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**ACTION MEMORANDUM**

**154th Council Meeting**

June 26-28, 2012

Laniakea YWCA

Honolulu, Hawaii

**American Samoa Fisheries**

*Regarding the American Samoa Marine Conservation Plan, the Council:*

1. Approved the American Samoa MCP as provided and encouraged the Governor of American Samoa to transmit the MCP to the NMFS Regional Administrator for approval.

*Regarding American Samoa Fisheries, the Council:*

1. Directed staff to work with DMWR and the SPC, and the American Samoa fishing community to identify long-lasting and economically viable designs and safe deployment strategies for FADs in American Samoa.
2. Requested the DMWR to engage the Council Family (Plan Team, REAC and Advisory Panel) in American Samoa in the development and finalization of the Territory’s Marine Conservation Plan.

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Laniakea YWCA

Honolulu, Hawaii

**Marianas Archipelago Fisheries**

*Regarding Guam Fisheries, the Council:*

1. Directed staff to continue to provide assistance and resources to the Guam Department of Agriculture to continue the development of Community Based-Management Plans.
2. Requested the U.S. Coast Guard to continue monitoring marine radio channel 68, the most commonly used marine radio channel by boaters and other water-way users, and provide additional outreach and education on the newly developed Maritime Search and Rescue Channel 21 on how the Rescue 21 operates, and the 20 nm coverage.
3. Directed staff to work with the fishing community and local fishery agencies to identify long-lasting and economically viable designs and safe deployment strategies for FADs in Guam and CNMI.

*Regarding CNMI Fisheries, the Council:*

1. Directed staff to assist DFW in the following:
   1. Seeking the necessary funds to modify the existing ramps or construct new ramps in Tinian and Rota.
   2. Seeking funds for the construction of a marker buoy at the entrance of Rota East Harbor to guide fishermen leaving or returning from fishing in the evening*.*
   3. Revising their fishing regulations and managing public education and outreach.
   4. Exploring the possibilities of implementing a fishing license program for the CNMI.
2. Requested NMFS to increase its funding assistance to CNMI DLNR Division of Fish and Wildlife data collection efforts.
3. Directed staff to continue to investigate the need for changes to the CNMI bottomfish regulations.

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Laniakea YWCA

Honolulu, Hawaii

**Hawaii Archipelago and PRIA Fisheries**

*Regarding the Main Hawaiian Islands Bottomfish, the Council:*

1. Endorsed the SSC recommendation, regarding the 2012-2013 ABC/ACL/ACT for the MHI “deep-7” bottomfish complex, to retain the ABC and ACL based on the current stock assessment and recommends NMFS specify the 2012/2013 Annual Catch Target (ACT) for this fishery to be 325,000 pounds.
2. Heard the reports and recommendations on the evaluation of the efficacy of the MHI Bottomfish Restricted Areas (BFRAs) and recommended the following:
   1. The State of Hawaii remove the BRFAs located within Federal waters around the MHI;
   2. Directed staff to work with the State of Hawaii and NMFS to develop an integrated research plan for remaining BFRA(s) in State waters incorporating existing BOTCAM information, new bottomfish acoustic data using sonar and electronic tags, and cooperative research tagging efforts to provide a comprehensive evaluation of the efficacy of BFRA

*Regarding the Hawaii Essential Fish Habitat for Bottomfish and Seamount Groundfish, the Council:*

1. Endorsed the preliminary preferred alternative as presented in the draft amendment package to refine the Hawaii BMUS and Seamount Groundfish essential fish habitat (EFH) and habitat areas of particular concern (HAPC), without designating EFH/HAPC for Seamount Groundfish at Cross Seamount and reclassifying *Seriola rivoliana* as BMUS at this time. The Council directed staff prepare final package for transmittal to NMFS. In addition, the Council recommended NMFS continue to research and refine the distribution of BMUS for all life stages to improve EFH/HAPC designations.

*Regarding precious coral management, the Council*

1. Directed staff to convene a subgroup to review new data on black corals and make recommendations on potential changes in the regulations to conserve the black coral population.
2. Supported the Hawaii Plan Team recommendation to renew the harvest moratorium on gold coral that expires in 2013 for an additional 5 years and directs staff to initiate development of the regulatory action for consideration at the next Council meeting.

*Regarding Hawaii Fisheries, the Council:*

1. Directed staff to work with HDAR and PIFSC staff to review the recent science related to Kona crab biology and ecology and evaluate the population impact of the State’s “no take of female” regulation. In addition, staff should produce and distribute outreach materials regarding the potential effect of leg breakage on the Kona crab survival.
2. Requested the State of Hawaii clearly define the objectives and/or goals and consider analyzing a suite of alternatives when developing current and future fisheries rules (e.g. the proposal to ban fish taken by spear while SCUBA diving in coastal waters of West Hawaii Island, the proposal to ban the commercial sale of ulua on Maui) and provide these to the public during its public hearing process.

1. Directed staff to work with the State of Hawaii DAR and NMFS to analyze the impacts of amending current regulations to allow only Captains or Owners be required to have a CML and be required to file a monthly/trip catch reports.

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Honolulu, Hawaii

**Program Planning and Research**

*Regarding Cooperative Research, the Council:*

1. Endorsed the sets of priorities (see attached Cooperative Research Priority Documents) for fiscal year 2012-2013 for NMFS funding under the National Cooperative Research Program.

*Regarding Annual Catch Limits (ACLs), the Council:*

1. Directed staff to conduct an analysis on all available data to determine species/stocks that are eligible for ecosystem component designation. The Council further directed staff to draft an options paper evaluating sets of alternatives to designate stocks as ecosystem components or retain these stocks under ACL management.

*Regarding fishery data collection, the Council:*

1. Directed staff to work with the PIFSC to incorporate shark by-catch and de-predation information in the existing fishery data collection programs to assess the level of shark-fishery interaction.
2. Requested PIFSC Western Pacific Fisheries Information Network to conduct a pilot study to test the potential effect of the new a and b values from the BioSampling Program and determine if there are changes in the temporal trend in the catch time series from the creel survey data.

*Regarding NMFS’ open public comment and consultation process, the Council:*

1. Requested NMFS to provide an opportunity for the communities to allow for oral testimonies instead written testimonies at all its public meetings.

*Regarding the regulatory process, the Council:*

1. Requested NMFS to develop training workshops on the agency’s roles and regulatory processes to be provided throughout the Western Pacific region.
2. Requested NMFS and other fishery management agencies provide regular review of their fishing regulations to ensure its effectiveness, incorporate new information, and provide for adaptive management of the resources. As an initial step, the Council requested the State of Hawaii consider reviewing the current minimum size for the sale of yellowfin tuna (3 lbs) as its first regulation for review.

*Regarding fishery development, the Council:*

1. Directed staff to develop a mechanism in coordination with NMFS and the local governments to assist fishermen in the financing of fishing boats in the Western Pacific Region.

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Honolulu, Hawaii

**Protected Species**

*Regarding Humpback Whales, the Council:*

1. Recommended the SPLASH program update the analysis of North Pacific humpback stock structure and population abundance using available genetic samples.
2. Requested NMFS or appropriate research organization to evaluate the level of feeding activity by humpback whales around the Main Hawaiian Islands, the species and volume of fish being consumed and if this feeding activity has the potential to impact any of Hawaii's domestic fisheries. The Council understands that increasing humpback whale abundance may lead to impacts to coastal marine ecosystems, especially fishery interactions and fish stocks.
3. Commended NMFS in its work in recovering the North Pacific humpback whale population and recommended the delisting of this species from the ESA in the near future.

*Regarding False Killer Whales, the Council*

1. Requested NMFS convene a meeting of the False Killer Whale Take Reduction Team (TRT) as soon as the draft 2012 stock assessment reports are published to revisit management measures considered under the proposed Take Reduction Plan, considering the new abundance estimate for the pelagic stock that is now three times greater than previously estimated. Specifically, the TRT should discuss whether the Southern Exclusion Zone closure measure is necessary in achieving the goals of the TRP, given a higher potential biological removal (PBR).

*Regarding the 82 Candidate Coral Species Petitioned Under the Endangered Species Act, the Council:*

1. Directed staff to send a letter to NMFS in response to the ongoing public comment period and include the following:
   1. That NMFS evaluate impacts of non-point source pollution on coral reefs such as heavy metals from tires and other sources.
   2. That NMFS evaluate the issue of taxonomic uncertainty of corals included in the ESA listing petition.
   3. That NMFS consider increased cost and administrative burden for permitting activities, as seen in Florida's coastal zone as a result of that ESA listing of corals in the Southeast United States.
   4. That it is misleading to create precise numerical risk values from qualitative categories for the extinction risk evaluation methodology employed in the BRT Report, as it creates a false impression of precision in the decision-making.
   5. That NMFS attach CVs of each of the members to the BRT Report as membership heavily influences the extinction risk evaluation.
   6. The BRT report is limited in its scientific data and greatly insufficient to support ESA listing of most petitioned species.
   7. The Council noted that climate change is the primary global threat to corals and ESA listing will have no benefits to the conservation or protection of these coral species. By contrast, the assessment ranked threats from fisheries as relatively minor but ESA listing of these species will have significant impacts on fisheries management without any corresponding conservation benefit to corals. Finally, local and federal regulations already provide the maximum protection to corals through prohibitions on coral harvests, harvests of ‘live rock’ and extensive areas of coral reef which are closed to fishing.
2. Recommended DLNR and NMFS conduct education and outreach to groups conducting tours in Kaneohe Bay that impact coral reef resources. Further, the Council requested NMFS PIFSC provide information on the recovery rates of corals damaged by reef walking.

*Regarding Green Turtles, the Council:*

1. Recommended the State of Hawaii begin drafting a green sea turtle management plan and work with interested communities and countries that have advanced planning efforts on their own such as Molokai and Federated States of Micronesia. In considering management plan issues, management and enforcement should be discussed with communities on the Aha Moku/ahupua‘a level.
2. Requested NMFS, in collaboration with local agencies and SPREP, to conduct scientific studies and data collection regarding the population and habitat activities of the green sea turtle found occurring in the Mariana Archipelago, American Samoa and the wider Western Pacific.

*Regarding Territorial Sea Turtle Programs, the Council:*

1. Requested NMFS PIRO restore funding for the local turtle research programs to its original level consistent with last year’s budget.

*Regarding Marine Mammal Protection Act, the Council:*

1. Requested NMFS, in collaboration with the Council and local governments, develop and undertake an education and outreach program for Hawaii, American Samoa, CNMI, and Guam commercial and non-commercial fishermen, public, and agencies related to marine mammal protection, the Endangered Species Act and the Marine Mammal Protection Act.

*Regarding ESA and MMPA, the Council:*

1. Directed staff to draft a letter to Congress to ask for a review of the ESA and MMPA with respect to their impacts on fisheries and other ocean users. These statutes were established in the 1970s, and the original intent of the statutes may be resulting in unintended consequences.

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

1. Endorsed the Committee’s recommendations as follows:
   1. Directed staff, in collaboration with appropriate partners, to convene a workshop to address issues relating to ecological offsets.
   2. Directed staff to review the efficacy of the sea turtle request for proposals (RFP) process and consider options for soliciting projects where appropriate.
   3. Directed staff to finalize the priority list for future sea turtle projects as developed at this meeting, and coordinate with agency and non-agency partners to develop project recommendations for future projects starting in 2013 and the agency to provide sufficient funding to implement these projects.
   4. Recommended the Ninth Sea Turtle Advisory Committee (STAC) Meeting be convened in Kobe, Japan.

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Honolulu, Hawaii

**Pelagics and International Fisheries**

*Regarding large-vessel prohibited areas in the Marianas Archipelago, the Council:*

1. Recommended amending the Pelagics FEP to establish a large-vessel (**>**120 ft) area closure of 100 nm around the Mariana Archipelago.
2. Directed staff to work with NMFS to complete the FEP amendment for completeness and transmit the amendment for Secretarial review as soon as possible, and as appropriate, and further that the Council is deeming that regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In doing so, the Council directed Council staff to work with NMFS to complete regulatory language to implement the Council’s final action. Unless otherwise explicitly directed by the Council, the Council authorized the Executive Director to review the regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The Executive Director is authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in her determination, the proposed regulations are not consistent with the Council action.

*Regarding Territory HMS catch and effort limits and the Council’s existing recommendations to amend the Pelagics FEP on these issues (Amendment 20), the Council:*

1. Recommended to provide the Territories the authority to use, assign, allocate, and manage catch limits of highly migratory fish stocks, or fishing effort limits, established by the Western and Central Pacific Fisheries Commission through arrangements with US vessels permitted under the FEP. Further, the authority provided in this Pelagics FEP amendment may be subject to maximum annual limits, and any other terms or conditions, as recommended by the Council and approved by the Secretary of Commerce.
2. Recommended establishing annual longline bigeye catch limits for each of the Territories based on the SIDS/PTs provisions in the WCPFC conservation and management measures for tropical tunas, and further that the Council review this limit on an annual basis;
3. Recommended establishing that vessels under such arrangements are integral to the domestic fisheries of the U.S. Participating Territories provided that such arrangements satisfy either of the following:

i) contain no requirements regarding where such vessels must fish or land their catch, and shall be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in a territory's Marine Conservation Plan;

a) the funding of such arrangements authorized under this Pelagics FEP amendment shall be of a sufficient amount to substantially contribute to MCP fisheries development objectives; or

ii) provide a landing requirement to offload catch in the ports of the Territory for which the arrangement exists

1. Recommended to establish that the Territories may only assign up to 1,000 mt per year of their annual longline bigeye catch limits through arrangements with U.S. vessels permitted under the FEP, and further that that the Council review this limit on an annual basis.
2. Recommended that arrangements authorized under this Pelagics FEP amendment shall become effective 30 days after submission to the Council and NMFS, unless the Regional Administrator, with the advice and recommendation of the Council’s Executive Director, determines that the arrangement does not comply with the Pelagics FEP or applicable law. Further, that catch or effort under qualifying arrangements shall be subject to attribution to the applicable Territory for purposes of annual reporting to WCPFC.
3. Directed staff to work with NMFS to complete the Pelagics FEP amendment for completeness and transmit the amendment for Secretarial review as soon as possible, and as appropriate, and further that the Council is deeming that regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In doing so, the Council directed Council staff to work with NMFS to complete regulatory language to implement the Council’s final action. Unless otherwise explicitly directed by the Council, the Council authorized the Executive Director to review the regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The Executive Director is authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in her determination, the proposed regulations are not consistent with the Council action.

*Regarding the minimum sale size of yellowfin and bigeye tuna in the State of Hawaii, the Council:*

1. Directed staff to coordinate with the State of Hawaii to form an ad-hoc working group to review the minimum sale size of these species and to evaluate the impacts of increasing the minimum sale size on the resource, fishing community and seafood markets.

*Regarding changes in bigeye longline tuna CPUE over time noted by the SSC, the Council:*

1. Recommended changes in deep-set longline fishing variables (e.g., bait type, bait loss/reduction in bait predation, changes in fishing styles and sets) be examined by NMFS PIFSC to determine how such changes would affect CPUE statistics.

*Regarding the post-release mortality in striped and blue marlins, the Council:*

1. Noted the SSC ‘s comments that post release patho-physiology studies are valuable for large pelagic fishes and bycatch species such as sea turtles, and endorsed the SSC recommendation that the study by Dr. Chris Moyes of Queens University (Canada) be expanded to document physiological status, and to predict survivorship following fisheries interactions.

*Regarding the incidental take of sea turtles by the Hawaii shallow set swordfish longline fishery, the Council:*

1. Found that the proposed action to amend the sea turtle hard caps is consistent with Amendment 18 for the following reasons:

As approved, Amendment 18 established, among other conservation and management measures, sea turtle hard caps of 46 loggerheads and 16 leatherbacks, based on an expected annual effort level of 5500 annual shallow sets, and consistent with NMFS’ incidental take statement in a 2008 no-jeopardy biological opinion completed under the authority of ESA section 7. On January 30, 2012, NMFS completed a new no-jeopardy biological opinion authorizing the shallow-set fishery to interact with up to 34 North Pacific loggerhead and 26 leatherback sea turtles, based on an expected effort level of 5500 annual sets. NMFS proposes to implement, by regulatory amendment, sea turtle hard caps of 34 North Pacific loggerhead and 26 leatherback sea turtles, to ensure that the fishery continues to operate consistent with determinations under ESA.

*Regarding the Report of the 8th meeting of the WCPFC, the Council:*

1. Noted that Deputy Assistant Secretary for International Fisheries Russell Smith’s intervention on the Hawaii longline fishery was absent from the WCPFC8 meeting report. Accordingly, the Council recommended that NMFS PIRO contact the WCPFC Secretariat to ensure that the intervention text is added to the WCPFC8 final report as Mr. Smith’s comments speak to the Hawaii fishery as being stringently regulated and closely monitored, environmentally responsible, fresh fish longline fishery.

*Regarding the SPC OFP tuna tagging program, the Council:*

1. Directed staff contact the SPC to request the extension of this tagging program to the Mariana Archipelago and American Samoa

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**Administrative Matters**

*Regarding Administration Matters, the Council:*

1. Requested NMFS to clarify the process for incorporating new scientific information made available between the proposed and final rules for ESA listings.
2. Requested NMFS to contribute more funding for green turtle research in the Marianas Archipelago.
3. Appointed the following to the respective groups:
   1. Arnold Palacios to represent the Council on the Pacific Islands Regional Planning Body (PRPB).
   2. Jeffrey Seminoff to the STAC.
   3. Dr. Richard Randall to the Marianas Archipelago Ecosystem Plan Team.
   4. Kimberly Lowe as an ex-officio Plan Team member, replacing Michael Quach.
   5. William Aila Jr. as the interim Council Chair through the 155th Council meeting to be held in October 2012, at which time the Council will appoint its officers for 2013.
   6. John Gourley as the Mariana Plan Team Chair, Ms. Selaina Vaitautolu as American Samoa Plan Team Chair, and Dr. Samuel Kahng as Hawaii Plan Team Chair.
   7. Lawrence Concepcion to the CNMI Advisory Panel.
4. Directed staff work with NMFS to coordinate and host grant training workshops in each of the island areas to assist the community obtaining funding to support fishery related projects.
5. Directed staff to ask SSC members if they wish to continue serving on the SSC and to inform them of the implementation of new four year terms limits to begin starting in 2013.