WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

MEMORANDUM May 27, 2011

To: Interested Parties From: Kitty M. Simonds

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Subject: Action item summary for the 151st Council Meeting

The Western Pacific Regional Fishery Management Council will consider the issues summarized below, including any public comments, and is expected to take action on them at its 151st meeting. For background documents on these actions, please contact the Council or, after June 6, go to www.wpcouncil.org/meetings. The meeting will be held June 15-18, 2011, at the Marriott Beach Hotel, Waikiki, HI. Written comments should be sent to the Council's Executive Director by 5 p.m. on June 13, 2011, by mail, FAX, or email as indicated below.

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Action Items:

1. Annual Catch Limits
2. Options for Hawaii Bottomfish Management Unit Species Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC)
3. Marine Conservation Plans – Pacific Remote Island Areas, Guam, and CNMI
4. Limited Entry for Aquaculture
5. Non-Commercial Data Collection Options
6. Options for American Samoa Shallow-set Longline Fishery for Swordfish
7. Options for Longline Access to the American Samoa Large Pelagic Vessel Area Closures
8. Options for American Samoa Pelagic Fishing Vessel Landing Requirements
9. Overfishing of Pacific Bluefin Tuna
10. WCPFC Conservation and Management Measures for Bigeye Tuna

1. Annual Catch Limits (ACLs)

The 2006 reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSA) included requirements to end overfishing and rebuild overfished stocks. Under the MSA, Regional Fishery Management Councils (RFMCs) are to amend their fishery management plans to include a mechanism for specifying annual catch limits (ACLs) for all fisheries so overfishing does not occur and to implement measures to ensure accountability (AMs) for adhering to these limits. To establish an ACL, first the Science and Statistical Committee (SSC) must determine the acceptable biological catch (ABC). The Council will be making decisions on ACLs based on the ABCs determined by the SSC and data that includes catch, mean catch, and maximum sustainable yield (MSY) estimates for the following stocks.

a) **American Samoa Archipelago Mollusks and Lobsters**
b) **Mariana Archipelago Lobsters, Deepwater Shrimp, Mollusks**
c) **Hawaii Archipelago**
    1) **Main Hawaiian Island Deep 7 Bottomfish Complex**
       The Deep 7 complex includes onaga, ehu, kalekale, gindai, opakapaka, lehi, and hapuupuu.
    2) **Kona Crab, Deepwater Shrimp, Lobsters, Mollusks, Akule/Opelu, and Black Coral**
d) **Coral Reef Finfish Fisheries**

A series of analyses have been conducted to provide auxiliary information on the possible status of the stocks and determine the most viable way of establishing ACLs coral reef finfish management unit species (MUS). The Council will consider several options for the specification of ACLs for these stocks in the Hawaii, American Samoa, and Mariana (Guam and CNMI) Archipelagos as follows:

Action 1: Alternatives for the level of species aggregation to which the ACLs will be applied

1A. No Action – the Council would not group individual stocks of coral reef MUS into higher taxonomic groupings or stock complexes;
1B. ACLs be applied to on a single aggregated coral reef MUS – only one ABC and ACL specification will be done on the whole coral ecosystem;
1C. ACLs be applied on the family level aggregation that comprise the top 90% of the coral reef fish catch – this would entail 12 ABCs, and ACLs will be specified based on a form of a mean of recent catches;
1D. ACLs be specified on the family level – this would entail 31 ABCs, and ACLs will be specified based on a form of a mean of recent catch;
1E. ACLs be applied on the highest taxonomic resolution available in the fishery database that comprise the top 90% of the coral reef fish catch – this would entail 23 ABCs, and ACLs will be specified based on a form of a mean of recent catch

Action 2. Alternatives for defining mean of recent catch

2A. Use arithmetic mean of recent catch;
2B. Use 1standard deviation above the arithmetic mean of recent catch;
2C. Use 2 standard deviation above the arithmetic mean of recent catch;
2D. Use geometric mean;
2E. Use 75th percentile;

2F. Use 95th percentile

Action 3. Alternatives for adjusting ABCs to account for stock status information

3A. No Action – will use default control rule with 1.00 being the maximum multiplier when B>Bmsy

3B. Utilize a factor above 1 as a multiplier to the recent catch if the stock is under utilized

e) ABC for Pelagic Squid

Species with life span ≤ 1.0 year are exempted from ACL requirement. However, the status determination criteria (SDC), MSY, optimum yield (OY), ABC, and an ABC control rule for species with life span ≤ 1.0 year still must be established. The Council's Pelagic Fishery Ecosystem Plan (PFEP) MUS includes *Ommastrephes bartramii*, *Sthenoteuthis oualaniensis* and *Thysanoteuthis rhombus. O. bartramii* was targeted in the early 2000s by a Hawaii-based offshore squid fishery, no longer in operation. *S. oualaniensis* is targeted by the Hilo ika-shibi fishery; the directed fishery on Kauai targets *S.oualaniensis* and *T. rhombus*. Squid are only reported as an aggregate in Hawaii Department of Aquatic Resources (DAR) statistics.

The Council will review the SSC recommendations on SDC, MSY, OY, ABC, and an ABC control rule for the insular fisheries in Hawaii for *S. oualaniensis* and *T. rhombus* and may make a recommendation regarding SDC, MSY, ABC and OY.

2. Options for Hawaii Bottomfish Management Unit Species (BMUS) Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC)

The Council will consider options for revising the Hawaii BMUS EFH and HAPC designations based on new scientific information, contractor review recommendations and Western Pacific Stock Assessment Review (WPSAR) findings.

Option 1: Refining EFH designations for shallow and deepwater bottomfish species in the Hawaii Archipelago:

1A. No Action – EFH designation for bottomfish remain the same at 0-400 m

1B. Shallow, Intermediate and Deep-water Complexes with individual EFH definitions for all species and life stages (eggs, post hatch pelagic, post settlement and sub-adult – adult)

1C. Shallow, Intermediate and Deep-water Complexes with individual EFH definitions for Deep 7 Species and life stages (eggs, post hatch pelagic, post settlement and sub-adult – adult)

Option 2: Refining EFH designations for seamount groundfish species in the Hawaii Archipelago:

2A. No Action – EFH for groundfish remain the same

2B. Define EFH for specific life stages and add area specific boundary designations for groundfish at Cross Seamount

2C. Define species specific EFH for life stages and remove the area specific designation for groundfish

Option 3: Refining and/or designating HAPC for bottomfish in the Hawaii Archipelago:

3A. No Action – Current Designations

3B. Sixteen Defined HAPC Areas – Review Recommendations

1) Middle Bank	7) Makapuu Point, Oahu	13) South Kahoolawe
2) Kaula Rock	8) Penguin Bank	14) Kohala, Hawaii
3) East Niihau	9) North Molokai	15) Hilo, Hawaii
4) Northwest Kauai	10) Pailolo Channel	16) South Point, Hawaii
5) Kaena Point, Oahu	11) Hana, Maui	
6) Kaneohe, Oahu	12) North Kahoolawe	

3C. Seven Defined HAPC Areas – WPSAR Recommendations

1) Kaena Point, Oahu*	5) Pailolo Channel
2) Kaneohe, Oahu*	6) North Kahoolawe
3) Makapuu Point, Oahu*	7) Hilo, Hawaii
4) Penguin Bank*	

*With modifications

Option 4: Defining HAPC for seamount groundfish in the Hawaii Archipelago:

4A. No Action – No defined HAPC areas

4B. Two Defined HAPC areas (Cross and Hancock Seamounts) – WPSAR Recommendation

3. Marine Conservation Plans (MCPs)

a) Pacific Remote Island Areas (PRIAs)

Under section 204(e) of the MSA, the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary) and in consultation with the Council, may negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA) to allow foreign fishing within the U.S. Exclusive Economic Zone (EEZ) adjacent to any Pacific Insular Area (other than American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI)); by definition, it does not include the State of Hawaii. Section 204(e)(4) of the MSA requires that prior to entering into a PIAFA, the Council shall develop a three-year Marine Conservation Plan (MCP) providing details on uses for funds to be collected by the Secretary under the PIAFA. The MSA authorizes that any payment received under a PIAFA in support of conservation and management objectives in an MCP developed by the Council, and any amounts received by the Secretary attributable to fines and penalties imposed under the MSA due to violations by foreign vessels occurring within the PRIAs (i.e., not American Samoa, Guam, or CNMI) shall be deposited into the Western Pacific Sustainable Fisheries Fund (SFF) for use by the Council. The MCP must be consistent with the Council's fishery management plans, must identify conservation and management objectives (including criteria for determining when such objectives have been met), and must prioritize planned marine conservation projects. Although no foreign fishing is being contemplated at this time, the Council has developed an MCP for the PRIAs here defined as the EEZ around Johnston and Palmyra Atolls, Kingman Reef, and Jarvis, Howland, Baker, and Wake Islands. Projects to be implemented in Hawaii are also contained the SFF MCP. The Council will consider a new three-year SFF MCP.

b) <u>Guam and CNMI MCPs</u>

Under section 204(e)(1) of the MSA, the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary) and in consultation with the Council, may negotiate and

enter into a PIAFA to allow foreign fishing within the U.S. EEZ adjacent to Guam, CNMI, and American Samoa. Section 204(e)(4) of the MSA requires that prior to entering into a PIAFA, the appropriate Governor and the Council shall develop a three-year MCP providing details on uses for funds to be collected by the Secretary under the PIAFA. Also any amounts received by the Secretary attributable to fines and penalties imposed under the MSA, shall be deposited into the Treasury of the government adjacent to the U.S. EEZ where the violation occurred (e.g., if a violation occurred in EEZ adjacent to Guam, the fine would be deposited into Guam's treasury) and be used for fisheries enforcement and implementation of the MCP. The MCP must be consistent with the Council's fishery management plans, must identify conservation and management objectives (including criteria for determining when such objectives have been met), and must prioritize planned marine conservation projects. The Council will consider new Guam and CNMI MCPs.

4. Limited Entry for Aquaculture

Aquaculture in the Pacific is a multi-million dollar industry that cultivates everything from algae and pearls to crustaceans and pelagic fish. While most of these activities are land-based operations, Hawaii has been the pioneer for developing and successfully operating aquaculture in the ocean. Two Hawaii operations produce fish for commercial purposes in Hawaii, and up to three more are in different proposal stages. Offshore aquaculture is also being considered in other areas of the Western Pacific Region as a means to reduce overfishing and provide seafood for island communities as well as commerce.

NMFS states that "fishing" includes aquaculture under the MSA based on a 1993 legal opinion issued by NOAA General Counsel. In June 2010, at its 148th meeting, the Council took action to recommend permitting and reporting be established for aquaculture in the Western Pacific Region. This amendment is in review.

Little is known about the effects of aquaculture to the environment and wild fisheries, and there is concern from both fishermen and environmental groups. The Council supports offshore aquaculture but needs to provide management and regulations for the fishery without hampering its development and growth. The Council will consider options to provide the fishery with the ability to develop and grow, but at the same time reduce the chance for unrestrained participation and growth and harm to the environment. The Council will consider the following options for management of offshore aquaculture in the Western Pacific region:

1. **No Action** - Offshore aquaculture would continue to be open to everyone and environmental responsibilities would remain with existing agencies
2. **Establish a Control Date -** A control date would be established for any persons interested in developing an aquaculture operation, after which participation is not guaranteed
3. **Establish a Limited Entry Program** - A limited entry program would be established to limit the number of participants and provide other restrictions
4. **Recommend an Environmental Monitoring Program** - An environmental monitoring program would be developed to determine what would be monitored and who would be responsible for the monitoring

5. Non-Commercial Data Collection Options

Although much information is available on major fisheries under the Council's jurisdiction, detailed information on some smaller fisheries is incomplete. The Council has already recommended, and NMFS implemented, data collection as part of the requirement for permits for many of its fisheries in the EEZ. The data that are collected are needed to develop stock assessments and develop quotas, catch shares, or ACLs. The data also provides a way to monitor the fishery from year to year to ensure that current regulations are working and to see if further regulation (or relaxation of regulations) is needed. However, gaps remain where data are either not collected or the data collection programs in place are insufficient.

For most fisheries under the Council's jurisdiction that do not require Federal permits and reporting, a combination of creel surveys (for both commercial and recreational vessels) and various types of dealer reporting systems (for commercial catches only) are used to provide information to fishery managers (i.e., Guam, CNMI and American Samoa). The State of Hawaii requires reporting of fishing effort and catch by all commercial fishermen (i.e., those who sell one or more fish during the year) and collects recreational fishing information through the Hawaii Marine Recreational Fishery Survey (HMFRFS). While these programs do collect information from fishermen, the resulting data expansions have come into question.

The creel surveys in the region have experienced a lack of resources for conducting the survey and, as a result, managers are not confident in the data. The use of the data for stock assessment purposes is also in question, as the original purposes of the programs were not for stock assessment, but for fishery monitoring. In Hawaii, the HMRFS program is part of the larger national Marine Recreational Fishery Statistical Survey (MRFSS), which was found to be deficient in many areas. Currently, MRFSS is being revised by the Marine Recreational Information Program (MRIP) to address these deficiencies.

The Council will consider the following options for collecting data from fisheries in the Western Pacific region:

1. **No Action** - Continue to collect data under existing programs
2. **Develop Federal Permits and Catch Report for Each Existing Fishery Not Currently Federally Permitted** - Require Federal permits and catch reports for all fisheries not currently permitted under Federal law
3. **Develop Federal Surveys for Each Existing Fishery Not Currently Federally Permitted** - NMFS to develop voluntary surveys to collect fishing catch and effort information from all fisheries not currently permitted under Federal law
4. **Comprehensive Western Pacific Fishing Permits and Catch Reports** - Require Federal Permits and catch reports for all harvest of Federal MUS in Federal waters only
5. **Comprehensive Western Pacific Fishing Permits and Catch Reports** - Require Federal Permits and catch reports for all harvest of Federal MUS in both local and Federal waters

6. Options for American Samoa Shallow-set Longline Fishery for Swordfish

The American Samoa longline fishery developed in the mid 1990s and matured at the beginning of this decade. Initially, it was primarily a nearshore coastal longline fishery dominated by outboard-powered alias (catamaran vessels) using hand-deployed and -retrieved

longline gear. From 2000 onwards, conventional large mono-hulled longline vessels, comparable in size to those in the Hawaii longline fisheries, began to dominate the fishery.

The advent of conventional large longline vessels meant that observers could be deployed to make observations of effort, catch, and protected species interactions in the American Samoa longline fishery. Extrapolation of observations made by NMFS observers between 2006 and 2010 suggested that an average of 33 green turtles interacted annually with the fishery, with a mortality rate estimated at 92 percent. In 2008, the Council took action to reduce this interaction rate.

Specifically, the Council recommended an amendment to the Pelagics Fishery Ecosystem Plan (PFEP) requiring all hooks to be set at least 100 m deep. Most green sea turtle interactions occur on the first and second hooks nearest to the float, likely in depths less than 100 m. A NMFS-issued Biological Opinion indicated that if the fishery adopted the proposed gear modifications, it would not jeopardize the continued existence of green, hawksbill, olive ridley, or leatherback sea turtles.

If this PFEP amendment is implemented, it will effectively prohibit any shallow-set longline fishing for swordfish or other fishes by American Samoa longliners. Some American Samoa vessels have successfully targeted swordfish in these waters. Unfortunately, transporting the fish to the lucrative East Coast swordfish market did not yield the expected financial returns. If marketing issues could be solved or become more favorable, American Samoa fishermen are likely to regain interest in targeting swordfish.

The Council may recommend a mechanism by which a shallow set longline fishery may be established in American Samoa, e.g., through a PFEP amendment or another process such as an exempted fishing permit (EFP) or a community development plan (CDP).

7. Options for Longline Access to the American Samoa Large Pelagic Vessel Area Closures

Options will be presented for allowing limited access to the southern and northern large vessel prohibited area (LVPA) in American Samoa, which consists of a 0-50 nm rectangle around Tutuila, Manua Islands, and Rose Atoll and a 0-50 nm rectangle around Swains Island. Limited entry would be permitted from 25-50 nm within the LVPA. The LVPA was created to separate the large longliners (≥50 ft) from the alia and troll vessels. The two large longline vessels that had operated within the LVPA prior to the implementation of the measures in 2002 were allowed to continue fishing within the management zone.

The alia fishery has declined to a single vessel due to the combination of economic costs and falling catch rates of albacore around Tutuila. Commercial troll fishing has also declined around Tutuila, although there has been a resurgence of recreational troll fishing. No major fishing operations have developed on Swains Island, which continues to be inhabited by relatively few people, engaged in a largely subsistence lifestyle. Consequently, operators of large longline vessel have questioned the need for such a large area closure and have expressed interest in being able to fish within the LPVA waters.

At the 150th Council Meeting, representatives of Swains Island were amenable to

allowing preferential access to the 25-50 nm part of the LPVA. Access would be contingent on paying a fee and the funds could be used for fisheries development on Swains Island and potentially Manua Island.

The Council may select a preferred alternative for a mechanism to allow selective access to the 25-50 nm areas around Swains and Manua Islands for large longline vessels.

8. Options for American Samoa Pelagic Fishing Vessel Landing Requirements

The American Samoa longline limited entry program requires pelagic federally managed species landings of at least 1,000 lbs for Class A and Class B permit holders and 5,000 lbs for Class C and D permit holders from the EEZ around American Samoa over a three-year period. These minimum harvest measures do not require the permit holders to land the fish in American Samoa, although it is extremely rare that longline vessels fishing in the EEZ around American Samoa land fish outside of Pago Pago. However, as fisheries are dynamic, new markets can appear suddenly (e.g., Samoa, Fiji). The Council is interested in exploring management options related to landing requirements to ensure community participation in the fisheries and to maintain and provide benefits to American Samoa.

Another issue related to landing requirements is the rebuilding of the Western and Central Pacific Ocean (WCPO) U.S. purse seine fleet with ventures between U.S. and Taiwanese business interests. From 2006 to 2009, more than 20 vessels were built in Taiwan and flagged to the U.S. These vessels are regulated by NMFS under the South Pacific Tuna Treaty Act. Several of these vessels are "homeported" in American Samoa, but have never visited the territory or landed fish in Pago Pago. Vessel documentation and homeporting requirements fall under U.S. Coast Guard (USCG) jurisdiction. Vessels that are homeported in American Samoa are exempted from vessel manning requirements, i.e., only a U.S. captain is required. Without the exemption, all officers (e.g., captain, engineer, navigator) onboard must be U.S. citizens. Since 2006, the Council has been concerned with foreign-built U.S.-flagged purse seine vessels listing American Samoa as their homeport and receiving exemptions to manning requirements, but not landing fish in American Samoa nor providing any benefits to American Samoa.

For reasons identified above, the Council will consider several options related to American Samoa landing requirements for U.S. vessels operating in the WCPO.

9. Overfishing of Pacific Bluefin Tuna

NMFS has determined that overfishing is occurring on Pacific bluefin tuna. The International Scientific Committee (the science provider to the Western and Central Pacific Fisheries Commission (WCPFC) Northern Committee) 2008 stock assessment and 2009 and 2010 updates reported that fishing mortality is higher than many commonly used reference points. The Hawaii average annual catch is about 0.45 mt (2004-2009), or about 0.002% of total Pacific catch. West Coast fisheries land between 60 -567 mt (average 194 mt) from purse seine, sportsfishing and other gears. The Council is not required to prepare an amendment to its PFEP, but it must undertake actions under MSA Section 304(i)(2)(International Overfishing). NMFS advised the Western Pacific and Pacific Councils to collaborate to develop and submit recommendations to the Secretary of State and Congress for international actions that will end overfishing on the stock.

The Council may recommend action to address overfishing of Pacific bluefin, recognizing that reduction of overfishing on this stock can only be accomplished through international fishery management action by the WCPFC and Inter-American Tropical Tuna Commission (IATTC).

10. WCPFC Conservation and Management Measures for Bigeye Tuna

The annual measures in WCPFC Conservation and Management Measure (CMM) 2008-01 to end overfishing of bigeye tuna expire in 2011. The WCPFC must take action at its meeting in December 2011 (WCPFC 8) to replace CMM 2008-01.

Under CMM 2008-01, the catch of bigeye for Hawaii-based U.S. longline vessels for 2009-2011 was capped at 3,763 mt, or 90% of the 2004 catch of 4,181 mt. Prior to this cap, the volume of bigeye landed by the Hawaii base longline fleet had ranged from about 4,200 to 5,340 mt with an average of about 4,570 mt. Moreover, in 2006 and 2007, the Hawaii fishery exceeded the 2004 bigeye catch which was the limit under the 2005-2008 WCPFC CMM.

CMM 2008-01 also stated that longline fisheries of members and participating territories that caught less than 2,000 mt in 2004 were required to ensure that 2009-2011 longline catches did not exceed 2,000 mt annually. However, there was no longline catch limit established for bigeye tuna for small island developing states (SIDs) and participating territories (PTs) in the Convention Area undertaking responsible development of their domestic fisheries. CMM 2008-01 does not define "responsible fisheries development."

Under CMM 2008-01, only longline fisheries are subject output controls such as catch limits. The purse seine fishery is managed differently, focusing on input controls such as a three-month FAD closure in 2010 and 2011 and limits on fishing days for those nations that have adopted a vessel day scheme. Neither the FAD closure nor effort controls for the purse seine fishery have effectively reduced overall effort and, more specifically, have not reduced the incidental catch of bigeye by the purse seine fishery. On the other hand, the longline catch has been reduced by 21 percent in the WCPO in 2009, which is likely a combination of economic factors and the implementation of CMM 2008-01.

The Council may recommend new CMMs for the U.S. Delegation to present at WCPFC8.