

**MINUTES OF THE
152nd WESTERN PACIFIC REGIONAL
FISHERY MANAGEMENT COUNCIL
MEETING**

October 19-22, 2011

**Laniakea YWCA-Fuller Hall
1040 Richards Street
Held in Honolulu, Hawaii**

Approved by Council:

A handwritten signature in black ink, appearing to read "Manny P. Duenas", written over a horizontal line.

Manny Duenas, Chair
Western Pacific Regional Fishery Management Council

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APPENDIX: Acronyms

1. Introductions

The following Council Members were in attendance. Council Member Bill Gibbons-Fly from the US Department of State was absent.

- Manuel Duenas, Chair, Guam Council Member
- Stephen Haleck, Vice Chair, American Samoa Council Member
- Manuel Cruz, Guam Department of Agriculture (DOA)
- David Itano, Vice Chair, Council Member at Large (from Hawaii)
- Julie Leialoha, Council Member at Large (from Hawaii)
- Sean Martin, Hawaii Council Member
- Francis Oishi, State of Hawaii, Department of Land and Natural Resources (DLNR)
- Arnold Palacios, Commonwealth of the Northern Mariana Islands (CNMI), Department of Lands and Natural Resources (DLNR)
- Don Palawski, US Fish and Wildlife Service (USFWS)
- Richard Seman, CNMI Council Member
- William Sword, Council Member at Large (from American Samoa)
- Mike Tosatto, Regional Administrator, National Marine Fisheries Service (NMFS), Pacific Islands Regional Office (PIRO)
- Ray Tulafono, American Samoa Department of Marine and Wildlife Resources (DMWR)
- LCDR Charter Tschirgi, US Coast Guard (USGS)

Also in attendance were Council Executive Director Kitty Simonds, Council Scientific and Statistical Committee (SSC) Chair Paul Callaghan and National Oceanic and Atmospheric Administration (NOAA) General Counsel (GC) Fred Tucher.

2. Approval of the 152nd Agenda

Moved and seconded.

Motion passed.

3. Approval of the 151st Meeting Minutes

Moved and seconded.

Motion passed.

4. Executive Director's Report

Simonds reviewed Council actions since the 151st Council meeting in June 2011. Three actions have been published as final rules with positive results: the process for establishing annual catch limits (ACLs), the longline area closure around the CNMI and the American Samoa longline-sea turtle mitigation measures. Now that the ACL process has been approved by the Secretary of Commerce, the Council will move forward to specify the ACLs for the federally managed species in its region. The Council will also address an unintended consequence of the approved American Samoa longline-sea turtle mitigation measure, which requires hooks to be slower than 100 meters in depth and thus precludes the establishment of a shallow-set longline fishery for swordfish.

Two other Council actions were disapproved by NMFS and published as final rules: the purse seine area closure around the Mariana Archipelago and the purse seine area closure around American Samoa. NMFS said its reason for disapproving the Mariana purse seine area closure was that the proposed measure was not based on best scientific information available. NMFS noted that no active purse seine fishery exists in the US EEZ around the Mariana Archipelago and, therefore, no data is available on the impact of the purse seine fishery on the small boat fleet. However, the disapproval fails to consider that the world's largest purse seine fishery operates directly south of Guam in the neighboring exclusive economic zone (EEZ) waters of the Federated States of Micronesia (FSM). Regarding the rejection of the proposed American Samoa purse seine area closure, NMFS stated that the potential impacts are inconclusive as longliners catch more skipjack and yellowfin tuna in the EEZ than the purse seiners. However, the rejection fails to consider the already established longline area closure in American Samoa or the fact that the longline vessels are generally locally owned while the purse seine vessels are not. In both the Mariana and American Samoa Archipelago purse seine area closure rejections, there appears to be a disconnect between the Agency's determination and the emphasis on coastal and marine spatial planning as mandated by the National Ocean Policy. The Council may want to consider modifying the proposed purse seine area closure measures taking the NMFS comments into consideration.

The issue of purse seine fishing will be addressed during discussions about the upcoming Western and Central Pacific Fisheries Commission (WCPFC) meeting, to be held this December in Palau. The WCPFC sets conservation and management measures (CMMs) for highly migratory species in the Western and Central Pacific Ocean (WCPO). The United States is a party to the convention that established the WCPFC, so the quotas for US longline fisheries are set by this Commission. Last year, the Hawaii longline fishery closed for about 40 days due to the quota. With only the Eastern Pacific Ocean (EPO) open, the fishery experienced lower landings, higher fishing costs and higher market price for high quality tuna in December. However, the higher market prices were poor compensation for fishermen who had to tie up their vessels for the closed season, or fish in unfamiliar grounds in the EPO. Moreover, fuel prices now account for 50% of a longline trip as opposed to 30% in the past. Bigeye catches by

longliners in the WCPO have declined by about 30% between 2009 and 2010, as mandated by the 2008 CMM to address overfishing of bigeye tuna. Catches by longliners are likely to be even lower in 2011 because of the tragedy of the tsunami and its impacts to the Japanese fishing industry. During this same time, no conservation of purse seine caught bigeye was evident. Yet more cuts are being demanded of longliners, while purse seine regulations continue to focus on effort and fishing on fish aggregation devices (FADs), rather than catch limitation. In addition, the WCPFC wants to apply tuna conservation to all fisheries which would include small boat troll and handline fisheries. This could impact recreational fisheries, which in Hawaii and possibly Guam may take as much or even more pelagic fish than the commercial fishery. Our fisheries already operate under a total commercial fishery catch limit for striped marlin from last year's Commission meeting, which includes troll and headline vessels. Most of the striped marlin catch is taken by the longline fleet, but this measure may affect fisheries like the Kona charter fleet which regularly catches striped marlin.

While NMFS has published four final rules on Council action, it has not yet approved for transmission to the Secretary of Commerce nine final actions by the Council. They include definitions and management of marine national monuments, longline fishery development in the territories for bigeye tuna, aquaculture management, omnibus amendment on the framework process, purse seine FAD management, Hawaii deep-set tuna longline swordfish trip and catch limits, American Samoa longline limited entry program modifications, spatial management options for US EEZ waters around American Samoa and the age exemption for federal permits. Regarding the first measure, NMFS may ask the Council to revisit the customary exchange measure, perhaps adding a bag limit, as there are fears that the measure may become a loop hole for commercial fishing in the marine national monuments.

New action before the Council, besides the American Samoa shallow-set longline fishery already mentioned, include refining the essential fish habitat (EFH) for the main Hawaiian Islands (MHI) bottomfish fishery, non-commercial data collection and American Samoa pelagic fishing vessel landing requirements. During the present meeting, the Council will consider the first two actions.

Regarding the MHI bottomfish EFH, the Western Pacific Stock Assessment Review (WPSAR) of the proposed EFH designations indicates that the habitat areas of particular concern (HAPC) align in general with State of Hawaii's bottomfish restricted fishing areas (BRFAs), but these can be significantly reduced in size and number to protect potential spawning and juvenile recruitment areas. Reviews such as those conducted by WPSAR are integral to sound management. During the Council meeting, we will hear reports on such reviews being conducted on the fishing-related rules and regulatory processes in Hawaii as well as the Western Pacific Fisheries Information Network (WPacFIN) data collection program in Guam, CNMI and American Samoa.

The second new action to be considered at the present meeting is an amendment to the Hawaii Archipelago Fishery Ecosystem Plan (FEP) for the collection of non-commercial fishery data. This issue has been discussed by the Council for 30 years and needs to be resolved. Without data, management decisions are based on opinions about the impact of non-commercial fishing that range from "there are no recreational fishermen in Hawaii" to "recreational fishermen account for the majority of the catch." The nation is facing budgetary constraints, and

that permit and reporting programs are costly. Multiple options are being explored. The Marine Recreational Information Program (MRIP), Council, NMFS PIRO and Pacific Islands Fisheries Science Center (PIFSC) are working on a pilot project to determine the efficacy of utilizing the State of Hawaii vessel registry to conduct a recreational fishery survey.

Simonds concluded by noting that this year marks the 20th anniversary of the moratorium on fleet expansion of the Hawaii longline fishery. This decision in 1991 led to a limited entry program that capped fishing capacity in terms of boat size and number of permits. The Council had also adopted a limited entry program for the American Samoa fishery in 2004. The longline fleets in Hawaii, American Samoa and CNMI are model fleets, to which countries should aspire when it comes to managing their longline fisheries. The Pacific Council bases its longline management on the Western Pacific Council's FEP and our standards for seabird and turtle bycatch have strongly influenced the conservation and management measures for these species at the WCPFC and the Inter-American Tropical Tuna Commission (IATTC), whose jurisdiction is the EPO. However, Simonds said, the 20th anniversary of the Hawaii limited entry program is not celebrated with unalloyed pleasure, because as a state and as a nation we continue to import two-thirds of our seafood. If the fishery has to take further cuts to bigeye catches and is further constrained by other actions, it will force out the less efficient vessels in the fleet, particularly those fishermen who fish for a lifestyle rather than to make a fortune. Without sound management decisions, we may be looking at a greatly reduced fishery, and more imports, in the future.

5. Agency Reports

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Tosatto reported the following activities:

- The ongoing Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) actions and International work will be updated later in the Council's agenda.
- The Region's Marine Recreational Fisheries Action Plan has been developed through collaborative efforts of PIRO and PIFSC. The draft plan has been published and is currently in review at Washington headquarters.
- Work is ongoing with Department of Defense (DOD) along with USFWS, Environmental Protection Agency (EPA) and the Government of Guam to ensure that DOD adequately assesses the environmental impacts on the fishing communities in Guam.
- Collaboration is ongoing with USFWS to begin development of the management plans for the Marianas Trench and the Pacific Remote Island Areas (PRIA) Marine National Monument (MNM).

Discussion

Palacios conveyed that the CNMI Governor was surprised at the lack of representation of the CNMI at the recently held visioning workshop held in Kona. The Governor was appreciative of efforts to put together a vision on the management of the Marianas Trench MNM but stressed that the people of CNMI and Guam also have visions of how the MNM should be managed and he hoped in the future effort is put toward involving the community members.

Tosatto apologized both for failing in performing the President's directive in the Proclamation and the people of the Marianas in executing the wishes of the President in that the Advisory Committee should have been already established and meeting. PIRO and USFSW are committed to undertake meaningful advice-seeking and scoping for developing management plans for the Marianas Trench MNM.

Palacios personally accepted Tosatto's apology.

Duenas expressed disappointment regarding the fact the workshop was held in Kona and not in the Marianas, so the communities that are directly impacted could not participate. Also there was no input from the local scientists and experts. He asked for more consultation.

Tulafono asked for clarification as to the role of the Research Coordinator position being advertised for American Samoa.

Tosatto replied he believed the position is advertised by the Sanctuary Program, which could be related to development of a proposal to consider expansion around the Rose Atoll MNM or the Program could be in need of an additional employee for Sanctuary activities in American Samoa.

Tulafono noted that since DMWR does most of the research of marine resources in American Samoa he would like to be contacted and informed of the proposed position.

Duenas also noted Tulafono should be consulted in development of any research plans for American Samoa.

2. Pacific Islands Fisheries Science Center

NOAA PIFSC Science Director Sam Pooley reported that Erin Oleson, team leader of the cetacean research at PIFSC, recently received a Presidential Early Career Award from President Obama for her work in cetacean survey work, and that Jerry Wetherall, past head of Pelagic Investigation and Stock Assessment for Tuna, now head of Scientific Information Services Program, also received a Presidential Early Career Award. Dr. Richard Merrick became the director of the Scientific Program and chief science advisor of NOAA Fisheries; Pat Montanio from the Habitat Program is the new acting deputy assistant administrator for operations; and John Oliver recently retired. Mike Seki is currently in Silver Spring assisting in preparing a transition plan for the next permanent deputy administrator. Dr. Judy Gan is the new lead of the Office of Communications. The PIFSC fishery 2010 and 2011 budget summary decreased by 20 percent due to the loss of funds for congressionally directed projects. Kona Coast research is ongoing looking at identifying physical and chemical features offshore, including biological

sampling, trawl catch composition analysis and marine mammal observations. The Hawaiian monk seal population continues to decline. Research is ongoing to slow or reverse the decline. Coral reef surveys are scheduled to be conducted in Guam to assist in looking at changes over time in the proposed NMFS Habitat Blueprint Initiative. Cooperative research using autonomous underwater vehicle (AUV) is ongoing in collaboration with the Northwest Fisheries Science Center. Oceanic whitetip shark and silky shark research is being conducted in the assessment of fishery observer data from 1995 to 2010. NOAA shipboard days are expected to be around 140 days for 2012 with cruises to Palmyra, American Samoa, Kona and Northwestern Hawaiian Islands.

Discussion

Itano asked for clarification as to the Pelagic Fisheries Research Program (PFRP) budget and the study of traditional fishing patterns of CNMI and Rose Atoll in the written report. He also asked if the silky shark decline could be correlated to fluctuation of water temperature between years.

Pooley clarified that the Agency has worked hard to get the funding for projects like PFRP and other congressionally directed projects into the President's budget through three administrations and have been unsuccessful. Currently there are no discretionary funds available for PFRP. He noted he is not up to date with the details of the traditional fishing pattern study and offered to have a presentation given at the next Council meeting. Pooley added that the silky shark study used NMFS observer data dealing with a particular range of the pelagic species and it is conceivable temperature could affect the movement of the species and the fisheries.

Duenas noted many observations of oceanic whitetip sharks and cetaceans in Guam. He also expressed concern that no scientists or experts from the Marianas were invited to the monument workshop in Kona and requested that the next workshop be conducted in the Marianas with local expertise in attendance.

Pooley noted photographs of the shark and cetacean observations would be welcomed and helpful. Pooley added that he is aware of the activities relative to the military going on in Guam, which is why the concept of the Habitat Blueprint is to provide some standardized monitoring of onshore and offshore effects and how NMFS might integrate the science and conservation management side of the Agency towards looking at particular habitat issues which are not fishery-related, as well as issues of runoff and nearshore pollution.

Palacios noted the citation from *Outside* magazine regarding traditional fishing patterns of CNMI and hoped that the research will include talking to CNMI residents who have fished or who know fishermen who have fished in the area.

Pooley agreed and will pass on the information to the researchers.

Duenas asked Pooley to consider devoting some of his budget to enhancing data collection systems as well as for analysis of the data collected for use ACL determinations as those decisions have great impacts to the Pacific Island communities.

Pooley said he shared concerns for the handling of the fishery-dependent data systems.

With regard to the Kona workshop, Tosatto clarified that the workshop was held in Kona so it could be held in conjunction with the Oceans 11 Technological Workshop. A presentation on the workshop will be presented later in the agenda.

Martin asked Pooley to speak to the ongoing cooperative project between the industry and Paul Nactigall.

Pooley said the project is scheduled to proceed in the near future and will entail attaching acoustic equipment to longline gear in an effort to determine cetaceans sounds and any noise they may be keying in on that attracts them to the longline gear.

Duenas expressed concern regarding the loss of the funding for the congressionally directed projects such as the Joint Institute for Marine and Atmospheric Research (JIMAR) and PFRP and asked the Science Center to look for funds to keep the projects going.

B. NOAA Regional Counsel

Tucher reported that the Kupher case regarding the personal liability capacity lawsuit was dismissed by the High Court of American Samoa. The Trial Division is now on appeal to the Appellate Division. He is looking forward to a resolution of the case.

The three items of litigation included:

- The Amendment 18 litigation involved a settlement between NMFS and non-governmental organizations (NGOs) which vacated a biological opinion (BO) that evaluated the expansion of the shallow-set swordfish fishery and allowed for an increased take of loggerhead and leatherback sea turtles and required NMFS to conduct a new BO. Initiation of the new BO occurred on September 16, 2011. While that is ongoing the court required NMFS to reimplement the prior Incidental Take Statement (ITS) for loggerhead and leatherback sea turtles. The Hawaii Longline Association (HLA) filed its Notice of Appeal with the Ninth Circuit, arguing that NMFS engaged in unlawful rule-making by settling the case and bypassed the procedures required under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Administrative Procedures Act. NMFS argued that the settlement was authorized by law, was reasonable and consistent with applicable law and was also consistent with the purpose of ESA for the limited time period of its effectiveness while NMFS completes its uplisting determination on the Loggerhead Sea Turtle Distinct Population Segment (DPS) Petition.
- A complaint was filed by plaintiffs Joe Dettling and Robert Cabos seeking monetary damages under the Federal Tort Claims Act for the alleged failure to issue Federal Pelagic Handline and Troll permits in the Northwestern Hawaiian Islands (NWHI) Coral Reef Ecosystem Preserve pursuant to Executive Orders. They also claim lost fishing opportunities in the PRIA. Department of Justice (DOJ) is currently evaluating the case.
- KAHEA and Food and Water Watch recently filed a complaint alleging NMFS

engaged in de facto rule-making by issuing a permit rather than conducting notice and comment rule-making and failed to have the Council prepare a Fishery Management Plan (FMP) or Plan Amendment that would authorize aquaculture operations in US waters. NMFS recently issued a Special Coral Reef Ecosystem Fishing Permit that authorizes the Kona Blue Water Farms to operate an aquaculture facility in federal waters west of the Big Island. NMFS answered the complaint denying liability and has filed its administrative record. A scheduling conference is expected at the end of October 2011.

Discussion

Itano asked for clarification as to the timeline for the Dettling-Cabos complaint and the Amendment 18 litigation.

Tucher deferred response on the Dettling-Cabos case as there has not been a Status Conference held to date and he is not aware of any scheduling having been issued for oral argument. Once a scheduling order is issued, the general timeline is a year for the Ninth Circuit to hear the case. He will update the Council as updates occur.

Simonds asked for clarification as to the process once the BO is published in the Amendment 18 case.

Tosatto replied that the BO and appeal are two separate issues. Once the BO is completed, the ITS will be issued and implemented.

Tucher agreed with Tosatto's response and added that HLA filed a complaint against the final rule issued by NMFS that lowered the incidental take for loggerheads that was pre-existing under the 2004 regulations. The parties agreed immediately to a voluntary stay. The consequence of that action is if a decision were to come out of the BO ITS that HLA disagreed with, they would have an action not only with respect to the BO but also the existing rule that implements the lower limits, the concern being that the MSA has a very brief time period in which a challenge must be filed. If a new rule was not issued then litigation could be initiated at that point.

Martin noted that, assuming the 135-day time limit was met, the industry would be interested in the process going forward following the issuance of the BO for implementation of the measures.

Tucher replied that there are a variety of potential options, none of which have been decided. There is potential for Council action, Secretarial action under separate MSA authority or implementation under ESA authority. Amendment 18 was not vacated and was not remanded and is still in effect. He reiterated that there are a number of legal options that NMFS could pursue to implement the requirements of the BO.

Simonds asked for further clarification as to the Council's role and the timeline provided and if there will be action needed to be taken at the March meeting.

Tucher reiterated there has been no final decision regarding what options would be implemented but, from a legal perspective, a range of legal alternatives are possible.

Martin commented that there have been numerous delays and that moving forward when the new BO is issued is critical to the industry. When the Agency imposed the Loggerhead DPS Designation it caused a delay so that the industry is under tighter constraints than they would be otherwise.

Duenas also noted concern regarding the numerous delays in the Amendment 18 litigation and the current relationship between the Council and Agency.

Martin asked for clarification as to how climate change will be looked at in the new BO.

Tosatto said a fuller update will be provided later in the agenda. Climate change impacts on sea turtles were among the considerations that NOAA made while in litigation leading to the settlement. He advised the Council and its advisory bodies to review the recent peer-reviewed report from Kyle Van Houtan of PIFSC on a climate-forced model for impacts on sea turtle populations. Information will be provided to HLA as an applicant as the BO is developed, but currently it is too early to comment.

C. US Fish and Wildlife Service

Palawski said he agreed with the chair's earlier comment that USFWS has responsibility to coordinate and communicate adequately with the government officials and people of Guam and CNMI. He offered an apology to Palacios and the CNMI Governor and looks forward to doing better in the future in that regard. He added that discussion and feedback as to how that may be accomplished is welcomed.

Palawski thanked Council staff for including in the Council's briefing books the USFWS news release that the ESA listing for the black-footed albatross was found to be unwarranted. He also reported that recently two Chamorro fishermen were swept off the reef at the Guam National Wildlife Refuge and fortunately were rescued. Also a package washed ashore at Palmyra Atoll that contained shark fins.

Discussion

Duenas said one fisherman fishing was recently electrocuted by a passing lightning storm.

Itano asked if the Palmyra rat eradication program was successful.

Palawski said helicopters were used to drop bait, as the rats were of the species that stayed in tops of coconut trees. The eradication so far appears successful after four months of having no evidence of a rat population, but work is ongoing to prevent the re-introduction.

D. Enforcement

1. US Coast Guard

Tschirgi reported that between August 2 and 15, 2011, District 14 deployed a C-130 in support of Operation Big Eye. A representative from Kiribati flew with the C-130 to exercise the US-Kiribati Bilateral Agreement. Close air and surface coordination between aircraft from USCG, US Navy, Royal Australian Air Force and Pacific Island Nations (PIN) patrol boats resulted in 70 hours of on-scene flight time, 55 sightings, 58 at-sea boardings and two fishing vessel seizures for vessels fishing illegally in an EEZ abutting the US EEZ. On August 6, 2011, a USCG C-130 overflew the CNMI EEZ with a NOAA Office of Law Enforcement (OLE) agent onboard. No violations or incursions were noted. The *Walnut* patrolled US EEZs of Kingman Reef, Palmyra Atoll and Jarvis Island and completed five domestic and international boardings. Overall compliance was good. However, some violations were reported, including expired permit and incomplete fishing logs. District 14 Enforcement staff attended several fisheries enforcement-related meetings during the period, including the Technical and Compliance Committee (TCC) for the WCPFC in Pohnpei and the annual USCG Fisheries Enforcement Conference in Washington, DC. A fisheries enforcement training detachment of USCG personnel will be assigned on Oahu in the near future to tailor enforcement training to the needs of the Western Pacific Region (WPR). The USCG is currently undergoing review of its strategic plan. Ocean Guardian questionnaires are forthcoming in the near future. Feedback and input is requested.

Also presented was a brief overview of the security zones that will be in effect for the maritime environment during the upcoming Asia-Pacific Economic Cooperation (APEC) meeting.

Discussion

Martin said it would be helpful if a number to call to report things out of the ordinary were provided. He expressed HLA's appreciation for the good working relationship with the USCG and for their efforts in training for boarding inspections with the longliners.

Duenas noted appreciation for the good relationship experienced between the USCG and the Guam fishing community.

Simonds encouraged continued enforcement of illegal fishing of the US EEZ.

Itano asked if buoys will mark the closed zones and suggested that a depth contour be used to avoid confusion.

In response, it was noted that, because of the short time frame, buoys will only be used in the Waikiki zone. Otherwise, any vessels that approach the zone will be contacted. There may be a Notice to Mariners broadcast over the radio and placards will be posted at most boat ramps and surf areas.

2. NOAA Office of Law Enforcement Report

Bill Pickering reported that, during the period since the last Council meeting, 10 protected species, 10 fisheries management and 8 Sanctuary incidents were reported to the Pacific Islands Division (PID). He also reported that a PID Special Agent travelled to Tuvalu and Fiji to present Forum Fisheries Agency (FFA) dockside boarding and prosecution workshops for the Tuvalu fishery officers, Fiji Navy and Fiji Fisheries Service; a PID Special Agent traveled to Timor Leste to conduct a Monitoring, Control and Surveillance Pre-Assessment in support of the Coral Triangle Initiative (CTI), a multilateral partnership to protect valuable marine resources within the Coral Triangle; and an OLE personnel conducted small vessel operations training while in American Samoa for Joint Enforcement Agreement (JEA) partners with DMWR, which included basic chart navigation.

Discussion

Martin voiced appreciation of OLE working with the fishing community and voiced support for vessel monitoring system (VMS) as an effective tool for keeping track of vessels.

Palacios expressed thanks for OLE assistance in acquiring the safe boat and training of CNMI personnel.

Tulafono expressed appreciation for training conducted for personnel in American Samoa.

Duenas asked for assistance in producing global positioning system (GPS) maps for fishermen to aid in navigation of restricted boundaries. He also asked if any of the 28 incidents over the quarter involved marine mammal interactions since the Agency is revising fishery categories regarding small-boat interactions with dolphins and false killer whales (FKWs).

Pickering replied that cases have involved purse seiner MMPA violations, but he did not recall small-boat MMPA interactions. He added that there are MMPA violations during the humpback whale season in Hawaii, which will coincide with the Council's March meeting.

3. NOAA General Counsel for Enforcement and Litigation

Alexa Cole, NOAA General Counsel for Enforcement and Litigation (GCEL), reported that two cases were referred to OLE this period, five cases were charged with Notice of Violation and Assessment (NOVA) and two warnings were written. The first violation was issued under the Western and Central Pacific Fisheries Convention Implementation Act of the 2010 bigeye closure; the NOVA issued was for \$22,869. The first violation of the high seas pockets closure was issued; the NOVA issued was for \$110,000. The new penalty policy is now in effect. One longline prohibited area violation was issued for flying too low over humpback mother and calf. Written warning was issued for finning of one shark in American Samoa. A fishing vessel struck a mother and calf pair off Maui was issued a NOVA in the amount of \$8,750. A written warning was issued on the Big Island for a person who took teeth out of a dead sperm whale, but later abandoned the teeth. Total penalties for the period equalled \$158,000. Two notices of permit sanctions were issued for nonpayment of civil penalties. The penalties have now been paid and permit sanctions have been lifted. No cases were declined. One hearing was held and six

hearings are scheduled in the near future. Five cases were settled for a total of \$20,500. Three cases are pending and have been referred for criminal prosecution.

In response to an earlier question, Cole noted that the Science Center and Agency may have information about the incidental take of dolphin that is leading to the upcoming decisions relating to small-boat marine mammal interactions and the fact that there are no investigations or enforcement actions is not indicative of whether or not injuries have occurred or not occurred. In order to have enforcement actions the interactions would have to be intentional.

Cole also reported that \$2 million is outstanding in the *Albacora Uno* case.

Discussion

Duenas asked for further clarification on the MMPA interaction violations.

Cole said only one case was charged involving a dolphin feeding case in the last four years.

Itano asked for clarification as to the amount of the penalty if a strike of a humpback whale is determined to be accidental.

Cole clarified that if a vessel that strikes a humpback whale can be identified an investigation will be conducted. Whether or not a prosecution and civil penalty occurs is based on a variety of factors in consideration of Guidelines for Safe Boating Practices, among other factors. In the current case there were factors that led to injury of the whale that led to the prosecution. The amount of penalty is guided by OLE's penalty schedule. Not every strike is prosecuted, but usually every strike will be investigated because it is deemed a take.

E. Public Comment

Didi Herron, Hawaiian subsistence fisherwoman and farmer, expressed concern that there is no mention of monk seal in Hawaiian genealogy. She considers monk seals to be a species that came to the Hawaiian Islands and decided to stay just like the US military. She reported in Haleiwa there are 174 turtles swimming up streams to eat grass because no limu is available for them to eat due to runoff, human impacts and too many turtles. She did not support translocating monk seals to the MHI from NWHI.

F. Council Discussion and Action

No discussion and action.

6. Program Planning and Research

A. Specification of Annual Catch Limits (Action Item)

1. Species with No Maximum Sustainable Yield, Existing Quota or Reference Points (Tier 5)

a. Coral Reef Fish for All Island Areas

Marlowe Sabater, Council marine ecosystem scientist, presented the summary of analyses conducted to develop ACLs for the coral reef finfish fisheries in the WPR with all alternative options. The 2006 re-authorized MSA required the development of ACLs not to exceed the fishing level recommendations of the SSC and measure to ensure accountability. After review of actions taken at the 151st Council Meeting and recent highlights, three tasks are at hand for the Council: 1) acceptance of the acceptable biological catch (ABC) and endorsement of ACL values where ACL equals ABC, as the final ACL specifications for FY2012 and 2013 based on recommended actions in previous meetings; 2) acceptance of ABCs and specify ACLs for reef sharks and humphead wrasse, with limited catch data and biomass data; and 3) acceptance of the ABC and specify ACLs for bumphead parrotfish with no catch data with very limited biomass data.

Sabater presented a series of tables showing each island area's finfish family groupings listing the estimated biomass from underwater census surveys, the ABCs in pounds for FY12 and FY13, the proposed ACLs in pounds and the mean catch in the last five years in pounds. The Council was asked to decide whether to accept the ABCs for the Coral Reef Management Unit Species (MUS) for American Samoa, Guam, CNMI and Hawaii and to decide whether to endorse the ACLs where ACL equals ABC for the Coral Reef MUS for American Samoa, Guam, CNMI and Hawaii for ACLs for Fishing Year 2012 and 2013.

b. Vulnerable Species for All Island Areas

Task 2 required the Council to select alternatives for ACLs of vulnerable species, which included Alternative 1, do not specify ACL; Alternative 2, set ACL equal to ABC; and Alternative 3, set ACL less than the ABC by a percent reduction. Tables were shown of ABC alternatives presented to the SSC for each region for reef sharks and humphead wrasse biomass and catch with varying percentages of biomass, of which the SSC chose the conservative and precautionary ABC at 5 percent of biomass.

Task 3 required the Council to select alternatives for ACLs of bumphead parrotfish, which included Alternative 1, do not specify ACL; Alternative 2, set ACL equal to ABC; and Alternative 3, set ACL less than the ABC by a percent reduction. Similar tables were presented for vulnerable species with the addition of bumphead parrotfish biomass and catch information with the following notes: a) No records from the last two years from towboard data for American Samoa, Guam or CNMI; b) Only Wake Island had information, but cannot be used as it would result in over-estimation due to unique ecological characteristics of Wake Island; c) Data exists for Pagan in CNMI, Tau and Tutuila in American Samoa prior to 2007; and d) Information available includes density, habitat area, average size and allometric conversion factor. Sabater reported the SSC chose the conservative and precautionary ABC at 5 percent of biomass.

Discussion

Duenas noted Guam fishermen catch those amounts in one week during the season and that many areas in Guam were not included in his analysis. He expressed confusion regarding the bumphead parrotfish and humphead wrasse habitat area considered and asked why the Guam Fishermen's Cooperative Association (GFCA) data had not been taken into consideration.

Itano voiced disagreement with basing ABCs and ACLs on the 75th percentile of the catch history and asked if Sabater really believed the catch histories are a reflection of the true catch.

Sabater replied in the negative, as the creel survey data used were not designed to determine island-wide estimates but they are the only data available to set ABCs and ACLs. Sabater noted the SSC discussed at length the fact that although the median is a robust measure to account for variabilities, given that the catch data is very variable, using the median as a control rule would be easily triggered and result in a 50/50 percent chance of exceeding the ACL.

Itano strongly argued the catch histories used are inadequate and incorporating the high end of the catches would be more representative of the true catch. He added the potential is likely that as data collection systems improve in time the ACL will be exceeded.

Palacios agreed with Duenas and Itano's comments and voiced concern that exceeding an ACL based on inaccurate or incomplete data will negatively impact the fishermen and communities.

Duenas reiterated his concerns regarding the data presented. He suggested more consultation with the community and recommended adding a knowledgeable fisherman to attend the SSC meeting to offer input.

Simonds said the Council does not have to adopt the recommendation of the SSC. She added that the Council recently contracted for review of the creel survey programs, which have not been regarded as a success, in an effort to have better data for use in setting ACLs next year.

Seman noted the bad timing of setting ACLs now when CNMI is trying to develop its fishing industry, which with the added improvements in data collection is going to lead to overages of the limits set.

Tosatto pointed out the Omnibus Amendment and MSA sets out that the SSC has the responsibility to set the ABC and that the Council cannot change the ABC recommendation and cannot exceed the ABC in setting the ACL. The role of the Council is to set an ACL, as well as set an annual catch target (ACT) and accountability measures. He noted an ACL would not restrict the development of fisheries in the Territories in that the best available information is being used to set the ACLs. He offered as an example of an accountability measure the setting of a point at which the fishery stops fishing. An accountability measure is the most complete and precise method to know when action should be taken to avoid reaching the limit, but it does not necessarily restrict the development of fisheries.

Itano agreed with being precautionary or cautious about bumphead parrotfish and the humphead wrasse in American Samoa, as they are relatively uncommon species there. He

clarified his prior comments were general statements about the use of bad data. He wants to avoid ACLs based on bad data that will result in a detrimental impact to fishing communities and potential mis-interpretation by the public and environmental organizations.

Sword asked if the data collected by GFCA and other research data could be used to update or be considered in the analysis.

Sabater replied he had not been aware the data was available for consideration.

Duenas commented the two components of GFCA data include commercial landings for the last 30 years and the volunteer data. Sabater noted creel survey data was available for the analysis and more information is needed for the next round, especially for vulnerable species, and will work hard to incorporate all scientific information available into the process. Duenas asked for clarification on the surgeonfish biomass numbers.

Sabater replied the metrics in the biomass are separate from the metrics in the ABC and in the next run an effort will be made to incorporate biomass into the calculation of ABCs.

c. Mollusk, Crustaceans, Other Invertebrates for All Island Areas

This item was considered under another agenda item.

2. Species with MSY, Existing Quota or Reference Points (Tier 3 and 4)

a. Coastal Pelagics in Hawaii

Sabater summarized analyses conducted to develop ACLs for the Hawaii akule and opelu with all alternative options. The task asks the Council to accept the ABC recommendations and endorse ACL values and final ACLs where ACL equals ABC for Hawaii akule and opelu for FY2012 and 2013. Sabater presented a series of tables showing total estimated biomass in pounds, ABC in pounds for the fishery 2012 and 2013, proposed ACL in pounds and mean catch for the last five years in pounds for opelu and akule and the time trend of landings from 1948 to 2009. Sabater requested Council discussion regarding whether the Council accepts the ABC recommendation and endorses the ACLs for Hawaii opelu and akule as the final ACLs for Fishing Year 2012 and 2013.

b. Non-Finfish for All Island Areas

Sarah Pautzke, Council fishery analyst, reviewed the background of the process for the ACL specification of non-fish, which include deepwater shrimp, spiny and slipper lobster, Kona Crab and precious corals in the WPR. At the 108th SSC meeting the SSC specified its final ABCs. The Council was asked to specify ACLs for the species presented and to specify accountability measures.

i. Lobster

Spiny lobster is the primary crustacean fishery in American Samoa. Total annual landings are estimated at 1,271 pounds, not including subsistence and recreational harvest. A federal

permit is required for harvesting. No Federal crustacean permits have been issued. Harvest likely occurs solely within Territorial waters. The SSC recommended an ABC that equals 2,330 pounds. Lobsters were discussed at the 151st Council meeting. It was recommended that ACL equals ABC. ACL alternatives for spiny lobster in American Samoa include 5a: No action; 5b: ACL equals ABC (2,330 pounds); and 5c: ACL equals 90 percent of ABC. ACL equals 2,100 pounds, 90 percent provided as a way to allow precaution because there is no established maximum sustainable yield (MSY) estimate upon which to compare harvest quantities.

In the CNMI, spiny lobsters are targeted in nearshore waters of inhabited southern islands. Lobster habitat is small and access is difficult. Since 1990 only twice has harvest met or exceeded the 75th percentile in 1998 and 2005. Federal permit is required for harvesting, but none issued. No estimate of over-fishing limit (OFL) for either species of lobster. SSC recommended ABC which equals 5,450 pounds. Lobsters were discussed at the 151st Council meeting. It was recommended that ACL equals ABC. ACL alternatives for spiny lobster in CNMI include 6a: No action; 6b: ACL equals ABC (5,450 pounds); and 6c: ACL equals 90 percent of ABC. ACL equals 4,905 pounds, 90 percent provided as a way to allow precaution because there is no established MSY estimate upon which to compare harvest quantities.

Little is known about Guam's crustacean fishery. Most crustacean fishing is subsistence or recreational in Territorial waters. Harvests were 1,159 and 1,240 pounds of spiny lobster in 2008 and 2009, respectively. Federal permit is required for harvesting, but none issued. The SSC recommended ABC which equals 2,700 pounds. Lobsters were discussed at the 151st Council meeting. It was recommended that ACL equals ABC. ABC alternatives for spiny lobster in Guam include 7a: No action; 7b: ACL equals ABC (2,700 pounds); and 7c: ACL equals 90 percent of ABC, i.e., 2,430 pounds. The 90 percent option was provided as a way to allow precaution because there is no established MSY estimate upon which to compare harvest quantities.

In Hawaii, spiny lobsters are primary taken in State waters. Federal permit is required for harvesting, but none issued. Spiny lobster harvest ranged from 1,400 to 14,000 pounds from 1966 to 2010, with a mean of 7,711 pounds. Between 16 and 69 commercial fishermen reported landing spiny lobster. ACL alternatives for spiny lobster in Hawaii include 8a: No action; 8b: ACL equals ABC (ABC equals 75th percentile of catch time series. ACL equals 10,000 pounds. Based on an ABC set at the 75th percentile of catch time series, ACL equals 50 percent of ABC. ACL equals 22,500 pounds (50 percent is twice the current level of catch, but only half of the estimated midpoint of MSY, 45,000 pounds and 75 percent of the lower MSY bounds, 30,000 pounds).

Slipper lobsters in Hawaii are caught primarily in State waters. Federal permit is required for harvesting, none issued, only two issued in 2007. Slipper lobster harvest ranged from 40 to 900 pounds from 1966 to 2010, with only 4 to 12 commercial fishermen. SSC recommended ABC equals 282 pounds. Lobsters were discussed at the 151st Council meeting. It was recommended that ACL equal ABC. ACL alternatives for slipper lobster in Hawaii include 8a: No action; 8b: ACL equals ABC (i.e., ACL equals 282 pounds, based on an ABC set at the 75th percentile of catch time series); and 8c: ACL equals 90 percent of ABC (i.e., ACL equals 254 pounds with ABC set at 75th percentile of catch time series; this alternative allows for some precaution to account for management uncertainty).

Slipper lobsters are not harvested in American Samoa, CNMI and Guam as they are in Hawaii due to their size. Thus there is no catch data to use for establishing an ABC. The Council did not discuss the issue at the 151st Council meeting, although the recommendation to set ACL equals ABC included lobsters in all areas. ACL alternatives for slipper lobster in American Samoa, CNMI and Guam included Alternative A: No action; Alternative B: ACL equals ABC (i.e., American Samoa ACL equals 33 pounds; CNMI ACL equals 64 pounds; and Guam ACL equals 20 pounds); and Alternative C: ACL equals 0.9 ABC (i.e., American Samoa ACL equals 30 pounds; CNMI ACL equals 58 pounds; and Guam ACL equals 18 pounds).

ii. Kona Crab

Kona crabs are not harvested in American Samoa, Guam and CNMI. ACL alternatives include 9A through 11A, no action; 9B through 11B, ACL equals zero for all Territories; and 9C through 11C, ACL equals ABC (i.e., American Samoa 3,200 pounds; CNMI 6,300 pounds; Guam 1,900 pounds) or ACL equals 90 percent of the ABC proxy (American Samoa 2,900 pounds; CNMI 5,600 pounds; Guam 2,880 pounds).

Kona crab landings in Hawaii range from 6,000 to 31,000 pounds with 30 to 75 percent of the landings from Federal waters. No federal permit and reporting requirements, but State of Hawaii commercial marine license (CML) required. Penguin Bank accounted for greater than 50 percent total landings from 1948 to 2009. Three fishers accounted for 50 percent of the trips between 2002 and 2009. SSC recommended ABC equals 27,560 pounds. The Council did not discuss Kona crab specifically at the 151st Council meeting. ACL alternatives include 12a, no action; 12b, ACL equals ABC (27,560 pounds based on an ABC set at the 75th percentile of catch times series, which is a conservative method for calculating ABC); and 12c, ACL equals 90 percent of ABC (i.e., ACL equals 24,800 pounds with ABC set at 75th percentile of catch time series, an alternative that allows for some precaution to account for management uncertainty and lack of an estimated MSY).

iii. Deepwater Shrimp

There is no deepwater shrimp fishery in American Samoa. *Heterocarpus* are present in American Samoa and were caught in every trap in a 1987 study by PIFSC. A federal permit is required for harvesting. Only one Federal crustacean permit has been issued, based in CNMI, for American Samoa, CNMI and Guam. The SSC recommended an ABC of 80,000 pounds. Deepwater shrimp in American Samoa was not discussed at the 151st Council meeting. ACL alternatives for deepwater shrimp in American Samoa include 1a: No action; 1b: ACL equals zero; 1c: ACL equals the ABC; and 1d: ACL equals 90s percent of the ABC.

Deepwater shrimp is a minor fishery in CNMI. A federal permit is required for harvesting. Only one Federal crustacean permit issued, based in CNMI. 2,227 pounds were landed from 1994 to 1996, and 88 pounds were landed in 2005. The SSC recommended an ABC of 268,000 pounds. Deepwater shrimp in CNMI was discussed at the 151st Council meeting. The recommendation was for ACL to equal ABC. ACL alternatives for an ACL for deepwater shrimp in CNMI include 2a: No action; 2b: ACL equals the ABC; and 2c: ACL equals 90 percent of the ABC (ACL equals 241,200 pounds).

Deepwater shrimp is a minor fishery in Guam. A federal permit is required for harvesting. Only one Federal crustacean permit issued, based in Guam. The SSC recommended an ABC of 56,000 pounds. ACL alternatives for deepwater shrimp in Guam include 3a: No action; 3b: ACL equals zero; 3c: ACL equals ABC (56,000 pounds); and 3d: ACL equals 90 percent of the ABC (i.e., ACL equal 50,400 pounds).

In Hawaii, deepwater shrimp is a minor, intermittent fishery. A Federal permit is required for harvesting. No Federal crustaceans permit has been issued in Hawaii. The highest landings were in 1984, about 275,000 pounds. Over the last 10 years the average catch has been about 19,000 pounds. The SSC recommended ABC equally 544,000 pounds. Deepwater shrimp in Hawaii was discussed at the 151st Council meeting. It recommended an ACL equal to ABC. ACL alternatives for deepwater shrimp in Hawaii include 4a: No action; 4b: ACL equals ABC (544,000 pounds); and 4c: ACL equals 90 percent of ABC (i.e., ACL equals 490,000 pounds, which accounts for management uncertainty and provides some precaution against potential localized overfishing that commonly occurs in the shrimp fishery).

iv. Black Corals

Black coral in Hawaii is taken by hand mostly from Auau Channel. From 1991 to 1997 harvest varied from 864 to 6,017 pounds with yearly average equalling 3,084 pounds. From 2000 to 2010 yearly average equaled 5,587 pounds. Only two permits issued. MSY equalled 8,250 pounds per year. SSC recommended an ABC equals MSY. The Council discussed black coral at the 151st Council meeting. ACL alternatives for black coral in Hawaii include 16a: No action; 16b: Biennial ACL equal to previous quotas (ACL equals 11,000 pounds biennially. Maintains quota that the fishery is currently operating under but potentially conflicts because it's biennially specified.); 16c: Annual ACL equal to previous quotas (ACL equals 5,500 pounds annually); 16d: ACL equals ABC (ACL equals 8,250 pounds annually. Initially selected at 151st Council meeting. 2,750 pounds higher than previous quota, annual of 5,500); 16e: ACL equals 0.9 ABC (ACL equals 7,425 pounds annually. 1,925 pounds higher than previous quota, annual of 5,500 but more precautionary). If Alternative 16c through 16e are selected, the Council should take a housekeeping action to eliminate the biennial quota system: 16c: ACL equals previous quotas. ACL equals 5,500 pounds annually; 16d: ACL equals ABC (ACL equals 8,250 pounds annually); and 16e: ACL equals 0.9 ABC (ACL equals 7,425 annually).

Background data was presented on Exploratory Areas in Hawaii. There is a 1,000 kilogram per area limit, except black coral, based on reducing overfishing risk while being large enough to provide economic incentive. There is no statistical basis for 1,000 kilograms per year; it represents about one-third estimated MSY in all established and conditional beds. It includes beds not yet discovered. ACL alternatives include 17a: No action; and 17b: ACL equals 1,000 kilograms per area.

v. Precious Corals

Pink and bamboo corals in Hawaii have various limits, some biennial and some annual, across known conditional and established beds. There has been no reported harvest of these species since 1999 and 2000. ACL alternatives include 18a, no action; 18b, ACL equals previous quotas; 18c, ACL equals previous quotas but specified annually; 18d, ACL equals ABC (Initially

selected at 151st Council meeting. Over two years, it's higher for pink coral by 730 kilograms and 20 kilograms for bamboo coral). A table was presented with limits for pink and bamboo corals in Hawaii for Makapuu, 180 Fathom Bank, Brooks Bank, Kaena Point, Keahole, Westpac Bank.

Precious corals are not harvested in in American Samoa, Guam and CNMI. Only exploratory areas exist in the Territories. The SSC determined ABCs to be equal to the existing quota. ACL alternatives include 13a through 15a, no action; 13b through 15b, ACL equals zero for all precious corals; 13c through 15c, equals 1,000 kilograms, including black coral; and 13d through 15d, ACL equals 1,000 kilograms except for black coral Black coral ACL equals 90 percent ABC (i.e., American Samoa 790 pounds; CNMI 2,100 pounds; and Guam 700 pounds).

Discussion

Duenas noted there are four species of lobsters on Guam. The catch was affected by spear fishing regulations put into effect. There is no industrialized shrimp fishery. The habitat does not favor harvest of shrimp.

Itano noted a Heterocarpus survey conducted by King in 1986 that would likely contribute beneficial data, including Kona crab, in American Samoa. He noted the Kona crab expansions and the coral and slipper lobster catch numbers in the Territories seem unrealistic. He pointed out the in-season adjustment accountability measure would come into play and provide improvement. He added that Dave Hamm should also be consulted for further data.

Pautzke pointed out the accountability measures in the three Territories include an adjustment of the ACL in a subsequent fishing year or year after. In Hawaii, depending on the fishery, the accountability measures are an in-season adjustment, if possible, and an in-season closure, if possible, which is all related to the timeliness of the data reporting. She added the data that Itano referenced was included in the analysis.

Duenas noted that take of any coral is outlawed in Guam, and there is subsistence opportunistic take of lobsters and is in agreement with the number for Guam lobsters.

Dalzell noted that with respect to shrimp, the SSC preferred to go with the King estimate because it included a lot of different South Pacific Island countries and that State regulations governing lobster harvest were taken into account.

Pautzke noted that adjustments will be made as data collections improve.

c. Bottomfish

i. American Samoa, Guam and CNMI Manabement Unit Species

Dalzell presented an overview of ABCs, ACLs and accountability measures for miscellaneous bottomfish species in Hawaii and American Samoa, CNMI and Guam. After presenting a series of tables illustrating the probability of exceeding MSY for American Samoa, Guam and CNMI and a summary of ABC alternatives and potential ACLs for American Samoa, Guam and CNMI bottomfish, the following ACL alternatives were presented: 1, no action, status

quo; 2, set the ACL equal to the ABC; and 3, set ACL lower than ABC based on social, economic, ecological and management (SEEM) considerations. The Council was asked to set the ACL for the bottomfish complexes in American Samoa, Guam and CNMI.

ii. Non-Deep Seven Bottomfish Species for Hawaii

After a brief review of the actions taken at the 151st Council meeting, purpose and need, description of the Hawaii non-Deep Seven species, catch history, input from bottomfish fishermen, data utilized in the process and advisory body recommendations, the alternatives for establishing ABCs for non-Deep Seven species in Hawaii were presented as follows: Approach 1, No action; Approach 2, set the ABC equal to the MSY; Approach 3, set the ABC at the lower bound of the MSY; and Approach 4, set the ABC based on probability of exceeding MSY. The Council was asked to set the ACL for non-Deep Seven bottomfish in Hawaii.

Discussion

Duenas noted the black ulua is in the uku family and harvested at night in Guam. He suggested overlaying the economic trends would be helpful in understanding some of the trends of the fishery.

Itano said black ulua are adaptable with variable behavior, swimming on the surface in the daytime and at other times are found in deeper depths. He suggested looking at correlations between their catch rates and any closures.

Dalzell agreed and added that uku could bear more scrutiny from the perspective of life history.

B. Report on Essential Fish Habitat Review for American Samoa, Guam and CNMI Bottomfish and other Management Unit Species

Michael Parke, from PIFSC, presented the report of the review for American Samoa, Guam and CNMI bottomfish MUS, as well as HAPC, as requested by PIRO and the Council. Invertebrates and MHI bottomfish were not included in the review. A comprehensive review was conducted of published and nonpublished sources related to critical life history stages, reproductive cycles, preferred habitats, movement patterns, community composition and prey species. Some of the review elements included evaluation of the EFH and HAPC definition requirements; current EFH/HAPC definitions for the Federal MUS in the WPR; and new information relevant to Federal MUS in the WPR except invertebrates. The review identified and summarized new scientific literature, unpublished reports and unpublished data. A database was developed and compiled, as well as annotated bibliographies and summaries, for the Pacific Islands MUS. Preliminary results allowed for update of life history tables for select fish species and families that were included in the original designations and definitions using new bathymetric and backscatter data and the creation of a web service to enable online geographic display of the EFH boundaries and query of references.

Preliminary recommendations included 1) Due to the lack of life history or specific habitat data no changes are recommended to EFH of coral reef or pelagic fishes at this time, with potential for an extension to 25 fathoms of EFH boundaries for coral reef fish species; 2)

Consideration for addition of CNMI Sanctuaries, Forbidden Island and Bird Island, to Coral Reef HAPC to provide consistency; and 3) Given slow growth rate and age of many precious corals, consideration of permanent harvest moratoria on gold and bamboo corals and increased size restrictions on harvest of pink corals may be warranted.

Review of Pacific Islands bottomfish EFH designations included 1) Review and update life history information; 2) Review and make recommendations for EFH; and 3) Review and make recommendations for HAPC. The Bottomfish EFH and HAPC designations for the Pacific Islands previously included eggs and larvae EFH, shore to the EEZ down to 400 meters; juveniles and adults, 0 to 400 meters; and HAPC to include slopes and escarpments from 40 meters to 280 meters. The revised EFH designations for bottomfish in Hawaii included 1) Fishery, zero to 400 meters; 2) EFH complexes: Shallow, zero to 240 meters; Intermediate, 40 meters to 320 meters; and Deep, 80 meters to 400 meters; and 3) Species, included MHI Deep Seven Species.

The recommendations for the bottomfish EFH and HAPC designations for the Pacific Islands BMUS included use of the same fishery and complex designations as Hawaii with no species level EFH designations due to the lack of adequate data. A series of maps were shown depicting the EFH areas and MSY calculated by island and banks for different complexes. The HAPC designation recommendations are to eliminate the current designation of the 40 to 280 meter depth range because it did not conform to the recommended guidelines and additional surveys are needed.

Discussion

Seman asked for clarification as to the inclusion of the CNMI sanctuaries.

Parke replied that the sanctuaries were included because the current definition of Coral Reef Ecosystem EFH includes all closed fishing areas in the Territories, but this would have no effect on management of the sanctuaries.

Duenas voiced concern regarding incompleteness of the named areas and MSY numbers and how they will affect the decision-making regarding setting ACLs.

Parke replied the data is fishery-independent data and has nothing to do with determination of ACLs. Some of the banks and reefs may be included in the review with a differing name than the name known by Duenas.

Duenas noted fishermen will be glad to assist with information on locations of banks and reefs surrounding Guam.

Itano pointed out the Samoan banks of Northeast Bank, Southeast Bank, East Bank, South Bank and Two Percent Bank as productive bottomfish banks and recommended they be included in the review.

C. Coastal Marine Spatial Planning

1. Regional Initiatives

Tosatto reported the National Ocean Council (NOC) held a national coastal and marine spatial planning (CMSP) workshop to receive input from all of the regions and then to follow up with guidance for use in the forming of regional planning bodies. The Governance Coordinating Committee (GCC) has been briefed, which are the nonfederal advisors to the NOC. When the guidance is published, the next step will be taken to form the regional bodies.

Simonds commented that a report on the workshop is included in the briefing materials and noted disappointment that the regional bodies still not have been formed and the fact that there has been no communication from the Regional CMSP representative.

2. Report on Coastal Marine Spatial Planning Workshop

Simonds reported that the Council provided a training workshop to 125 indigenous, community members and fishermen from throughout the US Pacific Islands from July 31 to August 4, 2011, in Honolulu in an effort to help prepare communities for the CMSP initiative. The workshop was conducted by Ann Walton from NOAA's Sanctuary Programs International Office. Invited guests included State of Hawaii DLNR, the Hawaiian Islands Humpback Whale National Marine Sanctuary and others. Working in teams of six, mock plans were developed for selected areas based on a mixture of real and made-up information. After the four-day workshop, the Council held a one-day training in which community members and fishermen developed a mock CMSP for Penguin Bank.

3. Indigenous Climate Change Summit

Simonds briefly reported on the upcoming Coastal Indigenous Cultures, Traditional Knowledge and Western Science Symposium scheduled for the week of July 16 at the Smithsonian Institution's National Museum of the American Indian in Washington, DC. Five regions will be represented, including the West Coast States, Alaska and the US Pacific States and Territories, the Great Lakes and Northeast States, the Mid-Atlantic, Southeast and Gulf of Mexico States. North Pacific tribes have taken a leadership role with The Nature Conservancy and the Sanctuary Program. The symposium's objective is to show how coastal indigenous cultures can provide guidance to society regarding adapting traditional knowledge to climate change.

On September 8 and 9, 2011, the Council sponsored a meeting of indigenous representatives from American Samoa, CNMI, Guam and Hawaii. The purpose was to organize a partnership with the Makah Nation in preparation and planning for the July symposium. The next meeting is scheduled for December 11 and December 12 for further planning and organization.

Discussion

Duenas reported that Guam has formed a CMSP coastal group on Guam to deal with conflict between two fishing groups. He asked Tosatto for assistance in the form of providing information for geographic information system (GIS) mapping.

Tosatto replied there are efforts ongoing, including the efforts of Michael Parke and Chris Kelley, in GIS maps.

Simonds noted that a major role of the National Ocean Service (NOS) was to produce GIS mapping for the Council, but the Council has had to seek assistance from PIFSC for mapping.

Tosatto replied he'd note that for action.

Duenas said the Guam group is anxious to get people to the table for discussion and that the maps would be major assistance when considering all of the ocean activities in Guam being impacted by the military buildup.

Sword commented there was a need for communication to be sent to the CMSP representative in American Samoa as there have been no actions from the representative to date.

D. Review of the Western Pacific Regional Fishery Management Council Five-Year Research Priorities

Sabater reported that the Council developed its Five-Year Research Priorities in 2009 as required by the 2006 reauthorization of the MSA. The Council currently is on the third year of the five-year period. The four research categories established by the SSC in 2008 included research on stocks, human dimensions, ecosystems and protected species. After review of the PIFSC publications website, a draft research priority document was circulated to researchers within the region. The input provided a summary of studies and projects planned, ongoing and completed, on the four categories. They included human dimensions, 59; research on stocks, 39; ecosystems, 37; and protected species, 31. After a brief review, the SSC recommended the following:

- Regarding protected species research, add as high priority additional demographic information, including annual survival and breeding probabilities are needed for FKW and pantropical spotted dolphins to determine an accurate population status.
- Regarding yellowfin research, examine long-term trends in yellowfin catch per unit effort (CPUE) by size class for coastal troll and handline gear.
- Investigate and estimate the landings and economic value of small yellowfin tuna in poorly documented fisheries and markets.
- Determine the contribution of yellowfin tuna to commercial landings at small size classes.
- Examine socio-cultural impacts of raising the commercial size limit on yellowfin tuna or the imposition of recreational size and bag limits.
- Conduct a yield per recruit analysis of yellowfin harvested by Hawaii-based fisheries.

The Council was tasked with endorsing the changes made by the SSC, suggesting changes in the existing research priorities and suggesting new research priorities.

Discussion

Itano noted a great deal of the research presented in the review was funded by PFRP. Thirty percent of the PRFP budget benefitted PIFSC and has attracted interesting expertise to the region by allowing for competitive granting of projects to outside entities.

Sabater added that Kevin Weng, from PFRP, provided significant update on the research priorities as well as 50 percent of the suggestions and comments presented in the review.

Duenas voiced agreement with Itano's comments and urged the Agency to seek funds to continue the PFRP and JIMAR. He also cautioned against confusing issues caused by the military buildup clouding the concerns raised by Guam and Northern Mariana Islands with the Mariana Islands Range Complex (MIRC) and Mariana Islands Training and Testing (MITT).

E. Cooperative Research Priorities

Sabater reported that the Cooperative Research Priorities were vetted to the Plan Teams and Advisory Panel in the 2011 round of meetings throughout the island areas. The advisory bodies determined no significant changes were needed in the priorities. The priorities were reduced for some of the island areas because they did not conform to the nature of cooperative research.

The American Samoa priorities included the following: 1) Determine what information the FADs are producing in terms of catches, including discards and zero catches, size structure and study stock structure by tagging fish at FADs; 2) Explore potential for using an alternate improved FAD design; and 3) Map coral reef fishing grounds to identify critical habitats for fisheries management.

The Marianas Archipelago priorities included an evaluation of shark depredation in the Guam and Saipan small-boat fishery and a study of nearshore FADS, including catches and stock structure, by tagging fish.

The Hawaii Archipelago priorities included continuation of the bottomfish tagging study and continuation of cooperative sampling through bottomfishers and the Pacific Islands Fishing Group (PIFG) to obtain bottomfish samples for life history studies. The study of diet and foraging impacts of taape in Hawaii as an invasive species was removed. This topic has been addressed.

The Pacific Pelagics priorities included a study to determine longline fishery post-hooking mortality of marlin and, secondarily, of other species, as appropriate; and sample landings of the emerging CNMI longline fishery to obtain average weights and length-weight conversion factors so that logbook catches can be expressed as weights.

The Council was asked to endorse Cooperative Research Priorities and suggest additional priorities. Sabater noted the research priorities need to be ready by the end of 2011 for submission in the competitive funding process with other regions.

F. Community Development Program Proposal: Traditional Fishing Training Program and Exemption to the MHI Pelagic Longline Closed Area (Action Item)

Charles Kaaiai, Council staff, reported that pursuant to Section 305(i)(2)(A) of the MSA, eligibility requirements and procedures for review and approving Community Development Program (CDP) plans were published in the Federal Register on September 3, 2010, and November 5, 2010. Leo Ohai requested an exemption under this authority to longline within the longline closed area around Hawaii. The request to grant the exemption is now entering one year since the process began. The proposal met the minimum requirements. Ka'ai'ai asked the Council to move the proposal forward.

Kaaiai reported two recent requests from Swains Island and Guam to develop proposals under the CDP.

Discussion

Duenas asked for a template for use in preparing future proposals for the CDP.

Kaaiai replied in the affirmative.

G. Report of NMFS Biosampling Program

Kimberly Lowe, from PIFSC, presented an update on the NMFS Biosampling Program ongoing in American Samoa, Guam and CNMI. Throughout the Pacific, Commercial Fishery Biosampling (CFBS) staff is collecting whole fish for species identification and documentation, taking fin clips for DNA Barcode of Life, collecting otoliths and staging gonads from the widest possible size range from selected species. The fieldwork is going well, and local staff is developing skills in conducting basic laboratory processing. Since the program is able to get sufficient samples and identify key commercial species in each region, in-depth laboratory work will be scaled up over the next few years.

The Pacific Islands CFBS is designed to establish long-term monitoring of fishery-dependent age/size structured catch and life history data needed to sustainably manage US Pacific Island fisheries under the Reauthorized MSA of 2006. PIFSC collaborators work includes all of the fisheries agencies in the local areas and Micronesian Environmental Services in the Mariana Islands, as well as a contractor. In Guam, the GFCA works in collaboration with CFBS. In American Samoa the collaboration is with a number of fishermen on an independent contractor basis.

The CFBS also collects fishery-dependent harvest structure information, including broad-scale fisheries data, looking at catch by gear and area fished. It focused initially on commonly caught, less-studied bottomfish and reef species; length and weight frequencies of whole commercial catches by fisher; defining length-weight curve over the widest possible range of sizes; and basic life history information.

The CFBS is developing data sources to better understand regional differences in age and growth, size-and-age structured harvest, life history and genetic difference. DNA for type specimens may show different species or stocks.

Data collected included basic information, such as gear and location caught; length and weight by species; whole fish specimen; fin clips for DNA Barcode of Life, otoliths; and gonads staged for seasonality and fecundity.

Because each region has its own unique characteristics of landings, marketing and sampling the work is designed to respect cultural traditions, maintain or improve communication between agencies and fishing industry and to conduct sampling with minimal obstruction of market flow and without creating additional markets or fishing pressure.

The CFBS pilot in Saipan consisted of no vendor reporting or centralized market. The fishery is characterized by small fish markets and roadside stands dispersed around the island. Fishermen come in at different times, generally early morning or in the middle of the night. Work has been most successful via a local consultant with flexibility to purchase some fish, supply, ice and pays small access fees to encourage participation. Agency involvement is increasing after a few setbacks. Agency expertise with life history work is an asset.

The fieldwork in CNMI is going well and will be expanded throughout the next year. The basic sampling is either done locally or sent to James Cook University. The gonads are staged, mounted and sent to Honolulu. Voucher specimen and fin clips will be sent to University of Guam (UOG) for archiving. Fin clips will eventually go to Southwest Fisheries Science Center for DNA sequencing.

The CFBS Pilot in Guam consisted of no mandatory reporting, but there is good voluntary cooperation. GFCA is the main collaborator and processes about 80 percent of the catch. Guam was the first pilot started and made great progress using a JIMAR contractor. GFCA gives notice when fish come in and provides space, ice and other assistance during sampling.

The CFBS Pilot in American Samoa consisted of vendor reporting required via receipt book. Time lag of a month or more in reporting limits the ability to contact fishermen at vendor location for biosampling. Arrangements are made by way of individual contacts with fishermen. There are difficulties with roadside sampling and logistics. Work on establishing a working relationship with local markets is ongoing. A contractor was recently acquired. The new fish market provides an improved venue.

The number of species sampled by island area included CNMI, 123 species; Guam, 192 species; and American Samoa, 134 species. Lowe presented an overview of the catch composition by area, some length-weight curves for selected species and species selection for life history research.

Discussion

Seman asked if there is more support planned for the Federal employee currently working in Guam.

Lowe replied in the affirmative and with hopes to complement the creel surveys.

Duenas agreed that more support is needed in Guam.

Palacios expressed appreciation for the data collection efforts but noted that strong fish stocks require a good environment. He said there is a need for studies to be conducted on land-based pollution impacts to the fish populations.

H. Update on the National and Regional Marine Recreational Fishing

Alvin Katekaru, from PIRO, provided an update on the National and Regional Marine Recreational Fishing Initiative. In 2010 NMFS held a Recreational Saltwater Fishing Summit to help forge a stronger partnership with recreational fishermen through dialogue and to address priorities of the recreational fishing community. The result of the summit was the development of a NMFS National Fisheries Action Agenda that outlined the following goals: 1) Improved Recreational Fishing Opportunities; 2) Improved Recreational Catch, Effort and Status Data; 3) Improved Social and Economic Data on Recreational Fisheries; 4) Improved Communication; and 5) Institutional Orientation.

Twenty Regional Coordinators were established. For the Pacific Islands Region (PIR), Dr. Hongguan Ma of the Center and Katararu serve as Coordinators. A Recreational Fisheries Group was also formed under NOAA's Marine Fisheries Advisory Committee (MAFAC). Russel Dunn assumed the Recreational Fishing Policy Advisor position. NMFS also charged each region to develop a Regional Action Plan. Craig Severance, Ed Watamura, Roy Morioka, Josh DeMello, Marc Inouye of PIFG, Hongguang Ma and Alvin Katararu developed the Pacific Islands Regional Recreational Fishery Action Plan in a very short time. The plan consisted of the following:

- Regarding Recreational Fishing Opportunities, to continue outreach on concept, application and benefits of barbless circle hooks.
- Regarding Catch, Effort and Status Data, to collaborate with the Hawaii DLNR Division of Boating and Ocean Recreation (DOBOR) on fishing vessel registration data collection.
- Regarding Social and Economic Data, to conduct a study on flow of noncommercial fish catch in Hawaiian communities through contract work on the Big Island.
- Regarding communication, to host a Pacific Islands recreational fishery summit in 2012; an organizer has been contracted.
- Regarding Institutional Orientation, to hire a permanent, full-time Marine Recreational Fisheries Specialist in PIRO.

Katararu noted confidence in being able to make progress on the action plans through 2012.

I. Hawaii Regional, National and International Education and Outreach

Sylvia Spalding, Council staff, reported on Council's continuing outreach efforts to educate fishermen, communities, policymakers and others about sustainable fisheries in the US Pacific Islands and to engage them in the Council fishery management decision-making process, utilizing the recommendations from fishermen focus groups conducted by Qmark Research and

the communications framework developed by 1013Integrated. Efforts from June through September 2011 included development of video from the June Fishers Forum; increased Council presence on YouTube, Vimeo and Facebook; working in partnership on Hawaii traditional lunar calendar with the ahupua'a of Waiakea; manned Council booth at the Council for Native Hawaiian Advancement Symposium; development of a revised Pacific pelagic fisheries display; ads in various fishing magazines and newspapers; handout distribution at the Onipaa Festival in Honolulu; hosting of traditional knowledge stand at the 27th Lowell Wakefield Symposium, Fishing People of the North; continued work with the National Marine Educators Association and the International Pacific Marine Educators Network; continued sponsorship of fishing talk shows in Hawaii and Saipan, and sponsorship and advertisement of *Let's Go Fishing*; hosting a cultural tent at the Hawaii Fishing and Seafood Festival; conducting a Fishers Forum and widely advertised through TV, radio, internet, direct mailings, flyers and posters; distribution of the Fall 2011 *Pacific Islands Fishery News*; continued update and improvement to Council's website, promotion of its Speakers Bureau and engagement of fishing, diving and fishing clubs; and work on providing e-mail distribution points for Council's newsletter and other communications to the public.

J. Scientific and Statistical Committee Recommendations

Callaghan reported the SSC recommendations as follows:

- *With regard to specifying ABCs with respect to Tier 5 Group*, adoption of the 75th percentile of the long-term catch series distribution to use for deriving ABC for the Tier 5 species. Since the catch is a minor fraction, for most cases less than 10 percent of the biomass of reef fish, the SSC chose to use a multiplier of 1.00. Therefore, the ABC control rule for these stocks will be 1.0 times the 75th percentile of the entire catch history. For American Samoa, Guam, CNMI and Hawaii the ABCs for the Coral Reef Ecosystem MUS for the Fishing Years 2012 and 2013 are as follows:

Table 1. ACLs for the coral reef fish families that comprise the top 90% of the total coral reef fish catch and species complex comprising the remaining 10% of the total coral reef fish catch regarded as the minor fishery components in American Samoa.

Family	ACL (lbs)
Acanthuridae – surgeonfish	19,516
Lutjanidae – snapper	18,839
<i>Selar crumenophthalmus</i> (akule)	8,396
Mollusk	16,694
Carangidae – jacks	9,490
Lethrinidae – emperor	7,350
Scaridae – parrotfish	8,145
Serranidae – grouper	5,600
Holocentridae – squirrelfish	2,585
Mugilidae – mullet	2,857
Crustacean	2,136
Remaining 10%	18,910

Table 2. ACLs for the coral reef fish families that comprise the top 85% of the total coral reef fish catch and species complex comprising the remaining 15% of the total coral reef fish catch regarded as the minor fishery components in Guam. The incremental difference between each group is small that only 85% was reach with family level grouping and the rest are general CREMUS categories analogous to the remaining 10% bin in other island areas.

Family	ACL (lbs)
Acanthuridae – surgeonfish	70,702
Carangidae – jacks	45,377
<i>Selar crumenophthalmus</i> (akule)	56,514
Lethrinidae – emperor	38,720
Scaridae – parrotfish	28,649
Mullidae – goatfish	25,367
Mollusk	21,941
Siganidae – rabbitfish	26,120
Lutjanidae – snapper	17,726
Serranidae – grouper	17,958
Mugilidae – mullet	15,032
Kyphosidae – chubs/rudderfish	13,247
Crustacean	5,523
Holocentridae – squirrelfish	8,300
Algae	5,329
Labridae – wrasse	5,195
Other CREMUS	83,214

Table 3. ACLs for the coral reef fish families that comprise the top 90% of the total coral reef fish catch and species complex comprising the remaining 10% of the total coral reef fish catch regarded as the minor fishery component in CNMI.

Family	ACL (lbs)
Lethrinidae – emperor	27,466
Carangidae – jack	21,512
Acanthuridae – surgeonfish	6,884
<i>Selar crumenophthalmus</i> (akule)	7,459
Serranidae – grouper	5,519
Lutjanidae – snapper	3,905
Mullidae – goatfish	3,670
Scaridae – parrotfish	3,784
Mollusk	4,446
Mugilidae – mullet	3,308
Siganidae – rabbitfish	2,537
Remaining 10%	9,820

Table 4. ABCs and ACLs for the coral reef fish families that comprise the top 90% of the total coral reef fish catch and species complex comprising the remaining 10% of the total coral reef fish catch regarded as the minor fishery component in Hawaii.

Family	ACL (lbs)
Carangidae – jacks	193,423

Mullidae – goatfish	125,813
Acanthuridae – surgeonfish	80,545
Lutjanidae – snapper	65,102
Holocentridae – squirrelfish	44,122
Mugilidae – mullet	41,112
Mollusk	28,765
Parrotfish – parrotfish	33,326
Crustaceans	20,686
Remaining 10%	142,282

- *With regard to specifying ABCs with respect to Vulnerable Species*, the SSC recommends setting ABC at 5 percent of the estimated reef shark, humphead wrasse and bumphead parrotfish archipelagic biomass in American Samoa, Guam, CNMI and Hawaii. This provides a substantially more conservative buffer than the Tier 5 control rule. The ABCs are as follows:

Table 5. ACLs for reef sharks, humphead wrasse, and bumphead parrotfish in American Samoa, Guam, CNMI and Hawaii based on percentage reduction from the habitat expanded biomass estimates for fishing year 2012 and 2013.

	AS	CNMI	Guam	Hawaii	Mariana Arch.
<i>Reef Sharks</i>					
Estimated biomass (lbs)	26,181	111,997	138,830	2,231,321	
ACL FY 2012 and 2013	1,309	5,600	6,942	111,566	
<i>Humphead wrasse</i>					
Estimated biomass (lbs)	34,860	40,184	39,200		
ACL FY 2012 and 2013	1,743	2,009	1,960		
<i>Bumphead parrotfish</i>					
Estimated biomass (lbs)	4,699				15,931
ACL FY 2012 and 2013	235				797

- *With regard to specifying ABCs with respect to Coastal Pelagics in Hawaii*, the ABCs for akule and opelu equal the available MSY estimates as illustrated in table below.

Species	ACL (lbs) FY12&13
<i>Selar crumenophthalmus</i> (akule)	651,292
<i>Decapterus macarellus</i> (opelu)	393,563

- *With regard to specifying ABCs with respect to nonfinfish in all island areas*, the SSC determined the ABC control rule for these stocks to be 1.0 times the 75th percentile of the entire catch history.
 - The ABCs for spiny lobster are American Samoa, 2,300 pounds; CNMI, 5,500 pounds; Guam, 2,700 pounds; and Hawaii, 10,000 pounds.

- The ABC for slipper lobsters in Hawaii is 280 pounds. Since there are no catch data for slipper lobster in American Samoa, Guam or the Commonwealth of the Northern Mariana Islands the SSC utilized the Hawaii ABC divided by the coral reef habitat area as a proxy. The ABCs for slipper lobster are American Samoa, 30 pounds; CNMI, 60 pounds; and Guam, 20 pounds.
- The ABC for Kona crab for Hawaii is 27,600 pounds. Though not known to exist in other fisheries in the WPR there is a possibility that Kona crab occurs in these archipelagoes as well. Hence the SSC used the Hawaii ABC provided by the coral reef habitat area as a proxy resulting in the following ABCs for Kona crab: American Samoa, 3,200 pounds; CNMI, 6,300 pounds; and Guam, 2,000 pounds.
- With regard to deepwater shrimp, the MSYs were available for CNMI, Guam and Hawaii. A proxy MSY was developed for American Samoa. The SSC established and used the Tier 4 ABC control rule such that ABC equals .91 times MSY. The deepwater shrimp ABCs are American Samoa, 80,000 pounds; Hawaii, 544,000 pounds; CNMI, 268,000 pounds; and Guam, 56,000 pounds.
- With regard to black corals, the ABC for black coral in Hawaii using the Tier 4 ABC Control Rule is 7,500 pounds. Given the lack of MSY for black corals in the Territories, as well as a lack of defined EFH for black corals, the MSY estimates for the Territories are based on a proxy using Hawaii's MSY. The Territorial black coral ABCs are American Samoa, 790 pounds; CNMI, 2,100 pounds; and Guam, 700 pounds.
- With regard to coral in exploratory areas, 1,000 kilograms per year is retained precious corals as the ABC to allow exploratory fishing that would provide information on occurrence and abundance while still allowing the venture to be profitable. The ABC of 1,000 kilograms per year is for the entire State of Hawaii.
- With regard to pink and bamboo coral on Makapuu bed in Hawaii, the ABCs were set using the Tier 4 ABC control rule as 1,400 kilograms for pink coral and 260 kilograms for bamboo coral. For the conditional beds in Hawaii, the ABCs for bamboo and pink corals were set using the MSY estimates for Makapuu Bed as a proxy, as illustrated in the table below:

Bed	Pink / Bamboo Coral Limits (kg)
Makapuu	1,000 / 250
180 Fathom Bank	111 / 28
Brooks Bank	444 / 111
Kaena Point	67 / 17
Keahole	67 / 17
Westpac	0 / 0

- For American Samoa, Guam and CNMI, the 1,000 kilograms per year for other precious corals is retained as the ABC to allow exploratory fishing that would provide information on occurrence and abundance while still allowing the venture to be profitable.
- *With regard to bottomfish MUS in American Samoa, Guam and CNMI*, the Tier 4 control rule was applied based on .91 times the MSY. Applying this control rule, the ABC established is American Samoa, 99,200 pounds; Guam, 48,200 pounds; and CNMI, 182,500 pounds.
- *With regard to the NonDeep Seven Bottomfish MUS for Hawaii*, the SSC finds that it has no basis for choosing one model over another. Hence, the SSC recommends taking an average of the following three ABC estimates:
 - ABC at 50 percent OFL of the entire catch time series using the analogy method.
 - ABC from the 1.0 times 75th percentile.
 - ABC from 1.0 times the mean of recent catch of the last five years, similar to model averaging resulting in an ABC equal to 135,000 pounds.
- *With regard to alternatives for noncommercial data collecting in Hawaii*, the SSC reiterated its previous support of Alternative 4, to require a single Federal permit for vessel owners with per trip reporting. The SSC adds a further recommendation that the eventual permit form include space for an option to document crew member identification and participation.
- *With regard to WPacFIN Program data review*, the SSC looks forward to reviewing the final report and seeing recommendations for improvement in the data collection programs of American Samoa, Guam and CNMI, along with a cost for the proposed improvements.
- *With regard to EFH and HAPC*, the SSC reiterated its concurrence with the recommendations for the Preferred Alternatives as presented by the WPSAR committee and as incorporated in the current amendment.
- *With regard to Cooperative Research Priorities*, the SSC continues to endorse the Council's Five-year Research Priorities and also recommends that a high research priority be added, studies on FKW demographics, including annual survival and breeding probabilities. The SSC also recommends that similar studies be done on pantropical spotted dolphins. It was also suggested that the Council's Social Science Research Committee be reconvened and given a chance to review these priorities and suggest any newly emerging ideas. Given the economic and social importance of yellowfin tuna in Hawaii, the SSC recommends a list of useful studies suggested by Itano be incorporated into the Five-Year and Cooperative Research Priorities.

- *With regard to the Marianas Trench MNM Science and Expo Workshop, the SSC shares Dr. Amesbury's concerns at the lack of indigenous representation at the workshop and the lack of Guam representation on the Advisory Committee. The SSC conveys these concerns to the Council for their consideration and possible action.*

Discussion

Itano commented that there is GIS data available now that may shed some light on fine-scale definition of habitat types that may lead to a more suitable metric for judging abundance of the Kona Crab in American Samoa.

Callaghan noted the point well taken, adding the SSC worked with the information available in a very short time period and looks forward to improving the recommendations in the future and views it as a work in process.

Dalzell added they used the definition of coral reef habitat as a proxy using the Hawaii area and volume of catch to make extrapolations to other areas and looks forward to the forthcoming thesis by Lennon Thomas to be very informative on similar habitats.

Duenas noted confusion as to the numbers in the SSC report with respect to species in Guam with the recommended ABCs, such as slipper lobster, Kona crab, bumphead parrotfish and humphead wrasse. He offered information on catch collected by the GFCA to be made available for the SSC's deliberations.

K. Hawaii Plan Team, Noncommercial Advisory Panel and Bottomfish Advisory Review Board Recommendations

This item was covered under another agenda item.

L. Response to National Marine Fisheries Service Letter on Council Recommended Fishing Regulations for Marine National Monuments

Eric Kingma, Council staff, updated the Council on the response to NMFS' letter on Council recommended fishing regulations for MNMs regarding whether or not the Council needs to reconsider the Council's recommendations related to fishery management measures in the Rose Atoll, Marianas Trench Unit and PRIA MNMs. Approximately 15 percent of the US EEZ in the PIR is designated as a MNM, which translates to 11 percent of the EEZ being closed to commercial fishing, with 18 percent closed to longline fishing. The MNMs were established by Proclamation by President George W. Bush under the authority of the Antiquities Act, which prohibits commercial fishing within the monuments from 0 to 50 nautical miles. The Proclamations allow for noncommercial, traditional and recreational fishing and directed NOAA through the MSA Council process to develop fishing regulations for these activities in coordination and consultation with the local island governments of CNMI and American Samoa and also in consultation with USFWS. At the 144th meeting in March 2009 PIRO requested the Council to consider draft fishing regulations in the monuments. The Council then sent letters to the governments of CNMI, Guam and American Samoa requesting assistance in identifying local definitions for noncommercial, traditional and indigenous fishing and recreational fishing, which were used in the development of draft FEP amendments, with input also from the Council's

advisory bodies and several public informational meetings held throughout the region. At the 148th Council meeting the Council took final action to recommend draft fishing regulations and resent a draft document to the NMFS for review. After several exchanges and incorporation of comments the document was transmitted to NMFS, which began the MSA 95-day review process. The document was in review and analysis from August 2010 to September 2011. The Council received a letter from Tosatto in September indicating that the recommendations regarding customary exchange in the Draft FEP Amendments are not enforceable.

The Council's definition of customary exchange is as follows: "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, examples being ice, bait, food and fuel, that may be necessary to participate in fisheries in the WPR."

The Council also developed definitions for noncommercial fishing to include all of the allowed activities under the Proclamations, as follows: "Fishing that does not meet the MSA definition of commercial fishing and includes but is not limited to sustenance, subsistence, traditional indigenous and recreational fishing."

Recreational fishing was defined as follows: "Fishing conducted for sport or pleasure, including for-hire charter fishing, and recommends that recreational fishing be allowed in the MNMs, but the catch cannot be sold, bartered or traded nor included in customary exchange."

In summary, the proposed regulations included the following: a) Regulations to prohibit commercial fishing; b) No-take areas from 0 to 12 nautical miles around Rose Atoll and the PRIA; c) Permits required for noncommercial fishing, as well as logbook requirements; d) Logbook requirements for the PRIAs, as well as Palmyra; e) Eligibility criteria for noncommercial permits, such as limited to residents of American Samoa and residents of the Mariana fishing communities; f) Customary exchange allowed in the three areas, except for recreational fishing, and g) Separate permit and logbook requirements for recreational and charter for-hire.

Kingma presented examples of the draft regulatory checks included in the transmitted document to provide a comprehensive distinction between commercial, recreational and non-commercial fishing was clear.

NMFS provided the Council with a letter in September with the following statements: The proposed regulations did not identify adequate safeguards to ensure that the practice of customary exchange does not blur the line with commercial fishing. The PRIA no-take zones as currently drafted are inconsistent with the Proclamation, particularly with respect to Palmyra Atoll where non-commercial fishing permitted by USFWS is authorized by the Proclamation. The Council may want to consider revising definition of customary exchange to exclude or clearly limit cost recovery of trip expenses. The Council may want to reconsider bag limits. The Council may want to consider other options to provide clear basis for enforcing distinction between commercial and noncommercial fishing. The Council could make clear that no-take zones in the PRIA MNM are subject to USFWS authority to issue permits for non-commercial fishing.

Kingma presented the following discussion points: Consider issues associated with limits on cash exchanges. Consider issues associated with bag limits. Consider other options. In-depth consideration of options for 153rd Council meeting, as the SSC working group agreed to look closely at cash limit and bag limit options.

Discussion

Palacios noted the reasons for denial were unclear, but suggested the Council do further work on the recommendations to gain approval. He added that the islands are very remote and traveling to them to fish is not economically feasible for most CNMI residents. Although most of the people of CNMI will never travel to the islands in their lifetime, they know it is their birthright and believe the islands belong to the community and conservation of the islands is inherent in the CNMI laws and constitution. The negotiations of the Monuments created much controversy in the community and evolved through many forms, and the intent was always to ensure access to the resources and for traditional fishing, which was agreed upon in the Proclamation.

Duenas noted concern regarding the cultural insensitivity and arrogance contained in Tosatto's letter and suggested the issue with cultural exchange could be addressed in the final rule phase of the fishing recommendations. He pointed out it is not NMFS' place to dictate cultural practices to indigenous communities or to pick and choose what will be enforced. He suggested revision of the recreational amendment and asked the Agency to consider the needs and welfare of the indigenous islanders.

Tosatto offered the following points in response: The Agency's ability to implement what the Council does is limited to what the Council delivers to NMFS. The purpose of this letter was to try and address the fact that he cannot change the Council's recommendation, such as put a cap on monetary reimbursements or placement of bag limits. The Council must present those items in the recommendation submitted to the Agency. When a set of recommendations are approved there is a very limited opportunity for change, which is the reason for the feedback to the Council regarding customary exchange and closed areas around the PRIA as issues in need of further Council action. The statement that the Council might want to clarify its definition was made to the Council, not to the Territories or communities, and does not expect the communities to change the way they operate. The suggestion was meant to help the Council implement what takes place in communities in support of MSA's requirement that the Council consider activities in fishing communities. The review took more than 13 months to conduct. He is willing to help the Council find a way forward with the concept of customary exchange and recreational fishing. Within the context of the Proclamation that prohibits commercial fishing there needs to be established a clear line between a prohibited activity and an allowable activity.

Simonds noted the Council made a formal request for the legal opinion from NOAA GC in Washington, DC, which is what Tosatto's based his letter on, and the request was denied. She asked the GC for advice as to what the Council's next step would be, such as filing a Freedom of Information Act (FOIA).

Tucher replied, noting he is somewhat constrained in his ability to answer, that the legal opinion was not provided because of attorney-client communications with the Secretary's

Designee, the Assistant Administrator for Fisheries, in efforts to avoid creating a fixed legal position that binds NOAA GC in case of future litigation action. The concern was whether the package as it currently existed was legally sufficient for Secretarial Approval and was agreed to by the Department of the Interior (DOI). He said he read the opinion and can advise the Council as to the contents. He agreed with Tosatto regarding pursuing customary exchange as a practice and concept to be included in the amendment and consulting with the USFWS regarding exercise of Council authority. He noted the Council is always at liberty to submit a FOIA request, which is also subject to legal review and any applicable privilege may also apply.

Simonds reiterated that the Council members would have a better understanding if the opportunity to read the legal opinion was available.

Tucher replied that the Council's record is established to support the Council's deliberations on bag limits and whether or not to require cash reimbursements and to what extent. The problem that was identified in the joint review was that notwithstanding the complete record on the issue, that it did not provide the adequate assurance that the chosen method would prevent commercial fishing from occurring in violation of the Proclamation and did not contain enforcement mechanisms to distinguish noncommercial from commercial fishing.

Simonds asked if a NMFS definition exists for what is commercial fishing and what is not.

Tucher replied in the affirmative, there is a MSA definition; however, the definition is not necessarily the definition applied in the analysis. He explained the Proclamation that established the monuments was under the Antiquities Act and does not define commercial fishing. The inference is the President did not mean to prohibit all commercial fishing because if he did then there could be no traditional fishing and there could be no customary exchange. The definition has to embrace noncommercial fishing, but including customary exchange. Bag limits and cash reimbursements at a fixed level were thrown out as examples. It is up to the Council to identify the bright line needed to make the distinction.

Simonds pointed out bag limits and cash reimbursements is going back to a Western way away from a cultural way and questioned the enforcement feasibility.

Kingma asked whether it was an enforcement issue or a compliance issue the way it is currently proposed and there is no fishing taking place in the areas.

Duenas reiterated his concern regarding the impact on cultural rights and would like more guidance on the cash reimbursement amounts that would be acceptable.

Tosatto replied it is not his role to tell the Council what limits to set nor would the Council want him to do so. The letter contained the two items that need to be addressed, and he had no advice on the amount of cash for customary exchange or limits on fishing, needs to be monitored for enforcement, impacts and feasibility of enforcement

A brief discussion resulted in the hypothetical cost of a trip by a 65-foot vessel to the Marianas Unit at approximately \$10,000, which was suggested as the cash limit by Simonds.

Duenas pointed out the cost would differ for different vessels and noted the research vessels should also have to abide by set fishing limits.

Tosatto reiterated that he does not see a bag limit necessarily as the solution in this case and he thinks the Council's vision is to allow the fishers to continue traditional fishing and cannot offer much in what that difference is likely to be in reimbursement, whether cash or otherwise. He noted that the Council needs to look at it from a context of a two-phased answer, try to establish level of fishing activity, what is expected to occur and address the reimbursement recognizing all of the opportunities that could occur in the region.

Sword suggested that looking at cost per mile may be helpful.

Duenas and Sword questioned the difficulty determining the reimbursement amount in the case of exchange of goods and services.

Tucher replied the opinion does not reach the exchanges of goods and services but the narrow issue of what level does cash reimbursement, the exchange of currency, become commercial.

Tosatto added there is consideration needed for the occurrence of someone making a habit of providing fish in exchange for some kind of reimbursement.

Kingma showed a slide depicting vessels in Tau Harbor in the Manua Islands, noting the difficulty of traveling 65 miles in one of the vessels.

Martin noted one concern the Agency may have is cash in excess of operational expense and suggested working to develop a thought process going forward of some number less than or equal to the actual documented operational expense of a given trip could be a way forward.

Simonds asked for some clarification as to the no-take areas.

Tucher replied that where the Council exercises jurisdiction within 12 miles in an area where DOI has primary management authority over Monument resources, then any exercise of that jurisdiction within 12 miles must be in consultation with the USFWS and subject to its authority to permit noncommercial fishing to the extent allowed by the Proclamations.

Duenas asked for clarification as to management authority being a joint exercise and voiced concern over inequity with regard to the no-take areas.

Palawski replied each Proclamation has specific language. There is a need to look at the exact language contained in the Proclamation for the PRIA.

Tosatto agreed and added 12-mile closures would not be problematic in the Mariana or Rose Atoll, but is in the PRIA.

Palawski replied DOI does support the concept of customary exchange and is not suggesting that customary exchange not occur in the Rose Atoll or Marianas Trench Monuments, but that there are some narrow issues that need to be sorted out.

Tosatto commented NMFS went as far as they could to offer what would be sufficient to allow for operation legally within the context of the MSA's ability to work with the Antiquities Act and proffered a way forward in the letter for the Council on that issue.

M. Public Comment

Layne Nakagawa, full-time commercial bottomfish fisherman from Maui and Advisory Panel member, voiced concern regarding the catch data for uku, which he relies on during the bottomfish closure. Uku is a highly marketable fish on Maui. He noted catch numbers from the State catch reports are not scientific. He hoped more science would be utilized in the future. He added the numbers for uku are very conservative. The weight of catch is usually in the 10- to 20-pound range. He has participated in the Cooperative Research Project. He suggested the 50th percentile could be used for the uku total allowable catch (TAC) and trip-by-trip reporting would be more beneficial and equitable. He added that he has never caught a yellow-tail kalekale and questioned the accuracy of the habitat depth range given in the presentation.

Discussion

Duenas asked if Nakagawa includes in his fish reports fish given away.

Nakagawa replied in the affirmative and voiced support for trip-by-trip reporting as being more accurate, as the untimely reports cause the fishermen to be short-changed.

Alex Jennings, American Samoa Legislative Representative and Swains Island resident, introduced some other Swains Island residents who also traveled to attend the Council meeting. He presented a PowerPoint which made the following points. Swains Island is one of the forgotten Territories of the United States and is part of American Samoa. The residents have been removed from Swains because there is no consistent transportation provided for the residents. In the past they have gone for six months without any transportation. The only Swains Island representation in the American Samoa Government is via a nonvoting member of the Legislature, and the 2011 budget only allocated \$96,000 to Swain's out of its entire \$470 million budget. There is no employment on Swains. Fish is their only resource. A letter was provided to the Council giving a history of the economic asset Swains Island has been for the Territory of American Samoa for the last 85 years, including tax revenues generated from copra and providing 200 additional miles to the US EEZ. After evaluation, it was determined the Council's CDP Program has no projects applicable to Swains Island. There is no electricity, harbor or transportation on Swains Island. You must time travel at high tide and carry equipment by hand to shore. Infrastructure issues also make fisheries development problematic. He has worked closely with the Island of Tokelau exploring opportunities for collaboration. Recently, through efforts of United States and New Zealand, over 30,000 gallons of water were provided to Tokelau. Tokelau is interested in participating in new fisheries being developed in American Samoa but lacks transportation to send their fish to American Samoa. In efforts to provide employment for Swains Island residents Jennings requested the Council to explore any avenues available to help them to acquire a boat for use as transportation and to fish in their waters and delivery of fish.

Discussion

Duenas noted the staff will be directed to work with Jennings.

N. Council Discussion and Action

- **Regarding Annual Catch Limits, the Council accepted the recommended ABCs and specified ACLs equals ABCs for all MUS, except precious corals, attached as Tables 1 to 8 below. However, the Council notes that the specification process of identifying shortcomings in the insular area catch monitoring programs leading to marked underestimates of catches and hence unrealistically low ABCs and ACLs. The Council recognized that the ACLs as specified may have severe negative social and economic impacts due to these underestimates of catch. Therefore, the Council directs its SSC to revisit all of the ACLs at its March 2012 meeting to provide a better estimate of ABCs utilizing all available information to calculate new ABC specifications for 2013.**
- **Regarding Accountability Measures, the Council recommends that in each island area catches to be counted towards the ACL are primarily collected by local fisheries agencies through their respective fishery monitoring programs. However, in-season monitoring and processing of catch data is not possible. Therefore, the accountability measure for all fisheries will be a post-season evaluation of catch relative to the recommended ACLs. If any ACL for any stock complex are exceeded and results in biological consequences, the Council would take actions to correct the operational issue that caused the ACL overage, which could include an adjustment of the ACL.**
- **The Council also recommends that State and Territorial Governments begin to develop local regulations to implement compatible ACL measures.**

Table 1. Annual Catch Limits for the coral reef fish families that comprise the top 90% of the total coral reef fish catch and species complex comprising the remaining 10% of the total coral reef fish catch regarded as the minor fishery components in American Samoa.

Family	ACL (lbs) FY12&13
Acanthuridae – surgeonfish	19,516
Lutjanidae – snapper	18,839
<i>Selar crumenophthalmus</i> (akule)	8,396
Mollusk	16,694
Carangidae – jacks	9,490
Lethrinidae – emperor	7,350
Scaridae – parrotfish	8,145
Serranidae – grouper	5,600
Holocentridae – squirrelfish	2,585
Mugilidae – mullet	2,857
Crustacean	2,136
Remaining 10%	18,910

Table 2. ACLs for the coral reef fish families that comprise the top 85% of the total coral reef fish catch and species complex comprising the remaining 15% of the total coral reef fish catch regarded as the minor fishery components

in Guam. The incremental difference between each group is small that only 85% was reach with family level grouping and the rest are general Coral Reef Ecosystem MUS categories analogous to the remaining 10% bin in other island areas.

Family	ACL (lbs) FY12&13
Acanthuridae – surgeonfish	70,702
Carangidae – jacks	45,377
<i>Selar crumenophthalmus</i> (akule)	56,514
Lethrinidae – emperor	38,720
Scaridae – parrotfish	28,649
Mullidae – goatfish	25,367
Mollusk	21,941
Siganidae – rabbitfish	26,120
Lutjanidae – snapper	17,726
Serranidae – grouper	17,958
Mugilidae – mullet	15,032
Kyphosidae – chubs/rudderfish	13,247
Crustacean	5,523
Holocentridae – squirrelfish	8,300
Algae	5,329
Labridae – wrasse	5,195
Other CREMUS	83,214

Table 3. ACLs for the coral reef fish families that comprise the top 90% of the total coral reef fish catch and species complex comprising the remaining 10% of the total coral reef fish catch regarded as the minor fishery component in CNMI.

Family	ACL (lbs) FY12&13
Lethrinidae – emperor	27,466
Carangidae – jack	21,512
Acanthuridae – surgeonfish	6,884
<i>Selar crumenophthalmus</i> (akule)	7,459
Serranidae – grouper	5,519
Lutjanidae – snapper	3,905
Mullidae – goatfish	3,670
Scaridae – parrotfish	3,784
Mollusk	4,446
Mugilidae – mullet	3,308
Siganidae – rabbitfish	2,537
Remaining 10%	9,820

Table 4. ABCs and ACLs for the coral reef fish families that comprise the top 90% of the total coral reef fish catch and species complex comprising the remaining 10% of the total coral reef fish catch regarded as the minor fishery component in Hawaii.

Family	ACL (lbs) FY12&13
Carangidae – jacks	193,423
Mullidae – goatfish	125,813

Acanthuridae – surgeonfish	80,545
Lutjanidae – snapper	65,102
Holocentridae – squirrelfish	44,122
Mugilidae – mullet	41,112
Mollusk	28,765
Parrotfish – parrotfish	33,326
Crustaceans	20,686
Remaining 10%	142,282

Table 5. ACLs for reef sharks, humphead wrasse, and bumphead parrotfish in American Samoa, Guam, CNMI and Hawaii based on percentage reduction from the habitat expanded biomass estimates for fishing year 2012 and 2013.

	AS	CNMI	Guam	Hawaii	Mariana Arch.
Reef Sharks					
Estimated biomass (lbs)	26,181	111,997	138,830	2,231,321	
ACL FY 2012 and 2013	1,309	5,600	6,942	111,566	
Humphead wrasse					
Estimated biomass (lbs)	34,860	40,184	39,200		
ACL FY 2012 and 2013	1,743	2,009	1,960		
Bumphead parrotfish					
Estimated biomass (lbs)	4,699				15,931
ACL FY 2012 and 2013	235				797

Table 6. ACLs for akule and opelu in Hawaii based on the MSY estimates reported by Weng and Sibert 2000.

Species	ACL (lbs) FY12&13
<i>Selar crumenophthalmus</i> (akule)	651,292
<i>Decapterus macarellus</i> (opelu)	393,563

Table 7. ACLs for deepwater shrimp, spiny lobsters, slipper lobsters, and Kona crabs in American Samoa, Guam, CNMI and Hawaii.

	Deepwater Shrimp (lbs)	Spiny Lobster (lbs)	Slipper Lobster (lbs)	Kona Crabs (lbs)
American Samoa	80,000	2,300	30	3,200
CNMI	268,000	5,500	60	6,300
Guam	56,000	2,700	20	1,900
Hawaii	544,000	10,000	280	27,600

Table 8. ACLs for bottomfish in American Samoa, Guam, CNMI and Hawaii.

Island areas	All BMUS ACL (lbs)	Non-deep 7 BMUS ACL (lbs)
American Samoa	99,200	
Guam	48,200	
CNMI	182,500	
Hawaii		135,000

*Moved by Sword; seconded by Tulafono.
Motion passed with abstention by Tosatto.*

Itano offered a friendly amendment to strike the words, and results in biological consequences. The Maker and Second had no objection. Duenas pointed out the ACL has already been exceeded by just looking at the numbers of GFCA that are available on the NOAA Fisheries Science Center website.

- **Regarding the ACLs for precious corals, the Council recommends Alternative 18c, which maintains the current harvest limits as ACLs are specified in the Code of Federal Regulations for pink and bamboo corals in conditional and established beds of Hawaii, but specifies them on an annual basis instead of a biennial basis, as follows:**

	Alt. 18c
Bed	Pink / Bamboo Coral Limits (kg)
Makapuu	1,000 / 250
180 Fathom Bank	111 / 28
Brooks Bank	444 / 111
Kaena Point	67 / 17
Keahole	67 / 17
Westpac	0 / 0

The Council recommends maintaining the existing quota of 1,000 kilos of precious corals, Alternative 17b, for the exploratory bed of Hawaii.

The Council recommends Alternative 16c for black corals in Hawaii, which sets the ACL at 5,500 pounds.

Further, the Council recommends the elimination of a biennial quota system in favor of setting catch limits annually.

For American Samoa, CNMI and Guam the Council recommends setting the ACL for precious corals except black corals equal to the existing quota of 1,000 kilos per exploratory area and setting the ACLs for black corals equal to their ABCs as follows: American Samoa, 790 pounds; CNMI, 2,100 pounds; and Guam, 700 pounds.

*Moved by Sword; seconded by Tulafono.
Motion passed with abstention by Tosatto.*

Leialoha recommended inserting a clarifying section stating exploratory area is equal to the actual island area.

Joshua DeMello, Council staff, replied in the affirmative, and noted the definition contained in the regulations can be inserted.

Dalzell added that it's also to account for beds that may be discovered in the future for which there are no MSYs.

Jarad Makaiiau, from PIRO, clarified that, for each island area (American Samoa, Guam, CNMI and Hawaii), the Federal regulations define an exploratory area as the US EEZ surrounding those island areas. For example, Exploratory CNMI precious corals permit applies to the US EEZ around CNMI.

Duenas noted that Guam law prohibits landing of any coral.

- ***Regarding Fishery Management under Catch Limits, the Council reiterates the urgent need to improve the fishery data collection in all island areas striving towards species-specific identification, especially for federally-managed species or management units. Therefore, the Council directs staff and PIFSC work together to identify concrete steps in improving the fishery data collection and present the plans to the 153rd Council meeting.***

Moved by Sword; seconded by Tulafono.

Motion passed.

Itano offered the following friendly amendment as follows: "Striving towards a species-specific identification, especially for federally-managed species or management units."

There were no objections from the Maker or the Second.

Martin suggested choosing between recommend and direct.

Simonds suggested being consistent and to use the word, direct.

- ***Regarding Commercial Fishery Data, the Council requests that PIFSC provide Council staff access to the Guam commercial fishery data from all areas that will be used in the re-evaluation of the ABCs and other management purposes.***

Moved by Sword; seconded by Tulafono.

Motion passed.

Palacios expressed surprise at the lack of access to PIFSC data and asked for clarification as to the role of the Science Center providing data to the Council.

Duenas clarified during the recent SSC deliberations only creel survey data was made available. He reiterated his offer for use of the GFCA data and noted that it is available on the website.

Seman agreed with Palacios' statements and suggested to extend the recommendation to all island areas and all management needs.

There were no objections by the Maker and Second.

Tosatto suggested that the recommendation remain specific to ABC as the recommendations are directed to the ABC process. He voiced support for the recommendation as NMFS wants the best available data in the hands of the SSC to make their deliberations.

Duenas reiterated dismay that the information was not made available and the data being collected by GFCA is not being used for any purpose.

- **Regarding HAPC/EFH review for bottomfish and other MUS in all island areas, the Council recommends that prior to completion of the EFH Reviews NMFS Science Center coordinate with local Council members and agencies in the different island areas to ground truth the mapping information based on local knowledge.**

Moved by Sword; seconded by Tulafono.

Motion passed.

- **Regarding future CMSP initiatives, the Council recommends NMFS PIRO and PIFSC continue to support the Council mapping and GIS requests.**

Moved by Sword; seconded by Tulafono.

Motion passed.

- **Regarding Cooperative Research Priorities, the Council endorses these priorities for funding by the Cooperative Research Program administered by PIFSC.**

Moved by Sword; seconded by Tulafono.

Motion passed.

Duenas reiterated his request to provide funding to JIMAR and PFRP.

- **Regarding the Council's Five-year Research Priorities, the Council endorses the changes recommended by the SSC and includes inclusion of the research topics on yellowfin tuna.**

Moved by Sword; seconded by Tulafono.

Motion passed.

- **Regarding the PFRP, the Council directs staff, in consultation with the PFRP manager, draft a letter of support for funding from NMFS in light of the loss of congressional discretionary funding of the program.**

Moved by Sword; seconded by Tulafono.

Motion passed.

Itano offered the following friendly amendment: "The Council directs that staff in consultation with the PFRP manager." There were no objections by the Maker and Second.

- **Regarding the CDP Proposals, the Council determined the CDP proposal includes all necessary information and recommends staff transmit the proposal to NMFS for review.**

Moved by Sword; seconded by Tulafono.

Motion passed.

- **Regarding the CDP Process, the Council directs NMFS directs NMFS PIRO draft a user-friendly version of the regulations and application process.**

Moved by Sword; seconded by Tulafono.

Motion passed.

Tulafono noted the recommends should be changed to “directs.” Simonds noted the recommendation should be directed to PIRO. There were no objections to the changes.

- **Regarding Council recommended fishing regulations for MNMs, the Council directs staff to develop options in coordination with the SSC working group for Council consideration during the 153rd Council meeting.**

Moved by Sword; seconded by Tulafono.

Motion passed.

Palawski volunteered to participate on the SSC working group. Duenas welcomed his participation.

- **Regarding the structure of the SSC, the Council recommends including a fisherman in order to provide realistic local community and fishery perspective when forming scientific recommendations and that scientists and fishermen familiar with the fisheries in question be consulted when necessary.**

Moved by Sword; seconded by Tulafono.

Motion passed.

Itano offered a friendly amendment as follows: “When formulating scientific recommendations, and that scientists and fishermen familiar with the fisheries in question be consulted as necessary.” Itano added that he has been present at times during SSC deliberations when they run into some situations where they are not familiar with the fishery or situation and they determine that there is no data, they don’t know and found it difficult to interject from the public audience and suggested the amendment as a way to make best use of the resources at hand.

Duenas commented that the amendment would change the whole gist of the recommendation of including a fisherman would also serve to enable fishermen to better communicate in the SSC meeting and an opportunity to consult with the community.

Simonds pointed out that all of the other Council advisory committees from the fishing communities and indigenous communities also provide information. She added that the SSC was asked to complete a very difficult task in a year’s time and had requested more time.

Dalzell suggested Steve Beverly would be a good candidate. He is a master fisherman from the Secretariat of the Pacific Community (SPC), who has worked all over the WPR. Dalzell noted Council member Itano would be a suitable candidate as well.

Callaghan suggested requiring the Head of all of the Council's advisory bodies to attend the SSC meeting. He added that he does his best to call on the audience on issues when time permits. He added that at the recent SSC meeting it was determined that among the SSC members there is a total of over 400-man years of scientific investigating experience and over 200-man years of actual fishing experience.

Itano clarified his amendment did not change the prior portion of the motion of requesting a separate person on the SSC and would make best use on an ad hoc basis of expertise available and to have it more known that input from outside expertise is available and the desire to contribute to the SSC is important. He also agreed that having someone there would be a liaison with the other resources. There were no objections by the Maker or the Second.

- *Regarding the NMFS PIRO letter concerning the Council's Monument amendment, the Council directs Council staff to further analyze the issues raised in the NMFS letter dated September 28, 2011, and develop potential options for Council consideration at its 153rd meeting in March 2012.*

Moved by Sword; seconded by Palacios.
Motion passed.

Tosatto noted that the recommendation is largely duplicative of a prior recommendation. Palacios agreed it was duplicative. After a brief discussion it was decided to leave the recommendation for deliberation.

Leialoha asked for clarification as to the wording of the recommendation. Tosatto clarified the wording is confusing, but since the opinion is not available, the letter is what is available.

- *Regarding the request from the American Samoa Fono Representative for Swains Island concerning the acquisition of a fishing vessel for community development of Swains Island, the Council directs Council staff to work with NMFS PIRO staff to facilitate responding to this request.*

Moved by Sword; seconded by Tulafono.
Motion passed.

Tosatto offered a friendly amendment to include words in the header, concerning the acquisition of a fishing vessel for community development, which would help the context of the recommendation. There were no objections by the Maker or Second.

7. Marianas Archipelago

Palacios referred the Council members to correspondence relevant to fisheries issues in the Marianas included in the Council materials at Tab 7.1, 2, 3 and 4.

A. Arongo Flaeeey

Ogumoro reported that the Turtle Program in the CNMI successfully tagged three post-nesting green sea turtles since the last Council meeting.

Seman reported tha the Fisheries Research Program began Underwater Visual Surveys of the southern lagoon in September and will continue until December 2011 to be added to data collected in 2004 and 2007. The Life History Program continues to collect *Pristipimoides auricilla* for length, weight, gonad and otolith data with assistance from NOAA PIFSC, which also has started processing *Scarus rubroviolaceus* for length, weight, gonad and otolith data. In July *Pacific Science* published life history work on spotcheek emperor in the CNMI conducted by biologist Mike Trianni. Under the Fisheries Development Program the Northern Marianas Fishermen's Marketing Association has been incorporated and licensed to do business in the CNMI. Renovation work is being conducted at the USA Seafood, Inc. and is scheduled to open in December 2011.

Palacios reported that the Division of Fish and Wildlife (DFW) continues to work on FADs and boating access programs. Marina renovations have been completed which were funded by Sportsfish funds. CNMI Marine Conservation Plan (MCP) received approval from PIRO. Palacios looks forward to moving ahead with fisheries-related community projects. NOAA and USFWS staff continues to work to extend congressional funding for the Marianas Trench Monument Visitor's Center.

Cruz reported that the Guam Governor looks forward to working with the Council to accomplish his vision of bringing the fisheries back to the people of Guam. The MCP was approved and work has begun on several projects. He looks forward to working more closely with the Navy regarding the military buildup and the environmental impact statement (EIS).

B. Isla Informe

Duenas reported that the Guam Division of Aquatic and Wildlife Resources (DAWR) responded on August 26 to the permit request for the Sea Grant/TASI canoe fishing group Community Demonstration Project Program (CDPP) project with Dr. Jason Biggs to conduct demonstration of traditional fishing with traditional fishing hooks and traditional fishing canoes in the Tumon marine protected area (MPA). Former DOA Director Joseph Torres wrote in voicing support. The requirement for release of fish has been attached to the project. Tumon Bay is a traditional fishing ground and is considered one of the most favorable and safest sites for fishing. The canoes have been built, sails, hooks and spears are prepared for use in the project. Guam EPA continues to analyze waters around Guam. Results show over 20 fishing sites have higher than the accepted bacteriological standards. Recent heavy rains have caused flooding, erosion and major sedimentation plumes in many areas. In August, GFCA hosted the Guam Organization of Saltwater Anglers (GOSA) in their 2nd Annual Inshore Tournament and the 13th Annual Gupot Y Peskadot, or Fishermen's Festival and the Guam Marianas International Fishing Derby. The Marianas Underwater Fishing Federation held the Marianas Spear Fishing Challenge on August 13.

C. Legislative Report

Palacios reported HR 670, CNMI Submerged Lands, introduced by US Congressman Gregorio Sablan, would convey 0 to 3 miles of submerged lands around each island of CNMI back to the people of the Commonwealth. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs held a hearing in June 2011, and the bill was discharged with no amendments and is up for a full vote by the House of Representatives before the end of 2011.

Duenas reported that the Guam Coral Reef Protection Act, which includes prohibiting anchoring and any type of activity on coral reefs, is in committee for review and is pending action. A request for mooring buoys has been submitted to the Guam Government.

D. Enforcement Report

Palacios reported that illegal fishing activities within CNMI MPAs continue to be an issue and extra efforts for public outreach and dissemination of information are ongoing and an incident of illegal turtle poaching was successfully prosecuted. He also expressed appreciation to NOAA OLE for the receipt of a new 27-foot Safe Boat through the CNMI JEA.

Duenas reported that two people were arrested for harvesting undersized Tridacna Clams and other shellfish in the Piti Bomb Holes Marine Preserve and an arrest occurred in another marine preserve. He reiterated his concern that selective enforcement of the MPAs continues, as well as the raking of beaches and lack of access is ongoing. With the military in control of approximately one-fourth of Guam there are questions as to where the influx of population is going to fish within the remaining limited fishing areas. Meetings and discussions are ongoing with the Micronesian community with regard to the Compact Impact and FSM vessel activities on Guam. Assistance has been requested from the Department of the Interior (DOI) regarding education of the laws and regulations.

E. Report of Marianas Trench Marine National Monument Science and Expo Workshop

Katie Nichols, from PIRO, presented a report of a two-day workshop held on September 18 and 19 in Kona in conjunction with the Oceans Marine Technological Society Conference. The goal of the workshop was to initiate the development of the Marianas Trench MNM Scientific Exploration and Research Plan by soliciting and documenting subject matter, expert opinion and perspectives. The purpose of the workshop was to identify and analyze near and long-term scientific exploration and research priorities for the monument by providing input to NMFS and USFWS in the development of the Science and Research Plan and is the first step in efforts to engage scientific and other stakeholders and interested parties in the science plan. The objectives for the workshop included review and discussion of the current state of the science and knowledge in the monument, including the knowledge gaps and research opportunities and identify research priorities and associated activities that can serve as a foundation for the science plan. Topics reviewed included a) Current state of the knowledge on three habitat types, shallow-water habitat, deep-water habitat and submerged geologic features; b) Identified scientific knowledge gaps and research opportunities; c) Identified capacity needs; d) Identified existing

resources, projects and capacities for research; and e) Identified the associated objectives, activities and methods for proposed priority research projects.

Nichols reported a Steering Committee spent considerable time selecting workshop participants, selecting attendees and identifying subject matter experts and actively solicited additional recommendations for participants. There were approximately 50 participants in the workshop, which included scientific subject matter experts and national and international governmental reps from NOAA, USFWS and the Navy, adding that all of the Marianas Monument Advisory Council (MMAC) members were invited but only one member was able to attend.

Some scientific topics discussed included communication, education and outreach; data management; measures of success; operations and logistics; and sustainable financing. Topics to evaluate research projects included the following:

- Would the research provide ecosystem level data?
- Does it directly support site management needs?
- Would it provide a high potential for collaboration?
- Does the research generate information useful for the science plan?
- Does it directly support mandates?
- Given current resource limitations, is it financially feasible?

The products of the workshop reported were a set of recommended scientific priorities and a set of proposed activities associated with projects to address the research priorities. The next steps included 1) complete the workshop summary report currently in progress and is to be provided to interested parties; 2) solicit additional engagement, particularly in the region; 3) discuss possible follow-on meetings and dissemination of the workshop results; and 4) engage workshop participants and interested parties in the development of the science plan. PIFSC is the lead in developing the science plan.

Discussion

Palacios requested copies of the workshop report be provided to the Council members and recommended communicating with some of the Japanese universities which have conducted scientific studies on the volcanic vents and the Marianas Trench as far back as the 1980s. He asked which MMAC member attended.

Nichols replied she has been in contact with JANSEC and Admiral Bushong was in attendance as the only MMAC member to do so.

Itano requested clarification on the priority ranking of the research.

Nichols replied there is no priority, and the list is still in development in the summary report. Lengthy discussion regarding habitat mapping, characterizing habitat, cetacean surveys, vent communities and shallow-water submerged areas and knowledge gaps took place.

Duenas reiterated his concern at the lack of indigenous and local participation and asked for clarification as to where the workshop stakeholders or participants resided, what funds were expended on holding the workshop and the extent of the outreach conducted.

Nichols replied it was unfortunate that there was not more local representation and the stakeholders she referenced in her report referred to scientific researchers who are currently conducting studies in the area. The meeting was held in conjunction with the Oceans 2011 Technological Conference in an effort to educate and possibly raise interest to attract more research funds for projects in monument.

Duenas reiterated his disappointment in the cultural insensitivity and the lack of consideration and short notice in extending invitation to ensure local and indigenous participants could attend.

Nichols replied written letters were sent out in March to the MMAC members, followed up by e-mail, which also asked for suggestions for alternate representatives.

Palacios recommended all communications with regard to the MMAC should go through the Governor instead of sending an independent communication to the members.

Duenas also recommended the MMAC meet before research plans or development plans or rules are developed, as the MMAC is the body overseeing the activities in the area.

Palacios directed Council members to Document 7.E.2, which is a letter from Judy Amesbury of Micronesian Archaeological Research Services regarding the workshop.

F. Community Activities and Issues

Seman reported that the CNMI MCP has been approved by the Regional Administrator on August 4 of this year. CNMI DLNR put together a seven-member Advisory Committee tasked to review, evaluate and make selection on applicants for the MCP funds. The volunteer committee will solicit proposals and provide guidelines to help interested applicants. December 15 is the deadline for the submission of proposals. Final approval and award is scheduled by December 23, 2011. There is approximately \$200,000 in the MCP funds which are derived from forfeiture from illegal foreign fishing within CNMI waters.

With regard to federal immigration, foreign workers must be employed by November 27, 2011, in order to avoid being detained and deported. There are at least 70 foreign workers in the fishery that may be affected by this new policy set forth by the US Immigration.

With regard to the Military EIS and all other scoping issues, the first meeting was conducted in late September to renew existing permits and utilizing existing airports for emergency purposes. The expansion of the closure around Farallon de Medinilla (FDM) has not

been discussed, although it is part of the military activities in the CNMI. The meetings were held in Rota, Tinian and Saipan.

Duenas reported that work is ongoing on Guam with the military regarding the MITT and proposed firing ranges. He requested the Agency to develop CMSP for Guam to help in the upcoming military buildup. Upgrades on the marinas are ongoing. The government offered assistance with the re-establishment of access on the eastern side of Guam.

1. Marianas Military Range Complex Environmental Impact Statement Scoping

Neil Sheehan, from the US Pacific Fleet's Environmental Shop, presented updates on the MITT EIS, Overseas Environmental Impact Statement (OEIS) and MIRC EIS regarding the Military Buildup in Guam and CNMI.

The goals of the MITT EIS/OEIS included a) Compliance with the National Environmental Policy Act (NEPA), Executive Order (EO) 12114 and Environmental Effects Abroad of Major Federal Actions; b) Renew existing MMPA authorization and ESA consultations; c) Perform environmental analyses for sonar/non-sonar training and testing events within the MITT Study Area that are ongoing and new or different events covered under the current MIRC EIS; c) Perform environmental analysis and obtain MMPA and ESA coverage for activities conducted at sea using new platforms and weapon systems that will be operational by 2020; d) Use of the best available science and acoustic analyses methods to evaluate impacts of military activities on the marine environment, and e) Promote Navy-wide consistency.

The proposed action is to conduct military training and testing activities which may include the use of sonar and explosives within the MITT Study Area. The purpose and need of the proposed action is to achieve and maintain military readiness to meet the requirements of Title 10 of the US Code, thereby ensuring that the Navy and other Services meet their mission to maintain, train and equip combat-ready military forces capable of winning wars, deterring aggression and maintaining freedom of the seas. The MITT EIS/OEIS Study Area includes the existing MIRC, which is the only Navy range complex in the MITT Study Area; additional areas of high seas adjacent to the MIRC; and a transit corridor from Hawaii to the MITT. The MITT EIS/OEIS alternatives include a) No action, the existing NEPA coverage; b) Alternative 1, which consists of the baseline training and testing activities and the overall expansion of the Study Area plus adjustments to types and levels of activities as necessary to support current and planned military training and testing requirements; and c) Alternative 2, which consists of Alternative 1 plus the establishment of new range capabilities, modifications of existing capabilities, adjustments to type and tempo of training and testing activities and the establishment of additional locations to conduct training and testing activities within the Study Area. Cooperating Agencies are NMFS, USFWS and the US Air Force.

Scoping meetings were conducted September 20 to 29, 2011. Some of the comments and issues raised included a) The detrimental environmental impacts to the island of Guam of accessing fishing grounds at FDM, Galvez and Santa Rosa Banks; b) Socioeconomic impacts, especially on agriculture and ranching on Tinian; and c) Appreciation of holding meetings in

Tinian and Rota. Sheehan welcomed comments from the Council as the comment period ends November 7, 2011.

The Supplemental EIS/OEIS to the MIRC EIS/OEIS for Airspace Redesignation Proposed Action include a) Extension of the restricted airspace at FDM from 3 nautical miles (nm) to 12 nm and designate the new Restricted Air Space as R-7201A; b) Establish a 12-nm Surface Danger Zone around FDM; and c) Replace the existing system of Air Traffic Controlled Assigned Airspace (ATCAAs) areas with Warning Areas.

Definitions of Special Use Airspace included a) Restricted Airspace, established when determined necessary to confine and segregate activities considered hazardous to nonparticipating aircraft, such as artillery firing, aerial gunnery or guided missiles. Designation of a Restricted Airspace requires Federal Aviation Administration (FAA) rule-making; b) Warning Area, airspace of defined dimensions, extending from 3 nm outward from the coast of the United States, designated to contain activity that may be hazardous to nonparticipating aircraft. The purpose of the Warning Area is to warn nonparticipating pilots of the potential danger from activities being conducted and may be located over domestic water, international waters or both. The warning area is controlled by the using agency; and c) ATCAAs, same as a Warning Area except that it is controlled by FAA.

The purpose and need of the proposed action is to provide a safe training environment for Service members. Cooperating Agencies are the FAA, US Air Force and US Army Corps of Engineers.

Sheehan noted that the Guam Legislature and certain elected CNMI officials have been briefed on the MITT and Supplemental MIRC EIS and outreach will continue to be conducted to receive feedback, as well as conduct expanded outreach to receive input from fishermen.

Discussion

Duenas voiced concerns that comments submitted by fishermen during the initial process were ignored. Guam's southern seamounts are valuable fishing grounds, identified as EFH and are included in the Training and Testing Study Area as well as the Research and Development Program. He asked if the Study Area could be moved 30 miles east or west to allow access for fishermen, requested clarification on the difference between a Warning Area and a Keep Out Area, and requested that serious and sincere dialogue be conducted with the fishing community.

Sheehan requested Duenas to provide the comments in writing for their record. He added he had discussion with the Joint Region in the Marianas and his staff is committed to work on mitigation for the fishermen and to have dialogue with fishermen to come up with options. He will be available for discussion even after the deadline for public comment.

Duenas pointed out in the initial MIRC EIS process dismissed all of the concerns voiced by fishermen, but he looks forward to the opportunity for positive change and consideration to be given to the people of Guam and the indigenous population.

Palacios asked for clarification as to the reason why the Warning Areas are being expanded.

Sheehan replied the weapons used in training require 12 miles for safe launch with the corresponding airspace.

Seman asked if there is compensation available for losses incurred by fishermen caused by the scheduled and unscheduled exercises and loss of fishing grounds due to the expansion of closed areas.

Duenas noted the multiple impacts from the establishment of the monuments, military buildup and bad economy facing Guam and CNMI and asked that consideration be given to the fishing community and residents who rely on marine resources for food.

G. Education and Outreach Initiatives

Ogumoro reported that several fishing tournaments were held in CNMI since the last Council meeting. The Council's high school summer course was held from July 11 to the 22. Council lunar calendars and other educational materials were distributed at each of the events.

Duenas reported that in addition to the fishing community activities previously reported, there is a cleanup of the Agana Marina Channel scheduled for November 2011, with the assistance of the USCG. The fishing community assisted in the production of a video by SSC member Judith Amesbury on traditional fishing in Guam.

H. Scientific and Statistical Committee Recommendations

Callaghan reported the SSC recommendations as follows:

- *With regard to the Marianas Trench MNM Science Exploration and Research Workshop, the SSC shared Amesbury's concerns at the lack of indigenous representation at the workshop and the lack of Guam representation on the Advisory Council. The SSC conveys these concerns to the Council for its consideration and possible action.*

I. Public Comments

No public comments were offered.

J. Council Discussion and Action

- ***Regarding the Marianas Trench MNM Workshop, the Council directs staff to draft a letter to NMFS relating its concerns at the lack of indigenous representation at the workshop and the lack of Guam representation on the MMAC and expressing the need for indigenous representation to future Monument meetings.***

*Moved by Palacios; seconded by Haleck.
Motion passed.*

Simonds asked for clarification as to whether the recommendation was regarding workshops held in the future as well.

Tosatto replied in the affirmative and suggested an additional addition, expressing the need for indigenous representation at future workshops. There were no objections from the Maker or the Second.

Seman asked for clarification on who would be responsible for travel expense to future meetings. Simonds replied the government.

- ***Regarding the Marianas Trench MNM Workshop, the Council recommends NMFS and USFWS convene the Marianas Trench MMAC immediately, pursuant to the Presidential Proclamation, to prevent exclusion of the MMAC in future Monument activities.***

Moved by Palacios; seconded by Tulafono.
Motion passed.

Duenas voiced concern with the grammar used in the recommendation.

Oishi asked for clarification regarding to including future workshops. Duenas and Simonds agreed, noting the monument was formed in 2009 and the committee has never met and needs to meet immediately to develop options in management.

Seman suggested including a statement regarding Presidential Proclamation that created the monument committee. There was no objection by the Maker of the motion or the Second.

- ***Regarding the MIRC, the Council directs staff to write to the DOD reiterating the importance of consulting with the fishing community while developing changes to the MITT area.***

Moved by Palacios; seconded by Tulafono.
Motion passed.

8. American Samoa Archipelago

A. Motu Lipoti

Tulafono reported that five community college students are working with DMWR pursuant to a two-year memorandum of understanding (MOU) with the college in an effort to encourage students to major in marine science to build local capacity. DMWR hosted Sunny Bak, who was contracted by the Council to assess the current creel survey protocols. An alia has entered the longline fisheries. There are now two alias loyngline fishing in American Samoa waters, and more are expected to enter the fishery in the near future. Some local longline fishermen voiced concerns regarding a TriMarine fleet entering the American Samoa longline fishery. It was pointed out to the concerned fishermen that federal requirements must be met to be permitted to fish in the American Samoa EEZ. The fish market was recently opened, and fishermen are being encouraged to sell their catch in the Fagatogo Fish Market and discouraged from selling on the roadside. A dead 56-foot whale was discovered recently beached in American Samoa.

Sword reported the PagoPago Game Fishing Association (PGFA) is working together with DMWR to develop permanent berths for sportsfishing boats and working with the USCG to establish a USCG Auxiliary in American Samoa. The next PGFA tournament is scheduled for May 2012, which is the same week as the Western Samoa Game Fishing Association. The tournament is now included in the International Game Fish Association (IGFA) newsletter.

Haleck reported the Samoa Tuna Processors (STP) is still going through the public review process to obtain its permit to further renovate the facilities that STP used to occupy and also to build a wharf for the small-boat fishery, especially the alias, to offload their fresh catch. STP has acquired an ice-making machine and also announced it shipped approximately 10 tons of fresh albacore and tuna to Los Angeles.

Discussion

Duenas voiced concerns regarding the expansion of the Fagatele Bay National Marine Sanctuary and the possible addition of three additional sites, Swains Island, Larsen Bay and Aunuu, and asked for more information in regard to the Sanctuary Program.

Sword noted the Swains Island Representative intends to use the requested fishing boat for fishing in the waters around Swains Island. He added that the PGFA sent out several letters opposing the expansion, especially around Aunuu, as those waters are too deep for diving and too rough to conduct research. The village residents have voiced complaints regarding lack of information being shared with them. There is a need for more dialogue with the village that will be affected, as it relies on those fishing grounds. The entire south side of the island is in disagreement with the expansion of the areas nearshore as it would create hardship and force them to travel further from shore to provide fish for their villages.

Kingma noted Council members were provided a copy of the executive summary of the Draft EIS and Draft Management Plan for the expanded Fagatele Bay National Marine Sanctuary, with a name change to the American Samoa National Marine Sanctuary, as well as the Federal Register Notice, which were just released. Kingma offered a brief summary after review of the document.

The six areas proposed for expansion included 1) Three miles around Swains, proposed as a sustenance fishing only area. No commercial fishing and only hook and line fishing; 2) An area off of the southern side of Tau that would be open for commercial fishing as well as non-commercial fishing, but with gear restrictions. 3) A no-take area for Fagatele Bay. 4) Hook and line fishing only for the adjacent Larsen's Bay; and 5) and 6) Around Aunuu, two zones, a northeastern area called a research area, complete no-take, and a southern area called a multi-use area with requirements for fishing with hook and line gear only, vessel notify the Sanctuary Program or some designee on Aunuu of entry.

The Marine Sanctuary Program has given the public until January 6 to comment on the Draft EIS and Management Plan as well as the new proposed regulations. Kingma suggested the Council may request more time to respond to allow the Council an opportunity to fully deliberate on the issues.

With the exception of Rose Atoll, no areas are within Federal waters or the US EEZ, whereby the Council under the National Marine Sanctuary Act (NMSA) has the first opportunity to develop fishing regulations. There is a proposed name change of Rose Atoll to Maiava, would be incorporating the entire Rose Atoll MNM and will utilize the Council's process to develop fishing regulations in the area, although they analyzed alternatives related to a complete no-take area from 0 to 50 nm, as well as an area from 0 to 12 nm.

Duenas noted the stated intent of the proposal is to protect coral reef, but there is virtually no coral reef in Federal waters in the proposed expanded area.

Kingma said the Council should review the proposals closely as the Council has made several statements in the past about the need to allow access to certain fishing areas for indigenous people living in American Samoa and has questioned the lack of public participation in the development of these proposals. He added that the Council should gain understanding on how the purposes of these areas align with the fisheries management in the Territory as the purposes of the expansion are not clear nor are the effects on the conservation, protection and resource management of the marine resources of American Samoa. The Hawaiian Humpback Whale Sanctuary is also undergoing a Draft Management Plan Review Process, looking at adding additional species, ecosystem-based management and expanding boundaries. He reiterated the need to request an extension to allow for the Council to have full consideration at the March meeting.

Duenas asked Council staff to include a depiction of the proposed expansions overlaid on the boundaries of the Federal waters.

Simonds recommended the Council should begin by opposing the inclusion of the seamount.

Tosatto pointed out there is a dual purpose to the proposal. The NMSA requires periodic five-year management review plans. The Sanctuaries Program is now undertaking the management plan review, and during that the consideration of expansion is one of the items taken into account. He noted that in the Proclamation for the Rose Atoll MNM, NOAA was directed to consider the inclusion of Rose Atoll MNM and designation as a sanctuary. He added that it is not renaming of the Rose Atoll but rather a designation as a sanctuary, the Maiava Unit of the American Samoa Sanctuary. He encouraged the Council to read the proposal and address items of concern during the public comment period.

Tulafono expressed concern about the duplication of effort between DMWR and the Sanctuaries Program in establishing no-take areas. DMWR works very closely with communities with regard to no-take areas.

Itano recommended Council staff put together a concise document that outlines the boundaries of the territorial sea with the exact use designations proposed for each region for Council members. He agreed the inclusion of the seamount is inappropriate

Simonds noted the expansion will impact the Council's fisheries development projects in the area and noted increased public participation should be encouraged and allowed.

Duenas suggested including all of the current MPAs or community-managed areas and polluted and inaccessible areas to Itano's earlier suggestion, with support from the Agency to supply GIS mapping. He reminded the Council members that Fagatele Bay was established in an effort to rehabilitate the bay and noted Pago Harbor is in need of rehab.

Sword pointed out Pala Lagoon was on one list of proposed sites, which is in need of a lot of rehab, but it was turned down. The north shore of the island has no villages and would be more appropriate for MPAs rather than near villages where the local residents rely on the resources. The proposed site at Aunuu supplies the whole eastern district with bottomfish. The CMSP Representative has done nothing to address the conflict between the people of American Samoa and the Sanctuaries Program expansion. Sword suggested requesting NOAA to appoint someone to liaison between the community and the Sanctuaries Program.

Tulafono is concerned the no-take zone around Aunuu will lead to increased violations because more people are turning to subsistence fishing because of the economic downturn.

Duenas commented that the Council's initiative to provide ice and fuel capability serves to advance the communities.

Haleck reiterated a request made at the last Council meeting for access to any scientific studies of research done in support of the Sanctuaries Program's expansion proposal. He stressed that the people living at the Aunuu site have been depending on the resources for sustenance for centuries and have no means of traveling 15 miles further out to sea. A petition will be filed soon opposing the proposed expansion.

Palacios spoke in favor of land-use pollution and impacts of land-based impacts being addressed by governmental agencies as no-take areas will not mitigate the detrimental effects of such activities.

Duenas asked for clarification on the process regarding the selection of the alternatives.

Kingma replied that it will follow the normal NEPA process. The rule-making is taken under the Administrative Procedures Act. The decision is NOAA's decision after a public comment period and is also subject to rule-making under the NMSA. He noted that in the Federal Register Notice four opportunities for public hearings are provided from mid to late November. After that, NOAA does not have to provide any more opportunity for public comment to make a final decision.

Duenas suggested a public hearing be held in the village of Aunuu.

Kingma replied there are meetings scheduled on Tau and Ofu and in Tutuila.

Simonds reminded the Council members of the possibility the President could declare everything a monument similar to what happened with the NWHI.

B. Fono Report

There were no items reported.

C. Enforcement Issues

Tulafono expressed appreciation for the training received from the NOAA OLE for two DMWR law enforcement officers who attended Code School in Louisiana.

D. Update on Community Fisheries Development

Kingma presented an update on Community Fisheries Development projects in American Samoa which are funded under the Sustainable Fisheries Fund: 1) Two new boat ramps will be established on the southwestern end of Tutuila. A contractor has been identified and all necessary permits and authorizations have been acquired. The project will be initiated in the near future. Completion is scheduled early in 2012. 2) The Manua Island fuel storage and ice-making facilities will promote seafood safety and provide capacity for safe fuel storage. Fuel and ice will be available on Ofu and Tau for fishing vessels. Contractors have been identified to procure ice-making machines, as well as manufacturing fuel tanks. The projects are scheduled to be completed in the first quarter of 2012. 3) The Council's Fisheries Development Coordinator is working to develop fishing cooperatives on both Tau and Ofu and Olosega to run the ice-making and fuel tank facilities once they become operatable. Membership has been identified. The Articles of Incorporation have been drafted and approval is being sought by the fishing communities in the near future. 4) The Fagatoga Fish Market is open and fishermen are selling fish on a regular basis. DMWR has been providing ice on occasion. If there is a need, the Council would assist in procuring an ice-making machine. 5) STP has conducted three exports to Los Angeles and Japan markets of fresh bigeye and yellowfin, working with fishing vessels that fish in the Cook Islands. 6) In May the Council conducted fresh fish training for the local alia fleet and local American Samoa longline fleet. A few alia have been provided ice to do trials. There are some issues with reconfiguring some of the vessels to handle ice for fresh fish. Another workshop may be needed to focus on some of the operational aspects.

Discussion

Tulafono agreed there is a need for an ice-making machine for the fish market in order to display the fish for sale.

E. Community Activities and Issues

Fini Aitaoto, Council onsite coordinator in American Samoa, reported on statistics from a recent US General Accountability Office Report concerning the economy of American Samoa that showed a decline in tuna exports since 2008 and a decline in cannery employment by 55 percent from 2009 to 2010. He said several residents have complained about the loss of CDPP funding. As reported previously, the new fish market opened for business and recently included the sale of poke which was a success. There was a complaint regarding a female observer by the owners of a longliner, which caused a delay in the vessel's fishing trip. A male observer was finally provided. Representative Alex Jennings from Swains Island asked Congressman Faleomavaega Hunkin to request DOI to define Swains Island's formal relationship with the United States. US State Department has given its support to American Samoa's request to be included in the Pacific Islands Forum as an observer. The Pacific Islands Forum Committee has agreed to recommend to Forum leaders to invite American Samoa to become a Forum Observer.

American Samoa was represented at the recent Council's September climate change meeting. The Office of Samoan Affairs High Chief Tufele Lia recently passed away. The Greenpeace vessel *Esperanza* recently visited American Samoa.

Discussion

Haleck asked for clarification on the status of the Disaster Package for those who were affected by the tsunami in 2009.

Tosatto said the Disaster Package was forwarded to Headquarters, and he will check on the status and report back to the Council. He added that as is the case with all of the disaster requests, it is subject to funds that are not in NMFS' base appropriations and would require congressional appropriation if the Service finds that Disaster Compensation is appropriate. In regard to the observer complaint, he added that the Fisheries Service remains an equal opportunity employer and by federal law is required to provide equal opportunity. It was made clear to the vessel owner and Governor that NOAA will continue to place female observers on the fishing vessels in American Samoa and the fishing vessels must accommodate observers when they are provided. The resolution that included a male observer being provided was one of mere circumstance.

Duenas also asked Tosatto to check on the pending request for Disaster Assistance from the Guam typhoon from years ago and noted a need to develop a better template for use to acquire Disaster Assistance.

Tosatto replied he will double-check on Guam's request as well as Hawaii's request for the recent tsunami impacts, but he believed an answer was provided previously regarding Guam.

F. Education and Outreach Initiatives

Aitaoto reported the following items regarding the Education and Outreach Initiatives in American Samoa: The Council has been providing Council-printed materials to various government and public schools on Tutuila. Information on federal grants and other notices were forwarded to DMWR and other agencies. A Council summer course is being planned for next year in collaboration with the NOAA Ocean Watch Program as well as other educational programs with the National Park Service. PIRO has recently met with the Village of Fagaalu to address some environmental issues. DMWR's MPA Enforcement Programs have conducted training for village mayors and village police so that the village mayors and police will be able to write citations for all of the MPA-related violations. The Maritime Academy Marine Training ship has made its second stop in American Samoa and invited several students onboard. The final report on the Council's lunar calendar research project that was done in Western Samoa was provided to Council staff. The American Samoa Community College Samoan Studies Institute staff was asked to continue to work with the Council staff for the next lunar calendar. Information on the Council's assistance to the community-based MPA Program, the Council's lunar calendar project and other projects were provided to a researcher producer from IB House Films from Los Angeles who was in the Territory doing research. The Council is planning a workshop for local teachers and a startup of the Council's high school summer course in 2012.

G. Scientific and Statistical Committee Recommendations

There were no SSC recommendations regarding the American Samoa Archipelago.

Discussion

Tulafono requested PIFSC conduct a socioeconomic study on the impacts of the pending proposal to prohibit take of “Big Fish” by the American Samoa Coral Reef Advisory Group (CRAG) regarding a ban on reef shark, big ulua, humphead wrasse, bumphead parrotfish and big groupers.

Sword asked for clarification on the transfer or sale of 50-foot longliner licenses.

Duenas also asked for an explanation of the qualifications for the permits.

Walter Ikehara, from PIRO, replied that one Class D permit expired and is presently available. A few more could be available by the end of the year. Applications will be solicited early 2012 for the available permits. The permits require some documented participation in the American Samoa longline fishery, and the applications are prioritized by the earliest date of participation in the fishery. He further clarified there are 26 Class D permits, 12 Class C permits, six for Class B and 12 for Class A. Permits can be transferred to a family member or American Samoa fishing community or one with previous documented participation.

Duenas requested staff to research including an indigenous criterium as the highest priority in the eligibility requirement for transfer of a longline permit.

Kingma clarified that the recommendation requested Council staff to investigate options that would promote sustained community participation in the fishery, also with landing requirements or harvesting requirements within the zone to be presented at the March meeting. He added there is the CDP Program that allows indigenous communities to participate in fisheries in the WPR.

Martin requested clarification with regard to the Draft Sanctuary Plan mention of a Preferred Alternative.

Tosatto clarified the Federal Register Notice of the Proposed Rules contains the geographic boundaries and the document contains the purpose.

H. Public Comments

No public comments were offered.

I. Council Discussion and Action

- ***Regarding the proposed American Samoa National Marine Sanctuary, the Council directs staff to request an extension to the comment period to allow the Council to consider the draft management plan and proposed regulations and their***

potential effects on the current fisheries management regime in American Samoa.

Moved by Haleck; seconded by Tulafono.

Motion passed with abstention by Tosatto.

- **Directs staff to analyze the draft management plan and proposed regulations and their potential effects on the current fisheries management regime in American Samoa and prepare comments for Council consideration at its 153rd meeting.**

Moved by Haleck; seconded by Tulafono.

Motion passed.

- **Directs staff to request the National Marine Sanctuary Program to produce maps that clearly delineate American Samoa Territorial waters and make those available to the Council and public before January 2012.**

Moved by Haleck; seconded by Tulafono.

Motion passed.

- **Direct staff work with American Samoa DMWR to develop a GIS-based map of all existing marine managed areas and areas of concern, for example, cliff lines and dangerous currents, in American Samoa.**

Moved by Haleck; seconded by Tulafono.

Motion passed.

- **Regarding the Coral Reef Advisory Group's proposed ban on big fish, the Council recommends NMFS PIFSC conduct a study on the biological and socioeconomic impacts of implementing prohibited take of big fish, i.e., sharks, bumphead parrotfish, large groupers, jacks and humphead wrasse, as proposed by the American Samoa Coral Reef Advisory Group.**

Moved by Haleck; seconded by Tulafono.

Motion passed with abstention by Tosatto.

Duenas asked for clarification as to any shark prohibition in American Samoa.

Tulafono replied not yet.

Tosatto commented he intends to abstain and would like to allow NMFS PIFSC to have some leeway to determine what might be the best information to assist in Council deliberations.

Pooley asked for clarification as to who requested the action.

Tulafono replied it was proposed by CRAG and the Government of American Samoa requested the study in an effort to achieve complementary regulations to the expected upcoming regulations with regard to humphead wrasse and bumphead parrotfish.

9. Public Comment on Non-Agenda Items

No public comments were offered.

10. Hawaii Archipelago

A. Moku Pepa

Martin reported the longline fishery is operating at normal levels. Longline fishery participants are paying close attention to bigeye quota monitoring, with little to no swordfish effort this quarter.

Oishi reported on bottomfish outreach workshops conducted in July and August around the State for bottomfish fishermen, organized by the Council in conjunction with NOAA Fisheries and the State of Hawaii. Annual vessel registration for bottomfishers is in place, with 1,174 vessels registered to do bottomfish fishing in the State of Hawaii. Of the registered vessels, 80 percent are commercial and 245 are noncommercial. There is 80 percent compliance with the five-day deadline on submission of reports. Deep Seven total catch is currently at 13.5 percent of the ACT, which is 43,700 pounds. He added that this is the first time State of Hawaii has attempted a deviation from monthly trip reporting.

Discussion

Duenas asked if the 80 percent commercial registered vessels is an increase.

Oishi said this is the first time there has been any indication as to the commercial to non-commercial ratio. Some anglers may have registered commercial in an effort to avoid bag limits.

Seman asked for clarification as to the average size of the registered vessels.

Oishi said the breakdown is under 18-foot and above. He will get back with the actual numbers.

Itano asked for information as to the pathologist's findings regarding the recent pufferfish die-off and if there is any update for a new Administrator for the Division of Aquatic Resources (DAR).

Oishi replied he did not know.

B. Legislative Report

No items were reported.

Discussion

Martin asked for clarification regarding the document referring to licensing for operation of power-driven vessels, which is a dramatic change from what currently is in effect.

Oishi replied he is not familiar with the topic, but after following up with the DLNR office, the document is a proposed Draft Administrative Rule implementing rule-making by DOBOR. It is currently before the Governor waiting for approval to hold public hearings on the draft rule.

C. Enforcement Report

No items were reported.

D. Recommendations on Noncommercial Data Collection (Action Item)

DeMello, Council staff, said the purpose for the management measures is to get data to better inform management decisions for things such as ACLs. This effort began with the 146th Council meeting. Currently, data is gathered from a) Federal permits for fishing in the Hawaii EEZ, such as noncommercial bottomfish, a special coral reef permit, crustacean permit for lobster and shrimp, precious corals, both commercial and noncommercial and a longline federal permit; b) Federal logbooks required for fishing in the EEZ; and c) License or reporting required in local jurisdictions, such as the Hawaii Marine Recreational Fishery Survey (HMRFS), Marine Recreational Fishery Statistical Survey (MRFSS) or MRIP, and the National Saltwater Angler Registry (NSAR).

The existing gaps in data collection exist in noncommercial pelagic, coral reef and the Kona crab fisheries.

The proposed alternatives include 1) No action. Continue to collect data under the existing programs and continue work on improving the HMRFS through MRIP and use of the NSAR. It would be the lowest burden on fishermen, administration and enforcement and would require no new permits. 2) Require federal permits and monthly logbooks for noncommercial Kona crab, coral reef and pelagic fisheries. Three individual permits would collect data from EEZ fisheries through monthly reporting. The greatest burden would be administration and enforcement. It would require new noncommercial pelagic, noncommercial Currently Harvested Coral Reef Taxa (CHCRT) and new noncommercial Kona crab. 3) A single noncommercial federal permit for all fisheries in the US EEZ, with monthly logbooks. One general noncommercial permit would be less burdensome on administration, enforcement and fishing community. 4) A single noncommercial federal permit for vessel owners and per-trip catch reports. This would be least burdensome on administration and enforcement.

Some considerations include a) estimates of recreational fishermen in Hawaii ranges from 2,380, according to the NSAR count, to 475,000, according to the *Fisheries of the United States* report; b) Native Hawaiian community that consists of subsistence fishermen; c) data gap still exists because this action deals with EEZ waters only; and e) the State of Hawaii MHI noncommercial bottomfish example.

Some reasons given to consider noncommercial federal permitting and reporting include a) some former permitholders obtained Hawaii CMLs; b) prospective permitholders obtained Hawaii CML instead; c) fishermen claimed to fish only in State waters, hence permit not required; d) fishermen not aware of the requirement; e) no enforcement; and f) reality may be there are fewer noncommercial bottomfish fishermen than thought.

E. Bottomfish

1. Update on Bottomfish Life History Information

Bob Humphreys, from PIFSC Fishery Biology and Stock Assessment Division, Life History Program, provided a brief update on ongoing work to facilitate age and growth studies as well as diet through isotope analysis on bottomfish in collaboration with MHI and NWHI fishermen to obtain biological samples, including gonads, dorsal spines, fin clips, muscle tissue, liver samples and otoliths from ehu, gindai, hapuupuu, onaga, opakapaka and uku. The information can be used in models to allow stock assessment scientists to estimate biomass of fish in the MHI and evaluate sustainable yield of current fish populations to prevent overfishing from occurring. Two exploratory projects were completed recently on a research cruise on the R/V *Sette* off the Big Island. These included analyzing the trophic levels of opakapaka and work on the pelagic life history stages of bottomfish. Alan Andrews, assisting with the research, arrived at new longevity estimates for opakapaka using radio-chemical techniques that have only been applied to cold water fish, which is now being applied to tropical fish with the hope to apply the techniques to other bottomfish and reef fish in the future. The stable isotope analysis will aid in trying to figure out what trophic level the opakapaka species are feeding at various stages of life. The technique will also be used on four Deep Seven species and uku.

Preliminary results from the opakapaka stable isotope analysis include the following: Juveniles may be eating at a higher trophic level than adults. Adults are primarily zooplanktivores while juveniles are more benthic feeders. All juveniles analyzed were captured off the Big Island while the adults were caught off Kauai. Differences in baseline 15 Nitrogen (15N) values may explain the apparent decrease in trophic position with size. Another type of isotope analysis was performed using amino acids. This type of analysis will help determine whether 15N baseline values differ between juveniles and adults.

Andrews, also from PIFSC Life History Program, presented information on bomb radiocarbon dating of opakapaka. Age and growth is partially described, and longevity is unknown. Age and growth studies have been conducted from the Seychelles to Hawaii using various techniques to estimate age, such as daily growth increments; lunar growth increments; annual growth zones, which have not been supported by any kind of validation; length frequency analysis, with anywhere from maximum longevity of five years to 30 years for fish approaching or exceeding their maximum size; and growth constant estimates often calculated from small segment of length range.

Bomb radiocarbon dating uses readings from atmospheric testing of thermonuclear devices detonated in the 1950s and 1960s which created a global signal that doubled the radiocarbon in the atmosphere as well as a marine signal in a very short time. Tropical seas have hermatypic corals that record ocean chemistry. Annual banding is well documented. Delta C14 carbon

record can be used as an age calibration for other marine organisms. Coral records indicate regionally distinct Delta C14 Carbon response.

Response in the marine system for the Hawaiian Islands show a different amplitude. By using a method of isolating the core of the otolith the growth structure of the first six months worth of carbonate is extracted. The material is sent to Woods Hole Oceanographic Institute for analysis. The values are then plotted for the year of collection relative to the measured value and may be projected back in order to come up with an estimate of age.

Opakapaka conclusions included a) Lead-radium dating, longevity exceeds 34 years, long-lived life history is certain; b) Bomb radiocarbon dating, individual fish aged from eight to 43 years at 51 to 73 centimeters, oldest individual fish was 43, plus or minus one year; and c) Combined conclusion, early estimates of short life span are invalid, opakapaka is moderately long-lived species with longevity exceeding 40 years.

Andrews noted the report is available as well as are additional publications on similar work conducted in the Indo-Pacific. The same method is planned to be used on other species in the future, such as ehu and hapuupuu.

Discussion

Duenas commented that from his bottomfish fishing experience in Guam that small opakapaka, lehi and amberjack are found in three hundred to four hundred feet of water; kalakale is found deeper and rarely changes depth; gindae are found near slopes and drop-offs; ehu and onaga are found in deeper depths in the same area; and larger amberjack and opakapaka are found near the ehu and onaga. He added that generally the larger-sized fish will be caught first.

Humphreys agreed, and noted in Hawaii fishermen have reported some juvenile species are found hiding in adult habitat.

Itano pointed out there is a transfer model for larval tuna recently developed, which could be helpful in life history studies. Humphreys agreed. Itano added that when this method was applied to the southern bluefin tuna it more than doubled the expected age of the species at the time which really affected stock assessments. He asked if the growth curve is currently being used by the Center.

Andrews replied the method is still being refined and Brodziak is considering four different kinds of data, but it is getting close. Boggs added the last assessment changed its prior based on research and had an important effect.

Leialoha asked how the long-term age difference would affect the difference of age in terms of catch versus the reproductive value of the species.

Andrews replied its lifetime productivity potential is much, much greater.

Duenas asked if climate could affect the age estimates from otolith zone counting.

Andrews replied with opakapaka there are no zones to count. In other species, growth zones are very clear. Hapuupuu is the next species to be looked at.

Itano referred the Council members to Document 10.E.2, Draft Amendment for Hawaii Bottomfish EFH. A new publication by PIFSC, “Management of the Main Hawaiian Islands Bottomfish Fishery, Fishers’ Attitudes, Perceptions and Comments” by Justin Hospital and Courtney Beavers is available

2. Draft Amendment for Hawaiian Islands Bottomfish EFH (Action Item)

Mark Mitsuyasu, Council staff, provided alternatives to consider in revising the Hawaii bottomfish MUS (BMUS) EFH and HAPC designations based on new scientific information, contractor review recommendations and WPSAR findings. The revised designations apply to the Hawaii Deep Seven species and Hawaii deepslope bottomfish and groundfish, or other BMUS species.

The current Bottomfish EFH designation is 0 to 400 meters from shore to EEZ for eggs and larvae and 0 to 400 meters for juveniles and adults. After a brief background and history, alternatives for updating Bottomfish EFH were presented as follows: 1) No action, EFH designation for bottomfish remains the same, 0 to 400 meters. Shallow and deepwater complex descriptions; 2) EFH designation remains 0 to 400 meters. Description of subcomplex changes to shallow, intermediate and deepwater complexes with individual EFH definitions for all species and life stages, eggs, post-hatch pelagic, post-settlement and subadult and adult, recommended by WPSAR; 3) EFH designation remains 0 to 400 meters. Description changes to shallow, intermediate and deepwater complexes with individual EFH definitions for Deep 7 Species and life stages, eggs, post-hatch pelagic, post-settlement and subadult/adult).

Alternatives for updating Groundfish EFH were presented as follows: 1) No action, EFH for groundfish remains the same, 100 to 600 meters around Hancock Seamount; 2) Define EFH for specific life stages and add area-specific boundary designations for groundfish at Cross Seamount, which was recommended by WPSAR; 3) Define species-specific EFH for life stages and remove the area specific designation for groundfish.

Alternatives for updating Bottomfish HAPC were presented as follows: 1) No action, keeps current designation; 2) 16 defined HAPC areas in MHI, which was recommended by the Review; and 3) Seven defined HAPC areas, recommended by WPSAR.

Alternatives for updating Groundfish HAPC were presented as follows: 1) No action, which would maintain the absence of the definition within the FEP; and 2) HAPC designation to be congruent with Option 2 EFH designations for Seamount Groundfish in that it keeps all three species in a single groundfish complex, adds area-specific EFH designations around Cross Seamount, changes the overall depth range to zero to 600 meters, changes the post-settlement, subadults and adult depth ranges to 120 to 600 meters and provides a more accurate descriptor of the water column zone each species is generally found in at different life stages.

A series of maps were presented depicting the revisions around various Hawaiian Islands.

Discussion

Itano noted that there is an additional species of Beryx on Cross Seamount.

Mitsuyasu replied that he is aware of additional species and activities that impact habitat and he is in the process of including them with the assistance of Humphreys.

F. Community Projects, Activities and Issues

1. Report on Hawaii Regulatory Review Initiative

Mitsuyasu reported on collaborative work ongoing with Hawaii DLNR and other organizations to conduct a review of Hawaii fishing regulations to determine whether the rules are effective, appropriate and enforceable. The Council hosted a meeting of the Coordinating Committee on May 24 in the Council office, which included 29 MHI participants. They worked to coordinate working group meetings in their respective communities during the months of June through September 2011, with three rounds of meetings held to date. Some of the outcomes of the three rounds of meetings included identification of issues in the community related to regulations (what's working, what's not); prioritization of the issues; and identification of initial solutions to some of the key or major issues to the community. The Coordinating Committee reconvened on October 5 to vet working group outcomes and plan for a statewide puwalu to be held in November 2011. A final report on this regulatory review is expected in December 2011.

2. Maunalei Ahupuaa Restoration Project

Kingma presented information regarding the Restoration Project of the Maunalei ahupuaa on the island of Lanai. Pursuant to the Council's second Sustainable Fisheries Fund grant Council staff are in discussions with Castle and Cooke, Lanai community groups and the USCG on a project to reduce sedimentation emitting from Maunalei Stream on the eastern shore of Lanai. Historically, the stream was the only perennial stream on Lanai, but since the 1920s it has not flowed to the ocean on a year-round basis. The stream was used by Native Hawaiians as the only wet taro cultivation on Lanai. After heavy rainfall, the stream flows intermittently, and due to what is believed to be impacts from ungulates and invasive plant species, such as kiawe, significant sedimentation enters the ocean during stream flow. This project will investigate methods to reduce sedimentation and improve water quality in the nearshore area through ahupuaa restoration with the overall objective of improving the coral reef ecosystem fronting Maunalei. The funding to date is to develop a plan and to work with community members. It is expected to be a lengthy process.

3. Report on the Kona Integrated Ecosystem Assessment Workshop

Pooley reported on the status of the Kona Integrated Ecosystem Assessment (IEA) Workshop and a symposium that was held in September. IEAs provide the scientific input into CMSP. Kona was chosen as the location of the project because of its ecology and natural history and an area that has research conducted over a wide range of the ecosystem, both terrestrial, nearshore and offshore. It has many potential management issues now and in the future. The initial project objectives were to identify the management issues to establish data management and ecosystem modeling infrastructure, look at indicators about the ecosystem and build

modeling capacities and do community outreach. The three steps consist of scoping, indicators and modeling. An internal group was formed in February 2010 to scope out the issues internally. External scoping was conducted with a variety of federal and state partners, the Kohala Center, the University of Hawaii and the symposium. Issues were identified such as larval connectivity and retention, ground water and runoff effects and relationship between terrestrial and ocean effects. A website and brochure were created. Socioeconomic indicators have been analyzed, as well as modeling options of coastal and reef communities. A variety of social science activities are underway. A research cruise was conducted which looked for hot spots for cetacean activity, compared offshore and onshore eddy activity and looked at larval availability.

Plans for FY12 include the following: identify ecosystem indicators for the region; develop the socioeconomic indicators to have some rationale within the context of the community there; expand the data portal that's already been developed; look at oceanographic effects on yellow tang larval distribution; and develop modeling to allow management strategy evaluation and conduct another evaluation and conduct another research cruise.

Discussion

Simonds noted that the project is a good project for community involvement, suggested American Samoa would be an ideal location for such a project and asked for clarification as to the funding of the project.

Pooley said the project received \$500,000 for the 18 months of operation. It is expected to receive \$70,000 for 2012, which will be used to wrap the project up. He noted it is a good way to look at broad ecosystem questions involving spatially explicit areas, such as Pago Harbor, and also address management questions.

4. Report on Community Fish Aggregation Devices

Pursuant to the Council's first Sustainable Fisheries Fund Grant, four community FADs were deployed in Hawaii in late August 2011, two on the north shore of Maui and two south of the Big Island. Unfortunately, one of the South Big Island FADs became detached and was removed. The Council's FADS are equipped with satellite beacons to provide daily position reports. Some benefits of FADs are that they can reduce the time and fuel fishermen need to catch fish. Resource management questions relating to FADs are of interest to the Council. A major component of this project is a voluntary data collection program. Community FADs also help facilitate cooperative research, such as tagging programs, which the Council hopes to initiate in the near future with the fishing communities. Catch reports are beginning to be received by Council staff, and a more detailed report is expected for the March 2011 meeting. Information on the location of the FADs and catch reporting forms are on the Council's website.

The State FAD Program has been in existence since 1980. The State maintains about 50 FADs across the state. Most of those FADs are within about 10 to 15 miles from shore and are generally less than 1,000 fathoms. Funding comes from the Sportsfish Restoration Funds. The State's program focuses on maintaining opportunities for recreational fishermen or noncommercial fishermen.

For years several Hawaii fishermen have been deploying private FADs and have no authorization from the USCG or the Army Corp. The FADs pose navigational risks or hazards. The Council considered incorporating it as fishing gear, but did not move forward. The FADs are considered property.

In 2006 the Council was approached by Hana fishermen to assist them in a FAD project. This was the first legally established non-State of Hawaii FAD in the state approved by USCG. They formed an offshore fishermen's association. They began to outline their vision of fisheries development, including ice, marketing, cold storage and transportation. It detached several months later but was later recovered. The Hana community then put out their own FAD without Council funding support. There has been some confusion and tension regarding the FAD. In November of 2010, working with Layne Nakagawa and Ray Shirakawa, a public informational meeting was held with hopes to resolve some of the issues. One of the recommendations that came out of the meeting was to provide Kahului or non-Hana fishermen their own FADs in strategic areas in deeper waters that would produce similar catches that were being experienced out of Hana. In late August 2011 funding from the First Sustainable Fisheries Fund two community FADs were deployed off of North Maui,

Since it is easier to build several FADs instead of piecemeal, the Council worked with the South Big Island community to build a FAD and deployed it off Kauna Point, which is in between Milolii and South Point, in 2,000 fathoms with navigational lights and beacons. Voluntary catch information is collected, similar to the State of Hawaii catch report form. The project provides an additional mechanism for cooperative research with fishermen. So far, data shows mahimahi, yellowfin and bigeye are around the FADs with reporting from approximately 20 boats on Maui and 15 boats on the Big Island. The reports are submitted on a monthly basis.

Nakagawa reported the FADs are a bit different from the State FADs in design and placement. The FADs are 15-by-5 foot, similar to a dingy hull, painted yellow with a 6-foot light pole and a beacon off the back. The exact location of the FAD is known at all times. The FAD produces about 1,000 pounds of fish overnight. The catch includes yellowfin, bigeye and mahimahi. The fishermen receive support from Mama's Fishhouse on Maui, who buys fish from the fishermen. The restaurant also submitted a report on how much the FADs are helping its restaurant and the community. The voluntary reporting is done through Brian Yoshikawa, who owns Maui Sporting Goods, one of two fishing supply stores on the island, by issuing and receiving the voluntary fish reports. People are fishing the FADs every day.

Kingma added that the project provides community support and recognizes the importances of the smaller fisheries in Hawaii. The feedback has been very positive.

Discussion

Palacios asked for clarification on the design of the FAD.

Nakagawa replied that the hull design is fiberglass with three bulkheads to support the light and beacon. The inside is stuffed with styrafoam.

Itano noted there is an international conference set for November in Tahiti called Tuna Fisheries and Fish Aggregating Devices, and this project was accepted for an oral presentation. He asked clarification as to why the Molokai FAD request was denied.

Kingma replied staff held several meetings with the local community and others on the design of the FAD, but it was denied by the Army Corp of Engineers and PIRO stated they would not approve any shallow-water FADs within the whale sanctuary.

Itano expressed hope that the effort would be resurrected.

Duenas asked the cost per unit and if the design and configuration is proprietary because in Guam it costs 50 grand for each deployment.

Kingma replied between \$6,000 to \$10,000 each, and the design is not proprietary and can be shared with the other jurisdictions.

5. Update from State on Shark Finning Policy

Oishi reported DLNR responded to the Council's request regarding enforcement of the banning of shark finning in Hawaii. Enforcement replied that it would be illegal to possess the shark with fins attached.

Discussion

Martin noted the complications for fishermen caused by the conflict between State and Federal law and needs to be resolved.

Simonds pointed out that the Council made a request to Legal Counsel in June 2010 for an opinion as to whether or not the Feds would preempt the State or not. Since that time several other territories and California have passed legislation.

Tucher agreed it is problematic. He clarified that the Federal law says that if sharks are landed, they must have fins naturally attached. Therefore, to say that there is an irreconcilable conflict between the Shark Conservation Act of 2010 and the State of Hawaii law would not be accurate. He noted that previous advice to the Council included reference to the Supremacy Clause and Preemption. There are two types of preemption: actual preemption, which is when the statute speaks to the issue of whether the State may legislate in the same area as the Federal law, and implied preemption, where an individual regulated by both State and the Federal jurisdiction either cannot comply with both or the federal scheme is so pervasive that it essentially displaces the State law and is preempted. Under MSA Section 306, states are allowed to regulate fisheries over their citizens and are allowed to regulate the citizens' conduct in the EEZ as well as State waters provided those regulations are consistent with any applicable FMP and regulations. Federal regulations can and do preempt State law. The next level of the analysis was for purposes of a NOAA legal challenge. The conflict would have to meet a standard of substantial and adverse conflict, and the analysis would be conducted through an Administrative Procedure Act hearing before an administrative law judge and would require factual findings that there was an adverse and substantial conflict between the Federal and State requirements. Tucher noted he asked NMFS to provide the Council a statement that the two are in conflict and that

there is factually a substantial adverse conflict such that an objective under the FMP is being impeded by the State law.

Itano asked Tucher if he was able to rule that there is a substantial conflict.

Tucher replied that he required from the NOAA GC a statement of impact to the fishery and that would occur in a factual proceeding.

Duenas said a similar law in Guam also needs to be clarified.

Martin said there is also a conflict in requiring bycatch discards.

Dalzell said data shows that the two species landed in the Hawaii longline fishery are short-fin mako and long-fin thresher. Fins can sell for up to 50 cents a pound. The segment of the fleet that retains and lands sharks is not currently landing any sharks, while trip costs continue to rise.

Itano said there is a clear conflict that needs to be cleared up so fishermen can be in compliance.

Tucher said he does not agree that as a legal matter there is a conflict because one option is to not land sharks, which is a separate question from whether there's a substantial and adverse impact as a result of an impact on an FMP. If you possess a permit the argument would be you should be able to land any lawfully harvested shark notwithstanding the State law, which can be raised as a defense. Most of the cases of preemption are privately raised as a defense to a penalty.

6. Report on the Open Ocean Aquaculture Project

Lisa Croft, deputy regional administrator, PIRO, said she visited the Open Ocean Aquaculture Project. It is scaled down from what had originally been proposed. It is cost-effective and there is good growth.

Discussion

Itano asked how long it is projected to operate and its future plans.

Croft did not know the answer. She said the project was sold and the permit transferred to the new owner, Kona Kampachi, and will operate through the trial period, which was analyzed in the Environmental Assessment.

Itano said it would be a good opportunity to tag tuna with sonic tags.

Croft thought it was a good idea and added there haven't been any cetacean interactions.

G. NonCommercial Fisheries Data Advisory Committee and Hawaii Plan Team Recommendations

This agenda item was covered under other agenda items.

H. Scientific and Statistical Committee Recommendations

Callaghan reported the SSC recommendations as follows:

- *With regard to Alternatives for Noncommercial Data Collection in Hawaii*, the SSC reiterated its previous support for Alternative 4 to require a single federal permit for vessel owners with per trip reporting and adds a further recommendation that the eventual permit form include space for an option to document crew member identification and participation.
- *With regard to EFH and HAPC*, the SSC reiterated its concurrence with the recommendations for the Preferred Alternatives as presented by the WPSAR committee and as incorporated in the current amendment.

I. Public Hearing

No public comments were offered.

J. Council Discussion and Action

- *Regarding Noncommercial Fishery Data Collection in Hawaii*, **the Council directs staff to hold a workshop in December with the State of Hawaii, NMFS, PIRO, PIFSC, fishermen and other interested persons to develop solutions for collecting noncommercial fishery data for Hawaii.**

Moved by Itano; seconded by Leialoha.

Motion passed.

- *Regarding Hawaii Bottomfish and Seamount Groundfish EFH*, **the Council recommends staff to prepare the draft amendment for final action at the Council's June meeting that includes the following preferred alternatives:**
 - **Bottomfish EFH Alternative 2, which was the WPSAR-recommended alternative, EFH Designation remains 0 to 400 meters, description of subcomplex of bottomfish changes from two subcomplexes, shallow and deep, to four complexes, shallow, intermediate and deep water, with individual EFH definitions for all species and life stages, eggs, post-hatch, pelagic, post-settlement and subadult, adult to adult.**
 - **Seamount Groundfish EFH Alternative 2, also WPSAR-recommended: Maintain three species in a single groundfish complex. Add area-specific EFH Designations around Cross Seamount. Change the overall EFH depth range from 100 to 600 meters to 0 to 600 meters. Establish post-settlement, subadult and adult depth ranges as 120 to 600 meters. Provide a more accurate descriptor of the water column zone that these species are generally found in at different life stages as described in Appendix 3.**

- **Bottomfish Complex HAPC, Alternative 3, also, WPSAR-recommended: Kaena Point, Oahu. Kaneohe Bay, Oahu. Makapuu, Oahu. Penguin Banks, South Molokai. Palolo Channel, Maui. North Kahoolawe, Kahoolawe. Hilo, Hawaii.**
- **Seamount Groundfish HAPC, Alternative 2, also WPSAR-recommended: Establish HAPC designation as congruent with the EFH designations for seamount groundfish in that it i) Maintains all four species in a single groundfish complex; ii) Adds area-specific EFH designations around Cross Seamount; iii) Changes the overall depth range to 0 to 600 meters; iv) Changes the post-settlement, subadults and adult depth ranges to 120 to 600 meters; and v) Provides a more accurate descriptor of the water column zone each stage is generally found in at different life stages.**

Moved by Itano; seconded by Tulafono.
Motion passed.

Tosatto pointed out that PIRO is still analyzing the effects the Hawaii bottomfish EFH revisions might have on the management of the species and, if any problems arise, PIRO will inform the Council.

Oishi said the State of Hawaii is waiting an analysis of the effectiveness of the BRFAs and would like to abstain on Part C.

Duenas said Tosatto may note his concerns during the vote unless the Maker agrees to a separate vote on Part C.

Itano did not agree to separate out Part C.

Simonds pointed out the action will come up again in the June 2012 Council meeting, which should be enough time to receive the report on the Hawaii HAPCs at the March meeting.

Itano suggested an amendment to reflect there are four groundfish species in the complex in the preferred alternative that will move forward. There was no objection from the Second.

Oishi stated that regarding Item C, designation of HAPC areas for Hawaii bottomfish, the State of Hawaii is currently undergoing a contract with the University to analyze four years of Bot-Cam data from the BRFAs and would like to be able to review the analysis before endorsing any set of BRFAs that will serve as HAPC areas.

- **Regarding Hawaii Bottomfish Stock Assessments, the Council recommends NMFS Science Center conduct a stock assessment on uku, *Aprion virescens*, in Hawaii.**

Moved by Itano; seconded by Tulafono.
Motion passed.

11. Pelagics and International Fisheries

A. Recommendations on American Samoa Swordfish Longline Fishery (Action Item)

Dalzell reported that the American Samoa longline fishery transformed beginning in 2000 to the use of primarily conventional large monohull vessels. This allowed for the use of observers to track protected species interactions. The extrapolation of the observations made by NMFS between 2006 and 2010 suggested an annual average of 33 green turtle interactions with a 92 percent mortality rate. In September 2011 NMFS implemented Council Amendment 5 to the Pelagics FEP (PFEP) to require all hooks to be set at at least the 100-meter depth. Amendment 5 prohibits any shallow-set longline fishing for swordfish or other shallow-water species in American Samoa. American Samoa vessels have successfully targeted swordfish but have not yielded the expected financial returns. American Samoa longliners may regain interest in targeting swordfish if marketing issues are solved.

The Council considered different mechanisms at the 151st Council meeting and directed staff to draft a PFEP amendment to establish measures for an American Samoa shallow-set longline fishery and minimize impacts to sea turtles and seabirds.

Dalzell noted that the Cook Islands is developing a shallow-set fishery for swordfish in partnership with overseas fishing companies based in China, Taiwan and PagoPago and that Spanish longline vessels have annually caught between 730 and 4,200 metric tons on the high seas waters of the South Pacific, shipping their catch to Europe through French Polynesia.

The alternatives were 1) No action. 2) Amend the PFEP to permit the use of shallow-set longline fishing to target swordfish without any sea turtle or seabird mitigation measures. 3) Amend the PFEP to permit the use of shallow-set longline fishing to target swordfish employing the full suite of mitigation measures required for sea turtle in the Hawaii shallow-set fishery but without specific seabird mitigation measures. 4) Amend the PFEP to permit the use of shallow-set longline fishing to target swordfish employing the full suite of measures required for sea turtle and seabird mitigation measures required in Hawaii. 5) Amend the PFEP to permit the use of shallow-set longline fishing to target swordfish employing sea turtle and seabird mitigation measures required in Hawaii as well as spatial restrictions on the shallow-set fishery, such as fishing exclusion within the US EEZ around American Samoa and permit fishing south of 20 degrees South.

After presenting the analysis of the pros and cons of each alternative, Dalzell asked for the Council's deliberations on the following items: Whether to proceed forward with an amendment given that there is no indication of interest of fishing from swordfish by the American Samoa fleet at this time. If the Council wishes to proceed with an amendment then it may consider a preferred alternative for a shallow-set swordfish longline fishery in American Samoa from the range of alternatives as presented or suggest other alternatives. Recognizing the lack of information for the development of an amendment document the Council may wish to encourage interested persons to apply for an Exempted Fishing Permit (EFP) while the amendment is being drafted, which could provide data inputs for the amendment document. Similarly, the Council

may wish to encourage cooperative research projects to be conducted in conjunction with EFPs to test measures such as hook and bait combinations.

B. Striped Marlin Catch Limits (Action Item)

Dalzell presented the background on the striped marlin catch limit item. Adopted at the Seventh Meeting of the WCPFC, Conservation and Management Measure (CMM) 2010-01 requires Commission Members and Cooperating non-Members (CCMs) to reduce total catches of North Pacific striped marlin in a phased reduction that by January 1, 2013, catch is 80 percent of the levels caught in 2000 to 2003. CMM 2010-01 covers all fisheries, not just longline fisheries. The US historical catches of striped marlin in the North Pacific WCPFC convention area have ranged from about 200 to 700 metric tons. Applying this measure to the period 2000 to 2003, when the maximum catch was 573 metric tons, produces the phased-down catch of 458 metric tons. Dalzell presented various graphics of striped marlin catch, including 1980 to 2009 historical catches and a 2011 forecasted catch of 400 metric tons.

No stock assessment was completed for North Pacific striped marlin in 2011. The assessment is planned to be completed and presented at ISC12, scheduled for July 2012 and will be presented at the 8th Meeting of the WCPFC Scientific Committee.

At the 151st Council meeting the following recommendations were adopted:

- That PIFSC apprise PIRO on a quarterly basis of the North Pacific striped marlin cumulative catch by weight in the WCPFC convention area from the Hawaii-based longline fishery.
- That Hawaii DAR provides PIRO a similar quarterly catch total of striped marlin for non-longline pelagic fisheries.
- That PIFSC conduct the following analyses to help develop management options for the North Pacific striped marlin, should any be needed:
 - Using Hawaii longline observer data, summarize the number of striped marlin based on condition, dead or alive, upon retrieval by associated sizes.
 - Using Hawaii dealer data, examine the market values of striped and blue marlin size categories to ascertain the economic impacts to the fisheries if a minimum size category were implemented.
 - Examine the effects on the amount of retained catches in Hawaii-based fisheries of striped marlin and striped and blue marlin combined in the North Pacific of the WCPFC area, if live-boated fish smaller than specified minimum sizes were required to be released. The analysis would examine various possible minimum sizes including no minimum size.

Dalzell asked the Council to take action to consider any other recommendations with respect to striped marlin, noting that the WCPO stock assessment and other analyses as outlined

will not be available until 2012. The same request was presented to the Council's SSC at its 108th meeting.

Keith Bigelow reported on the analyses conducted per the Council recommendation from the 151st Council meeting in June 2011 to develop potential management options for striped marlin should any be needed, using Hawaii longline observer data summarize the number of striped marlin based on condition, dead or alive, upon retrieval by associated sizes.

The first analysis was a comparison of longline trials using the J hook, tuna hook and 18/0 circle hook. The results found the circle hook reduced striped marlin catchability by 42 percent.

Results of the PIRO observer program data to determine distribution of catches according to hook depth results found that the removal of the shallowest hook would correspond to an 18 percent reduction of the catch of striped marlin; removal of the first two or first three hooks would correspond to a 34 percent or 47 percent reduction in the striped marlin catch, respectively.

The third analysis looked at a variety of spatial closures in the deepset fishery to compare the reduction of bigeye tuna catch to striped marlin catch. There were no areas that stood out as striped marlin hot spots because bigeye occurs with striped marlin. The analyses concluded that 1) The catch rate with the circle hooks compared to the commonly used tuna hooks was about 42 percent less striped marlin retrieved alive than with the tuna hooks; 2) The percentage of live retrieval increases with size of fish; 3) Striped marlin bycatch is low in both fisheries, 5 percent for the deep-set and 11 percent for the shallow-set; and 4) Unknown post-release survival of alive-released fish. Current PIFSC study deploys pop-up satellite archival tags (PSATs) on live-released fish.

Discussion

Martin noted PIFSC's evaluation of the longline fishery's catch of striped marlin improved when weight rather than number of fish caught was used in the analysis.

C. Information on Yellowfin Tuna around the Main Hawaiian Islands: Management Implication

Itano presented information on yellowfin tuna around the MHI and what it might mean to management of species in Hawaii. According to conventional tagging studies in the 1970s, tuna move between different regions of the Pacific. Skipjack move more than 1,000 nautical miles, mostly around the equator with some movement up to Japan and down to New Zealand, with no real exchange to Hawaii. The yellowfin tagged in this skipjack project remained fairly equatorial. Twenty years later the regional tuna tagging project, concentrating on skipjack and yellowfin tunas, tagged 100,000 individual fish which showed similar movements as the previous study. A total of 8,000 tagged bigeye were tagged recaptured in Hawaii and one yellowfin recaptured above Hawaii. This showed that some exchange between tropical and sub-tropical area may be possible. The WCPFC has an ongoing tagging project with over 300,000 tropical tunas tagged to date. Similar movement thus far has been shown, but with no real exchange to Hawaii. Large-scale tagging projects conducted by SPC in the West Pacific and IATTC in the East Pacific show similar results, with very little exchange between the regions.

In the late '90s the Hawaii Tuna Tagging Project (HTTP), which tagged 1,500 yellowfin at Midway, showed movement east and west with some recaptures in Japan and Emperor Seamounts, as well as recaptures in MHI. One yellowfin was recaptured in the Eastern Pacific around Mexico. Every one of the 5,500 yellowfin tagged in the MHI were recaptured in the MHI. Bigeye tagged during this project were recaptured in the outer zone or high seas surrounding Hawaii as they grew. Itano noted results showed of a fairly strong residency of yellowfin once they get into Hawaiian waters.

Acoustic tagging was used to monitor fine-scale movements and residency time around FADs surrounding Oahu. Results showed yellowfin stay on average seven or eight days on any one FAD. Some examples showed extended stays up to a month, logging in at the FAD 85 to 100 percent of the time within a half mile of the buoy over 41 days, which increases their chance for recapture. Yellowfin seem to remain within the FAD network for long periods of time. Archival tags were used to monitor location after leaving the FADs. Results have shown restricted movements within the Main Hawaiian Islands. Satellite tags were used to monitor geo-locations. Limited results so far have shown once the yellowfin arrive in the Hawaiian Island waters they tend to stay, noting that the equatorial yellowfin is different.

Eleven different studies on growth of yellowfin tuna reveal fast growth, quick maturity and high productivity. Hawaiian waters showed L50 at 112 meters. L50 refers to 50 percent of the population being mature, but age of first spawning is considerably less. Histological examinations of the gonads showed when the water temperatures rise above 76 degrees yellowfin start to spawn in April or May and continue until September; they shut off when waters start to cool. During the peak spawning period between June and August spawning occurs at a daily rate of two to five million eggs repeatedly.

Hawaii-specific estimates of natural mortality from model output of the HTTP tagging data suggest the 46 to 55 centimeter size range.

A PFRP-funded study about to be published looks at the nursery origin of yellowfin and bigeye in the Hawaiian Islands using otolith composition as chemical markers to where fish were born and where they have been in their life. The presumption is there may be fish coming in from south of Hawaii. Local spawning and recruitment of yellowfin in Hawaii is critically important to local fisheries.

Itano summarized saying yellowfin tuna in Hawaiian waters are very rapidly-growing fish; can reach over 50 pounds during the first two and a half years of life; can mature at less than two years of age with an L50 around two and a half years of age; are highly fecund, repeatedly spawning millions of eggs per night from April to October, with peak spawning from June to August; have initial high natural mortality that quickly drops to minimal levels at relative small sizes; appear to be primarily locally spawned/recruited with a smaller immigrant component from south of Hawaii; and tend to remain in Hawaiian waters throughout their lifetime with low exchange rates between Hawaii and other regions of the Pacific.

A paper by John Sibert and John Hampton that looked at lifetime movements or recapture rates of tropical tunas posed the question, is local management of yellowfin tuna worth

considering, recognizing that broad-scale management over unification or harmonization is also very important.

Itano suggested the following studies would be of use in deliberation of yellowfin management measures: a) Examine long-term trends in yellowfin CPUE by size class for coastal troll and handline gear; b) Investigate and estimate the landings and economic value of small yellowfin tuna in poorly documented fisheries and markets; c) Determine the contribution of yellowfin tuna to commercial landings at small size classes; d) Examine sociocultural impacts of raising the commercial size limit on yellowfin tuna or the imposition of recreational size bag limits; and e) Conduct a yield per recruit analysis of yellowfin harvested by Hawaii-based fisheries.

Discussion

Duenas asked if maturity and growth in Guam would be similar to Hawaii.

Itano replied that maturity and growth is very different by region. According to his study, the L50 for the region of Guam is lower. Waters are warm enough to have spawning year-round for yellowfin tuna.

D. American Samoa and Hawaii Longline Quarterly Reports

Lowe summarized the second quarter 2011 catch summary highlights of the American Samoa longline fishery as follows: 22 active vessels, 953 sets, 2.7 million hooks set with about 2,869 hooks per set, 59,000 fish caught, with the majority being albacore (approximately 34,000). The catch summary for the Hawaii longline fishery second quarter in 2011 included 122 active vessels; 378 trips, with 343 trips targeting tuna; 4,428 sets; 3,938 deep sets; and 9.7 million hooks, with 73 % outside of the EEZ, 13 percent in the MHI EEZ and none percent in the NWHI EEZ.

Discussion

Itano asked whether the number of hooks were increasing.

Lowe replied that the number of vessels has been stable since 2005 and effort has been stable since 2007.

Martin said the saturation point may have been reached, which could lead to a leveling off of effort.

E. International Fisheries Meetings

1. Kobe III

Dalzell reported on the Kobe III meeting was held in LaJolla, California from July 12 to 14, 2011, to harmonize issues among five tuna Regional Fishery Management Organizations (RFMOs). Topics of the meeting included science, management, and compliance and enforcement. Future steps of the Kobe process are the IATTC-WCPFC workshop and the

Bycatch Joint Technical Working Group to address the overlap zone of the two organizations south of the equator.

2. Kobe III Technical Bycatch Working Group

Dalzell presented a report on the Technical Bycatch Working Group, which was also held in LaJolla, California, shortly before the Kobe III meeting. Terms of Reference for the Working Group addressed data, including reporting accuracy, compliance and the role of observers, information to and collaboration with fleets, gaps in mitigation technologies and capacity-building shortfalls. There were lengthy discussions regarding data collection and harmonization. Also addressed were sharks, such as research to determine the impacts and outcomes of intentional sets on whale sharks, recording discards and develop risk assessment processes to develop priorities for shark species. Some of the collaboration and research recommendations developed included sea turtle bycatch mitigation and distribution; post-release survival of sharks, manta and devil rays, sea turtles and seabirds; best practices for handling and release of techniques of sharks, manta, devil rays, sea turtles and seabirds; and shark bycatch mitigation, primarily in longlines and also purse seines and gillnets.

3. Western and Central Pacific Fisheries Commission Science Committee

Bigelow presented the report of the WCPFC Science Committee (SC) held in Phonpei, FSM, in August 2011. The four themes of the meeting were Ecosystem and Bycatch Mitigation, Management Issues, Data and Statistics, and Stock Assessment.

The SPC Oceanic Fisheries Program (OFP), which is the science provider for the Commission, presented the 2010 purse seine tuna catch statistics as follows: Total catch, 1.8 million metric tons, third highest on record, but 80 percent lower than the 2009 record. Skipjack - 1.3 million metric tons, second highest on record but lower than 2009. Yellowfin - 380,000 metric tons, third highest on record but higher than 2009. Bigeye - 54,000 metric tons, which is the lowest amount since 2007. After the purse seine fishery was reanalyzed it was realized bigeye was under-represented in some of the observer samples throughout time. A graphic was shown depicting trends in the proportion of effort by set type, anchored FADs predominantly in Papua, New Guinea, drifting FADs, log or naturally-occurring log sets and unassociated sets. In 2010 there was a higher incidence of unassociated sets which affects the dynamics of the catch and bycatch.

The 2010 WCPFC longline fishery statistics were as follows: Total catch - 248,000 metric tons, second highest on record. Yellowfin - 82,000 metric tons, highest on record since 1988. Bigeye - 64,000 metric tons, lowest since 1996. Albacore - 100,000 metric tons, record catch, which includes both the North Pacific and South Pacific Ocean.

Points of interest for 2010 included the following: Purse seine fleet experienced an increase of 280 vessels, and continues to increase. Longline domestic Pacific Island country fleet experienced an increase of 87 vessels. Longline distant water fishing nation (DWFN) fleet experienced an increase of 26 vessels. DWFN vessel trips can be up to a year out at sea and is believed to target the South Pacific albacore population or the tropical yellowfin and bigeye. Pole and line fleet remained relatively stable.

The estimated delivered value of the catch in 2010 was reported as \$2.4 billion for the purse seine fishery, second highest on record; \$1.5 billion for the longline fishery, highest on record; or a total of \$4 billion ex-vessel value.

Status of the Stocks Summary included five stocks. Skipjack continues to increase, approximately 1.6 million tons. Catch in 2010 was dominated by the purse seine fleet. Pole and line fishing continues to decline. Stock is decreasing slowly, presently at 50 percent depletion from its unexploited level. Current catches are now approaching MSY. Yellowfin catch increased after 2008. Full potential of yellowfin has been reached. Stock has decreased steadily, approaching 60 percent depletion from its unexploited level. Potential spatial management concerns exist for yellowfin in that the exploitation is much higher in the Western Pacific, mainly the Philippines, Indonesian and Papua New Guinea, than in the Central Pacific. Bigeye catch has levelled out over the past 10 years. Catch levels have declined for the longline catch of adults. Recent increased purse seine catch with the introduction of FADs. Biomass has declined steadily. There is a very high level of depletion, approaching 80 percent, which equals 20 percent biomass compared to the level in 1952. South Pacific albacore is mainly a longline fishery, catching adult albacore. Catch has doubled since 1995, increasing 30 percent in 2010 over 2009. Small troll fishery in New Zealand with brief driftnet activity in the late 1980s. Biomass has declined steadily since the mid '60s. Stock depletion due to fishing is approximately 40 percent. Current catches are approaching MSY. Bigeye tuna overfishing is occurring and may be approaching the overfished condition. For yellowfin, skipjack and South Pacific albacore overfishing is not occurring and none of the four species is overfished at this time.

The Committee recommended that the Commission should consider mitigation measures for oceanic whitetip and blue sharks. After five years of discussion on reference points, a recommendation was made to adopt a hierarchical approach to identify the key limit to reference points. The Committee discussed a peer review process of the 2011 bigeye stock assessment and preparation of a 2012 workshop on management objectives. 2012 assessments to be conducted on South Pacific albacore, Western Pacific striped marlin, oceanic whitetip and silky shark. Bigeye recommendations included a minimum of 32 percent reduction of fishing mortality from the average levels from 2006 to 2009 to return to the fishing mortality at MSY. It's too early to quantitatively conclude whether CMM 2008-01 has reduced fishing mortality for bigeye tuna to the levels specified in the CMM. The Committee will have to wait until 2013 to 2014 to qualify the mortality rate relative to the actual reductions in the CMM 2008-01.

Discussion

Simonds asked if any of the members reacted to the report that only 20 percent of the bigeye biomass is left.

Bigelow said the depletion is not necessarily bad. If the objective of management is MSY, the stock must be depleted to get to MSY. For some stocks it's typically 40 to 60 percent depletion, depending on the productivity of the stock. He noted that 80 percent is too much and the stock assessment scientists have warned managers for 12 years that overfishing was occurring and that there is concern about bigeye.

4. Western and Central Pacific Fisheries Commission Northern Committee

Duenas presented a report of the Seventh Meeting of the WCPFC Northern Committee (NC). Species of concern include North Pacific albacore, Pacific bluefin and North Pacific swordfish. Japan reported a 26 percent reduction in catch of skipjack of its artisanal fisheries for the third year in a row. Duenas noted a similar problem in Guam. There are 5,000 artisanal vessels registered in Japan, mostly coastal troll vessels. Restrictions on commercial harvest of Pacific bluefin tuna, time closures are in effect. China and Spain were absent from the meeting.

Tosatto reported significant progress was made regarding a new management framework for North Pacific albacore in the NC. This can be expanded to other stocks within the NC and the WCPFC framework with the Kobe Decision Matrix, but which also sets reference points for the primary stocks in the WCPFC and then begins to manage following a set of decision points. Progress regarding observer programs and VMS also was made when Chinese Taipei and Taiwan agreed to implement 5 percent observer coverage in their fisheries in the NC area, although Japan did not agree to the implementation of VMS in its fisheries in the northwest quadrant.

Discussion

Martin noted having enough observers presents its own set of technical problems.

5. Western and Central Pacific Fisheries Commission Technical and Compliance Committee

Kingma presented a report on the Technical and Compliance Committee (TCC) meeting, which was held in Pohnpei, FSM. The TCC considers vessels to be included on the draft Illegal, Unregulated and Unreported (IUU) vessel list, reviews the documentation of the IUU event activity and then either agrees or disagrees on moving that vessel forward for the provisional list to be adopted by the Commission. There were new IUU vessels or cases listed this year at this meeting. Costs were incurred for ongoing activities of the Commission, such as VMS and observers. Because some countries are having difficulty providing their share for membership there is a movement to get some of the cost recovery back through vessel owners paying for some of the costs. There is further work needed on this topic. Regarding compliance with CMMs, each year members provide a two-part report, Part 1 regarding science and catch information and Part 2 regarding compliance with the CMMs. The Secretariat is now undergoing a process to obtain the Part 2 information and produce a compliance report. An important issue this year was whether China and Kiribati's longline bigeye catch attribution of 4,000 metric tons in 2009 and 2010 was in compliance. The catch has not been included within the stock assessments or the projection.

Regarding VMS, the program has been implemented for the past three or four years with several thousand VMS units in operation reporting to two different systems, under the FFA system in Honiara and the Commission's VMS Program. When a vessel goes on the high seas, its position is supposed to be reported to the Commission. Ongoing issues include cost and access to VMS data and implementation with the national observer programs. There is 100 percent observer coverage in the purse seine fishery.

A catch attribution study was produced this year looking at a wide range of issues. The catch documentation scheme is ongoing and most likely will require much more consideration. There is no regional agreement at TCC regarding Port State measures. There are proposals on new CMMs related to whale sharks and cetaceans and entry and exit notification schemes. The TCC was tasked to consider the new CMM for bigeye, yellowfin and skipjack last year at WCPFC 7 in Hawaii. The TCC was to consider a preliminary document and then forward that advice to the Commission meeting in December of this year. In mid September the Chair produced a strawman proposal for a new measure. It solicited a lot of discussion and some significant interest.

Bigelow presented information regarding the effectiveness of the Commission's CCM 2008-01 presented by Hampton at SC7 and TCC7. The objective of the CMM was to reduce fishing mortality of bigeye by 30 percent. Bigelow noted that scientists can't determine the effectiveness because it is too early in the process, but he presented some indicators of the fishery provided by Hampton. The objective was to limit purse seine effort to 2004 levels, which were about 40,000 vessel days. The 2010 effort is about an 18 percent increase on 2004 on the basis of just vessel days. The CMM hasn't been effective in restricting total purse seine effort to the 2001-2004 nor the 2004 levels. Graphs were shown depicting annual effort in different spatial areas. In 2009 and 2010 two high seas pockets were closed which caused a reduction. The large increase is mainly in the Parties to the Nauru Agreement (PNA) EEZs through time. There was a FAD closure in 2009 during August and September and July through September in 2010, which reduced the catch of skipjack. Bigeye tuna catch was dramatically reduced because of the FAD closure. The average weights of both skipjack and yellowfin increase dramatically during the closure periods because of the switch to targeting adult yellowfin during FAD closure periods, which increases the economic value. At least 4,000 tons of bigeye has not been attributed to anyone in 2009, as well as an unknown amount for 2010.

Some of the decision-making on a new CMM is based on projections from the 2011 stock assessment and the assumptions about effort of the purse seine fishery, catches in the longline fishery and also catches in Indonesia and the Philippines. Some preliminary projections were presented at TCC. The following were considered: a) The United States is looking at projections from a total closure of two or three months in comparison with a FAD closure of two to six months; b) There is concern regarding the accuracy of the dramatic reduction in longline catch for 2009-2010, the dramatic difference in purse seine effort of 32 percent and uncertainty in the Philippine and Indonesia catch; and c) With the use of 2009 as the base year, the bigeye tuna stock is still in overfishing condition. Additional work by the SPC OFP is needed because of the vastly different results but similar conclusions.

Discussion

Itano asked if the safe release of whale sharks was covered at the TC7. He asked Tosatto what the NMFS policy will be on the issue of cetaceans and whale sharks and if there are any papers to be tabled at the next Commission meeting.

Tosatto replied the whale shark proposals were discussed along the lines of passing the issue on to the full Commission meeting. The Agency's proposed measure prohibiting the unintentional set on whale sharks is problematic for the operation of the fishery but is generally

supportive of the need to address intentional sets on whale sharks. New Zealand and FFA are working on those guidelines to advance them into a viable form. Several proposals are being worked on. It is still undecided whether they will be presented as a combined measure addressing whales and whale sharks or as two separate measures.

Kingma stated that a letter was distributed to Council members from Russell Smith to the chair of the Commission. Dr. Charles Karnella indicates the US positions on the chair's draft, discussion at the TCC and what the United States would like to see going forward. The chair and the Secretariat are preparing a new draft CMM that will be available in the near future. The decision is expected at the WCPFC8 meeting in December. Kingma added that the point is that 2010 as a baseline is likely great if those fishing conditions are replicated, but there's no guarantee that those fishing conditions are going to be replicated. He noted that 75 percent of purse seine fishing took place on unassociated schools in 2010, which has never happened before. There are many unanswered questions about baseline issues. The SSC had comments and a recommendation with respect to using a single-year baseline.

Martin pointed out that the CMM 2008-01 called for a 2004 freeze on purse seine levels. In 2004 there were 204 vessels. Now 280 purse seine vessels are active in the Western and Central Pacific and more are under construction. He expressed hope that the US position is strong in curtailing capacity. He noted that even skipjack is approaching MSY.

Kingma added that in the Pelagics Standing Committee report there is lengthy discussion regarding previous Council recommendations on a new conservation and management measure for as well as the need for uniform compliance of limits established therein.

6. International Scientific Committee Eleventh Meeting

Pooley reported the following regarding 11th meeting of the International Scientific Committee (ISC). The ISC is the committee on tuna and tuna-like species that was established as a bilateral memorandum by Japan and the United States in 1995 and now has membership from Canada, Taiwan, Korea, Japan, Mexico, United States and China. A plenary meeting was held in July 2011 in San Francisco. All of the countries attended except for China. The importance of independent scientific advice as opposed to fishery agency advice was reiterated in the scientific bodies like the ISC.

The major item on the agenda in terms of assessments was the North Pacific Albacore Working Group, which completed its transition from an age structure model to a length-based assessment model successfully, and compared them and presented results to the ISC. The North Pacific albacore stock is not experiencing overfishing. Management measures for some of these stocks are not well defined. It's not likely an overfished situation, but fishing mortality rates should not be increased.

In other matters, the ISC reiterated its management advice for Pacific bluefin tuna, striped marlin and swordfish. Although there was new information on those fisheries, there were no new assessments. The Shark Working Group Plan was endorsed, and more work will be done by colleagues in LaJolla. A seminar was conducted on best available scientific information by Jon Brodziak to incorporate within the ISC operations manual. The Work Plan for 2011-2012

included the striped marlin stock assessment to be completed in December 2011 and approved or disapproved by the ISC Plenary next July, which will be in Sapporo, Japan.

7. North Pacific Regional Fishery Management Organization PrepCon

Rini Ghosh, from PIRO, presented the report on the North Pacific Fisheries Commission RFMO PrepCon meeting, which is a new RFMO being developed to manage resources on the high seas in the North Pacific Ocean. Seven countries currently participate: Canada, China, Chinese Taipei, Japan, Korea, Russia and the United States. The final English text of the convention was adopted in March 2011 in Vancouver, but because Canada requires an authentic French version of the text the convention has not yet been open for signature. However, in anticipation of the entry into force of the convention and the development of the RFMO, a Preparatory Conference has been convened to discuss and deliberate on certain matters. The first meeting of the Preparatory Conference was held in Busan, South Korea, from August 29 through September 2. The main agenda topics discussed were the draft Rules of Procedure and the draft Financial Regulations prepared by the US Department of State. Although some matters were tentatively agreed to, all of the provisions remain on the table and are open for consideration at future meetings of the Preparatory Conference.

The development of a Work Plan for the Preparatory Conference was also discussed. The items for the Work Plan were divided into three main topics: Administrative Matters; Data and Scientific Matter; and Monitoring, Control and Surveillance Matters. The participants are deliberating whether there will be an independent Secretariat or whether responsibilities of the Secretariat would be shared with an existing Secretariat. Another main topic of discussion was an update provided by the United States regarding Development of an Encounter Protocol for Vulnerable Marine Ecosystems. Dr. Loh-lee Low of the Alaska Fisheries Science Center has been tasked with leading an intersessional working group to progress development of the protocol. He is currently consulting internally with NMFS scientists regarding development of this work. The Preparatory Conference tentatively agreed that a summary of his work and work with the working group as well as other scientific matters would be presented at the third meeting of the Preparatory Conference, tentatively scheduled for August of 2012. The next meeting of the Preparatory Conference is scheduled for February in Japan.

F. Disapproved Amendments

Tosatto reported NMFS disapproved two Council amendments that would have addressed potential interaction with small-scale troll vessels in American Samoa and the Mariana Archipelago. One measure recommended the closure of the entire US EEZ around the Mariana archipelago, including Guam, to purse seine fishing. The second amendment expanded the large vessel closed area to 75 nm to purse seiners in American Samoa. The stated purpose was to address potential gear conflicts, catch competition and localized fish depletion. During Secretarial review, it was determined that the information provided did not support the need for a full closure of the entire EEZ. No purse seine fishery is there, and it is speculative to believe that there will be. The evidence on localized catch depletion was minimal, and there was no evidence on gear conflict. In American Samoa the rationale for the extension of the additional 25 miles to prohibit purse seine fishing was not supported. Tosatto said that, as the dynamics of the fisheries change, the Council will have opportunity to readdress its need at a later date. NMFS claims that

the basis of the disapproval was inconsistency of the interactions between tuna fisheries, and the American Samoa amendment showed a significant correlation between purse seine catches of yellowfin tuna and skipjack versus combined yellowfin and skipjack troll catch rates.

Dalzell presented information on the rationale provided by NMFS for disapproving the submitted amendments. Reasons for CNMI purse seine measure disapproval were as follows: a) Insufficient evidence of any impact of purse seine fishing on other fisheries and fish stocks in the region, and inconclusive evidence of an impact of purse seine fisheries on other fisheries, in general; b) Speculative nature of the stated risk of displacement of purse seine effort into the EEZ around the Mariana archipelago; c) The lack of convincing evidence that purse seine fishing adversely affects other fishery sectors or fish stocks, except perhaps over relatively small areas. NMFS concluded that the Council's proposal is inadequately supported by science and, accordingly, is inconsistent with National Standard 2, use of the best science available.

Reasons for disapproving the American Samoa purse seine measure (under Amendment 3) were presented as follows: a) Adoption of a 75-nm purse seine prohibited area would be contrary to the bulk of the available scientific information that shows inconclusive evidence of purse seine impacts on other fisheries; b) An adequate explanation is not given as to why the existing 50-nm large vessel prohibited area, which includes purse seine vessels, is inadequate to achieve the conservation and management objectives; and c) Due to the aforementioned reasons Amendment 3 is inconsistent with National Standard 2.

Dalzell noted the three fisheries the amendments were addressing were troll, purse seine and longline fisheries. He outlined the supportive data for the proposed amendment. An FAO Fisheries Tech Paper from a series of meetings held on the Status of Interactions of Pacific Tuna Fisheries in 1995 authored by Hampton, Lawson, Williams and Sibert, which addressed small-scale fisheries in Kiribati and the industrial purse seine fishery in the Western and Central Pacific Ocean stated the following: 1) Over large areas, such as within radii of 300 to 600 nm of the islands, artisanal catch rates and purse seine catches were generally positively correlated, suggesting that on this scale variations in the abundance of catchability of yellowfin affect both purse seiners and artisanal catches in the same way. However, some negative correlations were found for smaller areas, 60 nm, and time scales, indicating that localized effects could occur. 2) The results of correlation and tagging data analysis suggested adverse impacts of purse seine fishing on artisanal and pole-and-line skipjack catches in the Gilbert Islands are more likely to occur on a small scale, one degree square or less, due to local concentrations of purse seine effort rather than at regional scale or on a scale of 10 degrees. Dalzell also referred to a 1999 paper by Pierre Kleiber, which was presented and reviewed at the Lake Arrowhead Conference. Various graphic examples were shown, some of which pertained to the correlation of yellowfin troll CPUE and purse seine catch around Kiribati, purse seine impacts to American Samoa trollers, combined longline and purse seine skipjack and yellowfin catches versus troll CPUE, Marianas Archipelago proximity to the world's largest purse seine tuna fishery, Guam skipjack and yellowfin CPUE and purse seine trends.

Dalzell presented examples of best science. In American Samoa, the small number of data points established a negative relationship between skipjack and yellowfin troll CPUE and skipjack and yellowfin purse seine catch. Causal relationship is not well understood since longline yellowfin and skipjack catch is larger than purse seine catch. Purse seining may reduce

availability of surface schooling fish to the troll fishery. There is no documented purse seine fishing in the US EEZ around Guam, however, this segment of the US EEZ is adjacent to the world's largest tuna fishery. Guam's skipjack CPUE is increasing. The yellowfin CPUE is decreasing. Yellowfin composition in the troll catch has declined by one order of magnitude over three decades. Guam's yellowfin CPUE declines as the WCPO yellowfin catch increases. Similar skipjack and yellowfin CPUE trends are observed in the US purse seine fleets and other purse seine fleets. There's no parallel trend in the CNMI troll data.

Discussion

Duenas noted the GFCM skipjack information differed from the information presented and was recently sent to the WCPFC. The GFCM yellowfin catch is on a continuous decline for the last decade. He pointed out the Guam fishery harvests the same fish species as the purse seine fishery, skipjack tuna and small yellowfin tuna, which is no different from any other small-scale Pacific Island artisanal fleet. Some of the largest purse seiners were stationed on Guam for over a decade. Duenas said the justification for the disapproval of the amendments seems weak and should be re-evaluated.

Palacios said it's the first time he has seen such small-sized skipjack, 8 inches or less, being sold in the market in CNMI. When fishermen were asked why they are catching babies, the fishermen replied that that is what gets on the hook. Palacios said he has learned through conversation that the same is happening in American Samoa. He said someone in the federal office should take a look at the problem in an effort to find a solution.

Tucher acknowledged Dalzell's efforts in putting together the amendments, which helped him to understand the issues. GC conducted the legal review of the amendments under the Administrative Procedures Act standard, which applies the MSA National Standards, and cleared the PIRO action of a partial approval and disapproval on the Mariana amendment. He explained that FMPs and plan amendments must be necessary and appropriate to accomplish a legitimate conservation purpose. He said there must be a real and existent threat. In this case, National Standard 2 requires that CMMs must be based on the best scientific information available, which means they must rely on concrete analysis that allows the Secretary to rationally conclude that the selected alternative will accomplish the necessary and appropriate need that was identified. To that end, the Council may consider weaker, incomplete scientific information with the caveat that it cannot fail to consider other countervailing evidence in the record. If weak and inconclusive evidence is relied upon, an explanation must be provided as to why the other evidence in the record is not persuasive. This was the concern because a number of studies and regressions presented and objectively analyzed did not support, from a legal standpoint, the action urged upon NMFS through the amendment. The amendment says, in summary, the statistically significant correlation and regression No. 7—and that's seven out of 12 regressions run—and the borderline significant regression Nos. 1 and 10 may be statistical artifacts. However, the possibility that purse seine catches in the US EEZ around American Samoa, especially of skipjack, does have some weak but detectable influence on troll CPUE cannot be discounted. Tucher further noted that unfortunately under the Administrative Procedures Act review it must be explained why the Agency is relying on potentially weak but detectable influences on troll CPUE to the exclusion of other regressions that do not identify that kind of

impact. The evaluation is made on what is transmitted to the Agency. An explanation must be given as to why one doesn't go with the countervailing evidence.

Itano said the appearance of a lot of really small fish is not necessarily bad and could point to a high level of recruitment or could be a reflection of a different gear targeting a different segment of the fishery. He said the take-home message he remembers from the FAO series of consultations on interactions was that proximity matters, how close an industrial fishery is and how large it is in scale is a determining factor in discerning interaction issues with small-scale fisheries. It is difficult to show concrete evidence of integration because of the vagaries of the oceanic environment. His earlier presentation regarding yellowfin around MHI is unique because of the isolation of the Hawaiian archipelago. Yellowfin behave differently in the Western Pacific as the islands are more connected. Also, the transfer effects of purse seine removals of skipjack biomass have been proven through the tagging data between the core biomass and the regions. He suggested that Dalzell utilize a body of literature that deals with the breakoff of the mean biomass of skipjack that goes into the Kuroshio Current.

Duenas pointed out the main exercise of the amendments is to conserve and protect a fishery resource in a US EEZ. The legal opinion to reject the approval of the amendments did not have any science to refute the science the Council provided. He noted the irony regarding the fact that the Agency is using such weak science to uplist the Hawaii troll fishery to Category 2.

Leialoha asked for clarification in regard to the caveat of the countervalue of the evidence, which was the basis for rejecting the proposals.

Tucher clarified that there were words to the effect of inconclusive or no evidence or statistical artifacts throughout the amendment and the way the Administrative Procedure Act requires the analysis to be applied is you can pick and choose the science that you want to rely on, but you need to explain why you're not relying on the evidence you omit to follow. The record is looked at holistically and then it is determined if the evidence supports the action, and, if not, does the document explain why the other evidence does not justify approval.

Leialoha asked Dalzell if the Council has an opportunity to resubmit the proposals and work with PIRO towards approval.

Dalzell replied in the affirmative and added that in science all arguments are presented, even the countervailing ones, and it seems that the countervailing arguments can always be used to deny the argument put forth in support of the measure.

Tosatto noted that the Marianas amendment was not approved based on National Standard 2. The sum of the evidence has to be sufficient that supports the Agency taking the action that the Council is recommending and Dalzell's statement that each and every time countervailing information is presented it is used to disapprove proposals is not necessarily the case. The Agency will consider the evidence in support of and countervailing evidence to the measure and the sum of the record. For the Marianas, in particular, the weight of the evidence and nature of the evidence in support of impacts by purse seining on other gear types was considered. Some of the countervailing evidence was inconclusive in nature and speculative in nature. All of that,

supported by the legal review, led to the decision. He added that in moving forward the Council would need to look at new information across the full range of the issues in making the decision.

Simonds commented that the amendments have been developed over several years and it would have been great to get better support from the Agency, but it was very clear that the US purse seine industry opposed the amendments while there are ongoing negotiations on the South Pacific Tuna Treaty for which the US pays \$18 million a year. She added that at a recent TCC meeting she was approached by four US purse seiners who asked for help to change the requirements so they could fish in the US EEZ. She noted that there would need to be congressional action to change USCG requirements.

Duenas said the situation reminds him of the previous American Samoa closure area amendment where the State Department sent a letter saying that to do so it would put the South Pacific Tuna Treaty in jeopardy.

Martin said it seems that NOAA is selectively using different methodologies to take away areas that are traditionally known to be used by various American fishing groups with a stroke of a pen with no science at all and part of the problem is the Agency is getting away from Magnuson and is using the Sanctuaries Act and Marine Monuments as a way of taking away access to Americans. When the island communities come forward and presents the best available science, it is rejected. The management is being taken away from the Council.

G. Scientific and Statistical Committee Recommendations

Callaghan reported the SSC recommendations as follows:

- *With Regard to the WCPFC Technical and Compliance Committee Meeting*, the SSC concluded that the choice of a time frame to serve as a base year for making projections of future stock conditions or for defining a current state of the fishery is more complicated than simply picking a particular base year. The SSC recommends that a thorough investigation be conducted by the science provider for the WCPFC to determine an appropriate base year time frame in the context of the Western Pacific tuna fisheries.

H. Pelagics Standing Committee Recommendations

Martin referred Council members to Document 11.H.(1), which is a summary of the Standing Committee meeting.

Discussion

Martin asked for clarification with regard to the discussion in the SC meeting with regard to the shortline/hybrid fishery as to whether it is a State of Hawaii designated fishery.

Oishi replied he did not know and would have to check, but he understands there is a hybrid fishery that refers to mixed gears. There is also a definition for shortline in the CML reporting booklet.

Martin said the WCPFC is set to have a new measure regarding striped marlin that will entail all fisheries. There is a concern within the industry that there will be a shift in vessel effort to what is called the shortline fishery, as they are not currently subject to any bigeye conservation measures.

I. Public Hearing

No public comments were offered.

J. Council Discussion and Action

- **Regarding a Shallow-set Longline Fishery for Swordfish in American Samoa, the Council directed staff to continue to develop a Draft FEP Amendment that contains an appropriate range of management alternatives and associated impact analyses.**

Moved by Martin; seconded by Sword.

Motion passed.

Itano requested clarification that as this recommendation is being developed it will not preclude a fisherman from seeking his own exempted fishing permit.

Duenas replied in the affirmative, exempted fishing permit is an option that's always available to any fishery.

- **Regarding the development of a new tuna CMM in the Western and Central Pacific Ocean, the Council endorsed the SSC conclusion that the choice of a time frame to serve as a basis for making projections of future stock conditions or for defining a current state of the fishery is more complicated than simply picking a particular base year. The Council strongly recommends that NMFS request a thorough investigation be conducted by the science provider to the WCPFC to determine an appropriate time frame in the context of the Western Pacific tuna fisheries.**

Moved by Martin; seconded by Tulafono.

Motion passed.

- **Regarding North Pacific striped marlin, the Council directed staff to continue developing management options that consider minimum sizes, gear modifications, discards, allocation and any other options that may be deemed appropriate.**

Moved by Martin; seconded by Tulafono.

Motion passed.

Itano suggested adding the words "and any other options that may be deemed appropriate." There were no objections by the Maker or the Second.

- **Regarding landings of PMUS of sharks in the WPR, the Council directs staff to work with fishermen to provide additional information to NMFS to evaluate the impact of State of Hawaii, Guam and CNMI shark fin possession/sale laws on the lawful harvesting of sharks under federal permits.**

Moved by Martin; seconded by Tulafono.

Motion passed.

Seman suggested adding “/sale,” noting that in CNMI the sale of the fin is outlawed. There was no objection from the Maker or the Second.

Tosatto noted that NMFS and PIFSC are redundant. There was no objection for the removal of PIFSC.

12. Protected Species

Tosatto commented that several of the items in the Protected Species section of the agenda are in varying stages of development and staff may not be able to answer all questions the Council may pose. He added that the public comment period will be reopening for the Hawaiian monk seal critical habitat designation, but no public meetings are scheduled to be held and the decision-making timeline will not be delayed. Tosatto noted he will be leaving shortly and his deputy, Lisa Croft, will sit in his chair.

Simonds thanked Tosatto for extending the comment period as the timing of the critical habitat designation and the programmatic environmental impact statement (PEIS) caused a lot of confusion for the public. The Council had invited the petitioner, KAHEA, to come to the Council meeting and received an e-mail reply that said they would come if Council provided baby-sitters for them.

A. Loggerhead Turtle Final Listing Rule and New Biological Opinion

Pat Opay, PIRO Protected Resources Division, presented a brief update on the loggerhead sea turtle final listing rule and the Hawaii-based shallow-set longline fishery BO. On September 16, 2011, NMFS issued a final rule determining that the loggerhead sea turtle is composed of nine DPSs that constitute species under the ESA. The rule published on September 22, 2011, and is effective on October 23, 2011. The rule and other documents are available on the NMFS website. Four DPSs were listed as threatened and five were listed as endangered. DPS is defined as a vertebrate population that is discrete from other populations of the species and significant in relation to the entire species. The ESA provides for listing species, subspecies or DPSs of vertebrate species. The two relevant populations to the Council are the North Pacific Ocean and South Pacific Ocean DPSs. Conclusions and determinations made were based on an assessment of population sizes and trends, current and anticipated threats and conservation efforts for each DPS. Due to its small nesting range and small size of nesting population, an estimated decline of 50 to 90 percent in the size of the nesting population since the 1950s, significant and ongoing threats to the nesting beaches, significant and continuing fishery bycatch with limited bycatch reduction success except in the Hawaii longline fishery and only limited efforts at conservation thus far, NMFS determined that the North Pacific Ocean DPS is in danger of extinction. The

boundary for the North Pacific Ocean DPS is from 60 degrees N to the equator. The boundary for the South Pacific Ocean DPS is from the equator to 60 degrees S and 67 degrees W to 141 degrees E.

Opay also presented an update on the Hawaii-based shallow-set longline fishery BO. A BO analyzing management modifications for the swordfish fishery implementation of Amendment 18 was issued on October 15, 2008. On December 16, 2009, the Turtle Island Restoration Network, Center for Biological Diversity (CBD) and the Hawaiian Environmental Alliance filed a lawsuit to challenge the existing NMFS 2008 BO and December 10, 2009, final rule implementing Amendment 18 relating to the fishery. On January 31, 2011, a settlement was reached and was memorialized as a stipulated injunction approved by the court. The provisions of the 2008 BO related to loggerheads and leatherbacks, including the ITS, were vacated and remanded to the Agency. Under the stipulated injunction NMFS was required to implement the previous ITS of 17 loggerheads and 16 leatherbacks pending completion of a new BO. The consent decree also specified that NMFS shall issue a new BO and ITS for the fishery within 135 days of taking final action on proposed loggerhead rule-making. NMFS re-initiated Section 7 formal consultation on September 16, 2011, and must issue a new BO by January 27, 2012. NMFS will assess the effects of the shallow-set longline fishery on the North Pacific Ocean DPS. The operation of the fishery under the PFEP will be consulted on at an effort level of 5,500 sets per year and analyze effects of the fishery that is expected to produce annual interaction rates of one humpback whale, 35 loggerhead sea turtles, 23 leatherback sea turtles, two olive ridley sea turtles and four green sea turtles, which were determined by using the most up-to-date information and data provided by the observer program. Sea turtle mortality estimates from the proposed action, using the same method as used in the 2008 opinion, calculated mortality rates using NMFS Technical Memo and observer data, are 18.8 percent for loggerhead and 22.4 percent for leatherback, which will be applied to the number of projected interactions. Ongoing collaborative work with PIFSC will assess and model the effects of the proposed action on the sea turtles. A climate-based assessment will be reviewed during analysis and considered, as appropriate. Efforts to improve the status of sea turtles are recognized and considered in the BO in the status section. Other fisheries such as the Taiwan and China tuna fishery will be considered in the environmental baseline of the BO. The environmental baseline is an analysis of the effects of past and ongoing human and natural factors leading to the current status of the species, its habitat and ecosystem within the action area. The BO is scheduled to be signed on January 27, 2012.

Discussion

Martin asked for clarification on the consideration of transferred effects with regard to the BO, the method used to arrive at the expected ESA interactions and observed mortality rates. He also informed Opay that the industry is interested in getting a clear understanding of the models used in the new BO at the soonest available period of time, both for review by the industry and for the Council's SSC to be able to evaluate and help fine-tune the models.

Opay replied that the transferred effects definitely will be taken into consideration and work is ongoing with PIFSC to determine the most current science available. The expected interactions with ESA species were determined by taking the current interaction rates based on historical information in the fisheries and multiplied out for the effort level of 5,500 sets per year.

Observed mortality rates were determined by using the categories in the Tech Memo, such as severity of hooking and release condition and multiplied it out using data from 2004 to current rates.

Duenas agreed with Martin in regard to making the models available for review by the SSC and asked if the consideration of the transferred effects will include the success of the Council's loggerhead turtle conservation programs over the years.

Opay said he doubted that the Council's turtle conservation results will be used to the extent of equating numbers of nests protected in exchange for numbers of turtle mortalities in the fishery, but it will give some sort of positive note at the end of the exercise. He offered to share the Tech Memo, which is considered the best available science.

Tosatto said the Agency is moving toward the idea of conservation banking and is developing the science to support the concept in the marine realm, particularly on the scale of assessing impacts of the fishery and movement of the species over a wide range, but the science is not quite there yet.

Duenas pointed out the unfairness of looking at the loggerhead stock Pacific-wide and not considering the Pacific-wide impacts in developing the BO.

Opay agreed what is happening in other fisheries could be drastically affecting the recovery, which is why the Agency has international turtle programs. The BO contains sections that address current threats or impacts and future impacts of other fisheries. Information from research of all available literature and working in close collaboration with the International Fisheries Division is incorporated in the BO, but there is some difficulty getting information on international fisheries.

Martin said it might be more appropriate to weight the more recent mortalities rates. Since there will not be another SSC meeting prior to the issuance of the BO, he looks forward to having access to the model sooner rather than later.

Tosatto said it was too early to provide a definite date.

Simonds agreed that the SSC would like to review the model and is ready to do so at the earliest possible time, but would appreciate avoid having only one day to review, which is what happened in the past.

Itano asked for clarification as to whether the mortality estimates include mortality and serious injury. He said the method of calculation appeared to be a very circular process. Various cap levels should be analyzed. If the best available science is not used, the BO can be challenged for not complying with National Standard 2.

Opay said mortality estimate numbers will be applied to the number of interactions, which will estimate mortality from the proposed action of 5,500 sets in order to evaluate the maximum potential amount of interactions.

Itano expressed concern that the uplisting of the species is misleading and could be misconstrued by environmental groups.

Tosatto said the ESA is not the MSA and is not NEPA. A proposed action is presented to be analyzed. The proposed action was presented as the continuance of the shallow-set longline fishery unconstrained in effort with 5,500 sets obtainable as the optimized fishery, which is what Amendment 18 analyzed and what it expected to be the optimized fishery.

Kingma offered clarification regarding the 5,500 sets. It is the long-term historical average of the shallow-set longline fishery since the early 1990s. The highest annual set level was 9,000 sets in the early 1990s or late 1980s. He noted Council staff attending the upcoming webinar by PIFSC would be beneficial. The Council is aware of peer-reviewed literature available that is considered the best available science, which has different estimates of post-hooking mortality for loggerhead turtles and is empirical data derived from satellite tagging. He hoped the outcomes of the webinar will be applied to the BO process and not have to go through a Technical Memo process.

Opay replied the official NMFS guidance and policy is the Tech Memo, and they continue to work closely with headquarters.

Kingma asked for clarification as to the option of using best available science that is not NMFS-approved, stamped Technical Memo in the analysis of the BO.

Tosatto replied it is clearly stated that MSA uses National Standard 2 to present guidelines on the use of the best available information. NMFS biologists developing the BO are relying on NMFS guidance, are given leeway to use the best available information and will consider when information is produced whether it is useful and whether it can be reliably used.

Martin noted concern by the industry as to the objectiveness of moving forward with an unbiased BO. He recognized HLA will be able to participate in the BO as an applicant and will have to wait to see where the numbers fall.

Opay said they are being objective.

B. False Killer Whale Take Reduction Plan Proposed Rule and Take Reduction Team Meeting

Lisa Van Atta, PIRO assistant regional administrator for protected resources, presented an update on the Proposed FKW Take Reduction Plan and the July FKW Take Reduction Team meeting. The proposed rule was published in the Federal Register on July 18, 2011, with a 90-day comment period. Take Reduction Team meetings were held on July 27-29 and October 4, 2011. The public comment period closed on October 17, 2011. The next step includes compiling and considering public comments, revision of management measures as appropriate, draft final rule and analyses, and clearance and publication of the final rule, which will become effective 30 days after the final rule is published. The rule may specify different effective dates for some measures.

The proposed FKW Take Reduction Plan regulatory measures include the following:

- Weak circle hook requirement, which applies to the deepset fishery, requires the use of 14/0 to 16/0 circle hooks with wire diameter less than 4.0 millimeter, round wire, with less than 10 degree offset. The requirement was based on results of the Bigelow et al. 2011 study that indicated no substantial negative effect on target species catch rates compared to the control circle hook with a 4.5 millimeter wire diameter. Hooks not meeting the requirement may not be used, but may be onboard if stowed and unavailable for use. Economic and supply consideration, public comments requested and an implementation consideration, such as timing of the effective date of the regulation. Same as Take Reduction Team recommendation.
- Minimum monofilament diameter requirement for leaders and branchlines, which applies to the deepset fishery. Any monofilament line used in branchlines and leaders must be less than 2.0 millimeter in diameter, breaking strength of about 400 pounds. Any other materials used in branchlines and leaders must have a breaking strength of less than or equal to 400 pounds. Ensures hook is weakest component of terminal tackle. Same as Take Reduction Team recommendation.
- MHI Longline Fishing Prohibited Area. Remove the regulation that changes the boundary of the longline prohibited areas seasonally and maintain the larger area closure year-round. It would prohibit longline fishing year-round in a large portion of the insular population's range. Same as Take Reduction Team recommendation to create a Northern Exclusion Zone.
- Annual certification in marine mammal interaction mitigation. Train captains in marine mammal handling and release, as part of existing mandatory Protected Species Workshops. Same as Take Reduction Team recommendation.
- Marine mammal handling/release guidelines posting requirement. Post placard with handling/release guidelines. Same as Take Reduction Team recommendation.
- Captain supervision of marine mammal interactions. Captain must supervise marine mammal interactions. Same as Take Reduction Team recommendation.
- Captain notification placard posting requirement. Post sticker instructing crew to notify captain, but no regulatory requirement. Same as Take Reduction Team recommendation.
- Southern Exclusion Zone (SEZ) closure, deepset fishery. NMFS's proposed measures were based on the Take Reduction Team's recommendations but modified to better ensure FKW mortality and serious injury would get reduced to less than the Potential Biological Removal (PBR). Mechanism proposed by NMFS states that if mortality and serious injury of FKWs by the deepset fishery inside the EEZ meets the designated trigger, the SEZ will be closed to deepset longline fishing for the remainder of the year and will be reopened at the beginning of the following year. If there are any additional mortalities or serious injuries in the following four years, NMFS would close the SEZ to deepset longline fishing until reopened by NMFS. Potential reopening criteria are identified in the rule, but not included in regulations,

to allow NMFS the flexibility to consider scenarios not addressed by the Take Reduction Team's criteria.

The proposed FKW Take Reduction Plan nonregulatory measures included the following:

- Increase precision of bycatch estimates in deepset longline fishery. The Take Reduction Team recommended NMFS increase observer coverage in the deepset longline fishery to at least 25 percent. NMFS proposed no overall increase in coverage but revised sampling strategies and observer allocation to increase precision of bycatch estimates. The rationale is the recommended increase would result in little gain in precision at high cost, estimated one million dollars and the revised sampling provides a greater benefit at little to no extra cost.
- Notify the Take Reduction Team of observed interactions with known or possible FKWs.
- Expedite serious injury determinations.
- Change observer training and data collection protocols.
- Expedite processing of cetacean assessment survey data; and
- Reconvene Take Reduction Team at regular intervals.

The proposed FKW Take Reduction Plan research and data collection included the following:

- Pursue the additional research and data collection goals outlined by the Take Reduction Team, within the constraints of available funding; and
- Consider the Take Reduction Team's recommendations when establishing NMFS funding priorities.

A 90-day public comment period solicited comments on any aspect of the proposed rule but specifically requested comments on the proposed SEZ.

Van Atta noted that, at the 108th SSC, the Agency was presented with a simple, graphical, cumulative sum model for use in defining the trigger, and both the management side and the science side is looking at it closely.

At the July FKW Take Reduction Team meeting 16 of the 19 members attended. The objectives of the meeting included the following: a) Provide updates on recent Take Reduction Team related activities, including stock status and recent marine mammal interactions; b) Review and discuss the proposed Take Reduction Plan rule; c) Discuss possible approaches for evaluating the effectiveness of the Take Reduction Plan; d) Identify emerging issues related to other fisheries, such as American Samoa longline, Hawaii state fisheries, and consider implications for future Team deliberations; and e) Outline next steps, including potential joint recommendations and work teams.

Outcomes of the meeting included the following: 1) Discussion of the proposed Take Reduction Plan rule focused on hook requirements and SEZ trigger, closure and reopening mechanisms. No consensus was reached regarding the rule or any of its measures, but some areas of apparent agreement that may be used as a basis for individual comment letters. 2) NMFS will draft with Take Reduction Team assistance and review, a strategy for monitoring the Take Reduction Plan effectiveness. 3) NMFS and Take Reduction Team working group will meet via teleconference to consider whether revisions to the Take Reduction Team Take Reduction Plan or to include additional measures are needed and what data need to be collected prior to any potential future change.

Statutorily, the final rule is due on December 17, 2011.

Discussion

Duenas asked for clarification as to the SEZ and the triggers for closure.

Van Atta said the SEZ is open until a specific trigger is met. The SEZ is an area of numerous historical observed takes and interactions of FKWs. Once the SEZ is closed, it reopens automatically on January 1. The basis for the trigger is observed FKW mortality or serious injury in the deepset longline fishery within the EEZ around Hawaii. Same as the Take Reduction Team recommended. Requirements are confirmed species identification from the insular population and confirmed mortality or serious injury. The trigger formula is less than or equal to five times the amount of observer coverage times PBR and is the highest number of observed FKW mortality or serious injury inside the EEZ that when roughly extrapolated based on observer coverage would keep a five-year average of mortality and serious injury level below PBR so that in a single year the estimate can exceed PBR, but over the five years it has to remain below. The onus would be on the Agency to specify each year's PBR and target observer coverage and trigger by Federal Register Notice at the beginning of each year. Van Atta added that when the SEZ is closed for the remainder of the year the Take Reduction Team is reconvened to assess the cause of the trigger. If there is an incidental, serious injury or mortality in any of the four consecutive years, the SEZ is closed to deepset longline fishing until NMFS reopens it. It's the Agency's position that this maintains flexibility and allows NMFS to consider scenarios not addressed by the Take Reduction Team.

Duenas expressed concern for fishermen who go to the trouble to refit their gear but the SEZ closes regardless.

Van Atta replied that four HLA fishery representatives and the HLA lawyer were members of the 19-member Take Reduction Team. The team reached consensus on the gear changes and signed a document of consensus on all aspects of the SEZ except for the consecutive year trigger. The deepset fishermen had buy-in and even suggested the measures to NMFS.

Tucher noted the retrofitting and the weak hooks are intended to avoid serious injury and mortality interactions to preclude triggering closure of the SEZ.

Itano pointed out the deepset longline fishery is the only federally permitted longlining that takes place in the SEZ. He asked if the federal government would assist with the costs to retrofit

to weak hooks and leaders, for clarification on the measures to which the Take Reduction Team did not agree and for clarification regarding species identification of FKW and other black fish.

Van Atta replied the costs were analyzed in an economic study and is being considered. Public comment was received stating the study was not as robust as it needed to be. Regarding species identification, Van Atta noted that some interactions are identified as “blackfish,” which refers to both false killer whales and pilot whales. She added that they prefer to have the captain make the species identification as they are required to participate in Protected Species Workshops and are instructed on how to appropriately handle and release animals from gear. Van Atta also noted the Draft Take Reduction Plan was regarded as a consensus-based plan, but the Team debated whether NMFS appropriately implemented what it recommended in its plan regarding the hook requirement and the SEZ. In the 75-page Take Reduction Plan the three areas where NMFS’s proposed plan deviated from the Take Reduction Team were no increase in observer coverage, no regulatory requirement for the crew to notify the captain in the event of a marine mammal interaction and a change in the consecutive year trigger that closes the SEZ.

Martin commented it would be wrong to think there are 130 active fishermen happy with the plan, such as the deletion of the reduced closed area on the north side of the islands, which is a huge concern for the fleet. The HLA Take Reduction Team members were all large vessel operators in the fleet and their perspectives were not always shared by some of the smaller vessel operators with less capabilities. NMFS having discretion on reopening of the SEZ in consecutive years is also problematic, and there is question as to whether the weak hook study was evaluated based upon current hook sizes used by the majority of the fleet.

Van Atta replied that a working group, consisting of Bigelow and members of the fishing community, are working to address the effects of the hook sizes.

Martin suggested the working group could also address the confusion caused by the requirement regarding shape of the wire as well. The industry members are not in harmony as to taking part in the exercise again. The industry does not enthusiastically support the Take Reduction Plan, but they had their backs against the wall and did their best in good faith to work with the Take Reduction Team. There’s some work to be done as far as the industry is concerned.

Dalzell noted the SSC formed a subcommittee to review the Take Reduction Plan and submit comments and echoed a comment from one of the SSC members that the methodology is not trying to do anything different with respect to the mortality and serious injury-based PBR, it’s just a way of manipulating it in such a way that it provides a more flexible operating procedure for the management of that SEZ. He noted that during the actual experiment on hook diameter there was actually a straightening of a 4.5 millimeter hook, which is an example that a 4.5 millimeter hook would work. Another comment questioned the upper limit on hook size when a relatively thin wire would allow the hook to more easily straighten. There was also serious concern regarding the supporting documentation, the economic impacts are also weak, the measures will lead to less diversity in the participation and doubts interest in FKWs would support an ecotourism industry. It is still unclear if the proposed rule is approved that it will mean amending the FMP for implementation and will be consistent.

Martin noted concern for the heavy burden put upon an observer to have the responsibility of potentially shutting down thousands of square miles to an industry for an undetermined amount of time based upon one person's observation and is not quite clear how to ground-truth a determination of a serious injury or mortality.

Van Atta said the observer notes the interaction on a form with as much data as possible, including photographs or video. The observer then comes into port and is debriefed by the observer program in consultation with the management side and sometimes the scientific side as well. The observer does not make the serious injury or mortality determination. PIFSC makes the determination. There is a Technical Memo on how serious injury determinations are made that is now out for public comment, which closes November 22. The Tech Memo sets up a process by which it should normalize and equalize how the Agency is looking at serious injuries so that when a PIFSC scientist determines that this is a serious injury, it would be the same as if any scientist within an Agency made that same determination. There are checks and balances on that process. The captain and crew would not engage in the serious injury determination. They could submit their own information, but it is a NMFS determination.

Martin asked if outside experts will be involved in the serious injury determination.

Van Atta mentioned a new proposed process that runs serious injury determinations through the Scientific Review Group (SRG). HLA and others have joined SRG meetings in the past. There is a meeting scheduled for November in Seattle, Washington.

C. Proposed List of Fisheries and Draft 2011 False Killer Whale Stock Assessment Report

Lance Smith, PIRO Protected Resources Division, presented a report on the Proposed 2012 List of Fisheries (LOF). The MMPA, Section 118, requires NMFS to classify all commercial fisheries into three categories according to level of incidental, serious injuries and mortality in marine mammals, which is published in the Federal Register annually.

- Category I, frequent incidental mortality and serious injury, which is a fishery that is responsible for annual removal of 50 percent or more of any stock's PBR level.
- Category II, occasional incidental mortality and serious injury, which is a fishery that collectively with other fisheries is responsible for annual removal of more than 10 percent of any stock's PBR level and is responsible for annual removal of 1 to 50 percent of any stock's PBR level. In absence of reliable information indicating frequency of incidental serious injury or mortality by a fishery, NMFS will determine whether incidental mortality and serious injury is occasional by evaluating other factors, such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fish reports, stranding data and the species distribution of marine mammals in the area or at the discretion of the assistant administrator.
- Category III, remote likelihood of or no known incidental mortality or serious injury is a fishery that collectively with other fisheries is responsible for the annual removal

of 10 percent or less of any marine mammal stock's PBR level or more than 10 percent of any marine mammal stock's PBR level or more than 10 percent of any marine mammal stock's PBR, yet that fishery by itself is responsible for the annual removal of 1 percent or less of that stock's PBR level. In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery the assistant administrator will determine whether the incidental serious injury or mortality is remote by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data and the species and distribution of marine mammals in the area or at the discretion of the assistant administrator.

Eligible commercial fisheries not identified in the LOF are by default considered to be Category II.

The differences between categories are as follows: a) Category I is required for strategic stocks interacting with the fishery and NMFS may develop a Take Reduction Plan for non-strategic stocks interacting with the fishery; b) Category II, Take Reduction Plans are only done for strategic stocks. A strategic stock is, one that has an annual take greater than the PBR, one that is declining or is likely to be listed under the ESA in the foreseeable future or is listed as threatened or endangered under the ESA or depleted under the MMPA; and 3) For Category II, registration with NMFS under the Marine Mammal Authorization Program is required and for Category II compliance with applicable Take Reduction Plans is also required, but not for Category III.

The 2012 LOF proposed rule was published June 28, 2011. The proposed changes to the fisheries in the PIR included reclassification of two fisheries, addition of marine mammal stocks injured and/or killed, updates to the number of participants in various fisheries and minor name change to high seas components of Hawaii-based longline fisheries. The 30-day comment period closed July 28, 2011, with 19 comment letters received, 13 of which had comments on PIR fisheries. The final rule is expected to publish by December 1, 2011, with an effective date of January 1, 2012.

The proposed list of classification changes included reclassifying Hawaii trolling rod and reel and the Hawaii charter vessel fisheries from Category III to Category II due to mortality and serious injury of the Hawaiian stock of pantropical spotted dolphins which has a PBR of 61. There is no reliable information on the frequency of interactions so there is no ability to conduct a quantitative tier analysis. NMFS considered other factors to evaluate whether interactions are occasional or remote likelihood, including but not limited to fishing techniques, gear used, target species and distribution of marine mammals in the area.

Information used to support reclassification in the proposed rule included fishing technique, vessels driving through and around groups of dolphins, trolling multiple lines and hooks, targeting tunas associated with dolphins. Information used on fishing technique to support the proposed reclassification included researchers' data indicating that 38 percent of spotted dolphins sighted from 2006 to 2008 had one to six vessels trolling or fishing on them, NMFS observations of the fishing behavior and high effort in the fishery. With regard to dolphin

interactions, there's a potential for vessel strikes or propeller injuries. There are photographs of spotted dolphins with propeller injuries and scarring. The sources of the injuries are unknown, but the fishing technique presents a risk of vessel interactions. NMFS has proposed that the trolling and charter vessel fisheries present a risk of occasional serious injury or mortality of spotted dolphins and are proposed to be reclassified as Category II fisheries.

Ten comment letters were received from the PIR. Four were in support and six were not. Some of the comments were as follows: a) Use and quality of anecdotal reports of dolphin interactions; b) Lower or higher frequency of marine mammal interactions in the fishery; c) Lower or higher level of commercial fishing effort; d) One proposed change to species or stocks killed or injured was the pantropical spotted dolphin Hawaii stock was added to trolling and charter vessel fisheries based on interactions with this stock; e) Hawaii-based shallow-set longline fishery should be Category III because of the low level of interactions inside the EEZ based on two comment letters from HLA and the Council; f) The American Samoa longline fishery should be Category I based on interactions with FKWs and rough-toothed dolphins, based on a comment letter from the CBD; g) The Hawaii-based deepset longline fishery does not interact with the Hawaiian insular stock of FKWs, based on a comment letter from HLA; h) LOF decisions are not based on the best available science because old abundance estimates and PBRs were used, comment letter from HLA; and i) Several state fisheries should be Category I based on interactions with monk seals or insular FKWs, based on a letter from CBD.

At the recent 108th SSC meeting the recommendations offered were that it is a mischaracterization of the two fisheries to say that they drive through dolphin pods and that the number of vessels that are engaging in this type of fishing technique is very, very small, much, much less than one percent.

Erin Oleson, from the PIFSC Protected Species Division, provided a courtesy briefing to the Council regarding the Draft 2011 FKW Stock Assessment Report (SAR), which was published in the Federal Register in September 2011. Public comment period is open until mid November 2011. NMFS annually updates the SAR under the MMPA to incorporate new information of marine mammal stocks occurring in waters under U.S. jurisdiction. The SAR includes description of the stock's geographic range, population estimates and trends, each stock's PBR level and estimates of human-caused mortality and serious injury.

The three existing FKW stock boundaries are 1) Pelagic stock boundaries, greater than 40 kilometers from MHI, last survey conducted in 2002; 2) Insular stock boundaries, less than 140 kilometers from MHI, last survey conducted 2006 to 2009; and 3) The Palmyra stock, last conducted in 2005.

In 2010 a new assessment survey was conducted in the Hawaiian EEZ. Currently the data are being analyzed. The R/V *Sette* recently headed to Palmyra to collect additional information to update the stock status for all cetaceans in the EEZ surrounding Palmyra.

General updates in the 2011 SAR included the following: New mitochondrial and nuclear DNA genetic results showed significant differentiation between insular and pelagic FKWs which suggests local evolution of the insular haplotypes. Over half of the insular stock was genetically sampled and all animals are characterized by mitochondrial DNA signatures that are not

represented by any other FKW stock that has been sampled worldwide. Clear significant differences between Eastern and Central North Pacific pelagic FKWs based on haplotype and genotype frequencies. The 2011 SAR used a five-year moving average to define level of fishery take against which the status of the stock is evaluated, which were the years 2005 through 2009, which were a) the shallow-set longline fishery had two FKWs taken, one seriously injured and one not seriously injured; b) the deepset longline fishery had 24 FKWs taken, two dead, 17 seriously injured and three not serious and two could not be determined based on the notes provided by the observer and nine unidentified blackfish in the deepset longline fishery. A map was shown depicting the take locations and where genetic samples were taken, with most taken within or just outside the EEZ around Hawaii and one taken in the EEZ around Palmyra Atoll.

The new mortality and serious injury estimation methods used on the 2011 SAR included a) Proration of cannot-be-determined cases based of the observed serious and nonserious injuries. All available data were used since 2000 on the rate of serious and nonserious injuries since there has been no mitigation for serious injury of FKWs. Through 2009 the rate of serious injury was 92 percent which will be considered to be mortality or serious injury; b) Proration of unidentified blackfish based on location of take. Unidentified blackfish are considered to be either FKW or short-fin pilot whale. Approximately 90 percent of blackfish takes would be considered FKWs, decreases to 60 percent moving away from the islands and then increases further away; and c) Assignment of FKWs in overlap zone, between 40 and 140 kilometers from shore to insular versus pelagic based on location on take. The probability of insular stock is higher closer to inner boundary; the probability of pelagic stock is higher near outer boundary.

The following reported regarding the total mortality and serious injury estimates for the 2005 through 2009 period: Insular stock had a take rate of 0.6; the pelagic stock, 10.8; the Palmyra stock, 0.3; and outside of the US EEZ, 10.5. Most of the takes outside the US EEZ are the same latitude as Hawaii, either north or just west of the EEZ surrounding Hawaii. Currently, the pelagic stock is defined as including individuals outside of the EEZ boundary. Because there is no information on abundance, currently the status of the stocks is not being assessed based on the take outside the EEZ and only using the pelagic stock as defined inside the EEZ.

Insular stock updates included the following. New abundance estimates available for the insular stock based on mark-recapture data. There were two estimates for the insular stock, one including individuals that have been seen near Kauai and the other excludes the Kauai sightings. The rationale for computing two estimates is based on how the insular stock is defined. Genetic and photographic catalogue exists for the insular stock. There are individuals that have been seen and photographed near Kauai that have not been seen to associate with other individuals in the insular stock. At this time it's unclear whether those animals are part of the insular stock or may be part of the pelagic stock or some other FKW stock. An average of the two was presented as the best estimate of the population size, which is considered overestimates due to missed matches. Updated minimum population estimate (Nmin), which is 110 based on the number of identified individuals. Population trend is taken from the ESA Status Review for the insular stock, which is minus 9 percent. This results in a PBR of 0.2 for the insular stock. The status is strategic based on the population trend, the proposed ESA listing and the fact that take of 0.6 exceeds the PBR of 0.2.

Pelagic stock updates included the following: Abundance is now considered to be outdated according to NMFS standards and no longer reliable. The Nmin was retained based on higher encounter rates during the 2010 survey. The trend is unknown for the stock. The PBR of 2.4 is a slight decrease from the 2010 SAR due to the uncertainty or precision of the mortality estimate. Status is strategic with a take rate of 10.8 individuals per year which is greater than a PBR of 2.4. There are no changes in status or data for the Palmyra stock.

D. Endangered Species Act, Section 4

Lance Smith presented the updates on a number of ESA Section 4 Responses. ESA Section 4 allows petitions to be submitted to NMFS or USFWS to list or delist species as threatened or endangered. When a species is listed under Section 4, critical habitat is designated to the maximum extent prudent and determinable after taking into consideration economic, national security and other impacts. Section 4 also allows petitions to be submitted to revise critical habitat of ESA-listed species.

Smith summarized the petition response as follows:

- Hawaii Insular FKW Petition was received in 2009. NMFS proposed that FKW DPS as endangered in November 2010. The final listing decision is due November 2011. After final listing NMFS is required by statute to propose critical habitat within six months.
- Hawaiian Monk Seal Critical Habitat Revision petition was received in 2008. NMFS proposed critical habitat revision in June 2011. The public comment period recently closed, but will reopen starting the first week of November for 60 days in response to comments received during the first public comment period. A final rule decision is due June 2012.
- Petitions were received in 2007 to list the North Pacific Loggerhead DPS and a separate petition to list the Northwest Atlantic Loggerhead DPS as endangered. In response NMFS conducted a Global Loggerhead Status Review which resulted in a final rule September 2011. Proposed critical habitat is due March 2012.
- A petition to list 82 species of corals was received in October 2009 from the CBD. The Status Review is ongoing. A 12-month finding is currently being worked on and is overdue. He noted that photos of the 82 species are available.
- Bumphead Parrotfish Petition was received in January of 2010. The Status Review is ongoing. A 12-month finding is being worked on and is overdue.
- A petition was received in August 2011 to list the scallop hammerhead shark globally from the Wildlife Guardians and the Friends of the Animals. The initial review is being conducted. The 90-day funding is due November 2011.

Discussion

Regarding the previous agenda item, Martin asked for clarification on the 92 percent of “cannot-be-determined” FKW interactions being designated as serious injury.

Oleson replied it is based on the percentage of observed interactions determined to be a serious injury based on observer notes, such as being hooked in the mouth or getting entangled in the gear. The percentage will be re-evaluated each year based on the data collected.

Itano commented that the prorating of unidentified cetaceans into different species categories is mixing good data with fuzzy data and asked for clarification of the prorating process. He pointed out he sees many more pilot whales than FKWs in the coastal waters.

Oleson clarified that only the interactions that observer notes identify the unidentified animal that was taken as blackfish, either pilot whale or FKW. The prorating scheme is based on known take, locations and frequency of those species, and FKW whales interact with the fishery at a much higher frequency than pilot whales despite FKW lower abundance.

Duenas commented the presentation is confusing when the numbers of interactions are calculated for multiple years. He prefers to have the annual interaction rates to better understand.

Oleson said the text has a lengthy and complicated table that shows the number of observed and extrapolated estimated interactions by stock and by fishery for every year from 2006 to 2009.

Itano noted the Kauai sightings points to the likelihood that other FKW stocks could be coming inshore and may be not part of the insular stock.

Oleson replied that the animals have been seen, but very little effort has been focused in that area, which is why within the Status Review and SAR the impact is evaluated as to whether those sightings are included as part of the insular stock or not. She added that they could be another insular population.

Duenas said a research group in Guam conducted cetacean research, and sighted species such as humpback whale and spinner dolphins are captured in the volunteer data collection program.

Oleson said a NMFS team works off of Guam and Saipan to collect local information.

Palacios asked for clarification as to the Status Review process.

Smith said a Status Review is a biological report of the status of the species that helps determine whether it qualifies for listing as threatened or endangered, the population trend, population size, threats to the species and whether the species consists of DPSs and status of each DPS. All available information is taken into consideration, including from local sources around the PIR.

Itano requested a list to be included at the beginning of the document related to the corals listing with the entire list of corals and a table as to which species are found in each individual territory.

Smith replied in the affirmative. He said of the 82 species, seven are in the Caribbean and at least 75 in the Pacific. Of those 75, nine are in Hawaii and 60 to 65 in the Marianas and American Samoa.

Duenas expressed concern regarding the corals petition and the bumphead parrotfish. He said the whole petition process needs a more thorough evaluation.

Palacios expressed concern regarding the impact to the Mariana communities resulting from listing of some species, such as corals and bumphead parrotfish.

E. Update on Council Turtle Program

Asuka Ishizaki, Council staff, directed Council Members to refer to Document 12.E(1) for a list of funded turtle projects, operating at a reduced budget. The Turtle Program funds suffered an 80 percent decrease. Nesting beach projects in Japan for loggerhead turtles and in the Western Pacific for leatherback turtles are highly dependent on Council funds. The Council continues to place importance in contributing to the conservation of sea turtles for the loggerheads and the leatherbacks that interact in our Hawaii longline fishery.

Discussion

Simonds commented the Council is encouraging NGOs to take over the funding of the turtle conservation projects because it is crucial that the work continues. There is a possibility that The Nature Conservancy may become more involved in funding projects in the Pacific.

F. Scientific and Statistical Committee Recommendations

Callaghan reported the SSC recommendations as follows:

- *Regarding the loggerhead turtle final listing rule and the new BO*, recommended that the Council be represented on the proposed upcoming post-hooking mortality workshop being organized by NMFS-PIFSC in mid November 2011.
- *With regard to the FKW Take Reduction Plan and Take Reduction Team meeting*, recommended that the Council forward the SSC Subcommittee's paper to PIRO, with explanatory text and a cover letter, as an alternative management regime for the SEZ. The SSC further recommends that NMFS forward its apparent concerns about the Hilborn analysis of the FKW PBR to Professor Hilborn for him to provide a considered response. In addition, the SSC recommends that a Bayesian approach analogous to the Hilborn analysis be further explored by NMFS.
- *Regarding the proposed 2012 List of Fisheries and Draft 2011 Stock Assessment Report*, recommended that better demographic and population abundance data of pantropical spotted dolphins be collected to improve monitoring and population trends and to strengthen risk assessments. These improvements will contribute to more scientifically-based management. The SSC further recommends that more accurate operational data be collected on the Hawaii small-boat pelagic fisheries before finalizing the proposed rule.

Duenas noted the increasing counts of loggerhead turtle counts in Japan since 2004 that have resulted from work of the Council's turtle research projects.

G. Public Comment

Didi Herron, from the ahupuaa of Honolulu, Oahu, subsistence fisher and farmer, challenged the authority of the federal government to control the State of Hawaii boundaries and high seas, and large closures and rules that ignore State and International laws. Native Hawaiians continue to try to find common ground under federal governmental laws dealing with marine closures, policies and procedures to exercise their traditional and customary rights under the State constitution.

Roy Morioka, Hawaii fisherman, voiced concern regarding the use of anecdotal evidence and unpublished scientific data in determining the 2012 LOF and pointed out the pantropical spotted dolphin interacts with fisheries other than the troll and charter fisheries. Morioka asked for clarification as to why the Council was not provided an opportunity to review the stock assessment of the pantropical spotted dolphin and how to differentiate an insular stock from a pelagic stock when all marine mammals search for food in the same areas. He asked the Agency to reassess the value of information utilized and proceed accordingly.

Oleson replied the stock assessment was a public document and available to the public.

H. Council Discussion and Action

- **Regarding the new BO under development by NMFS, the Council recommends that NMFS PIRO, at its earliest opportunity, provide the Council with its Climate Forcing Population Assessment Model and associated data for review as well as to provide the Council an opportunity to review the Draft BO prior to its finalization.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

- **Regarding the new BO under development by NMFS, the Council recommends that NMFS invite Council staff to participate in the sea turtle post-hooking mortality webinar to be held in November 2011.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

- **Regarding the FKW Take Reduction Plan proposed rule, the Council endorses the SSC subcommittee's paper and directs staff to send a letter to NMFS PIRO, with explanatory text and a cover letter, as an alternative management regime for the SEZ.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

- **Regarding the FKW Take Reduction Plan proposed rule, the Council recommends that prior to finalizing the final rule that NMFS conduct a detailed analysis of direct, indirect and cumulative impacts of the proposed SEZ on small vessels within the Hawaii longline fishery.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

- **Regarding the FKW Take Reduction Plan proposed rule, the Council endorses the SSC recommendation that NMFS forward its apparent concern about the Hilborn analysis of the FKW PBR to Professor Hilborn for him to provide a considered response and, further, that a Bayesian approach analogous to the Hilborn analysis be further explored by NMFS.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

- **Regarding the FKW Take Reduction Plan proposed rule, the Council recommends that NMFS provide a written explanation to the Council of how the FKW Final Rule will be developed consistent with the requirements of the MSA, including the National Standards.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

Simonds noted that, if NMFS is not going to develop the regulations under the MSA, the Council would like detailed, written reasons why they are not doing so.

- **Regarding the Proposed 2012 LOF and Draft 2011 SAR, the Council recommends that NMFS use better demographic and population abundance data of pantropical spotted dolphins be collected to improve monitoring of population trends and to strengthen risk assessment and notes that these improvements will contribute to more scientifically based management.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

- **Regarding the Proposed 2012 LOF and Draft 2011 SAR, the Council recommends that more accurate operational data be collected on the Hawaii small-boat pelagic fisheries before finalizing the proposed rule.**

Moved by Martin; seconded by Tulafono.

Motion passed with abstention by Croft.

- **Regarding the 82 species of coral, the Council recommends that NMFS PIRO include a summary list and a summary table of the 82 species of coral under review of ESA listing in the Executive Summary of the 12-month finding, with**

information regarding each species general distribution, depth range and occurrence, present or absent, in Hawaii, American Samoa, Guam and CNMI.

*Moved by Martin; seconded by Palacios.
Motion passed with abstention by Croft.*

13. Administrative Matters

A. Financial Reports

Simonds reported copies of the financial reports were distributed to Council members.

B. Administrative Reports

Simonds reported the administrative report was distributed to Council members and included information that the annual audit was completed and received an unqualified opinion, FOIAs were responded to, as well as information on an Eligible Deferred Compensation Plan for Tax Exempt Employers to be added to the Council 401K.

C. Statement of Organization Practices and Procedures Review and Changes

Simonds reported the Council is waiting on word from NMFS Headquarters to be able to submit the Statement of Organization Practices and Procedures for Council approval.

D. Council Family Changes

Palacios noted Francisco Adan from Saipan and Richard Farrell from Tinian are the two requested nominations for the Mariana Archipelago Advisory Panel to fill the vacant positions from Palacios and Seman being appointed as CNMI Council members.

E. Meetings and Workshops

Simonds reported the 2011-2012 meeting schedule was distributed to the Council members and summarized the upcoming meetings, including the March 153rd Council meeting scheduled to be held in Saipan and Guam.

Discussion

Itano noted the Tuna Fisheries and Fish Aggregation Devices on November 28 to December 2, 2011, and requested it to be added to the list of upcoming meetings.

F. Other Business

Simonds commented an e-mail received from Dr. Lubchenco with the theme Navigating Change, Rethinking Innovation and Communication in a Changing World included a task to launch an Innovation Forum to launch an Innovation Council and to produce significant innovative communication projects before the end of the year.

G. Standing Committee Recommendations

Duenas referred Council members to Council documents provided in the briefing books.

H. Public Comment

No public comments were offered.

I. Council Discussion and Action

- **Regarding the Sustainable Fisheries Fund Award, the Council requested NOAA GC to clarify and provide further guidance on the lien requirements as included in the recent Sustainable Fisheries Fund Award Terms and Conditions.**

Moved by Duenas; seconded by Palacios.

Motion passed.

- **Regarding the disapproved amendments for the purse seine area closures in the US EEZs around the Mariana Archipelago and American Samoa, the Council directed staff to work with NMFS, PIFSC and PIRO staff to strengthen the arguments supporting the purse seine closed areas and with respect to the Mariana Islands an expanded range of alternatives.**

Moved by Duenas; seconded by Haleck.

Motion passed, with abstention by Acting Regional Administrator Croft.

- **Regarding the CNMI Advisory Panel members, the Council appointed Frank Adan and Richard Farrell to the Marianas Archipelago Advisory Panel to fill the vacant positions resulting from Palacios and Seman being appointed as Council members.**

Moved by Duenas; seconded by Palacios.

Motion passed.

- **Regarding Council operations, the Council adopted the inclusion of Section 457(D), Eligible Deferred Compensation Plan, as presented for Council staff.**

Moved by Duenas; seconded by Tulafono.

Motion passed.

14. Appointment of Council Officers

Itano reported the following nominations: American Samoa vice chair, Stephen Haleck; CNMI vice chair, Arnold Palacios; Guam vice chair, Tita Taitague; Hawaii vice chair, David Itano; and Council chair, Manny Duenas.

Moved by Haleck; seconded by Tulafono.

Motion passed.

15. Other Business

No other business.

The 152nd Council meeting adjourned.

APPENDIX: Acronyms

A

acceptable biological catch (ABC)
Air Traffic Control Assigned Airspace (ATCAAs)
annual catch limit (ACL)
annual catch target (ACT)
Asia-Pacific Economic Cooperation (APEC)
autonomous underwater vehicle (AUV)

B

Biological Opinion (BO)
bottomfish management unit species (BMUS)
bottomfish restricted fishing areas (BRFAs)

C

catch per unit effort (CPUE)
Center for Biological Diversity (CBD)
coastal and marine spatial planning (CMSP)
commercial marine license (CML)
Commercial Fishery Biosampling (CFBS)
Commission Members and Cooperating non-Members (CCMs)
Commonwealth of the Northern Mariana Islands (CNMI)
Community Demonstration Project Program (CDPP)
Community Development Program (CDP)
conservation and management measures (CMMs)
Coral Reef Advisory Group (CRAG)
Coral Triangle Initiative (CTI)
Currently Harvested Coral Reef Taxa (CHCRT)

D

Department of Agriculture (DOA)
Department of Defense (DOD)
Department of the Interior (DOI)
Department of Justice (DOJ)
Department of Land and Natural Resources (DLNR - Hawaii)
Department of Lands and Natural Resources (DLNR - CNMI)
Department of Marine and Wildlife Resources (DMWR – American Samoa)
Department of the Interior (DOI)
distant water fishing nation (DWFN)
Distinct Population Segment (DPS)
Division of Aquatic and Wildlife Resources (DAWR)
Division of Aquatic Resources (DAR) - Hawaii
Division of Boating and Ocean Recreation (DOBOR) - Hawaii
Division of Fish and Wildlife (DFW)

E

Eastern Pacific Ocean (EPO)
Endangered Species Act (ESA)
environmental impact statement (EIS)
Environmental Protection Agency (EPA)
essential fish habitat (EFH)
exclusive economic zone (EEZ)
Executive Order (EO)
Exempted Fishing Permit (EFP)

F

false killer whale (FKW)
Farallon de Medinilla (FDM)
Federal Aviation Administration (FAA)
Federated States of Micronesia (FSM)
15 Nitrogen (15N)
fish aggregation devices (FADs)
Fishery Ecosystem Plan (FEP)
Fishery Management Plan (FMP)
Forum Fisheries Agency (FFA)
Freedom of Information Act (FOIA)

G

General Counsel (GC)
General Counsel for Enforcement and Litigation (GCEL)
geographic information system (GIS)
global positioning system (GPS)
Governance Coordinating Committee (GCC)
Guam Fishermen's Cooperative Association (GFCA)
Guam Organization of Saltwater Anglers (GOSA)

H

Habitat Areas of Particular Concern (HAPC),
Hawaii Longline Association (HLA)
Hawaii Marine Recreational Fishery Survey (HMRFS)
Hawaii Tuna Tagging Project (HTTP)

I

Illegal, Unregulated and Unreported (IUU)
Incidental Take Statement (ITS)
Integrated Ecosystem Assessment (IEA)
Inter-American Tropical Tuna Commission (IATTC)
International Game Fish Association (IGFA)
International Scientific Committee (ISC)

J

Joint Enforcement Agreement (JEA)
Joint Institute for Marine and Atmospheric Research (JIMAR)

L

List of Fisheries (LOF)

M

Magnuson-Stevens Fishery Conservation and Management Act (MSA)
main Hawaiian Islands (MHI)
Management Unit Species (MUS)
Mariana Islands Range Complex (MIRC)
Mariana Islands Training and Testing (MITT)
Marianas Monument Advisory Council (MMAC)
Marine Conservation Plan (MCP)
Marine Fisheries Advisory Committee (MAFAC)
Marine Mammal Protection Act (MMPA)
Marine National Monument (MNM)
marine protected area (MPA)
Marine Recreational Fishery Statistical Survey (MRFSS)
Marine Recreational Information Program (MRIP)
maximum sustainable yield (MSY)
memorandum of understanding (MOU)
minimum population estimate (N_{min})

N

National Environmental Policy Act (NEPA)
National Marine Fisheries Service (NMFS)
National Marine Sanctuary Act (NMSA)
National Ocean Council (NOC)
National Ocean Service (NOS)
National Oceanic and Atmospheric Administration (NOAA)
National Saltwater Angler Registry (NSAR)
nautical miles (nm)
Non-governmental organizations (NGOs)
Northern Committee (NC)
Notice of Violation and Assessment (NOVA)
Northwestern Hawaiian Islands (NWHI)

O

Oceanic Fisheries Program (OFP)
Office of Law Enforcement (OLE)
over-fishing limit (OFL)
Overseas Environmental Impact Statement (OEIS)

P

Pacific Island Nations (PIN)
Pacific Islands Division (PID)
Pacific Islands Fisheries Science Center (PIFSC)
Pacific Islands Fishing Group (PIFG)
Pacific Islands Region (PIR)
Pacific Islands Regional Office (PIRO)
Pacific Remote Island Areas (PRIA)
PagoPago Game Fishing Association (PGFA)
Parties to the Nauru Agreement (PNA)
Pelagic Fisheries Research Program (PFRP)
Pelagic Fishery Ecosystem Plan (PFEP)
pop-up satellite archival tags (PSATs)
Potential Biological Removal (PBR)
programmatic environmental impact statement (PEIS)

R

Regional Fishery Management Organizations (RFMOs)

S

Samoa Tuna Processors (STP)
Science Committee (SC)
Scientific and Statistical Committee (SSC)
Scientific Review Group (SRG)
Secretariat of the Pacific Community (SPC)
social, economic, ecological and management (SEEM)
Southern Exclusion Zone (SEZ)
Stock Assessment Report (SAR)

T

Technical and Compliance Committee (TCC)
total allowable catch (TAC)

U

United States Coast Guard (USCG)
United States Fish and Wildlife Service (USFWS)
University of Guam (UOG)

V

vessel monitoring system (VMS)

W

Western and Central Pacific Fisheries Commission (WCPFC)
Western and Central Pacific Ocean (WCPO)
Western Pacific Fisheries Information Network (WPacFIN)
Western Pacific Region (WPR)
Western Pacific Stock Assessment Review (WPSAR)

