting. The two goals of the amendment are to identify a rebuilding time for the armorhead stock and provide for the ongoing management of armorhead, alfonsin, rafffish, and seamount groundfish at Hancock Seamounts.

The three Alternatives presented were: 1) No Action that would continue a moratorium thru 2016 (status quo), 2) allowing the expiration of the moratorium, or 3) creating the Hancock Seamounts Marine Ecosystem Management Area with corresponding 10-year moratorium. Alternative 3 would implement an indefinite moratorium for at least ten years on fishing for armorhead, other seamount groundfish and bottomfish in the Hancock Seamounts, until the armorhead stock has been shown to be rebuilt, at which time the Council could re-evaluate its management strategy.

Pautzke asked the Council to consider approving the rebuilding time ( $T_{\min}$ ) of 35 years and select a Preferred Alternative.

### Discussion

Council member Itano reminded the Council that armorhead is bizarre, truly seamount-associated in its life cycle, and the proposal is strictly related to the U.S. portion of the Hancock Seamounts.

## **6. Recommendations on Options for Exemption from the Federal Fisheries Permits**

Kingma noted that at the last Council meeting there was a recommendation regarding the Main Hawaiian Islands bottomfish fishery to explore options for exempting persons less than 16 years old from the fisheries permitting process for the noncommercial recreational bottomfish permit.

Options presented included No Action, exempting fishers less than 16 years old, exempting disabled persons, exempting U.S. military veterans, exempting fishers older than 65, and/or exempting a particular group from paying fees or application fees. Options can be combined and reporting would be required regardless of option chosen. The Council was requested to select a preliminarily preferred alternative to guide development of the amendment.

### Discussion

Council member Duerr cautioned that Option 4 and Option 5 would exempt too many fishermen. Council member Duenas supported a reporting requirement.

Ikehara, NMFS PIRO, reminded the Council the new National Saltwater Angler Registry Program, which is out of the MRIP Program, exempts fishers less than 16 years of age, but there is no exemption for over 65. He added many of the good bottomfish fishermen in Hawaii are over 65; it is not advisable to leave data from those fishermen.

Council member CDR Young asked where collected permit fees go. Ikehara clarified that the money goes into general coffers. In response to Council member Duenas, Ikehara replied that fishermen would pay for permits and the amount is dependent on the processing procedure utilized when establishing the permit.

### ***B. Report of Western Pacific Data Workshop***

Dalzell reported to the Council. The workshop was held in November in Honolulu. 50 participants attended. The main topic was the impending implementation of Annual Catch Limits and Accountability Measures next year. Attendees focused on existing data collections in the region that collect fishery information from nearshore species. Other topics covered included information collected in the NOAA Coral Reef Program, the increase in life history studies, work from CNMI and UOG, and data available for reef species. Dalzell said this type of information will be helpful in stock assessments and setting ACLs.

Dalzell directed Council members to the document provided for the 28 recommendations that resulted from the workshop and covered new additional data collection programs, data quality, data not currently collected, and data for management needs. Dalzell said there is data collected

that is not utilized.

There were no comments or questions.

### ***C. Report for the Joint AP Meeting***

AP member Watamura thanked the Council for implementing and approving the Joint AP meeting back in December of 2009. It promoted deeper understanding and communication between the Islands of Hawaii, American Samoa, CNMI, and Guam. He urged the Council to promote the joint meetings as often as possible.

Concerns within the Council's jurisdiction include the fact that while American Samoa deals with issues regarding Rose Atoll MNM and other issues, it is still recovering from the devastating tsunami; CNMI is dealing with issues regarding their national monument designation and MPA effectiveness; Guam has myriad concerns with respect to the military buildup, indigenous rights, and purse seiners; and Hawai'i has concerns with truth in seafood labeling, longline quotas, longline to shortline conversion, BRFA's, and aquaculture escapes.

#### ***Discussion***

Council member Duenas supported holding another Joint AP Meeting and commended the group's work. While Council member Duerr agreed with Council member Duenas, he suggested a more detailed meeting report would be helpful. Executive Director Simonds announced that funding for a subsequent meeting is included in the 2010 budget.

Council member Itano thanked the AP for the constructive reports and noted the recommendations on aquaculture should be folded into the earlier discussion on the topic. Watamura responded that fishermen were upset about the escaping kahala. There is a large number of escaped kahala caught and, considering they compete for the same habitat as Hawaii's bottomfish and feed on juvenile bottomfish, it causes concern with the bottomfish fishermen.

### ***D. NOAA Catch Shares Policy***

Council member Martin directed the Council members' attention to Document 9.D.1, "NOAA Draft Catch Shares Policy," for their review.

There were no comments or questions.

### ***E. National Ocean Policy and Marine Spatial Planning***

There was no update available.

### ***F. Local, National and International Education and Outreach Initiatives***

Spalding reported the ongoing projects, including lunar calendars (workshops to review drafts, topics for the calendars, art contest, community meetings, etc), and efforts to increase knowledge about traditional knowledge when/where-ever possible. There have also been focus groups held on the Council's outreach material, various brochures published and distributed, and better communication with Council and community members.

Council members Martin, Duenas and Tulafono thanked Spalding for her ongoing good work.

### ***G. Hawaii Plan Team Recommendations on PRIA Monument***

Council member Martin announced Agenda Item 9.G, Hawaii Plan Team Recommendations on the PRI Monument, will be deferred to the Hawaii Archipelago Section of the agenda.

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

SSC Chairman Callaghan reported on the items required under the MSA, such as MSY or MSY proxies, status determination criteria, optimum yield measures, ABC control rules, mechanisms for specifying the ACLs and Accountability Measures and the need to identify the stocks and stock complexes that have statutory exceptions for this ACL requirement. He added that several SSC members attended the Second National SSC meeting held in the Virgin Islands in November, which discussed establishing a scientific basis for ACLs and what to do with data-poor fish stocks. Two committees were formed to focus on these topics, the Tier Working Group and the Ecosystem Component Working Group.

#### ***Discussion***

Council member Itano asked if they would have all the answers at the next Council meeting to which SSC Chairman Callaghan replied that they should have all information necessary to complete the tasks, but the tasks won't be completed.

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

There was no public comment offered.

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

#### ***Regarding Program Planning, the Council:***

1. Endorses the SSC recommendation to form two separate working groups, one to draft a tiered ABC control for setting catch limits and targets based upon the examples from the various other SSCs, to be decided by the Tier Subcommittee and, two, to review which species under Archipelagic FEPs should be considered as a species managed in the fishery and which would be consigned to the Ecosystem Component. The latter would continue to be monitored, but management limits and targets would not have to be set. With respect to the Tier Working Group, the SSC membership will include Bob Skillman, as the Chair, Don Kobayashi and Pierre Kleiber. The SSC Working Group to review Ecosystem Component species will include Frank Camacho, Marlowe Sabater, Craig Severance and Michael Trianni.

Moved by Martin, seconded by Duenas.  
Motion passed.

#### ***Regarding framework procedures the Council recommends:***

2. Selection of Alternative 1b, which aligns the framework procedures across the FEPs and

fisheries, and adopts the outlined framework procedure as follows:

1. Document is prepared.
2. Noticed in the Federal Register and the document is made available for public comment.
3. Public comment is received, as well as comment from AP, Plan Teams and SSC.
4. The document is revised based on input received.
5. Council considers public comment, discusses issues and votes.
6. If approved, NMFS implements the regulation or regulations.

Moved by Martin, seconded by Duenas.  
Motion passed with one abstention by Robinson.

Martin moved Recommendation 2 be taken up on Friday. Thus, the Council re-voted (16.H).

***Regarding management for offshore aquaculture in Federal waters of the Western Pacific Region the Council recommends:***

3. As preliminary preferred, Alternative 2, which would require permit and reporting for aquaculture activities, and Alternative 4, which would require aquaculture operations to follow a Council-established review process. The Council further recommends the staff prepare an omnibus FEP amendment on this issue for the June Council meeting.

Moved by Martin, seconded by Sablan.  
Motion passed with one abstention by Robinson.

***Regarding options allowing exemptions to noncommercial Federal permitting in the Western Pacific Region the Council recommends:***

4. As preliminarily preferred alternatives, Option 2, to exempt Federal Permit fees for U.S. military veterans, fishers under 16 years of age and fishers over the age of 65. The Council further recommends that staff prepare an Omnibus FEP Amendment on this issue as well as alternatives for voluntary reporting for the June Council meeting.

Moved by Martin, seconded by Sablan.  
Motion was withdrawn to be reconsidered on Friday.

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

5. Supports continued funding of the lunar calendar project should NOAA Coral Reef Conservation Program discontinue funding it.

Moved by Martin, seconded by Sword.  
Motion passed.

6. Supports working with CNMI DFW to provide outreach materials on the ecological monitoring of Rota's MPA.

Moved by Martin, seconded by Sablan.  
Motion passed.

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

No public comment was offered.

Council Chairman Haleck read a Resolution in Recognition of Service of Mr. William J. Robinson to the Western Pacific Regional Fisheries Management Council.

## **11. Opening Ceremony**

This item was deferred until after Introductions.

A Chamorro chant was performed by Leonard Iriate.

The Honorable Felix Camacho, Governor of Guam, welcomed the Council to the Island of Guam and expressed appreciation for their diligent efforts to protect fish stocks and prevent overfishing. He commended the Council for being a world and regional leader in developing ecosystem-based Fishery Management Plans. He spoke briefly of the recent efforts of the Micronesian Challenge in seeking to preserving the natural resources of the region and the creation of numerous fishing and marine preserves throughout the Island of Guahan. He also noted the upcoming military buildup set to occur in the near future and ongoing efforts to be an active participant in the changes to come. He encouraged all to continue to work to preserve regional fish stocks and ecosystems for future generations.

Judy Guthertz, Assistant Minority Leader, Chair of the Committee on Guam Military Buildup and Homeland Security, also welcomed the Council and presented much information on the pending military buildup facing Guam and recent designation of the Marianas Trench National Marine Monuments. She spoke of the impacts the residents are facing and many changes to come. She thanked the SSC for their recent definition for customary exchange and had hopes this would help educate newcomers to the island ways.

Guthertz presented Executive Director Simonds with a framed resolution recognizing Simonds for all she's done to help promote the mission of the Council in Guam and the region with reference to fisheries and sustainability and traditional fishing practices.

## **12. Introductions**

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

- Ignacio Dela Cruz, CNMI DLNR
- Manuel Duenas, Vice Chair, Guam Council Member
- Fred Duerr, Vice Chair, Hawaii Council Member
- Mike Fujimoto, State of Hawaii, DLNR

- Stephen Haleck, Chair, American Samoa Council Member
- David Itano, Hawaii Council Member
- Sean Martin, Hawaii Council Member
- Don Palawski, U.S. FWS
- Ben Sablan, Vice Chair, CNMI, Council Member
- Joe Torres, Guam Department of Agriculture
- Mike Tosatto, NMFS PIRO, Deputy Regional Administrator
- Kitty Simonds, Executive Director
- William Sword, American Samoa Council Member
- Fred Tucher, NOAA Regional Counsel, PIRO
- Ray Tulafono, American Samoa DMWR
- CDR. Mark Young, USCG
- Peter Young, Hawaii Council Member
- Paul Callaghan, Chairman of Council SSC

### **13. Marianas Archipelago-Guahan**

#### ***A. Isla Informe***

This item was deferred to later in the agenda.

Council member Duenas reported only two FADs are online. DOA continues to have difficulty deploying FADs. Heavy rains have caused heavy sedimentation in the island coastal areas. There is great concern with the proposed dredging of Apra Harbor, which is the site of the island's largest mangrove forest, in connection with the military buildup. Also, \$150 million was requested for the extension of the Port Authority's Pier F7. Coastal recreational areas were reported to be polluted above accepted biological standards. Many residents of Guam are worried that no one appears to be addressing land use issues and pollution, overdevelopment of Tumon Bay, wastewater problems and freshwater intrusion along the coastline.

Council member Duenas also reported there have been 26 fishing-related drownings since the enforcement of the marine preserves in 2001. One thought is the marine preserves forced fishermen into unfamiliar areas that are more dangerous. He added that 70 percent of Guam's coastal areas are restricted due to military barriers, MPAs and pollution.

He also noted a fishing tournament would be held this weekend by GOSA, a new recreational group on Guam.

#### ***Discussion***

Council member Duerr inquired about an item contained in the document regarding natural resource needs of the island that could be attained from the monuments. Council member Duenas replied that it's referring to the monument permitting process and research activities within the monuments.

Council member Palawski agreed with Duenas' concern regarding access on the northern part of

the island in relation to some FWS areas.

Council member Torres announced he just received word the ramp area at Ilig River will be kept open for access because of emergency rescue concerns.

### ***B. Legislative Report***

Council member Torres reported Guam Department of Agriculture is in the process of developing rules and regulations for the Indigenous Bill, Public Law 29-127, which created the Indigenous Fishing Rights for the indigenous people. Also, Bill 190 did not move forward; and Public Law 24-21, the current fishing law, is being revamped.

There were no comments or questions.

### ***C. Enforcement Issues***

Council member Torres reported there is close enforcement collaboration with the Coast Guard in Federal waters. Guam Conservation Officers are relied on for enforcement inside 3 nm. The Department is working hard to find funding to employ additional officers.

There were no comments or questions.

### **Council Meeting Aside:**

Council member Duenas announced Agenda Item 13.2, Recommendations on Defining Recreational Fishing in the Marine National Monuments, will be moved to Friday.

### ***D. Action Items***

#### **1. Recommendations on Management Measures for Noncommercial Fishing in the Marianas Trench Marine National Monument**

Kingma noted his presentation has modifications from the presentation from the earlier session. The purpose and need for this amendment is that in January 2009 President Bush established three new monuments in the Pacific: The Marianas Trench, the Pacific Remote Islands and Rose Atoll. In the Monument Proclamations, the Secretary of Commerce was identified as having the primary management responsibility for fisheries and the MSA is the statutory authority to develop fisheries regulations. The Council has been asked to recommend definitions and regulations for fishing activities in the monuments.

The Proclamation that established the Marianas Trench MNM states that any sustenance, recreational or traditional indigenous fishing in the Islands Unit be managed as a sustainable activity and that management plans shall provide for traditional access by indigenous persons as identified by the Secretary in consultation with the Government of CNMI for culturally significant subsistence, cultural and religious uses within the Islands Unit. The Proclamation also identified that commercial fishing shall be prohibited in the Islands Unit.

Commercial fishing is allowed over the other areas, although there probably will be some regulations about contacting the bottom substrate with any fishing gear or in the Trench Unit or

Volcanic Units.

Kingma reported definitions for noncommercial fishing in the MTMNM, including definitions for commercial fishing, trade/barter, commerce, subsistence fishing, recreational fishing, and customary exchange. He noted that since there now is a definition for customary exchange, some of the alternatives and the wording of the alternatives have changed, and many issues regarding trip cost recovery can now be covered under the practice of customary exchange.

Alternatives for sustenance fishing varied mostly by whether customary exchange is allowed and by whom and where catch must be consumed. The four potential definitions for recreational fishing varied by whether expense sales, trade, and/or barter are allowed; the fourth definition included charter and tournament fishing. Potential definitions for traditional, indigenous fishing varied by who could fish, using which fishing methodology, and whether nonprofit sales were allowed. The six potential definitions for culturally significant subsistence fishing (cultural and religious uses) varied by reasons for fishing and whether expense sales, trade and/or barter are allowed.

Kingma also looked at single definitions for all three of the monument areas compared to grouping all general noncommercial fishing activities together, and including prohibiting or allowing customary exchange. The Council, at its 144th meeting, selected as the Preliminary Preferred Alternative grouping all activities together under one uniform definition with the inclusion of the expense sales, barter and trade.

Kingma presented two alternatives for permitting and reporting: 1) No Action, and 2) requiring Federal permits and catch reporting for all fishing activities in the Monuments.

He also presented six alternatives for spatial management for coral reef protection, recognizing most monuments have steep drop-offs without extensive coral reef areas. The alternatives for the size of no-take protected areas around the Islands Unit of the Marianas Trench MNM are as follows: 1) No Action, 2) 0-50 fathoms, 3) 0-1 nm, 4) 0-3 nm, 5) 0-12 nm, and 6) 0-50 nm.

Kingma briefly summarized background information for the area, stating there have been low levels of fishing in the Islands Unit and very little noncommercial fishing. There are biomass estimates for coral reef species, and bottomfish stocks are considered healthy. Pelagic species are highly migratory. The Council does not believe allowing noncommercial fishing in the monument areas would have significant impacts on any MUS.

The primary impact to habitat associated with the alternatives is the potential impact from coral reef fishery gillnets that are left untended, or are lost or discarded, that can indiscriminately fish or damage habitat. Impacts to fishery participants include barriers to continued participation and reduced opportunities to fish these areas that represent ancestral fishing grounds and the cost of traveling significant distances from Saipan, Guam, Tinian, and Rota. Impacts to administration and enforcement include costs to NMFS for administering permits and logbook reporting program and the costs associated with enforcement.

The next steps with respect to the national monuments are: 1) the Council considers final action,

2) consultation between Secretaries, 3) creation of a Marianas Trench MNM Advisory Council, and 4) approve, disapprove, or partially approve the Council's FEP amendment(s).

### Discussion

Council member Itano noted that it may avoid confusion if the definition could be revised to include the words "social support." However, Council member Duenas reminded the Council that the definition for customary exchange was approved in Saipan and would need to be brought up for re-discussion.

Fujimoto asked if different kinds of uses and takes will have limits developed at a later point. Kingma replied there has been no consideration for catch limits, but they can be considered depending on the condition of the resource. The Council is moving toward establishing ACLs for all MUS.

Council member Dela Cruz asked what specific role the Mariana Trench MNM Advisory Council would play in the management and regulations of the Monument. He asked if they have any regulatory authority or could just act in an advisory capacity. NOAA DRA Tosatto replied that the Proclamation states that the Advisory Committee provides advice to the Secretaries of Interior and Commerce. Decision-making for fisheries still rests with the Secretary of Commerce. Council member Duenas asked if the advice would be vetted through the process or go straight to the Secretary. Tosatto replied that the Mariana Trench Monument Advisory Committee requirement is to collaborate early, middle, and late in the process. He expects consultation with the Interior and local government to occur throughout the process.

NOAA RC Tucher noted that when the Council defines recreational fishery in the context of customary exchange, it will increase the level of complexity in enforcement. Tosatto added there is great appeal for consistency in the general management scheme.

Duenas asked for clarification if the noncommercial fishing in the Marianas Trench MNM would only apply to the Islands Unit, to which Kingma replied yes. He also clarified the definition for customary exchange includes religious reasons.

### **Council Meeting Aside:**

Council member Duenas noted Item 13.E.2, Report on Marianas Community Workshop, will be covered on Friday.

### ***E. Community Issues***

#### **1. Report on Student Symposium**

Calvo, Council Staff, reported that on November 28th, 2009, the Guam Humanities Council held the grand opening of the Guam tour of the Smithsonian Museum Exhibit, Secret Ingredients of Our Cultural Cuisine. The Council and the Guam Fishermen's Co-Op Assoc. participated in this event. The Chamorro Lunar Calendar Committee completed the 2010 product, which was combined with the Rafaluwasch Culture in CNMI to create the First Mariana Archipelago Lunar Calendar. The subcommittees worked hard on the prediction of the 2010 fishing seasons and

tide charts. The planning for the Second Annual Gupot Fanha'aniyan Pulan Chamoru, or the Chamorro Lunar Calendar Festival, was held at the Guam Fishermen's Co-op Association property on Saturday, February 13.

Calvo represented the Council at the Coral Reef Task Force meeting in Washington, D.C., February 22-23, 2010. Discussions at the meeting indicated the need to include fisheries at the table. Public comment was presented indicating the Council's desire to participate accordingly. Calvo is a member of the Coral Reef Task Force Education and Outreach Committee.

The 2010 Student Symposium was held on March 20th, which was attended by approximately 170 students from the island's public and private schools. The students were treated to a presentation of historical fishing in the Marianas by Judy Amesbury, the Council's Summer Marine Education Program, and exhibits by some of the Council's partners. Students learned about many of the opportunities in fisheries in the area. Exhibitors, parents and teachers that attended are looking forward to having this as an annual event.

There were no comments or questions.

## **2. Report on Marianas Community Workshop**

Council member Sablan reported about the workshops that were held on Rota, Tinian and Saipan (Ogumoro reported on the same item in Saipan under section 7.E.3). The workshops covered topics such as fishery management measures for the Marianas Trench MNM, Federal bottomfish fishing permits, community-based grant opportunities, and the Marianas lunar calendar. The primary concern heard is that they would like a 30 nm closure for bottomfish if the 30 nm longline closure is implemented. Sablan suggested future meetings should be scheduled well in advance. Additionally, all three islands would like to have more Council presence.

There were no questions or comments

### ***F. Education and Outreach Initiatives***

There was no report given at this time.

### ***G. Marianas FEP Guam Advisory Panel Recommendations***

Bradford, Advisory Panel Member, reported the Guam AP recommendations as follows:

1. A single operating definition for the fishing activities permitted in the Island Units of the Island Units of the Marianas Trench MNM shall be defined as fishing conducted for sustenance, recreational, traditional, indigenous or culturally significant subsistence, cultural or religious uses with customary exchange and recovery of trip expenses permitted.
2. That the Marianas Trench MNM Advisory Council includes a representative from the Island of Guam.
3. That evaluation of potential market impacts on Guam and the CNMI be conducted regarding the merging longline fisheries in the CNMI.
4. The NOAA-funded study, University of Guam and the CNMI Coastal Resources Office

study the humpback wrasse and the bumphead parrotfish and any associated management recommendations be thoroughly reviewed by the Advisory Panel, Plan Team, Scientific and Statistical Committee, as well as Guam's Department of Agriculture and Forestry and the CNMI's Division of Fish and Wildlife.

#### ***H. Marianas FEP-Guam Plan Team Recommendations***

This agenda item was deferred until after 13.I.

Mitsuyasu, Council Staff, presented the Guam Plan Team (PT) Recommendations. The PT left one item related to the Marianas Trench MNM for further discussion. Also, the PT did not want or feel the need for any further MPAs within the Monument. The PT recommended permit and reporting would be the most practical way to collect information and supported Option 3, but allowed or took into consideration expense, barter and trade. They added an extra caveat that it be limited to within the Mariana Archipelago.

There were no questions or comments.

#### ***I. Marianas FEP-Guam REAC Recommendations***

Council member Duenas reported the Guam REAC met March 18th. Three recommendations were made:

1. Request that the proper Federal agencies develop a sea turtle research laboratory to be located at the UOG Marine Laboratory for the Marianas Archipelago and the Micronesian Region. In addition, the Guam REAC recommends the Council work with the Department of Agriculture and the University of Guam to establish a long-term sea turtle research monitoring and recovery program for the Marianas Archipelago.
2. Request NMFS conduct additional habitat surveys for Santa Rosa Bank near Guam. Recent surveys were done on the Guam Banks, but Santa Rosa was not included in the surveys. Camera drops at Santa Rosa area were done previously, so the survey would complement this work.
3. Collaborate with the Guam Department of Agriculture in its Ridge to Reef Program and the University of Guam Cooperative Ecosystems Study Unit to determine the impacts of the effects of coastal erosion, sedimentation, et cetera, on the marine environment.

#### ***Discussion***

Council member Dela Cruz asked if the CNMI DLNR DFW could also be included as a collaborating partner in establishing the turtle research center at the University of Guam, to which Duenas replied that it was suggested to be only Guam because of funding issues.

#### ***J. SSC Recommendations***

SSC Chairman Callaghan presented the SSC recommendations:

***Regarding the definition of permit to fishing in the Island Units of the Marianas Trench Marianas National Monument, the SSC recommends***

1. That the Council adopt a single operating definition for all types of noncommercial fishing in the Island Unit of the Marianas Trench MNM. This definition, which is consistent with the intent of the Marianas FEP PT recommendation, is based on the traditional concept of customary exchange as follows:

Fishing activities permitted in the Islands Unit of the Marianas Trench MNM shall be defined as fishing conducted for sustenance, recreational, traditional, indigenous or culturally significant subsistence, cultural or religious uses with customary exchange and recovery of trip expense permitted.

***With regard to the Plan Team recommendations:***

2. The SSC concurs with the recommendations of the Hawaii FEP PT for PRI MNM:  
That maintaining the existing Federal permit and logbook requirements for all fishery participants is the correct action and not establishing any MPAs within the PRI MNM.
3. And develop an outreach, education and compliance program for potential users of the PRI MNM.

***With regard to Federal permits and catch reporting, the SSC:***

4. Recommends that permit and catch reporting system be developed for all permitted fishing in the Marianas Trench MNM, the Islands Unit. And that the CNMI DFW be included in the Administration and monitoring of the permits and logbooks. The SSC further recommends that the permit application and catch reporting procedures should be designed with the permit applicant in mind and not pose a barrier to participation in the permitted fishing activities.

***K. Public Hearing***

There was no public comment offered.

***L. Council Discussion and Action***

***Regarding the lack of information on migration and genetics of green sea turtles in Micronesia and the Marianas, which makes it difficult to evaluate the population status against the recovery criteria of the green sea turtle in the region, the Council:***

1. Requests the NMFS and U.S. FWS provide \$2 million to fund the establishment of a sea turtle research laboratory for the Marianas Archipelago and the Micronesia Region to be located at the UOG Marine Laboratory.

Moved by Duenas, seconded by Torres.

Motion passed with two abstentions by Tosatto and Young.

***Regarding the lack of information on migration and genetics of green sea turtles in Micronesia and the Marianas, which makes it difficult to evaluate the population status against the recovery criteria of the green sea turtle in the region, the Council:***

2. Provide \$150,000 to work with the Guam Department of Agriculture and the University of Guam for the Sea Turtle Program.

Moved by Duenas, seconded by Torres.  
Motion passed with one abstention by Tosatto.

***Regarding habitat surveys for Guam's offshore banks, specifically Santa Rosa, the Council:***

3. Requests National Marine Fisheries Service to conduct additional habitat surveys for Santa Rosa Bank in Guam to complement the camera drops which were done previously.

Moved by Duenas, seconded by Torres.  
Motion passed.

***Regarding the community's concern with issues such as soil erosion, coastal erosion, sedimentation, et cetera, and their effect on the island's coral reef ecosystem, the Council:***

4. Recommends Council to initiate the process to collaborate with the Guam Department of Agriculture in its Ridge to Reef Program and the University of Guam Cooperative Ecosystems Study Unit to determine impacts of the effects of coastal erosion, sedimentation, et cetera, on the marine environment.

Moved by Duenas, seconded by Tulafono.  
Motion passed with one abstention by Young.

***Regarding the definition of customary exchange, the Council:***

5. Defines customary exchange as the nonmarket exchange of marine resources between fishers and community residents for goods, services and/or social support for cultural, social or religious reasons, and may include cost recovery through monetary reimbursements and other means for actual trip expenses(e.g. ice, bait, food, fuel)that may be necessary to participate in fisheries in the Western Pacific Region.

Moved by Duenas, seconded by Torres.  
Motion passed with one nay by Young.

This item was moved to reopen discussion by Council member Itano because the definition had been adopted earlier in the week. Sword seconded.

***Regarding the Marianas Trench Marine National Monument, the Council:***

6. Recommends to authorize fishing conducted for sustenance, subsistence or traditional indigenous purposes or uses as allowed for under customary exchange of the fish harvested in the Islands Unit of the Marianas Trench MNM.

Moved by Duenas, seconded by Sablan.  
Motion passed with two abstentions by Tosatto and Young.

7. The Council recommends that permits and logbook reporting be required for all fishing in the Islands Unit of the Marianas Trench Marine National Monument and that the CNMI Division of Fish and Wildlife be included in the administration and monitoring of the permits and logbooks.

Moved by Duenas, seconded by Torres.  
Motion passed with one abstention by Tosatto.

8. The Council recommends that the CNMI DLNR, Division of Fish and Wildlife, be exempted from permit requirements related to scientific research or exploration.

Moved by Duenas, seconded by Torres.  
Motion passed with one abstention by Tosatto.

9. Recommends the staff prepare an options paper regarding commercial fishing in the Volcanic and Trench Units of the Monument, as well as other fisheries-related issues identified in the Proclamation.

Moved by Duenas, seconded by Martin.  
Motion passed.

Council member Duenas stated that there is ongoing consultation with regards to the development and formation of the Advisory Group.

10. Recommends that the Marinas Trench Marine National Monument Advisory Council includes representation from Guam as an observer to the Advisory Council.

Moved by Duenas, seconded by Torres.  
Motion passed.

## **14. Pelagics & International Fisheries**

### ***A. Action Items***

#### **1. Recommendations for Hawaii Longline Bigeye Tuna Management under a Catch Limit**

Dalzell stated that the annual limit of 3763 metric tons was published on December 12, 2009. The fishery was closed from December 29-31, 2009. Alternatives were presented at the 146<sup>th</sup> Council meeting. The recommendation to staff was to narrow the choices to three alternatives: 1) No Action, 2) change the fishing year, or 3) change the effort limit. Changing the fishing year to another period is not a measure that is designed to keep the catch under the catch limit, but instead a way of living with the catch limit. Effort limits, however, are a potential way to ensure staying under the catch limits. He presented five alternatives for changing the fishing year, and three additional alternatives for BET in the WCPO, 1) limiting the number of hooks for deepset fishing, 2) limiting the number of deep-sets, and 3) limiting the number of trips per vessel.

After a description of the analysis of the alternatives, Dalzell explained the impacts of the alternatives. Changing the fishing year results in running over the limit at some point during the year, although there is very little difference between Alternative 1 and Alternative 5. The closer fishing occurs to the holiday period, the shorter the closure. In terms of total lost revenue, Alternative 2 had the largest lost revenue.

With regards to the pros and cons for limiting hooks, sets, and trips, the analysis showed all the different effort limits reduced the potential for a catch greater than the current catch limit. Limiting hooks is the most difficult to enforce. Limiting sets is not a guarantee that fewer hooks would be set. Trips have a potential to reduce the current catch limit.

If no action is taken, the BET catch limits established by RFMOs for the U.S. longline fleets would be implemented through NMFS rulemaking. If the Council chooses to change the fishing year, the fishing year would begin in whatever month chosen and would maximize the likelihood of maximizing fishery revenues as well as providing a steady, optimal, or at least workable flow of fish to markets. If the Council chooses effort limits, sets, trips or hooks, the Hawaii deepset longline fishery would operate under an effort regime that would limit fishing effort in the fishery, either through set limits, number of trips or numbers of hooks per set.

### Discussion

Council member Martin had significant reservations about the types of input controls because the WCPFC currently has no way to account for overages or underages. Dalzell agreed, adding the Hawaii longline fishery operates in an ocean area of less concern with respect to bigeye fishing mortality and further, the Pelagics Plan Team (PPT) did not like input controls.

Martin also asked about how the change in calendar year would interact with the catch limit from the WCPFC, to which Dalzell replied that the PT raised the same issue. NOAA Deputy RA Tosatto expressed the importance of consistency with the Conservation and Management Measures. Council member Duenas stated that he was disappointed the PT did not just analyze scientific information when providing the alternatives, and did not see a problem with working with the industry to establish a fishing year and subsequently reporting to the Commission within the required calendar year. Martin replied that after sitting in on the PPT meeting, he was reminded they take social and market issues into consideration as well as fish production.

Council member Itano said that hooks per year should also be taken into account. Martin questioned how to handle overages and underages of a hard quota.

Council member Young raised the concern about lack of fresh tuna in Hawai'i by the end of the year and stressed that it is the Council's responsibility to manage that. Martin replied that the concern over a lack of availability was media driven because fishermen deal with no fish in particular areas all the time and just fish elsewhere.

Executive Director Simonds reminded the Council about the issue with the vessel day scheme experienced in terms of the purse seiners in 2008 that were able to double their catch although their days were limited. Itano responded that he is not a proponent of the vessel day scheme for purse seine management; he recognized that it allowed the purse seine effort to run amok for years. He suggested that regulating the number of hooks and sets per vessel may be more effective.

**Council member Duenas requested, in the future, to have hard copies of every Powerpoint presentation for Council members.**

## **2. Recommendations on Options to Modify the Hawaii Deepset Tuna Longline Swordfish Trip and Catch Limit**

Dalzell stated that the 2004 Final Rule for the longline fisheries restored the swordfish shallow-set fishery, and included a limit of ten swordfish per trip for deepset tuna targeting. The purpose of the trip limit was to prevent deepset longline vessels fishing for BET and YFT from switching to shallow-set gear to target swordfish. In 2009, the Council amended the Pelagics FEP to remove the set limits on the swordfish longline fishery for 2010 onwards. As a result, trip limits may be unnecessarily duplicative and burdensome for the longline fishery and are contributing to bycatch. Additionally, the swordfish stock is healthy according to two stock assessments conducted in the last five years.

At the 146<sup>th</sup> Council meeting the Council asked staff to explore alternatives for modifying the current ten swordfish per trip limit for the deepset tuna-targeting fishery, which include modifying the trip limit and removing the swordfish trip limit altogether. Dalzell presented the pros and cons of the alternatives, including that swordfish bycatch is potentially minimized, increased economic benefits, administrative burden for fishermen, NMFS, and the USCG, and requires more at-sea verification that deepset longline gear was not reconfigured for swordfish.

### ***Discussion***

Council member Martin pointed out the current regulations create regulatory discards. He felt it is worth discussing modifications to the fishery that might allow some economic benefit from fish that might otherwise be discarded. Council member Duenas suggested utilizing observers to identify the true catch limit thru documenting catch.

Council member Sword asked where the 10 swordfish limit originated, to which Dalzell replied that it was the result of a PIFSC study. Council member Itano asked if seasonality of swordfish bycatch, as well as fish size and variance by area fished, could be folded into management. Dalzell replied that while he did not look at that, it is doable, and there is strong seasonality to the swordfish fishery. Martin said the second quarter of the year has the peak incidental swordfish catch dating back to as early as late '70s, early '80s. He added that boats range farther, there now is more effort in the east, and the size of the average fish seems consistent or increasing. Dalzell added that the required NEPA analysis would include the biological parameters and agreed the size of the swordfish is a positive increasing trend.

## **3. Recommendations on Modifications to the American Samoa Longline Limited Entry Program**

Finn, Council Staff, reviewed the American Samoa Limited Entry Program and presented potential options for modifying this program. The objectives are to comply with the regulations regarding the three-year review, consider appropriate revisions, simplify the limited entry program, and ensure the long-term continuity of the fishery. Three potential options regarding permit issuance eligibility criteria were to change the criteria date, remove the criteria date, or remove the eligibility criteria in entirety. Options for vessel class sizes and minimum landing requirements included removing the class sizes and landing requirements altogether, creating 2 class sizes with 500 lb and 5000 lb landing requirements respectively, or creating two vessel

class sizes with no minimum landing requirements. She also listed the pros and cons of each option.

The PPT recommended that the Council demonstrate a purpose and need for simplifying the permit program in accordance with the Pelagic FEP management objectives. The limited entry program was established in 2005 to constrain fishery participation and subsequent annual longline effort by the American Samoa-based fleet, which has approximately 16 million hooks, the greatest density of hooks in any of the Council's areas of jurisdiction.

Finn clarified the vessel lengths contained in the options.

#### **4. HMS Memorandum of Understanding**

Kingma reported that there is a requirement under the WCPFC Implementation Act that calls for a Memorandum of Understanding between the three Pacific Councils (North Pacific, Pacific and Western Pacific), the Department of State (DOS), and the Department of Commerce (DOC). For the last couple years, Council staff has worked with staff from the DOC, DOS, and PIRO on the MOU language. The Parties are in agreement.

The four points of the MOU are: 1) clarify roles with respect to participation in U.S. delegations, 2) provide formal recommendations to DOC and DOS regarding necessary measures for domestic and foreign vessels fishing for HMS, 3) coordinate positions within the U.S. delegation for presentation to the appropriate IFMOs, and 4) recommend domestic fishing regulations consistent with action of the IFMO for approval under the MSA.

The MOU is nonbinding, but there is hope the parties will operate in good faith and fulfill the provisions. Kingma asked for the Council to consider approving the MOU. Tosatto added that NMFS intends to follow the MOU and looks forward to working on the relationship with the Councils.

#### ***B. Review of Pacific Bigeye Tuna Stock Assessment***

Dalzell reported that the IATTC is scheduled to conduct an Eastern Pacific BET stock assessment review in May. John Sibert will chair a three-day meeting, the results of which will be presented at the IATTC meeting in June.

There were no comments or questions.

#### ***C. International Fisheries***

##### **1. Fifth International Fishers Forum**

This item was deferred until after the monk seal discussion.

Ishizaki, Council staff, reported the IFF5 is scheduled for August 3-5, 2010 in Taiwan. It will be co-hosted by the Council and the Fishery Agency of Taiwan and is anticipated to be the final meeting of the series. One of the main focuses of this meeting will be on marine spatial planning. In addition to marine spatial planning, all of the previous themes from past IFFs will

be revisited, such as mitigating sensitive species bycatch in small-scale, longline, and purse seine fisheries, as well as market-based mechanisms in mitigating fisheries bycatch. Registration information is expected to be out in the next month. More information will be posted when it becomes available.

### *Discussion*

Council member Duenas commented he attended a meeting in Costa Rica in 2000. It was a very positive meeting regarding the circle hook modification and other projects.

## **2. Western and Central Pacific Fisheries Commission**

Tosatto reported that there were many new Conservation and Management Measures at the meeting held in Tahiti, but none with any direct impact to the fisheries in the Council's jurisdiction. There were no changes to CMM 2008-01. Some regulatory action will need to be taken and NMFS is looking over the new MOU to see how to plug the Council into the process.

Implementation of 100% observer coverage in the purse seine fishery is one of the outcomes of the last meeting, but at the last WCPFC meeting, the budget for the Regional Observer Program was reduced significantly and the capacity is not in place to meet the 100%. PIRO is working with the FFA and the Commission to ensure data gets entered, analyzed, and used in the development of measures and Commission deliberations.

There were no questions or comments.

### *D. Protected Species*

#### **1. Japan Sea Turtle Community Network**

Naoki Kamezaki, President of the Sea Turtle Association of Japan, presented on the Current Status of the Sea Turtle and Research Network in Japan. Since its establishment in 1990, the Sea Turtle Association of Japan has worked with a large network of individuals, researchers and organizations throughout Japan to carry out research, monitoring and conservation of sea turtles. While monitoring of some nesting beaches began in Japan as early as 1950, many individual monitoring programs were established by the mid 1980s. The Sea Turtle Association of Japan also standardized the tagging and measuring methods and equipment used in the sea turtle research. An annual meeting of the Japan Sea Turtle Conference is held every November to exchange data. In Japan, it is believed that monitoring is more important than the research for conservation of sea turtles.

Three species, the loggerhead, green and hawksbill turtles, use beaches of Japan as nesting sites. Monitoring on beaches like Kamouda, Shikoku began in Japan as early as 1950, and many individual monitoring programs were established by the mid 1980s. STAJ called on the groups to integrate data and proposed to the local people to count the number of emergences or nests on the beach to identify the distribution of nesting sites. In the 2009 season, 13,410 emergences and 7,495 nests of loggerheads were examined from 412 beaches and 354 beaches, respectively.

Though the nests have decreased in Kamouda during the half decade, the total of nestings of

Japan increased from 1997. Yakushima Island chiefly contributes to this increase. However, it is thought that it is still too few to sustain the North Pacific loggerhead population.

In 2009, data on 591 corpses were collected from all of Japan. In 2002, joint research with fishermen began to determine cause of death. Up to 300 sea turtles are bycaught in Muroto pound nets every year; they were tagged and released to clarify their ecology and behavior.

Life history and migration of the Western Pacific green sea turtles are not known well. Japan has many sea algae beds, which is forage for green turtles. It is not known where the green sea turtles come from. It will be necessary to clarify the relation between nesting sites and foraging areas to conserve the Western Pacific green sea turtle in the future. With regards to green sea turtle life history, there was interest expressed in collaborating in research endeavors between Guam and Japan.

A few hawksbill turtles nest in Japan. However, many hawksbill juveniles and subadults live in the Coral Sea of Okinawa and work is ongoing to clarify the life history of hawksbills in Japan.

### Discussion

Council member Torres asked the cause of the increase in the population. Kamezaki suspects egg poaching has decreased and that the drift gill net ban implemented in 1992 also contributed to the increase. Council member Duenas asked for Kamezaki's opinion as to whether there is a continual decline of the three turtle species to extinction or if there is hope for recovery.

Kamezaki responded he believes the loggerheads are in a state of decline at this point. However, in terms of the green sea turtles in Japan, both in Okinawa and in Ogasawara, because the harvests are limited, in addition to various other factors, the population is increasing. There are areas in Japan where algae beds are being completely eaten down by green turtles and at some point in the future, if the green turtle population continues to increase in Japan, a harvest to control their population will be acceptable. Council member Dela Cruz asked Kamezaki if the stock is based on carrying capacity in a given area. Kamezaki said there is not enough data to determine the stock size by looking at a certain foraging habitat.

Dela Cruz asked if Japan allows harvest of the green sea turtles, to which Kamezaki replied there are permitted takes in Okinawa and Ogasawara, which is limited to less than 100 per year.

Council member Itano asked what the primary cause of death for dead stranded turtles.

Kamezaki replied they are not certain of the cause, but think they are bycatch. They are trying to determine which fishery has the bycatch issue through an assessment of the coastal fisheries in Japan.

Dela Cruz asked if Japan allows captive breeding of turtles and, if so, if it is successful.

Kamezaki answered the Fisheries Agency of Japan has continued to experiment on a breeding program for hawksbill turtles. However, to use that breeding program to release individuals in the wild to increase the wild hawksbill population creates problems with genetic diversity, among other things. Therefore, he does not recommend a breeding program for the purpose of releasing them into the wild to increase the population. The population of hawksbill sea turtles in Japan at the moment is limited by foraging availability.

Duenas asked if there is 100 percent protection of the nesting sites. Kamezaki replied in the '60s and '70s, the rule was to only take 50 percent of the eggs, which were consumed locally; there was no big trade. However, in the late 1980s people had started to see them as a delicacy and the prices of the eggs started to increase, so a market developed. Around the mid 1980s, the Prefectural Governments started to regulate and prohibit egg poaching. Since then, those regulations have been enforced and followed. Duenas also asked if there is any work in Japan to ensure the natural foods sources for turtles, especially the hawksbill, are protected. Kamezaki replied the best foraging habitat for hawksbill turtles is finger coral or broken coral, therefore they are affected when the coral dies off, which often results in a slowdown in their growth rate.

Torres offered his commitment as the Director of the Guam Department of Agriculture to work closely with Japan in the future regarding the turtle program.

Kamezaki offered his thanks and encouraged all to conserve algae beds and coral reefs for marine turtles.

## **2. False Killer Whale Take Reduction Team Meeting Report**

This item was taken out of order.

Tosatto reported the Team has met once and the report is under review by NMFS. It will then be released by the Team and ultimately finalized, hopefully shortly. Both science agencies, the industry and environmental communities had a productive meeting. Future meetings are planned to be held off the Island of Oahu, but plans to see if they can be changed to meet on Oahu. The Team is working on strategies in the near-term to reduce the take of false killer whales (FKW) by the fishery, but also is looking to the long-term reduction to zero takes of FKW to get below the Potential Biological Removal (PBR).

### ***Discussion***

Council member Martin commented that from an industry perspective, they are encouraged by the composition of the Team and had good dialogue at the first meeting. Working groups meet away from the meeting and provide daily updates of the results of their deliberations. The Team is on a tight meeting schedule by law and has six months to develop and implement a plan. He looked forward to continuing to work to resolution.

Council member Sablan asked if Tosatto could provide information regarding a marine mammal survey in CNMI waters. Tosatto replied the cruises are multi-faceted and employ methods such as acoustics and unmanned underwater vehicles. Council member Itano was encouraged to hear other methods are being used to assess population status.

## **3. Monk Seal Recovery Team Meeting Report**

Tosatto directed the Council's attention to the documents provided in the Council's briefing binder. Council member Duerr suggested contacting the Hawaii Hotel and Lodging Association, which has excellent programs to create a seal-friendly attitude towards monk seals.

### ***E. Pacific Pelagic Advisory Panel Recommendations for the Marianas***

Council member Duenas noted this topic was presented earlier in the week. They can be found on page 48 (*G. Marianas FEP Guam Advisory Panel Recommendations*).

#### ***F. Pelagic Plan Team Recommendations***

Dalzell presented the PPT recommendation in the absence of PPT Chair, Keith Bigelow. Dalzell reported on BET catch limits. This would require re-analyzing data to look at the variance of the different alternatives in single years from '04-'08, getting averages of the variance, and also including more economic impacts. There was discussion at the PPT that suggested the average is likely not to be exceeded, and No Action might be a viable alternative. There is concern that if the fishing year is changed, whether it would be acceptable in terms of reporting to WCPFC.

The PPT suggested that the U.S. strive toward flexibility and establishing fishing years, but even if a non-calendar year is adopted, the U.S. obligations to WCPFC could entail additional closures to ensure they maintain reporting on a calendar year schedule. The PPT preferred catch limits rather than effort limits.

The PPT recommended that consideration be given to and further analysis be conducted for increasing deepset longline trip limits to 25 swordfish when using circle hooks and retaining the ten swordfish per trip limit if using tuna or J hooks. .

The PPT recommended the Council consider modifying Class A vessel criteria with respect to eligibility criteria, landing requirements to promote participation for vessels less than 40 feet. The PPT recommended maintaining the separation of B, C and D vessel size classes and maintaining the current participation criteria for those classes.

There were no comments or questions.

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

SSC Chairman Callaghan reported the SSC recommendations as follows:

1. With regard to limiting the fishing year in the Hawaii longline bigeye tuna fishery, the SSC was reticent to recommend any alternative fishing year at this time. The SSC continues, however, to be very concerned about the capacity in the Hawaii longline fishery in terms of number of hooks and number of latent permits, because it increases the difficulty of managing the fisheries under a catch limit system.
2. With regard to options to modify the Hawaii deepset tuna longline fishery, swordfish trip limit, the SSC supports the Plan Team's recommendation to establish a 25 swordfish trip limit for deepset tuna-targeting longline vessels using circle hooks and maintain the ten swordfish per trip limit for vessels using tuna hooks.
3. With respect to the Hawaii bigeye and yellowfin insular populations, the SSC recommends that the Western and Central Pacific Fisheries Commission bigeye tuna reproductive biology project be supported and extended to provide detailed information on bigeye tuna spawning season in locations around Hawaii and that the Hawaii tuna

tagging project should be supported and extended to improve estimates of transfer rates between offshore and inshore fisheries for both data in yellowfin tuna, and to provide information on the optimal spacing of FADs.

4. With respect to the American Samoa and Hawaii longline quarterly reports, it was noted that the American Samoa-based longliners fishing in the Northern Cook Islands provide logsheet data to the Cook Islands Government, which in turn submits the data to the SPC. The SSC recommends that PIFSC consult with the SPC to ensure that double-counting of U.S. flagged catches in the Cook Islands does not occur in the Western and Central Pacific Fisheries Commission's annual submissions.
5. With respect to bigeye tuna catch limit monitoring, the SSC reiterates its previous recommendation that real-time, daily, at-sea reporting of catch be implemented as soon as possible to facilitate monitoring of bigeye and yellowfin catches against their respective limits.
6. The SSC endorses the Plan Team Recommendation No. 2 to modify swordfish catch trip limits on deepset for the targeted trips of the Hawaii longline fishery.
7. The SSC has no objection to the Plan Team Recommendation 4 to modify the American Samoa Limited Entry Program. However, the SSC is concerned over the large number of hooks deployed in the relatively small American Samoa EEZ and requests that an analysis be performed on the effects of high hook density on these stocks.

There were no comments or questions.

#### ***H. Public Hearing***

There was no public comment offered during this section.

#### ***I. Council Discussion and Action***

This item was taken out of order.

1. Council recommends establishing a 25 swordfish trip limit for deepset tuna targeting longline vessels using circle hooks and 10 swordfish per trip for vessels using tuna hooks if vessels are not carrying observers. If an observer is being carried by a deepset tuna vessel then there is no limit to the amount of swordfish that can be retained by a longline vessel.

Moved by Duenas, seconded by Martin.  
Motion was passed with one abstention by Tosatto.

Council member Young asked for clarification as to the reference of trip limit - if it meant retained fish and not the number of fish that can be taken on a trip. Council member Duenas clarified it meant whatever is on the boat.

Council member Martin clarified the circle hook portion of the recommendation is from the PPT and said that this will provide an incentive for more boats in the fishery to use circle hooks. Martin clarified for Council member CDR Young that an estimated 40% of the deepset vessels are using circle hooks as opposed to the regular tuna hooks. Duenas also mentioned this would help reduce discards and that the observers will gather better information.

2. The Council recommends that NMFS provide additional funding for the WCPFC bigeye tuna reproductive biology project to provide detailed information on bigeye tuna spawning season and locations around Hawaii. The Hawaii Tuna Tagging Project should be supported and extended to improve estimates of transfer rates between offshore and inshore fisheries for both bigeye and yellowfin tuna, and to provide information on the optimal spacing of inshore FADs.

Moved by Duenas, seconded by Torres.

Motion passed with one abstention by Tosatto and one recusal by Itano.

Council member Itano offered a friendly amendment to correcting the name of the project to Hawaii Tuna Tagging Project II, and to insert skipjack after yellowfin. There were no objections from Council members Duenas or Torres.

Itano recused himself from the vote as he is involved in the project; Haleck noted the recusal.

SSC chairman Callaghan identified that this recommendation was the result of Dettling's comments to the SSC.

3. The Council recommends that NMFS PIFSC consult with SPC, the Secretariat of the Pacific Community, to ensure that double counting of U.S. flag catches in the Cook Islands does not occur in WCPFC data submissions and to ensure that the previous catch history properly account for U.S. and Cook Islands landings.

Moved by Duenas, seconded by Martin.

Motion passed.

4. The Council recommends that the Council incorporate the recommendations from the Pelagic Plan Team for the WCPFC bigeye tuna longline catch limit for the Hawaii longline fishery in a revised amendment document to the Pelagics FEP for consideration at the June 2010 Council meeting.

Moved by Duenas, seconded by Torres.

Motion passed.

Young asked for clarification of the recommendations, to which Dalzell replied that the additional analysis would look at the variance around the different fishing years as opposed to just the average of '04 to '08, to expand the economic analysis within the document.

Tucker recommended summarizing the action in Paragraph 4 so the proposed action is clear.

Duenas and Martin had no objection.

5. The Council recommends approval of the Memorandum of Understanding between the three Pacific Councils and the Departments of State and Commerce about Highly Migratory Species management coordination in the Pacific.

Moved by Duenas, seconded by Martin.  
Motion passed.

Executive Director Simonds stated the MOU has been signed by all parties; she would like the Council to formally approve it, as was discussed in the Executive Committee. Council member Martin thanked all parties for creating the MOU due to its importance in international regimes. NMFS DRA Tosatto said he looks forward to implementing the MOU and working with the Council and its Executive Director.

6. The Council requests that the NMFS Pacific Islands Fisheries Science Center provide a presentation regarding the cetacean research protocol at the next Council meeting, with a particular focus on the biopsy protocol used in the cruise between Hawaii and the Mariana Archipelago by the NOAA Research Vessel OSCAR SETTE.

Moved by Duenas, seconded by Sablan.  
Motion passed.

Council member Martin stated it would be better understand the methods PIFSC uses to obtain biopsy samples from marine mammals, particularly of FKW and other cetaceans, as they're becoming increasingly important in the fisheries of the Central and Western Pacific.

SSC Chairman Callaghan asked if the SSC could be included in the recommendation. Duenas and Sablan had no objections to the amendment.

***With regards to management of the American Samoa Longline Limited Entry Program, the Council recommends:***

Council staff prepare a draft amendment analyzing options including the following preliminarily preferred options:

- Option 2c, remove eligibility criteria. Under Option 2c, eligibility would be limited to U.S. Nationals and U.S. Citizens, with no other qualifying criteria.
- Option 1c, modify to have two vessel class sizes and minimum landing requirements. Under Option 1c, the four vessel size classes would be replaced with two vessel class sizes, small and large, whereby Class A and B vessels less than 50 feet will be considered small, and Class C and D vessels, 50 feet and larger, will be considered large. All those currently possessing permits would have their permits modified into one of the two class sizes. In addition, under this option, existing minimum landing requirements would be modified to a three-year minimum PMUS landing requirement of 500 pounds for the small vessel category and 5,000 pounds for the large vessel category.

Moved by Duenas, seconded by Sword.

Motion was passed with one abstention by Tosatto and one nay by Young.

Council member Young voiced concern that this would allow outsiders to take over permits, especially the small alia fleet, and would not be helpful for American Samoa. He also pointed out one of the options is to eliminate eligibility criteria and vessel size classes, which could impact the smaller boats. However, Council member Duenas reminded the Council members that this action only calls for an analysis of options; it is not final action. Council member Sword noted that the fishermen who attended the meeting in American Samoa found this action acceptable.

Council member Martin asked Ikehara to clarify the minimum requirements. Ikehara explained that class C is 50.1-70 feet, D is >70 ft. There is some difference between the definitions of medium and large vessels in the regulations. The large vessel in this action is defined as 50 and larger. Small would be less than 50 feet. The transition between the A and B class into this small/medium class, C and D to the large class shouldn't be difficult.

Duenas noted the importance of consistency for enforcement, to which Ikehara replied that the recommendation is consistent. Council member CDR Young pointed out that the larger vessels have a VMS requirement.

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

There was no public comment offered during this section, however, the subsequent day Council member Duenas read a letter from a member of the public who was unable to testify during this section. **Alan Ainbinder**, recreational fisherman and charter boat owner/operator, and newest member to the Board of the Guam Fishermen's Cooperative Association, stated the sustainability of Guam's offshore fishery has been lost because the responsible agency for managing FADs and shallow-water moorings has failed. The Government of Guam, Department of Agriculture, Division of Aquatics' mission, as stated on their website, is to restore, conserve, manage and enhance aquatic resources in and about Guam and to provide for the public use and benefits of these resources. Currently, there are only four FADs on station out of 16. The general consensus is that they use old equipment that isn't maintained and it breaks much quicker than new equipment. The entire season of mahi fishing finished without the FADs. There has been no sustainability of the fishery for the annual mahi season. Ainbinder urged the Federal organization to discontinue giving money to the Division of Aquatics because it perpetuates an opinion that they can do what they want rather than what is best for the fishers of Guam. He estimated there are less than ten shallow-water moorings and the Division of Aquatics has made no attempt to replace any of the moorings. He wants the Division of Aquatics to spend the money they are granted through the Fish and Wildlife Restoration Fund in a timely and efficient manner so that these FADs and shallow-water moorings are kept on station and properly maintained. He also requested the Council, NOAA, NMFS, and any other agency that has the ability to help, find the way for the funding to be routed to another entity to assume the duties and responsibilities of properly managing FADs and shallow-water moorings so that local fisheries can be restored and sustained for years to come, and to protect the coral reefs from the most basic of damage, anchoring.

## 16. Hawaii Archipelago

### A. Moku Pepa

Council member Martin noted a significant increase in marine debris being brought in. The deepset longline fishery landings appear to be similar to this time last year although boats are having to travel farther. The shallow-set swordfish fishery is doing well with 15 boats active in the fishery. Catch rates were good early in the year despite the bad weather. The market is fairly strong with good prices. He estimated 50 percent of the boats are in compliance with the new marking requirements, which is required to be able to fish in the WCPFC Convention area after April 21<sup>st</sup>. The industry is trying to develop ways to mitigate predation on bait by FKW as people recognize the importance of reducing interactions to avoid further regulation.

#### Discussion

Council member Itano asked Martin if the FKW TRT has held workshops to discuss ways to deter marine mammals from taking longline gear. Martin replied that he did not think it was in the TRT's purview. The industry is working to provide information to the TRT industry representative. Tosatto responded that when the first meeting report comes out, there will be more information about what transpired during the meeting. He reminded the Council that the TRT is working under a tight timeline and is on a fast track to produce a regulatory regime to reduce depredation, as well as identify what information is needed to manage the FKW population. It does not have the time to hold a big event such as a workshop. Itano suggested that holding such a workshop may be something the Council would support.

Council member Duerr reported that offshore fishing off the Coast of the Big Island (Hawai'i) has been poor over the last couple of months. He noted unusual currents and lack of bait. The recent earthquake in Chile and subsequent tsunami caused a Council workshop in Hilo to be cancelled. He thanked DLNR for small improvements to the small boat harbors on the west side of the island. He also reported more humpback whales are being seen farther south this season.

Council member Sablan asked Martin if he has any contact information for the three longline vessels coming to CNMI to fish. Martin said he was aware of two permitted vessels that have relocated to CNMI or Guam, and the Council Office would have the contact information.

Itano directed Council members' attention to the report document provided, which includes items such as modification of bottomfish fishing regulations, nonextractive assessment of bottomfish resources, the State examination of revisions to catch and size limits of reef fish and bottomfish, and administration of the FAD Program by Hawaii Institute of Marine Biology. He announced there is ~\$1 million available this year for projects through a competitive granting system through the Pelagic Fisheries Research Program of the University of Hawai'i. Of 31 pre-proposals submitted, about half have been asked to followup with a full proposal, which will be narrowed down to a handful of projects. He added that funds are available to anyone in the world under a competitive granting process. The projects have to be involved with pelagic fishing or fisheries, and in some way address a management concern. In other words, it must be management-driven research.

## ***B. Legislative Report***

Fujimoto had no topics to report but offered to take questions and report back after following up.

There were no comments or questions.

## ***C. Enforcement Issues***

Council member Itano directed the Council members' attention to the report document provided.

There were on comments or questions.

## ***D. Action Items***

### **1. Recommendations and Options for Refining Essential Fish Habitat (EFH) for the Main Hawaiian Islands (MHI) Bottomfish Fishery**

Mitsuyasu reported that this action item applies only to the Hawaii Archipelago. The MSA established requirements for the Council to have definitions for Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC) defined for Management Unit Species (MUS). The Council had put in place its original definitions for all MUS about ten years ago. This is the first effort to revise the definitions.

PIRO contracted with Chris Kelley and others to look at all new available information relating to MHI Bottomfish MUS. Kelley has previously reported to the SSC regarding current designations of EFH and HAPC with detailed background for the individual species. The SSC reviewed all published and gray literature with reference to MUS species and habitat, as well as data available that came through the HURL Submersible Program and fishing survey work. The Council looked at tables split out by depth zones and species related to data sources. The SSC liked the initial cut of the work presented.

At the 146<sup>th</sup> Council meeting the Council requested staff to put together an Options Document in collaboration with Kelley. The three initial options presented included 1) No Action, 2) 3 subgroups with EFH definitions for individual species, and 3) 3 subgroups with individual EFH definitions for only the Deep-7 species. Option 2 would increase the number of bottomfish complexes from two to three (shallow, intermediate, deep), provide an EFH description for each complex and life stage within each complex, add kahala to the BMUS, and provide a more accurate descriptor for each species at different life stages within the water column zones. Option 3 would do the same, except that the species-level EFH definitions would be created only for the Deep 7, and is consistent with the SSC recommendation from October 2009.

There are three options for the seamount groundfish complex too: 1) No Action, 2) defining EFH for specific life stages and removing the area-specific designations for groundfish, or 3) defining species-specific EFH for life stages and removing the area-specific designation for groundfish.

The work is still in progress and there will be further information available for the next SSC meeting. Al Everson of PIRO is developing Terms of Reference for use in evaluating the EFH in the rest of the Western Pacific Region.

### Discussion

Council member Itano asked for clarification on the separation of groupings. Mitsuyasu replied that Kelly suggested separating them out because of different life history characteristics. He added this will also be addressed in future work. Itano suggested the seamount pomfret should be grouped with bottomfish, to which Mitsuyasu replied that the PT discussed the pomfret last year.

Itano reported research is beginning on the monchong at the Cross Seamount with sonic tags to obtain some life history, but they are showing up more and more in the bottomfish fishery around the MHI.

### *E. Community Activities and Issues*

#### **1. Economic Stimulus**

Fujimoto had no topics to report, but offered to take questions and report back after following up.

#### **2. Sustenance Fishing Regulations in the Papahānaumokuākea Monument**

Fujimoto had no topics to report but offered to take questions and report back after following up.

### Discussion

Itano commented after reading the report that it is clear that whoever wrote it did not have a clear perception of what fishing is, can, or should be. He recommended the Council be involved in the process. He offered his assistance in recommending gears that would minimize impacts to bycatch and assistance with the live release of fish from his experience gathered when tagging fish in the area. Palawski noted the Proclamation that created the Monument basically said no fishing whatsoever, and that certainly makes it tricky to formulate fishing regulations.

### *F. SSC Recommendations*

SSC Chairman Callaghan reported the SSC recommendation as follows:

The SSC heard the presentation by the Council staff on the progress toward refining EFH for the MHI Bottomfish. The SSC noted that there appeared to be little difference between the intermediate and deepwater groupings. Therefore, the SSC recommends that statistical analysis, such as cluster analysis or other appropriate techniques be conducted to assess the potential grouping of species by depth bins.

### Discussion

Council member Itano asked if there were any recommendations relating to the letter that Captain Joe Dettling put forth to the Council. Callaghan replied there was discussion and a recommendation that the response should be delivered to Joe Dettling by mail so that he had an appropriate answer to his question. Itano noted that there are many interesting concepts in the letter that probably bear some further examination along the same lines as the research ongoing in the PFRP.

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

There was no public comment offered.

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

#### ***Regarding options for refining Essential Fish Habitat for the MHI Bottomfish, the Council:***

Directs staff to develop an amendment to the Hawaii Archipelago Fishery Ecosystem Plan based on the options presented. In addition, the Council recommends that statistical analysis such as cluster analysis or other appropriate techniques be conducted by NMFS to assess the potential groupings of species by depth bins.

Moved by Itano, seconded by Torres.

Motion passed.

Tosatto asked if it should be Hawaii Bottomfish as opposed to MHI Bottomfish to which Mitsuyasu replied it should be Hawaii Archipelago Bottomfish. Thus, Tosatto moved to amend the motion from Hawaii Bottomfish to Hawaii Archipelago Bottomfish. Itano seconded the amendment. Torres had no objection. Tosatto's motion to amend passed.

Itano offered a friendly amendment to remove the words Hawaii Bottomfish. Duerr seconded. Itano's motion to amend passed.

#### ***Regarding the management measures for Hancock Seamounts the Council:***

Chooses Alternative 3 as its Preferred Alternative, creating an Ecosystem Management Area. Additionally, the Council endorses the  $T_{\min}$  of 35 years for the rebuilding time of armorhead.

Moved by Itano, seconded by Torres.

Motion passed with abstention by Tosatto.

#### ***Regarding the framework procedures the Council:***

Recommends Selection of Alternative 1b, which aligns the framework procedures across the FEPs of fisheries and adopts the outline framework procedures as follows:

1. Document is prepared.
2. It is noticed in the Federal Register and the document is made available for public comment.
3. The public comment is received, as well as comment from Advisory Panels, Plan Teams and SSC
4. The document is revised based on input received.
5. The Council considers public comment, discusses the issue and votes.
6. If approved, NMFS implements the regulations.

Moved by Tulafono, seconded by Martin.

Motion passed with one abstention by Tosatto.

NOAA RC Tucher asked for clarification regarding the Council process of dealing with frameworkable items in which NMFS will provide public notice and comment under the requirements. Pautzke replied that frameworks are subject to the APA requirements for public notice. Tucher clarified that the recommendation is to establish a process for management actions that have been previously analyzed such that the lengthy MSA process doesn't have to be followed and that normal APA notice and comment may not necessarily need to be followed in every instance because of a need for prompt management action. This recommendation sets out the abbreviated process for such an action.

***Regarding frameworkable items, the Council:***

Recommends selecting Alternative 2c, allowing previously established measures in the FEPs to be adjusted via framework action.

Moved by Torres, seconded by Martin.  
Motion passed with one abstention by Tosatto.

NOAA RC Tucher clarified frameworkable items are only appropriate for previously established measures.

***Regarding noncommercial and recreational fishing in the Marine National Monuments, the Council:***

1. Defines noncommercial fishing as fishing that does not meet the Magnuson-Stevens Act definition of commercial fishing and includes, but is not limited, to sustenance, subsistence, traditional indigenous and recreational fishing.

Moved by Duenas, seconded by Torres.  
Motion passed with one abstention by Tosatto.

2. Council defines recreational fishing as fishing conducted for sport or pleasure, the recreational fishing be allowed in the Marine National Monuments but the catch cannot be sold, bartered or traded nor included in customary exchange.

Moved by Duenas, seconded by Torres.  
Motion passed with one nay vote by Young and one abstention by Tosatto.

Council member Young asked if a recreational fisher is limited to fishing for sport or pleasure, whether he may eat the fish he catches. NOAA RC Tucher noted that one of the preliminary definitions included language for personal and family consumption, but it seemed to be surplus language because implicit in recreational fishing is that you might choose to consume the fish. Young pointed out the motion says fishing for sport or pleasure; and some could argue they are fishing to catch fish to eat who do not consider themselves recreational fishers.

Young also asked for clarification on the difference between this and sustenance fishing. Tucher replied that there would be circumstances where sustenance and recreational would be indistinguishable. Sustenance is treated differently; in one of the other monuments, the purpose is sustenance fishing and they are allowed to engage in customary exchange. The first sentence

is substantially the same definition as in the MSA and implicit in the language of sport or pleasure is the motivation of the individual engaging in that form of noncommercial fishing. What they do with the fish is not addressed in the MSA and it does not need to be addressed in this definition. Council member Duenas argued that it was obvious the catch cannot be sold, bartered or traded and does not restrict anyone from consumption. He pointed out there will be annual catch limits established by NMFS through the Council process.

3. Recommends that charter for-hire fishing be allowed, but that the catch cannot be marketed for sale, barter or trade, and the customary exchange of the catch is prohibited.

Moved by Duenas, seconded by Sablan.

Motion passed with abstentions by Fujimoto, Tosatto, and Young.

Council member Young asked for clarification if the captain of a charter boat is prohibited from selling, bartering or trading of fish, or required to discard the fish. Council member Duerr noted that in Hawai'i, charter boats are allowed to release or donate the fish. They are not allowed to sell the fish. Council member Sword offered that in American Samoa, tournament fish that are weighed in are donated to the old folks' home.

Young also had concern as it creates a serious enforcement challenge. Council member Duenas said he thinks the definition works and details will be proscribed in the process.

Young recalled the definition of customary exchange includes social benefit, and one could argue that giving a fish that you caught to some charity is providing a social benefit and that is prohibited under the existing definition. Upon request, Kingma explained that the rationale for excluding "customary exchange" from the two recommendations was partly because it was excluded for Rose Atoll and the Marianas in earlier recommendations. He did not think the definition of customary exchange and the use of it here precluded the giving away of fish for a charity. NOAA RC Tucher agreed customary exchange and gift giving was discussed earlier and concluded they are not the same thing. Motivation is difficult to define in this circumstance, but gifting is a separate concept entirely and is not prohibited for recreational fishing under the MSA, nor is it prohibited for charter. Customary exchange within the context of sustenance, subsistence and traditional indigenous is different when looking at recreational and charter for-hire. Council members Duenas and Sword agreed with Tucher.

Duerr preferred the definition state that any fish caught must be released or brought in to give away.

4. Council recommends that separate permit and logbook requirements be established for for-hire fishing in the Marine National Monuments to monitor the sustainability of this type of fishing as well as potentially limit the number of participants.

Moved by Duenas, seconded by Sword.

The main motion passed with abstentions by Fujimoto and Tosatto.

Council member Young asked if for-hire fishing is the same as charter. Council member Duenas

replied yes. Council member Martin moved to note that in the motion. Duenas and Sword had no objection to the amendment. Motion on the amendment passed.

***Regarding the Pacific Remote Islands Monument, the Council:***

5. Recommends that noncommercial fishing be allowed.

Moved by Duenas, seconded by Martin.  
Motion passed with one abstention by Tosatto.

6. Council recommends that recreational fishing be allowed.

Moved by Duenas, seconded by Sword.  
Motion passed with one abstention by Tosatto.

Duerr spoke in support of the motion as it could be favorable for creating jobs without doing harm to the ecosystem.

7. The Council recommends that no-take Marine Protected Areas from zero to twelve nautical miles be established around Baker, Howland and Jarvis Islands, Kingman Reef and Johnston, Palmyra and Wake Atolls.

Moved by Duenas, seconded by Torres.  
Sablan called for the motion.  
Motion was passed with one abstention by Tosatto.

Jurisdictional issues were discussed, as well as consistency with the Proclamation. Council member Palawksi noted the Proclamation stated that in Palmyra Atoll, noncommercial fishing is currently allowed by the U.S. FWS and may continue unless the Secretary of Interior determines that such fishing would not be compatible. He argued that this motion is in conflict with the Proclamation. NOAA RC Tucher clarified the waters are managed by the Secretary of Interior and are under the Wildlife Refuge system. They are not subject to the Council's jurisdiction. He said they can agree to disagree on the extent of the jurisdiction and not say that this is in conflict. Palawski wanted the Council to understand the jurisdiction with respect to passing the action. NOAA DRA Tosatto argued that noncommercial fishing may be allowed until the Secretary of Interior decides otherwise and did not think the measure is in conflict.

Council member Duenas reiterated his concern for creating an exemption for one area and expressed that he believes it's within Council jurisdiction. Council member Young asked for clarification from Legal Counsel whether noncommercial fishing opportunities currently allowed by the FWS at Palmyra could continue if this recommendation passes because if the motion passes, it would be inconsistent with the Proclamation. Tosatto responded that until final action is taken, the fishing may continue. Tucher added that if there is a conflict between the FWS and Council jurisdiction, this action would only apply in areas in which the Council has jurisdiction. Duenas asserted that the Proclamation says "may"; regulations could be promulgated later to fit the area. He did not support recommending special privileges.

Itano asked if this would attempt to eliminate permitted fishing operations in Palmyra for research purposes as well. Kingma replied it is not specific on that point, but believes research for scientific exploration is clearly allowed and exempted from all permitting.

In response to a question by Council member Torres about whether private owners are entitled to territorial waters the same as a state or territory, Tucher replied that they are not. Torres said it seemed like special privileges in this case and was uncomfortable supporting it.

Young reiterated the language in the Proclamation stated that noncommercial fishing opportunities currently allowed by the U.S. FWS at Palmyra Atoll may continue, and that the motion as posed is inconsistent with the Proclamation. Sword disagreed, felt there should be no special privileges, and a twelve-mile closure should be carried out as it was in the Rose Atoll MNM. Duerr also did not see any conflict in passing this motion, arguing that the Departments must work it out.

8. Recommends that existing Federal permit and logbook requirements be maintained for fishery participants targeting Pelagic, Bottomfish, Crustaceans and Coral Reef Management Unit Species in the PRIMNM and that the U.S. FWS should, for purposes of consistency, adopt or continue these permit and reporting requirements for areas under their jurisdiction.

Moved by Duenas, seconded by Sablan.  
Motion was passed with one abstention by Tosatto.

9. Council recommends that NMFS and U.S. FWS work on a comprehensive outreach, education and compliance program for potential fishermen, visitors and researchers that spend time in the PRIMNM.

Moved by Duenas, seconded by Sablan.  
Motion passed.

Council members Tosatto and Martin voiced support for the motion.

***Regarding options to allow exemptions to noncommercial Federal permitting in the Western Pacific Region, the Council recommends:***

10. Recommends, as Preliminarily Preferred Alternatives, Option 2, which would exempt permit requirements for fishers younger than 16 years of age, and Option 6, which would exempt permit fees for U.S. military veterans, fishers under 16 years of age and fishers over the age of 65.

Moved by Duenas, seconded by Sablan.  
The main motion passed.

Council member Duerr voiced his support to amend to exempt only fishers less than 16 years of age. Sword seconded. The motion to amend passed.

11. The Council also recommends that staff further develop the options paper on exemptions to noncommercial Federal fishing permits for the June Council meeting and that the document also contain options for exemptions for all types of Federal fishing permits in the Western Pacific Region.

Moved by Duenas, seconded by Torres.  
Motion passed.

12. The Council further recommends that the options paper include options that would facilitate fisheries catch information if any permit and logbook requirements are exempted.

Moved by Duenas, seconded by Sablan.  
Motion passed.

## **16.5 Action Items**

### ***A. Recommendations on Management Measures for Noncommercial Fishing in the PRI Marine National Monument***

Kingma reported that presentation is very similar to the other presentations on noncommercial fishing, but this time applies to the Pacific Remote Island Areas MNM. Proclamations 8335, 8336 and 8337 established the Marianas Trench, PRI and Rose Atoll Marine National Monuments and identified the Secretary of Commerce as having primary management responsibility for fisheries and MSA as statutory authority to develop fishing regulations. In following the MSA, NMFS requested WPRFMC to recommend definitions and regulations for fishing activities in the monuments.

Proclamation 8336, which established the PRIMNM, states that noncommercial fishing may be permitted and directs that any recreational fishing be sustainable. It further states the respective Secretaries may permit noncommercial fishing upon request at specific locations in accordance with this Proclamation. Noncommercial fishing opportunities currently allowed by the FWS at Palmyra Atoll may continue unless the Secretary of Interior determines such fishing would not be compatible with the purposes of the Palmyra Atoll National Wildlife Refuge. The Secretary shall provide a process to ensure that recreational fishing shall be managed as a sustainable activity in certain areas of the monument.

Kingma added there is some different language regarding the jurisdiction of the Interior out to 12 nautical miles from the mean low-water lines of Wake, Baker, Howland, Jarvis, Johnston, Kingman Reef and Palmyra. It also says the Secretary of Interior, through NOAA and in consultation with the Secretary of Interior, shall have primary responsibility for the monument seaward of the 12 nautical miles of the mean low-water lines around Wake, Baker, Howland with respect to fishery-related activities. He noted there are some jurisdictional issues.

Staff disseminated around the FWS rules for recreational fishing in Palmyra for bonefish and blue water recreational fishing. The Nature Conservancy operates the research station in Palmyra. The TNC flies in guests to conduct bonefish fishing as well as blue water fishing.

There are existing permit requirements under Federal regulations for trolling for pelagic species, as well as logbooks. Kingma added he does not think any TNC nor FWS personnel have ever applied for such permits. There are also crustacean and bottomfish permits.

The regulatory definitions options for both noncommercial and recreational fishing vary by whether expense sales, barter, and/or trade are allowed. With regards to spatial management, there were 7 alternatives: 1) No Action, 2) 0-50 fathom low-use areas around Wake, Johnston, and Palmyra, 3) 0-50 fathom no-take areas around same areas, 4) 0-1 mile no-take Protected Areas, 5) 0-3 nm no-take areas around each island of the PRIAs, 6) 0-12 nm no-take closure around each island, or 7) 0-50 nm no-take closures around each island.

Potential impacts of these alternatives include impacts to fishery participants, costs associated with fishing in the monuments, and reduced access to fishing areas. They also include costs for administration of permits and logbook reporting and the potential need to monitor expense sales, vessel positions, etc.

### *Discussion*

NOAA RC Tucher suggested it would make sense from a legal perspective to define noncommercial fishing as “all fishing that is not commercial.” It would necessarily include subsistence, sustenance, recreational and traditional indigenous fishing.

Council member and FWS representative Palawski noted that since there is no history of sustenance or subsistence or traditional indigenous fishing in the PRI MNM, he is not sure there is a need to address those topics, other than saying they didn't ever exist and they won't exist in the future. In this specific case, he said all that is needed is to define recreational fishing as anyone who goes out, catches a fish and eats it.

Council member Itano favored the broad definition of all fishing that is not commercial, and then subsetting recreational. He asked Palawski about the history of Palmyra and Kingman before they were privately owned. People used to fish in the area so there is a history of subsistence fishing in Palmyra. Palawski explained that for Kingman, recent court cases show that the island was not privately owned. In the case of Palmyra, present fishing is not very different from fishing that happened in the past.

Council member Young agreed with the broad definitions of commercial and noncommercial and subsets on either side. Noncommercial is referenced in the Remote Islands, as well as Rose Atoll. Council member Duenas stated the definition that is going to be in the books will be a single definition and the application will be broad; therefore, he wants it to state it is specifically for the PRIMNM.

Palawski suggested a no-take area from 0-12 nm for Baker, Howland, Jarvis, and Johnston, and a low-use area for Kingman Reef, Palmyra, and Wake that allows recreational fishing to continue per the Proclamation. He clarified that fishing is free on the public land of the National Wildlife Refuge of Palmyra. Itano pointed out that a type of customary exchange occurs there because TNC invites donors to the island to go camping and contribute money towards running and purchase of the atoll. Palawski disagreed, arguing that the refuge is open to the public.

Tosatto added that the offshore waters in this area start at the beach, which are the purview of this Council. Bluewater fishing must have a noncommercial Federal permit from NMFS. Fishing inside the lagoon is not within the EEZ. It is a resource management issue, but less relevant to the Council's direct management authority.

Duenas asked to have the staff continue to work on the document; it concerned him that any type of extraction occurring. He argued it should cease until such time rules or regulations are put in place and does not think it's fair that non-native people are given more privileges or rights.

Tosatto replied the Agency did look at what the Northwestern Hawaiian Islands did, what they did well, what they did wrong, and then tried to fix the things done wrong. He added that while it may have the appearances of the privileged few, there will continue to be a relatively few pelagic fishers that go there, and the few based out of Wake will be there.

### ***B. Recommendations on Options for Exemption from the Federal Fisheries Permits***

Kingma drafted language for the Council to consider regarding possible options for exemptions, some of which include exemptions to fisher under 16 years old as well as U.S. Military Veterans and fishers over 65 years of age. This is not final action and suggested a more comprehensive look at potential exemptions for the next Council meeting.

#### ***Discussion***

NMFS DRA Tosatto reminded Council members to review the letter from Sam Rauch, NMFS Headquarters, Regulatory Programs, to Executive Director Simonds from June 4, 2008, on the issue of permit fees in which the Council is requested to undertake establishing permit fees for all permits, and NMFS' policy for permit fees to apply to all permits.

Council member Sablan asked if the military veterans include active duty military; Kingma replied it will be further explored.

Council member Duerr expressed concern over including people over 65 would consist of too many people, arguing more research should be done to determine catch by veterans.

Council member Martin noted he would like to exempt the permit but require the reporting.

## **17. Administrative Matters**

### ***A. Financial Reports***

Executive Director Simonds reported that the Financial Reports contain items such as '09 compensation for Council members, and that funds for Cooperative Agreements were received late in the year and there is some carryover. In October, the Council voted on the Administrative budget and the Sustainable Fisheries (SF) Budget. The Grants Office asked all Councils to add a 10 percent increase to their 2010 line item, amounting to \$4 million. A budget request is being prepared for that amount which will be the Administrative and SF budgets, including the

Indigenous Coordinator salary and other projects. Also included is the 2010 budget that is developed from the general Council 5-year budget. Simonds also noted a report of the allocation to the Councils and the NMFS budget for 2011. The most interesting line item in the NMFS budget is the President's request for the Catch Shares, which went from \$17 million to \$54 million. Lastly, funds will not be received for the Council's turtle grant until June.

### Discussion

Council member Duenas noted NMFS is getting \$49 million for marine mammals, \$15 million for marine turtles, and \$5.5 million for the American Fisheries Act. Duenas asked Tosatto for clarification on the American Fisheries Act to which Tosatto replied he would look into it.

### ***B. Administrative Reports***

Executive Director Simonds reported that since the last Council meeting, an Administrative Clerk was hired and an Economist position is being considered. The audit will begin in May. Staff is researching updating the phone system, which will include the two e-mail systems.

There were no comments or questions.

### ***C. SOPP Review and Change***

NOAA RC Tucher reported NOAA is still working on a Draft Final Rule for certain administrative functions of the Regional Fishery Management Councils. There was a Proposed Rule published March 27, 2009 and a Supplemental Proposed Rule published December 7, 2009.

There is now a Draft Final Rule addressing a number of issues of interest to the Council, including:

- A couple issues that specify which Council documents must be available for public inspection on their internet sites and public viewing at the Council offices.
- A requirement to establish procedures in the SOPP for preparing and deeming proposed regulations.
- Some specific guidance and restrictions on lobbying.

Tucher's recommendation to the committee was not to take action on the SOPP until the Final Rule is published, which should be out in the next several months.

There were no comments or questions.

### ***D. Meetings and Workshops***

Executive Director Simonds reported on the CDP and MET meeting in May during which NMFS and Council staff will review the Council's accepted CDP proposals. The Council will see the proposals at the June meeting.

There will be committee meetings in May and Craig Severance (SSC Member) and Watamura will attend the MAFAC Recreational Summit. Richard Seman, Roy Morioka, Will Sword, and Rick Gaffney will also attend. A pre-meeting will held before the D.C. meeting.

The Annual Symposium on Sea Turtle Biology is being held in India this year. Ishizaki will attend.

The Pelagic Ecosystem Plan Team will be held around the same time. The Council Coordination Committee meeting will be held in May. The Aquaculture Listening Session is occurring in April, as well as the Capital Hill Ocean Week. The SSC meeting will be held June 22-24.

Following the SSC meeting are the Marine Educators Conference in Fiji and Tennessee, the IFF5 in Taiwan, the Science Committee and the RFMO Bycatch meeting in Brisbane, and the Northern Committee meeting. The IATTC meeting was changed to September/early October. The National SSC meeting will be held in Charleston; three or four SSC members will attend. Council member training for new Council members will occur.

In November the Council is hosting the Coral Reef Fisheries Workshop and then the Commission meeting.

Itano noted the Council may be interested in sending attendees to the Scientific Advisory Committee, which will focus on the topic of bycatch mitigation research and efforts. The Tuna Conference theme is bycatch and will consist of a discussion panel on bycatch issues in pelagic fisheries.

#### ***E. Other Business***

Simonds reported the Social Science Committee will be restructured to a smaller committee and perhaps new members will be Fiona McCormick and John Parks. Lastly, the Council's 401K plan will be moved to another company.

There were no questions or comments.

#### ***F. Standing Committee Recommendations***

Two recommendations came out of the Standing Committee:

1. For the Council on the advice of Legal Counsel to delay Final Action on the Draft SOPP until the pending Final Rule of the Council operations is published.
2. The Council to direct staff to finalize changes to the Council's 401K retirement plan as proposed.

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

There was no public comment offered.

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

1. The Council on the advice of Legal Counsel delays Final Action on the Proposed Draft SOPP until the pending Final Rule of the Council's operation is published.

Moved by Sablan, seconded by Sword.

Motion passed.

2. The Council to direct staff to finalize changes to the Council's 401K Retirement Plan as proposed.

Moved by Torres, seconded by Sablan.

Motion passed.

Council member Duenas requested corrections be made to the expiration dates of the terms of the Council members and would like to find out information as to why he did not receive his third Appointment Certificate.

## **18. Other Business**

Haleck read a Resolution in Recognition of the United States Coast Guard Commander Mark Young for his service to the Western Pacific Regional Fisheries Management Council, dated March 26, 2010.

Haleck brought to the attention of the Council members a letter written by Council Member Peter Young to the Secretary of Commerce concerning the Amendment to Pelagic Fisheries Allowing Additional Harvest of Pacific Bigeye Tuna of the Western Pacific Regional Fisheries Management Council for the purpose of discussion.

Sword stated he was quite disappointed, particularly because the local matter of the agreement between HLA and American Samoa Government was included. He does not know why there was a request to investigate the agreement; it was already run by the Council's Legal Counsel. He added it is disrespectful to send a letter for every disagreement and diminishes the integrity and credibility of the Council. He feels everyone does the best they can; these matters should be brought up to the Council members for resolution prior to promoting the issue to higher levels.

Martin stated he recused himself from participation in the referenced section of the Council meeting and did so clearly on the advice of Legal Counsel, who explained why recusal was appropriate. He was unaware of any investigation or response to the letter and asked Legal Counsel if he could address any response or investigation.

Tucher replied that a letter, sent January 7, from Acting Administrator Balsiger indicated there was no investigation of Martin's financial holdings. Martin himself indicated he would prefer recusal on that vote at the last Council meeting, which was appropriate. The Council is composed of private industry, environmental and experts in marine resources and the conservation of those resources, and it is anticipated in the MSA that financial interest will from time to time be implicated by the action that the Council takes. Recusal and disqualification upon identification of a financial interest is the appropriate response. There were other components to that letter regarding treatment of Council members; the letter speaks for itself, but it was important that it was emphasized by Mr. Balsiger that all Council members treat each other with respect and that nobody should feel intimidated because of the views they expressed, regardless of the popularity of such view.

Duenas stated Young has every right to prepare a minority document, but was concerned the letter is based on possibility instead of facts. The Secretary never made a designation regarding an overfished or overfishing status for bigeye. Also, the Territories were asked to reduce their allocations from the Commission's allocation, the Territories wished to set the limit at 2,000 metric tons, and the allocation is not yet approved. There are no bigeye caught on Guam, nor is any BET catch expected. The Council received information that the purse seine fishery doubled or tripled its catch, but that is not mentioned in the letter.

Duenas stated that he understands Young is asking for another term as a Council member, but if this happens repeatedly, an Executive Session will be necessary at every meeting. Duenas argued no-one has been retaliatory against Young. At times, there are disagreements, but the bottom line is that their job is to manage fisheries; he is disturbed by the allegations against the Former Chairman. Council members must file financial disclosures.

Duenas then challenged NMFS to research Young's financial backing of his LLC because if it were funded by organizations whose mission is strictly to get rid of fishing, which seems evident by the voting record because Young votes no or abstains from every pro-fishing action, then his company is promoting nonfishing, which is no different from a person who is promoting fishing. He argued Young is biased and discriminatory against fishermen.

Torres commented he always listens to Young's suggestions. He voiced anger that Young appeared to ignore Duenas and suggested that Young listen to Duenas. Torres said Young is wrong to include him as a Council member retaliating against him. He has never retaliated against Young, nor has ever accused him officially or unofficially in front of the Council or during breaks and was offended to be included in the list of members retaliating.

Haleck thanked everyone and adjourned the Council meeting.