



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

DRAFT MINUTES OF THE
148th MEETING of the WESTERN
PACIFIC REGIONAL FISHERIES
MANAGEMENT COUNCIL
June 29, 30 and July 1, 2010
Held in Honolulu, Hawaii

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

APPROVED BY COUNCIL: _____

October 12, 2010


Steven Haleck, Chair

Western Pacific Regional Fishery Management Council

TABLE OF CONTENTS

1. INTRODUCTIONS	6
2. APPROVAL OF AGENDA	6
3. APPROVAL OF THE MEETING MINUTES FOR THE 147TH COUNCIL MEETING	6
4. EXECUTIVE DIRECTOR'S REPORT	6
5. AGENCY REPORTS	7
A. National Marine Fisheries Service	7
1. <i>Pacific Islands Regional Office</i>	7
2. <i>Pacific Islands Fisheries Science Center</i>	9
B. NOAA Regional Counsel	10
C. U.S. Fish and Wildlife Service	10
D. Enforcement	10
1. <i>U.S. Coast Guard</i>	10
2. <i>National Marine Fisheries Service Office of Law Enforcement</i>	12
3. <i>NOAA General Counsel for Enforcement and Litigation</i>	13
E. National Marine Sanctuaries Program	14
6. HAWAII ARCHIPELAGO	15
A. Moku Pepa	15
B. Legislative Report	15
1. <i>Hawaii Shark Fin Law</i>	15
C. Enforcement Issues	16
D. Action Items	16
1. <i>Recommendations on Refining Bottomfish EFH for the Hawaii Archipelago</i>	16
A. Review of New Habitat and Life History Information	16
B. Draft Alternatives for Hawaii Bottomfish EFH and HAPC	18
2. <i>Recommendations on the 2010-2011 MHI Bottomfish Total Allowable Catch</i>	18
A. Review of MHI Bottomfish Fishery Performance	18
B. 2010-2011 TAC Determination	19
3. <i>Adjustment to Northwestern Hawaiian Islands Mau and Hoomalu Zone Boundaries for Consistency with NWHI Monument</i>	19
E. Community Activities and Issues	20
1. <i>Hawaii Community Fisheries Workshop Report</i>	20
F. Hawaii Advisory Panel Recommendations	21
G. Hawaii Plan Team Recommendations	21
H. Hawaii REAC Recommendations	22
I. SSC Recommendations	22
J. Public Comment	22
K. Council Discussion and Action	23
7. PROGRAM PLANNING	29
A. Action Items	29

1. Recommendations on a Process for Establishing Annual Catch Limits.....	29
2. Recommendations for Management Measures for Aquaculture in the Western Pacific .	31
3. Recommendations for Options for Exemptions from Federal Fishery Permits.....	32
4. Recommendation on Cooperative Research Priorities.....	33
B. Recreational Fishery.....	35
1. NOAA Recreational Fishery Initiative.....	35
2. Report of the NOAA Recreational Fishing Summit	35
C. Fisheries Monitoring and Compliance	36
1. Report on the Video Monitoring Project	36
A. Hawaii Longline Video Monitoring.....	36
B. Australian Live Video Monitoring.....	37
2. Harbor Wing Unmanned, At-Sea Surveillance.....	37
3. VMS Policy.....	38
D. Marine Spatial Planning Update	39
E. Status of the Stocks Report.....	40
F. Hawaii Regional, National, International Education Outreach Initiatives.....	40
G. Community Demonstration Project Program Advisory Panel Report.....	41
H. Program Planning Recommendations from the Council Advisory Groups.....	41
I. SSC Recommendations	41
J. Public Hearing.....	43
K. Council Discussion and Action.....	43
8. PUBLIC COMMENT ON NON-AGENDA ITEMS	47
9. PELAGIC AND INTERNATIONAL FISHERIES.....	47
A. Action Items.....	47
1. Recommendations on the Hawaii Longline Bigeye Tuna Management under a Catch Limit.....	47
2. Recommendations on Options to Modify the Hawaii Deepset Tuna Longline Swordfish Trip Catch Limit.....	48
3. Recommendations on Modifications to the American Samoa Longline Limited Entry Program.....	49
4. Recommendations on Territory Fisheries Development.....	50
5. Recommendations on the WCPFC Transshipment Requirements.....	51
B. IATTC Pacific Bigeye Tuna Stock Assessment	52
C. International Fisheries.....	52
D. Pacific Pelagic Advisory Panel Recommendations	52
F. SSC Recommendations	54
G. Pelagic Standing Committee Recommendations	55
H. Public Hearing.....	55
I. Council Discussion and Action	55
10. PROTECTED SPECIES.....	62
A. False Killer Whale Take Reduction Team Meeting Report.....	62
B. Sea Turtle Advisory Committee Report.....	63
C. Cetacean Survey Methodology	63
D. Update on Endangered Species Act Issues	65

E. American Samoa Longline Amendment Consultation.....	66
F. SSC Recommendations	66
G. Public Hearing.....	67
H. Council Discussion and Action.....	67
11. MARIANA ARCHIPELAGO.....	70
A. Arongo Flacey.....	70
B. Isla Informe	70
C. Legislative Report	70
D. Enforcement Issues	70
E. Action Items	71
1. <i>Recommendations on Fishery Management Measures for the Marianas Trench Marine National Monument</i>	71
F. Mariana Bottomfish Survey Report.....	73
G. Community Activities and Issues	73
H. Update on Military Activities	74
I. Education and Outreach Initiatives.....	74
J. SSC Recommendations	75
K. Public Hearing.....	76
L. Council Discussion and Action	76
12. AMERICAN SAMOA ARCHIPELAGO	81
A. Motu Lipoti	81
B. Fono Report.....	82
C. Enforcement Issues	82
D. Action Items.....	82
1. <i>Recommendations on Management Measures for Noncommercial Fishing in the Rose Atoll and Pacific Remote Islands Marine National Monument</i>	82
E. Community Activities and Issues.....	84
1. <i>Report of Fishery Development</i>	84
2. <i>Report on Disaster Relief</i>	84
F. Education and Outreach.....	84
G. American Samoa Advisory Panel Recommendations	84
H. American Samoa Plan Team Recommendations	85
I. American Samoa REAC Recommendations	85
J. SSC Recommendations.....	85
K. Public Hearing.....	86
L. Council Discussion and Action	86
13. ADMINISTRATIVE MATTERS.....	90
A. Financial Reports	90
B. Administrative Report.....	91
C. SOPP Review and Changes.....	91
D. Council Family Changes.....	91
E. Meetings and Workshops	91
F. Other Business.....	91
G. Standing Committee Recommendations.....	92

H. Public Comment.....	93
I. Council Discussion and Action	93

DRAFT

1. Introductions

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

- Ignacio Dela Cruz, CNMI Department of Land and Natural Resources (CNMI DLNR)
- Manuel Duenas, Vice Chair, Guam Council Member
- Fred Duerr, Hawaii Council Member
- Joeseeph Torres, Guam Designated State Official
- Stephen Haleck, Chair, American Samoa Council Member
- David Itano, Vice Chair, Hawaii Council Member
- Sean Martin, Hawaii Council Member
- Don Palawski, U.S. Fish and Wildlife Service (USFWS)
- Mike Tosatto, Acting Regional Administrator, National Marine Fisheries Service (NMFS), Pacific Islands Regional Office (PIRO)
- Ben Sablan, Vice Chair, CNMI Council Member
- Kitty Simonds, Executive Director
- William Sword, Vice Chair, American Samoa Council Member
- Fred Tucher, NOAA General Counsel, PIRO
- Ray Tulafono, American Samoa Department of Marine and Wildlife Resources (DMWR)
- CDR. Eric Roberts, U.S. Coast Guard (USCG)
- Peter Young, Hawaii Council Member
- Craig Severance, Council Statistical and Science Committee Member (SSC)
- Laura Thielen, State of Hawaii Department of Land and Natural Resources (DLNR)

Council Meeting Aside:

Simonds announced that the Council is experimenting with live streaming the Council meeting, which can be accessed via the Council website.

2. Approval of Agenda

Moved by Sablan, seconded by Torres.
Motion passed.

3. Approval of the Meeting Minutes for the 147th Council Meeting

Moved by Sablan, seconded by Martin.
Motion passed.

4. Executive Director's Report

Simonds presented the Executive Director's report to the Council that covered the following topics: annual catch limits (ACLs), catch shares, the five-year essential fish habitat (EFH) review, marine spatial planning (MSP), marine protected areas (MPAs), marine national monuments (MNM), council outreach and education, pelagic amendments, including bigeye tuna

management catch limit, the limited authority to U.S. Territories, the territorial fisheries development amendment, modifying the deepset tuna longline swordfish trip and catch limit, and protected species programs.

With regard to international work, she noted the Council will be co-hosting the International Fishers Forum (IFF5) with the Government of Taiwan. The theme is MSP, as well as bycatch issues.

Staff also reviewed all recommendations made over the last two years regarding the Council's approach to its ecosystem fishery management activities.

Staff will travel to Guam and CNMI to engage the communities in discussions about data collection activities, such as biosampling, fish tagging, ecosystem indicator monitoring, and data collection. Also discussed was establishing student exchange programs.

Two students will return to American Samoa after attending the University of Hawaii at Hilo to study fisheries and aquaculture, and will be hired by the Government of American Samoa, Department of Marine and Wildlife Resources (DMWR). Staff is also working to help efforts with the American Samoa Fish Co-op facilities, fish storage and ice-making facilities in Manua, and boat ramps and fuel storage in Leone.

The consultation process has begun with Hawaiian communities to discuss the Council's mission and initiatives of the Obama Administration, including ACLs and catch shares.

With regard to recreational activities, the Region was well represented at NOAA's Recreational Fisheries Summit held in April in Washington.

Discussion

Tulafono voiced support for the student exchange program and noted there are two graduates who will be working in his Department in the very near future.

5. Agency Reports

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Tosatto, Acting Regional Administrator for PIRO, introduced Kristin Laursen, Acting Deputy Administrator; Dr. Michelle Gregor, an economist helping with the transition to a new economist after Miles' retirement; Russ Dunn, the new National Recreational Fisheries Coordinator; and Miss Regina Stallone, with the Sustainable Fisheries Division, who is visiting from D.C.

Tosatto also reported that Amendment 18 to the Pelagics FMP is being implemented despite the lawsuit and the swordfish fishery will be monitored for expansion and turtle takes.

Additionally, the Council's FEPs are being implemented, NMFS is responding to several protected species petitions including 83 corals and bumphead parrotfish, as well as conducting the false killer whale (FKW) take reduction team meetings. The Habitat Conservation Division

(HCD) has been leading efforts in responding to the Navy's plan to move military troops to Guam. The Navy is nearing completion of the environmental impact statement (EIS). Lastly, efforts are underway to increase observer coverage to 40% in the American Samoa longline fishery to acquire a more robust estimate of bycatch in that fishery.

Discussion

Duenas asked for clarification as to why the Habitat Division is leading efforts to respond to the military buildup EIS in Guam and the Marianas, as corals is only a small component of the impacts. He stated that, thus far, he is disappointed by their efforts and the Community of Guam has grave concerns regarding the military activities' impacts to fisheries habitat, larval distribution, spawning periods, dredge material being dumped and involvement of the Micronesian Challenge. The community has concerns that NMFS is not doing an adequate job of addressing the impacts. Tosatto replied that he stands behind the work of the HCD in the review of the EIS, noting that they're addressing the continued operation of the range in the Marianas, the offshore operating areas, Navy sonar, and other issues that are of high concern for NMFS. He pointed out NMFS' response recognizes that there will be impacts, but impact has been prevented, minimized and mitigated to the extent necessary for the activities of the range to proceed. Impacts will occur to turtle movements to feeding habitats. He added the Environmental Protection Agency, US Fish and Wildlife Service (USFWS), and Government of Guam Natural Resource Agencies have been well coordinated and united in holding the Department of Defense (DOD) to the highest possible level of environmental compliance and environmental stewardship, which has jurisdictional authority in areas of the community's concern. NMFS is looking at the impacts on EFH and fisheries to the fullest extent possible.

Duenas noted the lack of response regarding freshwater production and wastewater disposal in such a small area. He reiterated his request for more dialogue from NMFS to inform and educate the community. Tosatto noted it's the Navy's responsibility to conduct the community outreach because it is the Navy's action, not NMFS' action. Further, NMFS' is not a cooperating agent for their EIS and NMFS agrees with Duenas that the Navy is not taking a robust community-driven approach.

Sablan requested Tosatto keep in mind that all of the concerns noted by Duenas apply equally as well to the Northern Marianas Islands, and Torres asked Tosatto to establish a line of communication with the Government of Guam, Department of Agriculture.

Sword asked if there is any observer training planned to be held in American Samoa. Tosatto replied the observers will be provided by the present contractor, which includes the Native Observer Program, with the goal of employing American Samoans as fishery observers.

Martin requested an update on the progress of the Satellite NOAA Office at the Fishing Village. Tosatto reported the office in Saipan is projected to house four people, one from NMFS, one from the Office of Coastal Resource Management of National Ocean Service and two from the Pacific Islands Fisheries Science Center (PIFSC). The Tamuning Industrial Park in Guam will have one full-time staff member from the Sustainable Fisheries Division, with support for Habitat and Conservation Division and the Science Center as well. In American Samoa, the office is partially rebuilt, and is presently re-housed in Pago Plaza, which will include additional

observer staff. The Pier 38 project is moving forward, working on the lease, design and construction schedule for the space. A meeting room is planned large enough to hold small gatherings and Protected Species Workshops, a computer for permit applications and other NMFS business as well as staff from the Sustainable Fisheries Division, Observer Program and the Science Center and potentially a State employee as well.

Sablan asked for information on the current status of the Marianas Trench Monument Advisory Committee and information on the visitor's center. Palawski (of USFWS) replied they're in the process of getting a nomination from the US Coast Guard (USCG) and once approved, they will announce the formation of the Advisory Council.

Itano thanked the Service for providing the Pier 38 venue as it provides a great service to the public and encouraged the Service to include a 24-hour dropoff for logbooks.

Martin requested the Council be kept apprised of the activities in the Gulf and be advised of Agency positions and efforts so the Council can participate and provide input. Tosatto appreciated Martin's request and felt the Council could help in the area of seafood safety and rebuilding America's confidence in a safe seafood supply out of the Gulf and suggested it would be a good future agenda item.

2. Pacific Islands Fisheries Science Center

Sam Pooley, director of PIFSC, reported on activities that have occurred over the last period, which includes recycling through the economic surveys of the main Hawaiian Islands (MHI) Bottomfish Economic Survey (both commercial and recreational), increasing accessibility to cruise narratives and reports, bathymetric information, Protected Species and Ecosystem and Oceanography Divisions' work with Japan colleagues in the tracking of turtles, work on tag technology, Jeff Polovina and his group's receipt of an award for work on ecosystem modeling, the completion of the research vessel (R/V) SETTE cruises to the Marianas, Remote Islands Area and Northwestern Hawaiian Islands (NWHI) cruises, upcoming R/V HIALAKAI cruises, work is ongoing on the ESA petitions, the Annual External Review scheduled for July, the NOAA Incident Response website and the Center's participation in the Gulf oil spill response.

Discussion

Sablan asked the status of the management study report by John Stammer of the Coral Resource Management regarding the bumphead parrotfish as an endangered species. Pooley replied the study was contracted through the Office of Coastal and Resource Management (OCRM) Headquarters. The Center utilizes all information available, although there is a separation of the collection of scientific information and the conservation and management decision-making.

Itano asked for clarification of the methodologies being used in the September cetacean surveys. Pooley responded that the cetacean cruises in the fall will employ acoustic methods and visual transect methods; occasionally they will utilize three or four methodologies. Pooley reported that an agreement has been signed with the Director of the Southwest Center. PIFSC will be the Project Leader for cetacean work done in the Region's waters.

Duenas asked if funds could be provided for cooperative turtle research to be conducted in the

Marianas and how PIFSC plans to spend the Monument funding. Pooley replied there have been cooperative surveys conducted with PIRO in the past in the Marianas and more attention is needed. PIFSC's new turtle biologist is focusing on oceanographic influences on turtles and is restructuring the turtle research program. He added that a fair amount of the Monument funding was used for the cruise. When visitor center is built, PIFSC will provide some outreach capability.

B. NOAA Regional Counsel

Tucher reported that the House and Senate bills that provide technical corrections to the Western and Central Pacific Fisheries Convention (WCPFC) Implementation Act with respect to financial interest of Commissioners have moved through the Senate and House Committees; he has hopes for positive news on the bills this summer. Also, NOAA is finalizing the Final Rule addressing certain administrative functions of Regional Fisheries Management Councils, which is expected to be published within several weeks.

Litigation cases reported on were:

- In American Samoa, Longline Services and Company versus Kupfer in the High Court of American Samoa
- Turtle Island Restoration Network versus National Marine Fisheries Service about Amendment 18 to the Pelagic FMP
- Hui Malama O Kohala versus NMFS about NOAA's decision to delay establishment of a Take Reduction Team and development of a Take Reduction Plan under the Marine Mammal Protection Act for the Hawaiian pelagic stock of FKW, which are known to interact with the Hawaii deepset longline fishery

Discussion

Simonds asked for clarification on the next steps in the litigation process regarding Amendment 18. Tucher replied that it is preliminary, but the claim starts anew as of the filing of the amended complaint.

C. U.S. Fish and Wildlife Service

Palawski highlighted personnel changes in the USFWS, including that Palawski is now the Deputy Project Leader for the Hawaii Pacific Islands National Wildlife Refuge Complex, Susan White filled the Refuge Manager position for the Pacific Region National Wildlife Refuge Complex, and Dan Polhemus was added to the USFWS Division of Ecological Services HCD.

There were no comments or questions.

D. Enforcement

1. U.S. Coast Guard

CDR. Roberts reported briefly on the USCG Cutter (CUTT) JARVIS patrol in the Central Pacific, including American Samoa and the Pacific Remote Islands, as well as Kiribati, Cook Islands, and French Polynesia, where four domestic fishery boardings were conducted on the American Samoa longline fleet. Safety violations were noted and two vessels' voyages were terminated as a result of those boardings.

A Western and Central Pacific high seas and boarding inspection scheme was conducted on the Taiwanese longline fishing vessel (F/V) YU FONG FA NO. 22 on the high seas between Kiribati, Cook Islands and French Polynesia. Two boardings of foreign fishing vessels were conducted; both noted minor discrepancies with their logs.

The R/V SETTE patrol in the Northern Mariana Islands included a USCG liaison officer onboard the vessel to increase USCG surveillance and awareness in that region, a patrol for potential illegal fishing activity and to train the crew of the R/V SETTE on reporting procedures.

The USCG CUTT WALNUT conducted a Central Pacific patrol covering American Samoa, Howland and Baker and Johnston. The CUTT WALNUT boarded a U.S. purse seine vessel, F/V CAPE COD, in the vicinity of the Phoenix Islands. No violations were noted during that boarding. A WCPFC high seas boarding was also conducted on a Korean-flagged longline vessel, F/V O YANG NO. 355, in the US EEZ of Howland and Baker Islands'. No violations were noted.

A USCG C130 from Air Station Barbers Point was deployed to Kingman Reef in response to a report from the US longline vessel F/V KATY MARY regarding potential gear entanglement with a foreign fishing vessel's longline gear and was unable to locate any additional vessels. The incident was the first example of use of the Hotline number, which came out of work between the Council and the USCG.

The USCG CUTT SEQUOIA and CUTT ASSATEAGUE participated in multilateral exercises Sea Guardian and Operation Rai Balang. The USCG Sector Guam working with the Governments of Palau and Federated States of Micronesia monitored over 200 vessels during these operations and coordinated boardings, including Palau's boarding and seizure of the Indonesian-flagged longline vessel that was operating in the Palau EEZ without a license.

The USCG has reached out to the United States Navy to coordinate putting USCG liaison officers onboard their vessels during transit of the Pacific. During a transit from Guam to Honolulu a liaison officer was onboard and conducted surveillance operations on their HH-60 helicopter and searched over 370,000 square nautical miles. There were nine fishing vessels sighted with two vessels warranting additional investigation for potential IUU activity and were examples of vessels found fishing in foreign EEZs that were not on the WCPFC list.

The U.S.S. REUBEN JAMES conducted surveillance from Guam to Honolulu, which is the first time there was no USCG liaison officer onboard. The CUTT KUKUI departed Honolulu to conduct a Central Pacific Ocean patrol to include Kingman, Palmyra Reef, Jarvis Island, American Samoa, as well as French Polynesia.

The CUTT KUKUI conducted WCPFC high seas boardings on three Korean-flagged longline vessels approximately 100 nautical miles west of the US EEZ around Palmyra boundary and noted the VMS unit was powered down. The Boarding Officer reported the incident to the WCPFC and Korean authorities for further investigation.

Enforcement staff attended several fisheries enforcement-related meetings, including the Papahānaumokuākea MNM Law Enforcement Working Group, the South Pacific Tuna Treaty Consultations (TCC), and the FKW Take Reduction Team.

The USCG selected the new nomination of Admiral Steven Mehling to the Marianas Trench MNM to be forwarded to the USFWS.

Discussion

Duenas suggested the topics of identification marking of gear and VMS operations as two items to be raised at the upcoming South Pacific TCC meeting.

Itano suggested patrols along the 155° West line where he recently encountered two TAU buoys entangled with longline gear that appeared to be Taiwanese or Chinese in origin. He also suggested some awareness be conducted with the foreign fleets through WCPFC. CDR. Roberts replied he is aware of those positions and they are incorporated into the USCG Law Enforcement Patrol Planning Process.

2. National Marine Fisheries Service Office of Law Enforcement

Bill Pickering, of the Office of Law Enforcement (OLE), reported that 33 incidents occurred during this period: 15 related to Protected Resources, 17 to Fisheries Management, and one to Sanctuary. Some U.S.-flagged purse seiners were in violation of setting on marine mammals associated with schools of tuna or deploying FADs during the FAD closure period. Humpback whale season was very busy with 53 complaints during the season. There was a lot of patrol time with Joint Enforcement Agreement (JEA) partners Hawaii and the USCG at sea and via air. Three monk seal investigations are still outstanding, one on Kauai, one at Molokai, and one at Bellows Beach. JEA training is scheduled to take place in Hawaii, American Samoa and CNMI. Funds were used to help replace equipment lost in the tsunami, as well as \$250,000 put forward for the purchase of a safe boat for CNMI nearshore water patrols.

Discussion

Simonds asked for clarification on the fines associated with the purse seine violations. Pickering replied they were all successful investigations and this quarter had the highest since he's been assigned.

Duenas asked if the JEA Agreement can be expanded to another agency within the Government of Guam to supplement Guam Customs, such as the Department of Agriculture, to benefit their conservation officers. Pickering said he would run the idea through Headquarters regarding the JEA Agreement. Duenas also asked if future reports could differentiate between type of fishing vessel, such as purse seine or longline; Pickering agreed.

Tulafono expressed his appreciation for the assistance from OLE in replacing equipment and paying salaries for the enforcement of federal fisheries laws.

Itano voiced his support for observer programs. He feels there should be more recognition of the benefits the observer programs provide to the fisheries, but noted issues when trying to locate an observer for an interview. Tosatto clarified that contract observers for NMFS can be found; the

issue is that the observers on purse seine vessels are provided by the Foreign Fisheries Agency, the observers are foreign, and they can be harder to locate. Pickering agreed observers played a huge role in the cases this and the subsequent period, but agreed it is a problem when observers are sometimes difficult to locate when needed for interviews; he is working on resolving that issue. Sword asked for clarification on how OLE became aware of the items in the report. Pickering replied they become aware via notification and review of the observer reports. He is hopeful in the future to place an agent in Honiara to have the ability to review reports on a daily basis.

Dela Cruz asked for clarification whether the \$250,000 conservation enforcement boat was for Guam or CNMI. Pickering stated it was for CNMI. Dela Cruz pointed out the need for a larger vessel due to the large distances involved covering 14 islands. Pickering said he wished he could afford to purchase a larger boat, but there is no funding available. He added that there is substantial training planned for CNMI.

3. NOAA General Counsel for Enforcement and Litigation

Alexa Cole, NOAA General Counsel for Enforcement and Litigation, reported eleven cases were forwarded to her office, including:

- A \$500 case for someone on a paddleboard getting too close to a humpback whale
- Four longline vessels cited for fishing without their longline permits (fine = \$1500 per fishing trip)
- Two U.S. purse seiners were charged: F/V MAJESTIC BLUE for two counts of setting on live marine mammals (\$11,000 per count, \$22,000 total), and F/V AMERICAN ENTERPRISE for two counts of setting on live marine mammals (total = \$22,000)
- Twelve counts of violating new regulations implementing the fish aggregating device (FAD) closure last summer (\$140,000 per count for a total civil penalty of \$1,702,000)
- A Spanish purse seine vessel, F/V ALBACORA UNO, was charged with deploying 67 FADs inside the US EEZ around Howland and Baker Islands and Jarvis Reef (\$7,437,000 NOVA, the largest NOVA ever issued). The case settled for \$5,000,000 and requires the F/V ALBACORA UNO not enter US waters for a period of three years, including transiting.

The new NOAA General Counsel, Lois Schiffer, has stressed the need for a cost-benefit analysis to be performed on every case such that the fine levied is more in line with the crime. Also, Cole issued a reminder to renew all permits.

Cole commented that three hearings have been scheduled between now and October, two observer harassment and intimidation cases, and one case involving a bottomfish vessel that was fishing inside a Special Preservation Area in the Monument in the NWHI. Additionally, seven cases were settled. The total civil penalties issued were \$5,011,700, most of which was from the F/V ALBACORA UNO. The CNMI Government was provided three checks totaling \$54,968.50 for the continuing penalties owed to them from three Taiwanese vessels that fished illegally in the US EEZ around CNMI in August of 2008, the second of four installments, for a

total received for the Year 2010 of \$179,706.18. The US nominated three vessels for inclusion in the WCPFC IUU vessel list, ALBACORA UNO, DER HUENG CHERNG and FU LIEN NO. 1. Lastly, a Conservation and Management Measure was adopted at WCPFC regarding the data buoys which would prohibit fishing within a nautical mile of a data buoy on the high seas of the Convention area.

Discussion

Tosatto noted the innovative use of the definition of fishing and having set the precedent is significant; he clarified the funds being deposited into the Sustainable Fisheries Fund are those from the F/V ALBACORA UNO.

Dela Cruz thanked Cole for the three checks.

Itano commended Cole on the prosecution of the FAD closure cases in the Howland and Baker zone and asked if other countries are prosecuting their boats as successfully in regards to FAD closures. Cole clarified that the Spanish vessel that was charged with deploying 67 FADs during the FAD closure was fishing in the US EEZ and felt other countries are not enforcing the FAD closure as stringently. The US has been looking at ways for improvement, one of which is to request observer reports on other vessels, which is a mechanism whereby not just vessels, but countries and members of the Commission, can be held accountable for the actions of their vessels.

Duenas asked for clarification on how VMS operations on vessels are monitored. Cole explained that VMS violations occurred when they did not renew their permits in a timely manner.

E. National Marine Sanctuaries Program

Allen Tom provided an update of the National Marine Sanctuaries Program. His update included:

- The Humpback Whale Sanctuary will be going through its Management Plan Review working with the State of Hawaii, Department of Land and Natural Resources beginning in August. Public workshops have been held throughout Hawaii and feedback was received. Results of those workshops are contained on the Sanctuary homepage, as well as the timeline of the review.
- In American Samoa, research sites are currently being assessed, including Larsen's Bay, Aunu'u, two sites in Tau, Rose Atoll and Swains.
- Regarding Rose Atoll, a contractor is being hired to assist with the Draft EIS to assess turning the area into a marine sanctuary.
- A boat dedication is set in American Samoa for the end of July.
- An educator's meeting will also be held in July.
- American Samoa will receive a Preserve America designation in July.
- The NOAA report on the tsunami in American Samoa is available online.
- A newly discovered underwater volcano was found outside the boundary of Rose Atoll.
- Due to the current discussions between Congressman Sablan, Headquarters and NOAA, Tom is waiting for word on how to proceed with funds intended for a site

assessment for the visitor center in Saipan.

- A Climate Change Workshop will be held in Honolulu on July 9th.
- Papahānaumokuākea is up for World Heritage Nomination at the end of July in Brazil.

Discussion

Tulafono asked for an update on the visitor center in American Samoa. Tom replied that the money is secured and construction is set to start early 2011.

Simonds asked if the new vessel can travel to Rose Atoll. Tom responded that the vessel is too small and was intended as a replacement for an already-existing vessel in American Samoa. Simonds also asked what the problems are with the visitor center in CNMI. Tom responded that Congressman Sablan is asking for assessments to be done at different locations on Rota, Tinian, and Saipan, and not just an assessment of one location.

6. Hawaii Archipelago

A. Moku Pepa

Thielen reported the State of Hawaii DLNR has been working on Draft Regulations to bring State of Hawaii regulations in concert with Federal regulations in waters where there are co-managed fisheries, which have been out for public hearings and will go before the Land Board soon for approval, through the rule-making process, and then to the Governor.

B. Legislative Report

1. Hawaii Shark Fin Law

Thielen noted the law banning possession and sale of shark fins, which will become effective as of July 1.

Discussion

Martin asked if there was outreach available to educate fishery participants and the public as to what is and is not allowed under the shark fin law.

Martin asked if the fins are allowed to be attached or unattached to the body, because one is clearly in possession of fins if they've caught a shark. Thielen replied that the focus of the legislation is on the act of finning, which is clear in the preamble. When Martin asked if the shark fin bill had been reconciled against federal law, Tucher replied that any preemption issues would result in the Secretary of Commerce notifying the State of Hawaii and added that there appears to be a movement at the Federal level to require landing sharks with their fins attached. Duenas states that there is no prohibition to require fins attached to sharks and Federally permitted vessels are allowed to land sharks. Cole clarified that if a shark is lawfully caught and the fins are less than 5% of the shark weight, it is legal unless you are subject to Hawaii state law. **Itano suggested that it would be wise for the Council to recommend that the State and NMFS work together to provide clarifications and public outreach.**

Sablan asked if the law would also ban shipping of shark fins from CNMI to Hawaii. Thielen replied there is further consultation and a need for more legislative consultation on what the State

Legislature has authority to regulate on.

Martin reported there is limited effort in the shallow-set fishery, although it is increasing.

Swordfish prices are at unprecedented highs, which could be related to the events taking place in the Gulf of Mexico and driving an increase in the shallow-set fishery. The deepset fishery has been taking place in all directions of the compass within 1,000 miles of Oahu with widely variable catch rates.

C. Enforcement Issues

Thielen reported on the hiring of Mark Young as the new DOCARE Chief. DLNR recently signed a JEA with NOAA and a Memorandum of Understanding with the USCG. DOCARE has filed an application to go through the accreditation process for the National Accreditation of Law Enforcement Agencies. In addition, DOCARE has made efforts to institute a process for decriminalized enforcement actions and put in place an online system for payment of fines, monthly catch reports and licenses; also, the selection process has been initiated for a Program Manager for the NWHI and Administrator for the Division.

Discussion

Itano offered a note of caution that civil penalties may encourage people to submit less accurate information to avoid the fine.

D. Action Items

This Agenda Item was deferred until after part E during the Council meeting.

1. Recommendations on Refining Bottomfish EFH for the Hawaii Archipelago

A. Review of New Habitat and Life History Information

Chris Kelley, from the University of Hawaii who contracted to assist with the five-year review of the Bottomfish EFH and Habitat Areas of Particular Concern (HAPC) definitions, reported on his work to date. The Magnuson-Stevens Act requires a revision and review be conducted every five years. The Council is considering changes to the definitions based on the review and new data. All data was compiled, which consisted of published and unpublished literature, internet searches, the database of the Hawaii Undersea Research Laboratory (HURL), BotCam data and research fishing surveys. EFH is defined for the whole fishery as the zero to 400 meter depth range around the MHI.

Guideline recommendations for reviewing EFH encourage providing definitions for individual species where possible. The three possible levels for bottomfish and groundfish EFH definitions were:

1. EFH definition for fishery.
2. EFH Definition for each complex.
3. EFH Definition for each species.

After extensive work done by Ana Vaz, graduate student at the Oceanography Department at the University of Hawaii, the EFH definition will remain at 0-400 meters out to the 200-mile EEZ boundary, instead of the recommendation of 0-50 miles off the coast.

Recommendations included:

1. Shallow complex be defined as 0-240 meter range.
2. Mid complex be defined from 40-320 m.
3. Deep complex from 80-400 m.

A slide was shown illustrating EFH Recommendations for all Species and for only the MHI Deep Seven. Recommendations were also shown for the larval stages with added descriptions for where in the water column the fish are found.

Presently HAPC is defined too broadly to provide guidance for environment impact assessments, creation of marine protected areas, or identification of priority areas for research efforts. It is proposed that the present definitions be retired and replaced with a new system inserted that designates 16 clearly defined areas as bottomfish HAPCs. A slide was shown illustrating the positioning of proposed HAPCs.

Kelley clarified the four criteria required to be defined as HAPC (at least one of which must apply), including importance, uniqueness, sensitivity to disturbance, and vulnerability. He pointed out the areas are habitats that are worth paying attention to, worth monitoring and worth doing research on and potentially putting some type of controls on activities. The State of Hawaii Bottomfish Restricted Fishing Areas (BRFAs) were chosen using the same criteria called for in HAPCs.

Research suggests that there may be a disconnect between the main Hawaiian Islands and the Northwestern Hawaiian Islands. Larvae spawned in either area do not get to the other area. However, Kelley cautioned that the modeling omits some areas, although the idea appears to also be supported by genetics.

The work still requires rewriting an appendix on life history, including an update with all information known, which Kelley has been working on.

Discussion

Itano recommended other areas, like Salmon Bank, be included because they are a source of bottomfish and groundfish recruits. Kelley agreed and stated he has urged Vaz to include the banks in the next round of the analysis.

Sablan asked if the information can be applied to the Marianas. Kelley replied in the affirmative and stated he has agreed to a contract for the Marianas and American Samoa next year for more bottomfish analysis work.

Duenas asked if a correlation can be made between the BotCam observations or the ROV information and fishing records or catch records in the area. Kelley replied it would be difficult because of the resolution difference between the information and erroneous reporting, which at the present time is a big hole. Duenas noted the data collection ongoing in Guam, including gonads, weight, and lengths of onaga and other bottomfish, could be useful in his work. Kelley expressed appreciation for the Guam data collection.

Itano asked how much is known about the dispersion of juvenile and adult transit between large

areas. Kelley noted the 9-year DAR tagging study on juvenile and subadult opakapaka which showed some tracks between islands, but it is still unknown how frequent and how important that movement is for the population. He added there are current studies still ongoing.

Duerr asked if social pressures weigh in when selecting HAPC sites. Kelley clarified that where people fish is not a major criterion for determining HAPC. For example, models showed that Hilo and Kahala habitats in the northeastern sides of the islands are more productive than habitats in the lee of the islands. Thielen suggested that it would be helpful to know the longer-term ramifications of redefining EFH/HAPC. Tosatto clarified that Mitsuyasu would touch on that with the recommendations and that the reason behind addressing EFH is because the SFA amendment required the Councils to establish EFH and HAPC definitions along with a review process. EFH provides the Council a framework for looking at their own management actions, as well as providing NMFS an avenue by which to review actions taken by other states and agencies.

It was clarified for Itano that the recommended HAPC designations are just that – they are not areas recommended for closure. They are useful in other circumstances, like determining where to place the OTEC pipe.

Simonds noted this is the first round and it will come back to the Council later in the process.

Questions from the Public

Leonard Yamada, a fisherman from Aiea Boat Club, asked if Kelley only used fish reports or if he included areas of similar habitat, including the Barbers Point and Pearl Harbor areas. He asked if research was done at random depths or at all depths. Kelley confirmed juvenile onaga and ehū have been documented off Pearl Harbor associated with disposed wreckage, but noted nothing that looked like it would qualify as a nursery. He encouraged fishermen to pass on any information on locations where juveniles have been seen to either him or the Council, as nursery grounds are still an unanswered question. He added he has not received much information from fishermen regarding locations for juvenile fish.

Roy Morioka commented that with regards to taking public comments at a later time, the presenter would need to stay. He urged the Council to allow public comments after presentations are given.

B. Draft Alternatives for Hawaii Bottomfish EFH and HAPC

Mark Mitsuyasu, Council staff, reported this item was for Council consideration. He noted that although the information just presented by Kelley is new information, it needs to be taken to the advisory groups and through the process. The amendments need to be developed further. If there are modifications necessary, it will come through the Council process at that time.

There were no questions or comments.

2. Recommendations on the 2010-2011 MHI Bottomfish Total Allowable Catch

A. Review of MHI Bottomfish Fishery Performance

Pooley apologized on behalf of DAR and NMFS to the Council and fishermen for mis-forecasting the fishery closure. He explained the data was not cross-checked well enough, there is a time lag in reporting with monthly reporting while projections are made on a weekly basis, a small data processing lag and the inherent difficulties with forecasting, which were exacerbated by double-counting about 10,000 fish.

There were no comments or questions.

B. 2010-2011 TAC Determination

Mitsuyasu reviewed the action items for the Council to consider regarding the TAC for September 1, 2010, to August 31, 2011, which includes reviewing the performance of the fishery over the last three years of quota. Using the 2009 Brodziak model, associated risk was assessed at different TAC levels. PIFSC was asked to project an additional year for associated risks with the same range of TACs previously considered. The TAC levels that were closest to the Environmental Assessment that was done with the establishment of the TAC for the last year were highlighted and included five alternatives, which were the suggested options considered. The Plan Team suggested taking an associated TAC closest to 50 percent. In the past, the Council has selected TACs that were between 40 and 45 percent.

There were no comments or questions.

3. Adjustment to Northwestern Hawaiian Islands Mau and Hoomalu Zone Boundaries for Consistency with NWHI Monument

Kelly Finn, Council staff, reported this action started in June 2006 when the Monument was established and commercial fishing was prohibited. At the 93rd SSC meeting, pelagic trollers requested to be able to retain Bottomfish Management Unit Species (BMUS) caught incidentally while trolling within the Mau and Hoomalu Zones. The SSC reviewed the available information and the stock status and determined the stocks would not be impacted. It recommended to the Council to explore options to allow fishers to retain these BMUS species. The Council took final action at the 137th Council meeting to recommend that the boundaries of the Hoomalu and Mau Zone be shrunk to conform with the boundaries of the new Monument, which is 50 miles within the 200 mile zone. An amendment document was in progress when the fishery ended in January 2010 because the fishers all accepted a compensation buyout. The information contained in the amendment now needs updating.

The alternatives presented to the Council at this Council meeting were:

1. No action.
2. Refine the geographic boundary of the Mau and Hoomalu Zones to align with the Monument.
3. Allow retaining BMUS in areas of NWHI Subarea outside the Monument.
4. Restrict all existing regulations pertaining to the bottomfish fishery in the NWHI to waters within the Monument.

Finn asked the Council to:

1. Recommend a new preferred alternative,
2. Direct Council staff to update the draft amendment and prepare it for transmission

- to NMFS, and
3. Offer any other recommendations.

Discussion

Tosatto stated that NMFS has presented another potential option to the Council, which is complete removal of the limited entry program because the program is now moot since the participating fishermen were compensated for exiting the fishery. He argued that removing the zones in entirety, instead of just shrinking them, has the same effect. The end result would be open access to BMUS, like pelagics, in the EEZ outside the monument. The Council could choose to limit access at a future date. Additionally, Tosatto stated that any new permitting and reporting would be duplicative to the State's program. Itano agreed with Tosatto.

E. Community Activities and Issues

1. Hawaii Community Fisheries Workshop Report

Roy Morioka, member of the Noncommercial Advisory Committee, reported the results of informational meetings held throughout the Hawaiian Islands covering topics such as catch shares, stock monitoring, noncommercial data collection, the National Saltwater Registry, and MSP. Representation included noncommercial and commercial fishermen, charter captains, one tackle shop owner, community members, students, teachers and the Council family, including PIRO, PIFSC, and the State of Hawaii.

Some of the feedback from the participants included that more of these workshops should be held to keep communities informed, and students should be encouraged to attend and participate. The communities also want their input to advise the Council.

Morioka pointed there are plans to hold more informational meetings to continue these efforts.

Discussion

Duenas asked if there was any discussion regarding place-based management. Morioka replied there are plans to address those issues at the upcoming puwalu meetings in Hawaii.

Thielen clarified that with regards to place-based management, Hawai'i is moving forward with permission from rule-making on bag and size limits that are island-based. Different draft rules were developed for more specific management. Regarding CMLs, management decisions must be based on data. Thielen argued that fishermen insist on best, most accurate data but then take a while to submit their catch reports. The State does not want to pester fishermen to file the monthly catch reports, but it is sometimes necessary.

Duenas stated that resources are important to all island areas and state that there are BRFA's in Council waters, as well as other management measures that apply in Federal waters. He disagreed with a comment that place-based management is a State-jurisdiction issue only.

Duerr expressed appreciation for the results of the informational meetings, but suggested holding some evening meetings to improve representation of the whole community. Morioka agreed and noted there are plans for future evening meetings to be held. Morioka showed a DVD produced for use in the informational sessions.

F. Hawaii Advisory Panel Recommendations

Ed Watamura, Advisory Panel Member, reported on some highlights of the Hawaii Advisory Panel Recommendations:

- Prohibit release and escapes of fish from aquaculture operations and require operations be held accountable for release and escapes.
- Under cooperative research priorities, provide funding for the taape net project to study what the taape are feeding on.
- Recommend the Council request data to evaluate fishing effort and catch information to assess the performance of the longline area closure and seasonal adjustments to that fishery.
- Recommend the Council further consider re-evaluating the longline closures and seasonal adjustment based on the findings of the data.
- Under the Sanctuary, the Panel recommended that any species being considered for inclusion in the proposed Humpback Whale National Marine Sanctuary expansion go through the same process that the humpback whale had to go through in the development of the sanctuary.
- Recommend the Council evaluate the aquarium fishery and provide a report of the evaluation to the Advisory Committee.
- Recommend that the State of Hawaii eliminate BRFA's because they're superfluous due to the MHI Bottomfish TAC that is currently in place.

He noted the fishermen are not interested in any Catch Shares Program being implemented.

There were no questions or comments.

G. Hawaii Plan Team Recommendations

Mitsuyasu summarized the bottomfish recommendations of the two Plan Team meetings held:

1. Request an update or a report on the quantity, location, and which species are being removed from the NWHI and continue monitoring the area through cooperative research or through NOAA independent assessments.
2. Request resources be put towards continuing community outreach and education regarding the current management regime in the state.
3. Recommend closing the gap in regards to getting noncommercial information from the State.
4. Recommend shortening the notice period for closing the fishery when the TAC is reached to a seven-day notice period.
5. Recommend creating an Advisory Review Board that would meet prior to when the principals meet, review the fishery data information, and bring community information with regards to how the fishery is doing, how the weather has affected the fishery, and what other issues are impacting the performance of the fishery.
6. Recommend use of the 49 percent level of risk in determining the TAC.
7. Request a NMFS stock assessment scientist be assigned to participate in all of the Plan Team meetings.
8. Request the Advisory Panel Chair or a designee of the Advisory Panel Chair be a member of the Plan Team.

Discussion

Thielen commented about one recommendation with regards to closing the fishing season due to attaining the TAC: because Hawai'i has to go to the land board, they would still need public notice; therefore she has concern about a 7-day closure recommendation.

H. Hawaii REAC Recommendations

Martin reported there were no specific recommendations from the REAC in Hawaii, although there was significant discussion about aquaculture and marine spatial planning.

There were no questions or comments.

I. SSC Recommendations

Craig Severance, SSC Member, presented the SSC recommendations and comment on the Hawaii Archipelago:

- The SSC expressed disappointment that a new stock assessment was not produced by PIFSC prior to the meeting. Given the ACL requirements of 2011, the SSC requires that an updated stock assessment reflecting the revised geographic extent of the fishery as approved by the Council must be presented at the next SSC meeting. Any stock assessment for the 2011-2012 fishing year must be completed and independently reviewed through the agreed upon WPSAR Process prior to the June 2011 SSC meeting.
- The SSC recommended the TACs generated using the SSC model introduced at the 99th meeting are preferable to those generated from the PIFSC production model until PIFSC investigates changing the model assumptions as recommended at the 99th meeting.
- The SSC, therefore, recommends the 2010-2011 TAC of 244,000 pounds, which represents the 25th percentile or the 25-year long-term running average catch for the Deep Seven of 329,000 pounds.
- The SSC notes that this proposed TAC, when compared to the table presented in the PIFSC stock analysis projections for 2010, represented a 29 percent risk of overfishing. If the fishery had caught its full 2009-2010 TAC of 254,050 pounds, the 25-year running average or 25th percentile would be approximately 245,000 pounds.
- The SSC supports the June Plan Team Recommendations 1, 2, 4 and 5.
- Regarding Recommendation 3, the request from the Plan Team that NMFS revise that table or projected TACS and risk levels.

Discussion

Young asked for confirmation of the SSC recommendation for the TAC of 244,000 pounds. Severance answered in the affirmative.

J. Public Comment

Leonard Yamada, member of Aiea Boat Club, expressed concern that the bottomfish habitat zones are being determined from catch records as a way to conserve money, which is causing distrust between fishermen and management; there appears to be little science involved. He pointed out that all of the areas reported in their catch reports are considered critical habitat, yet similar habitat which appears to be a nursery on the Ewa side of the island is not. Yamada went

on to point out fishermen fish according to price and suggested it would be better to have a TAC per species.

Ed Watamura, speaking as a member of the public, read testimony from Ron Tam. Tam attended the latest Plan Team and SSC meetings and learned the upcoming Deep Seven TAC limit will be lower than the present TAC. Further, last year's TAC was not achieved by ~46,000 pounds, was closed based on the forecasted achievement of the TAC limit, weather was not conducive to Deep Seven fishing, catch data was double-counted, and the fishermen were penalized from the State that was not of their own doing. He also asked for clarification about whose jurisdiction the BRFA's are in because out of 12 BRFA's, 1 is in Federal waters and 10 straddle State and Federal waters. He argued that due to a moving target TAC coupled with seasonal closures, lack of BRFA evaluations, and implementation of unenforceable and disjointed rules, the BRFA's and TAC go beyond reasonable management measures. He asked the Council to consider his concerns when discussing the 2010-2011 TAC limit.

Roy Morioka, speaking as an MHI bottomfish fisherman, requested the fishermen to ask questions of the process in regards to HAPC and EFH, and for the Council to consider genetic data, distribution and linkage, and potential impacts on retention of catch of the TAC in their decision-making.

Neil Kanemoto, a member of the public, stated that fishermen are reluctant to provide information to the management agencies because it often results in the closing of their fishing spots. He encouraged efforts to rebuild trust with the fishermen.

K. Council Discussion and Action

Regarding the Hawaii Archipelago:

- 1. Recommended the 2010-2011 Main Hawaiian Island "Deep 7" commercial bottomfish total allowable catch be set at 254,050 pounds, based on the previous SSC analysis of the MHI Deep 7 population and updated analysis of associated risk levels provided by PIFSC.**

Moved by Itano, seconded by Torres.

Motion passed; Thielen and Young voted nay; no abstentions.

A discussion was initiated by Young about the legality of setting a TAC above the recommendation by the SSC, arguing that the Council would be setting an annual catch limit above the SSC-recommended level. Tucher clarified that the Magnuson-Stevens Act (MSA) requires Councils to establish ACLs that cannot exceed fishing levels identified by the SSC, but that a TAC is not necessarily an ACL. A TAC is not an ACL under National Standard 1 (NS1) requirements. He stated that the Council would need to make a judgment call on whether they are establishing an ACL-equivalent when determining the TAC. [note: the Council cannot exceed the acceptable biological catch (ABC) determined by the SSC, not the ACL, per NS1 guidelines.] Duenas further argued that until the Council adopts the ACL process and it's applied, the TAC would not be subject to the ACL criteria. Itano further clarified that the SSC has a lack of confidence in the stock assessment and thus adopted a 25-year running average calculation. Additionally, full harvest of the TAC was not achieved this year. Itano argued that

the Council-selected TAC still has relatively low risk associated with it.

Thielen argued that the Council demands basing their decision on the best available science and felt that by going against the SSC recommendation, the Council was ignoring the science. She commented that she would be voting against the motion and recommended the Council adopt the TAC recommended by the SSC. Duenas pointed out though that the SSC was given an analysis based on a 254,000 catch rate, but the catch was actually 208,000, which resulted in a lower TAC, and thus the best science was not utilized. He voiced support for the motion, as did Martin. Simonds asked for the risk levels associated with the 254,050. The reply was that last year, with a TAC of 254,050 lbs, the risk of overfishing was 45%, but this year a TAC of 254,050 lbs results in a risk of overfishing of 33%. Thus, although the recommendation is higher than what the SSC recommended, the risk is lower than the risk selected last year.

- 2. Recommended staff work with NMFS to change the Federal MHI bottomfish fishery closure notice to include a 7 day notice instead of the 14 day delay which has been used in closing the fishery in previous years.**

Moved by Itano, seconded by Sablan.
Motion passed; no abstentions.

Thielen cautioned that with regards to the State, the closure notice must still go before the Land Board when the TAC is reached. Tosatto commented that this will take, at minimum, a regulatory amendment. Thus, the State will have time to provide comments. He stated that in some cases, the State has been able to be more nimble.

- 3. Directed staff to establish a Hawaii Bottomfish Advisory Review Board to be consulted prior to selecting the projected closure date of the MHI bottomfish fishery as managed under the annual TAC. The Advisory Review Board should consist of representatives from the bottomfish fishing community throughout the MHI, representatives from the seafood processor and marketing communities and Plan Team members from NMFS and the HDAR.**

The Advisory Review Board should meet immediately prior to the Bottomfish Principals Group (PIRO Regional Administrator; PIFSC Director; HDAR Administrator; and Council Executive Director) to review available bottomfish landing and sales data, consider recent fishery performance and provide guidance to the Bottomfish Principals on the closure of the fishery.

Moved by Itano, seconded by Torres.
Motion passed; Young voted nay; no abstentions.

Young argued that this seems like an unnecessary additional layer and instead, people should just talk to each other. Thielen asked for clarification about when the consultation would take place with respect to the 7 day notice period. Simonds responded that the consultation would occur before the decision is made. Tosatto further clarified that the State would provide advice in addition to advice from PIFSC and that the board would be advisory in nature. Martin stated he

envisioned the group being consulted more than once as the TAC is being approached.

Thielen questioned requirements for FACA when creating an advisory group. Tucher clarified that because the advisory group would be established under Subsection G of the MSA, it would be exempt from FACA.

Thielen requested if the membership of the group could be more inclusive and have a more broad representation. Mitsuyasu explained the Plan Team discussion focused on the fishing community and seafood marketers, who are directly impacted by the closure and would provide relevant information of the fishery.

- 4. Endorsed the Plan Team recommendation supporting the continued future monitoring of the NWHI bottomfish fishery and recommending that the NWHI Monument provide the Council a report on the level of sustenance fishing for bottomfish in the NWHI. Specifically, the report should include how many permits have been issued by year, how much fish were caught by species and where and when they were caught. The Council also continued to support monitoring of the NWHI bottomfish resource through experimental or cooperative fishing research.**

Moved by Itano, seconded by Tulafono.
Motion passed; no abstentions.

Tosatto commented that because the monument has a permit database, this should not be a difficult request. **Tosatto requested that Council staff CC him on the letter.**

Duerr asked about other fishing, such as for scientific reasons. Tosatto responded that the report may be more generalized, such as by scope of permit. Palawski clarified that the Council is just talking about bottomfish, which are not taken for scientific purposes.

- 5. Directed staff to work with NMFS and the State of Hawaii to continue education and outreach efforts to support the MHI bottomfish fishery management program emphasizing the importance of collecting fishery data for the monitoring and management of this fishery.**

Moved by Itano, seconded by Torres.
Motion passed.
There was no discussion.

- 6. Final motion: Recommended the Plan Team look at a way to obtain non-commercial bottomfish fishery data from State waters that will complement the Federal non-commercial permit and reporting requirement.**

Original motion: The Council directs the Plan Team to address the fact that the noncommercial permitting provision that was to be included in the State's complementary bottomfish rule package creating a data gap in collection of information

from the noncommercial bottomfish fishery.

Moved by Itano, seconded by Sablan.

Motion passed; no abstentions.

Thielen requested to amend the motion to include a recommendation to obtain noncommercial data from the Hawaii bottomfish fishery. There were no objections to the amendment.

Amended to: *The Council recommends that the Plan Team look at a way to obtain noncommercial bottomfish fishery data from State waters.*

Tosatto stated there are activities already underway to gather the data and may create a problem for enforcement. Additionally, there is a population gap in the non-commercial data of State waters that should be closed. Thielen asked if the Council should request getting the complement of the Federal data. As such, the motion was amended again with no objections.

Amended to: *The Council recommends the Plan Team look at a way to obtain noncommercial bottomfish fishery data from State waters that will complement Federal noncommercial permit and reporting requirements.*

Regarding the Hawaii FEP Advisory Panel, the Council:

7. Supported the Advisory Panel recommendations requesting:

- a. The State of Hawaii provide a report on the effectiveness of the BRFAs as evaluated in 2006.**

Moved by Itano, seconded by Torres.

Motion passed; Young voted nay; Thielen abstained.

Thielen stated she will abstain as State of Hawaii representative and because she is not clear on the background of the motion. There was no other discussion.

- b. Final motion: The State of Hawaii consider the elimination of the BRFAs as the fishery is now managed through the MHI Bottomfish Total Allowable Catch.**

Original motion: The Council supports the Advisory Panel recommendations requesting the State of Hawaii eliminate the BRFAs as the fishery is now managed through the MHI Bottomfish Total Allowable Catch.

Motion moved by Itano, seconded by Tulafono.

Motion passed via roll call (requested by Torres):

Ayes: Duenas, Tulafono, Sword, Duerr, Itano, Sablan, Dela Cruz, Martin, Haleck

Abstentions: Tosatto, Thielen

Nays: Young, Torres

Young was confused about what the Council was asking of the State because in the prior motion, the Council asked for information, then in this motion asked the State to amend their management practice. Tosatto stated that he could not support this motion and will abstain because he would like more information on BRFA effectiveness prior to asking the State to eliminate BRFAs. He commented that the Council must specify what it is looking for regarding species enhancement, etc.

Duenas made a friendly amendment to add "consider" before "eliminate" to address concerns of jurisdictional authority. There were no objections by the maker or seconder.

Amended to: *The Council supports the Advisory Panel recommendations requesting State of Hawaii consider the elimination of the BRFAs as the fishery is now managed through the Main Hawaiian Islands Bottomfish Total Allowable Catch.*

A roll call vote was taken to clear any confusion.

- c. **Final motion: NMFS evaluate the impact of the BRFAs and NWHI bottomfish closure on Hawaiian bottomfish stocks.**

Original motion: The Council supports the Advisory Panel Recommendation requesting the National Marine Fisheries Service evaluate the effectiveness of the BRFAs and Northwestern Hawaiian Islands bottomfish closures and requests the State of Hawaii to provide permits to National Marine Fisheries Service to conduct such research.

Moved by Itano, seconded by Torres.
Motion passed; Thielen abstained.

Young asked for clarification as to the permits to be provided to NMFS. Mitsuyasu clarified that a couple things were noted by the Advisory Panel including that BRFAs cannot be incorporated into the stock assessments or closures and that a permit is needed to do independent research in the Monument. Young argued that the Council cannot direct the Dept. of Land and Natural Resources to issue a permit and that the applicant just needs to go through the appropriate application process with the State. Tosatto agreed that the last part of the motion was unnecessary, although it seemed the intent was to show that the Council supports the research. Torres commented that he agreed with the elimination of BRFAs but it seemed that in motion a, the Council was asking Hawai'i to consider the effectiveness of BRFAs, and in motion c, the Council is asking NMFS to evaluate them. Further, he clarified that motion b cannot be considered until the effectiveness of the BRFAs are known. Duenas voiced support of the motion.

Young argued that the BRFAs are closed as a management decision, but the NWHI are closed as a policy measure, thus he was unsure how NMFS would evaluate a policy decision. Itano clarified that while it may have been a policy decision, it may have stock consequences.

Duenas suggested amending the motion to say State of Hawaii assist in providing a permit.

Itano, maker of the motion, suggested a friendly amendment that added “on Hawaiian bottomfish stocks” after “NWHI bottomfish closure.” There was no objection to the amendment.

- d. **Final motion: Staff to review the scope, and evaluate the impacts of, aquarium fish (and larvae) collection on the Hawaii aquarium fishery and present the finding to the Advisory Panel and other Council advisory bodies at their next meetings.**

Original motion: The Council supports the Advisory Panel recommendation requesting staff to review the scope and evaluate the impacts of the Hawaii aquarium fishery and present the findings to the Advisory Panel and other Council advisory bodies at their next meetings.

Moved by Itano, seconded by Sablan.

Motion passed; Young, Thielen, and Duerr voted nay; no abstentions

Thielen asked for clarification as to the meaning of the Hawaii aquarium fishery. Mitsuyasu explained this item arose after the recent dumping of a large amount of aquarium fish into a dumpster on the Big Island and the elucidation that there is no comprehensive review of the fishery and its related impacts. Itano suggested adding language to include examining the impacts of the fishery.

Thielen argued that this is overseen by the West Hawai'i Council and questioned whether the Council had any jurisdiction in the nearshore reef fishery of aquarium fish. Duerr agreed. Mitsuyasu further clarified the advisory group made the recommendation to better understand the scope of the new developments in the aquarium fishery, such as used of re-breathers, people going deeper and collecting different types of fish, and collection of larval fish out in the pelagic environment and raising them. Tosatto appreciated Thielen's concern, but argued that this Council is mandated via the MSA to address EFH, which does not preclude it from getting information about related fisheries in the State. He offered that the Council is not seeking to get involved, but just seeking information. Torres added that the aquarium trade could also be taking larvae of pelagic fish, thus this Council should be involved. He suggested the addition of “larvae” to the motion.

Tosatto felt the workload to deliver a report to the Advisory Panel would be relatively light, also noting the Council's mandate for EFH, this effort will help to fill an information gap that exists.

Thielen suggested the coordination of sharing information with the West Hawaii Fisheries Council with the advisory groups so the limited Council staff could devote more attention to the mandated mission of setting ACLs by 2011.

The motion initially passed with three nay votes by Young, Duerr, and Thielen, and one abstention vote by Tosatto, but Torres noted the amendments were not accepted by the Maker of the Motion nor the Second of the Motion. After discussion, the proposed amendments were accepted without objection.

Amended to: *The Council supports the Advisory Panel recommendation to have the staff review the scope and evaluate the impacts of aquarium fish and larvae collection in the Hawaii aquarium fishery and present the findings to the Advisory Panel and other Council advisory bodies at their next meeting.*

Regarding the modification of the Northwestern Hawaiian Islands management regime:

- 8. The Council directs staff to add an alternative to its analysis that removes the limited entry program in the Northwestern Hawaiian Islands bottomfish fishery for Council discussion at its October meeting.**

Moved by Itano, seconded by Torres.
Motion passed; no abstentions.

There was no discussion.

- 9. The Council requests Council staff meet with the NMFS PIRO, NOAA GC and the State of Hawaii to discuss the impacts of the new State of Hawaii shark fin rules on federal permitted shark fishing and to coordinate education and outreach efforts.**

Moved by Itano, seconded by Torres.
Motion passed; Thielen and Tosatto abstained.

There was no discussion.

7. Program Planning

A. Action Items

1. Recommendations on a Process for Establishing Annual Catch Limits

Robert Skillman, SSC member, started with brief presentation where he provided an overview of the National SSC meeting. Headquarters briefed the SSCs about the Magnuson-Stevens Reauthorization Act (MSRA) and National Standard 1 (NS1) Guidelines. The old requirements included maximum sustainable yield (MSY), status determination criteria (SDC), optimum yield (OY), and acceptable biological catch (ABC). The new guidelines include MSY, SDC, OY, ABC, overfishing limit (OFL), annual catch limit (ACL), accountability measures (AMs), and potentially an annual catch target (ACT). He also discussed the alphabet soup of ACT through OFL in which scientific uncertainty and the probability of overfishing is encompassed from the OFL to ABC; scientific uncertainty, impacts of overfishing on the stock, social conditions, economics, and possibly management uncertainty are encompassed from ABC to ACL; and management uncertainty could be incorporated from ACL to ACT. $OFL \geq ABC \geq ACL \geq ACT$.

Paul Dalzell, Council Senior Scientist, continued the presentation by updating the Council on the status of the amendment document and the control rule elements to be considered in the ACL process. He stated the requirement in the MSA for Councils to establish a mechanism for specifying ACLs such that overfishing does not occur in the fishery and to include

Accountability Measures. Two working groups were formed, the Tiers Working Group and Ecosystem Component Working Group, both consisting of SSC members, to address ABC control rules and inclusion of species to be managed. He explained P^* is the probability risk of overfishing the Council is willing to accept. NMFS recommends 50 percent as the maximum level. Dalzell also reviewed plans for stock assessments and monitoring of the stock status, setting a multi-year catch limit, exceptions to ACL, current WCPFC Conservation and Management Measures, and examples of species that could be classified as Ecosystem Components in the island areas.

Two alternatives for classifying stocks included:

- No action.
- Utilization of the Ecosystem Component classification.

Alternatives for ABCs included:

- Model-based Probabilistic Approach to estimating ABCs.
- Quasi-Probabilistic Approach to estimating ABCs.
- Data-poor Probabilistic Approach to setting ABCs.
- Data-poor ad hoc approach to setting ABCs.

Alternatives for setting ACLs included:

- Qualitative construct for setting P^* .
- Ratio of biomass over biomass at MSY versus P^* .
- Council establishes P -star for setting ACLs factoring in uncertainty.
- Fixed percentage of buffers for setting ACLs.

Alternatives for setting Accountability Measures included:

- No action.
- A suite of Accountability Measures that included:
 - Near real-time catch monitoring.
 - Closures when catch limit reached.
 - Multi-year catch limit.

Discussion

Duenas commented that the starting point bothers him because he does not know where some of the numbers originate. He reviewed the Guam creel survey and showed major differences between the Guam creel survey and Co-op database to Hamm. One major issue was that the most productive and least productive fishing grounds were reversed. Duenas also urged caution when looking at bottomfish in Guam because in the summary document, CREMUS and BMUS were lumped together. He asked for a rationale prior to document dissemination. He also argued that fishing is more opportunistic in Guam than in the Caribbean (where some of the guidance staff used came from). He voiced concern that the small artisanal fishery in Guam will bear the brunt of ACL determinations. Dalzell responded that the working groups had already discussed those issues and it is speculated that the biomass for Guam and CNMI commercial reef fish is underestimated. Skillman added that those issues led the working groups to borrow from other Councils when proposing the tier system that addresses data certainty.

Itano voiced support for the idea of the Ecosystem Component binning. He cautioned against having too large of a list of species that require ACLs because it will be extremely cumbersome.

Palawski agreed with the Ecosystem Component method, but questioned the need for determining ACLs for the Pacific Remote Island Areas (PRIAs) as there would probably never be any fishing in the area. Dalzell replied considering the noncommercial fishing regulations being worked on presently would warrant determining a catch limit.

Young pointed out references within the MSA that relate to the similarity between a TAC and a Guideline Harvest Level and ACL, which says TAC is the ACL, which is different from what was said in the meeting earlier. He noted background information relating to the 140th Council meeting held in March 2008 TAC and/or ACL preferred alternative for bottomfish which stated:

Under this preferred alternative this TAC would represent the Deep 7 Bottomfish Complex ACL for the MHI bottomfish fishery and then when and if the TAC was recommended to be modified, the Council would implement the new TAC / ACL using the appropriate MSRA process.

Young suggested the Council should reconsider the action taken earlier regarding the setting of the MHI Bottomfish TAC. Tosatto attempted to explain how a TAC would be set within the ACL process – the SSC determines the OFL and recommends an ABC, which the Council cannot go over. From that, the Council sets the ACL. He explained that the TAC is considered an ACT and AM. Tucher also clarified that while a TAC could be the same as an ACL, it's a policy decision by the Council and the primary question is whether the law compels the Council, prior to the establishment of the ACL procedure, to treat the TAC as an ACL, which it does not.

Young made a motion to rescind the prior action as it is contrary to the MSA, and noted an example of the Western Alaska Community Development Quota Program, which equates the terms TAC, Guideline Harvest Level and ACL, as well as the Council's February 12, 2008, options paper and minutes of the 140th meeting. Martin suggested that it was an inappropriate time to bring that up and suggested the motion be held off until the time in the agenda during which the Council will take action. Haleck tabled the motion to rescind, stating it would be taken up in the Council Discussion and Action section of the agenda.

2. Recommendations for Management Measures for Aquaculture in the Western Pacific

Joshua DeMello, Council staff, reported on management measures for aquaculture, including the legal opinion of NOAA General Counsel (GC) that aquaculture is considered as fishing under the background of MSA, the Council aquaculture policy, the approved Gulf Council Aquaculture Policy, status of national legislation, the National Aquaculture Policy (which is presently in development), and the requirements developed by the State of Hawaii for aquaculture operations.

The alternatives included:

1. No action.
2. Require permit and reporting.
3. Designate aquaculture zones.
4. Develop a Council review process.

5. Develop a limited entry program.
6. Prohibit aquaculture.

Alternatives 2, 4, and 5 were selected at the 147th Council meeting as Preliminarily Preferred Alternatives.

The Advisory Panel recommendation was to prohibit releases and escapes, and hold operations accountable for escaped fish.

The Plan Team recommendations included permitting and reporting, and including environmental monitoring impacts from production wastes.

The SSC recommendation was to adopt alternative 2 to require permitting and reporting via Federal logbooks to monitor the aquaculture fishery.

Discussion

Itano commented that the operations should be held accountable at all costs, but that it can be tough to track. He said aquaculture development can be good or harmful and that everyone needs to ensure against escapes through permitting and fines that could be levied. DeMello replied one way would be by tagging and monitoring escaped fish, and the Advisory Panel voiced the desire to find a way for the loss of income to the wild fisheries.

Martin commented that he assumed there would be an analysis to look at potential impacts of escapes happening during the evaluation process for an aquaculture operation. DeMello noted the practice of obtaining funds deposited for cleanup efforts in the oil industry and perhaps this item could be included in the Aquaculture National Policy being developed.

Tosatto stated he continues to encourage the Council to wait for the National Aquaculture Policy to be published before taking final action on a Council management regime. He also commented that permitting and reporting already exists and thus, this amendment would give the Council no greater role than they already play in the existing level or review. Tosatto said that NMFS endorses many aspects of the document, including zoning, permitting and reporting, and holding aquaculture operations accountable for environmental impacts; all those items were in line with comments NMFS received during their listening sessions.

Duenas responded, however, that the Council should move forward because the document has been before the Council many times for review and the national policy is guidance. He suggested that if the Council needed to amend something in the future, they could.

3. Recommendations for Options for Exemptions from Federal Fishery Permits

DeMello reported on the background of the recommendations which arose at the 146th Council meeting. The three issues included:

1. Exemptions to the Federal permitting process.
2. Exemption to fees for Federal permitting.
3. Data collection from the groups that are exempted from permits.

Alternatives for Issue 1 included:

1. No action
2. Exemption for children under 16 for noncommercial permits and reported (Preliminarily Preferred Alternative)
3. Exemption for children under 16 for all permits and reporting
4. Exemption for disabled persons for noncommercial permits and reporting
5. Exemptions for disabled persons for all permits and reporting
6. Exemption for adults over 65 for noncommercial permits
7. Exemption for adults over 65 for all permits and reporting
8. Exemptions for U.S. military veterans for noncommercial permits and reporting
9. Exemption for U.S. military veterans for all permits and reporting

Alternatives for Issue 2 included:

1. No action
2. Exemption from fees for a particular group for noncommercial permits, (Preliminarily Preferred Alternative), for less than 16
3. Exemption from fees for a particular group for all permits

Alternatives for Issue 3 included:

1. No action
2. Creel survey
3. Registry
4. Vessel owners and operators

Discussion

Tosatto urged the Council to continue to fully define the goal of the fisheries management measure, noting the NMFS policy for calculating fees and that NMFS covers the administrative cost of permitting. He cautioned against the risk of losing data with some of the alternatives.

Duenas asked if the cost of permitting is the same for all permit types. Tosatto replied that with every new permit, there is a new calculation of administrative costs. DeMello pointed out the list of costs of existing permits can be found in his report on page 14. Itano asked if there is a cost calculated for requiring Federal logbooks. Tosatto answered in the negative.

4. Recommendation on Cooperative Research Priorities

Finn briefly presented an overview of the Cooperative Research Program and recommendations for the next year's funding. The MSRA stated the funding should be used for projects which address Council critical needs. At the 145th Council meeting, the Council approved a process to compile a list of research needs and present them to PIFSC, the entity in charge of the funding. The topic was presented to the Council's advisory group as well as the SSC, along with the Five-Year Research Plan, Marine Conservation Plan, and other management needs, including the determination of the ACLs. The funding remains the same. The lists of critical needs were generated and prioritized by island area and the top items will be included in the Council's recommendations for the next funding consideration.

The list for funded items for 2010 included continuation of the tagging studies for the bottomfish

in the Main Hawaiian Islands.

American Samoa Archipelago items included:

- Conduct a cost-benefit analysis for rebuilding a small-boat alia fleet by replacing alia with other safer small vessels, with accompanying socioeconomic analyses.
- Conduct a study to determine what FADs produce in terms of catch, size structure and stock structure via tagging fish at FADs, as well as explore potential for use of an alternate improved FAD design.

The SSC made the recommendations to increase scientific veracity.

The Marianas research priorities included:

- An evaluation of the potential market impacts on Guam and CNMI regarding the new emerging longline fishery in CNMI.
- Study of the nearshore FADs.
- An evaluation for potential recreational fish species marketing to high-end users.

For the Hawaii Archipelago, the list of recommendations included:

- Determine trophic ecology of taape through stomach content studies and compare results with lab analyses, including fatty acid and stable isotope studies.
- Determine movement, diet, longevity and origination of escaped aquaculture fish through tagging and marking.

The Pacific Pelagic Recommendations included:

- Study to determine longline fishery post-hooking mortality of bigeye tuna.

Finn asked the Council to approve the lists to be provided to PIFSC for funding consideration, add new projects or critical needs, and to prioritize the items.

Discussion

Dela Cruz clarified the CNMI longline company moved from Rota to Saipan.

Itano asked for clarification on the nature and intention of the nearshore FAD proposal for CNMI and the tagging of the aquaculture fish, and also suggested the inclusion of a University of Hawaii study on the taape diet. Finn clarified the tagging would be on the unintentional escapes from the aquaculture operations. Regarding FADs, the interest was to place FADs closer inshore to be accessible by small boats to study the impact on the communities and to study the existing FADs to determine if FADs are useful for aggregating fish.

Sablan asked for clarification of how to go about applying the alternative for aquaculture of cultured clams in CNMI in regards to escapees. Finn replied she did not foresee a problem as clams are sedentary and if larvae were to escape it would most likely be viewed as a positive impact. She noted there perhaps could be some research that could be developed.

Duenas noted there was some discussion among the fishermen on the Advisory Panel that the FADs could be strategically placed in an effort to aggregate species such as wahoo or mahi.

Martin suggested consideration for a project in support of the Take Reduction Team having to do with hooks and circle hooks in Cooperative Research.

B. Recreational Fishery

1. NOAA Recreational Fishery Initiative

This item was taken out of order, prior to 7A, at the Council meeting.

Russell Dunn, Recreational Fishery Coordinator, provided a presentation about the Recreational Fishery Initiative by NOAA, which was initiated by Lubchenco in October 2009. It includes five commitments, including recreational coordinators in every region, new leadership, MAFAC, and the Saltwater Recreational Fishery. He said the goals are to develop strong trusting partnerships with the marine recreational fishing community and keep NOAA involved in recreational issues.

The National Policy Advisor position was created to develop a strong partnership with the marine recreational fishing community, to engage recreational fishermen to participate in addressing their concerns, ensure the recreational issues are adequately considered in the fisheries management process and provide policy advice to the NOAA Assistant Administrator, Eric Schwaab, as necessary.

The Recreational Saltwater Fishing Summit was a two-day meeting held in Washington DC in April to initiate dialogue between NOAA and the recreational fishing community. More than 100 recreational constituents attended the meeting. Some of the themes of the summit focused on included better communications, cooperation and trust; improving data quality, quantity, and timeliness; and improving access and continuing access to the resource for recreational fishermen.

At the Summit, they ranked actions including integrating values of recreational fishing into NOAA's mission statement, improving social and economic data, recognizing the uniqueness of the recreational fisheries, and having greater representation of recreational interest on Councils.

Some of the Summit follow-through items included posting materials online such as the final summit report and reviewing the NOAA Strategic Plan, which is open for public comment through August 10, 2010.

Discussion

Duenas suggested a subsistence subcomponent should be established.

2. Report of the NOAA Recreational Fishing Summit

Watamura read excerpts of his report, noting the eloquently phrased description of Pacific Islander motivation to fish and the practice of customary exchange, which has been recognized by the Western Pacific Fishery Management Council. He added the recently declared Marine National Monuments are regarded as Federal intrusion on the rights of fishermen, the concern exists regarding the NOAA Catch Share Program, and there is an overwhelming preference for a

bottom-up management regime.

He expressed encouragement by the general optimism shared by all of the attendees and by discussions that seemed to lead towards a more fair and equitable climate for recreational fishermen, but noted the need for much more science and data collection, which is under-funded. Another suggestion was to invite NOAA representatives to Hawaii in an effort to promote the uniqueness of the Region.

Discussion

Duerr noted recreational fishermen cover a broad spectrum, but recreational fishing done for money is the most damaging form of recreation. He commented that not all recreational fishermen are brutal (playing fish too long just for sport, etc) and that there are different reasons for recreational fishing that cross the realm from catch-and-release to subsistence.

C. Fisheries Monitoring and Compliance

1. Report on the Video Monitoring Project

A. Hawaii Longline Video Monitoring

Eric Kingma, Council staff, reported on the video monitoring project conducted in the Hawaii longline fishery in 2009 by Archipelago Marine Research in Victoria, Canada. The primary objective of the NMFS Observer Program is to monitor protected species interactions via high observer coverage, which is costly and complex to operate.

Electronic Monitoring (EM) has been successfully implemented in other fisheries. The objective of the pilot study was to see if EM can be used to evaluate shallow-set and deepset pelagic longline vessels and to inventory electronic monitoring data for fishing time and location, hook enumeration, protected species catch and identification, protection and characterization of protected species interactions to prepare electronic monitoring, and observer data for catch and effort. The project ran from January 2009 to July 2009. The systems were placed on two shallow-set vessels and one deepset vessel. The funding for the project came from the Council, PIRO, and PIFSC.

Archipelago Marine Research installed cameras on the vessels and interpreted and analyzed the data. Sensor data was transmitted via the satellite and updated at ten-second intervals. The retrieval inventory contained 117,000 hooks observed, 2,000 catch items, and six protected species interactions; set times were within 93 percent when compared to observer information.

Kingma stated set location and haul location are better monitored using EM because specific locations are being transmitted through a Global Positioning System (GPS). The EM captured three leatherback turtle interactions, two black-footed albatross (although there were three total in the database), and one Laysan albatross.

Very good results were obtained when looking at correlations between observers and EM with regard to retained catch. With regard to discarded catch, EM captured about 40 percent of what observers captured. The discarded species are primarily snake mackerel, some esocars, and sharks.

The conclusion of the study is that the EM system performance was very high. It was reliable for detecting fishing time, location and hook retrieved. It's also reliable at detecting protected species catch events, and enumeration and basic classification of retained species, though it was unsatisfactory with respect to discarded species.

The use for monitoring of branchlines is uncertain due to the configuration of the vessels and the systems. Kingma suggested there is perhaps a need for additional cameras. Archipelago Marine Research is working on an eight-camera system. EM is approximately a third of the cost of observer programs, with caveats, such that a combination of electronic monitoring and an observer program is the way of the future.

Discussion

Martin acknowledged all the fishermen who participated in the program who voluntarily had to carry observers on every trip. Sword also thanked the participants and commented that there was application of this to purse seiners as well. Sword pointed out this technology could be applied to purse seiners and asked about the complexity of the installation process. Kingma replied it took a day to install four cameras.

Martin noted one thing that needs to be addressed is the monitoring of setting, but was surprised and pleased with the quality of the program. Itano mentioned the cameras may act as motivation for the observers to perform even better.

B. Australian Live Video Monitoring

Kingma briefly reported on a similar project ongoing in Australia looking at real-time video monitoring that would involve satellite transmissions of video data.

There were no comments or questions.

2. Harbor Wing Unmanned, At-Sea Surveillance

Mark Ott, Vice President of Engineering and Project Management at Harbor Wing Technologies, presented information on a US project that is developing technology for monitoring and fishery enforcement with the use of Unmanned Surface Vessels that use solar and wind energy (with auxiliary electric propulsion) and are autonomous.

Discussion

Duerr asked how vessels performed in high seas and in high winds. Ott replied the X-1 Proof of Concept Vehicle was tested in 45 knots gusting conditions and operated well.

Martin asked about the collision avoidance mechanism. Ott replied the vessel has effectively demonstrated up to 95 percent success in avoiding collision; for other five percent, the monitoring operator is alerted.

Martin noted fishery research is one component that could utilize this technology. Ott pointed out there is an upcoming project using a passive sonar array to track, locate and identify whales

autonomously with a surface vessel. Itano noted the application of this technology seems endless especially coupled with sonar.

Simonds suggested surveillance of the PRIAs would be a good experimental project and asked Ott if there were any prospects for such work. Ott responded there was a meeting with USCG District 14, and he is waiting for the recent transition of command to settle to continue the prospect of such a project. CDR. Roberts noted the information was forwarded to Headquarters and will continue to monitor the progress and development.

3. VMS Policy

Kingma reported that the Council approved the existing VMS policy in 1992. The Draft VMS Policy is written to include other technologies that are similar for use of remotely monitoring fishing vessels. A pilot project using Automatic Identification System (AIS), which uses radio signals or Very High Frequency(VHF) system, was proven to be successful for tracking small vessels, particularly around the MHI, with some coverage issues around the more remote areas. Several topics were identified to be included in the Draft Policy, which included:

- Enforcement of annual or seasonal spatial management zones
- Maintaining VMS data confidentiality and promoting that domestic VMS required under international management measures be compatible
- Catch reporting, to provide logbook information in near real-time to NMFS to support monitoring of fisheries subject to annual or seasonal catch limits
- Ownership, maintenance and replacement
- Use of VMS to further enhance safety at sea
- Research and development
- With regards to Pacific Insular Area Fishery Agreements (PIAFAs) and foreign fishing, VMS would be required on any allowed fishing in the U.S. EEZ of the Western Pacific Region
- International coordination

The VMS/Enforcement Committee met in several times. The Council and staff will consult with fishery participants and NMFS when implementing or modifying VMS programs and significant VMS decisions will be fully vetted through the Council and transmitted to NMFS. Kingma hopes to have a new, fully-refined Draft VMS Policy for Council consideration.

Discussion

Duenas asked whether VMS could be activated upon permit approval. However, that is sometimes how vessels are caught fishing without permits – their VMS transmits their signals and enforcement catches that the vessel does not have a valid permit. Tosatto commented that he supports the Council addressing VMS policy. Martin added that although satellite coverage is somewhat limited in the Pacific Islands, there is a commercial company that produces a unit for \$150 that runs on 2 double A batteries and transmits for a year for \$50. He said that revisiting the VMS policy is well-warranted, but also requires revisiting the VMS technology, which has progressed significantly.

Tosatto commented that he views real-time capabilities as important for science efforts and has priority to move forward.

D. Marine Spatial Planning Update

Kristin Laursen, NMFS PIRO, reported on the current national status of Coastal Marine Spatial Planning (MSP) and its relationship to existing activities. MSP is a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial and temporal public planning process based on sound science that is used to look at and plan for current and future uses of ocean, coastal, and Great Lake areas to aid in the management of all marine resources on a regional level connecting local agencies to ensure compatible uses for the areas. The Council on Environmental Quality (CEQ) released the framework for Effective Coastal and Marine Spatial Planning on December 14, 2009, for public comment which outlines the initial concepts for Federal activities. The Final Recommendations are due out in the near future. The framework covering the Pacific Islands area may be broken down into subunits.

The process is to aid bringing together all relevant agencies in the regions to coordinate and cooperate in optimizing the resources, which is aimed towards ecosystem-based management. The agency membership includes representatives from Federal, State, Tribal and Indigenous Community authorities to develop a region-specific plan. The framework calls for frequent and ongoing stakeholder participation and may include establishment of an advisory body. The role of the Regional Fishery Councils is to be determined in the final national and NOAA guidance, which is likely to shift with time. Laursen noted the Council's approach to using archipelagoes as fishery management subunits may inform the MSP in the Pacific and she values the Council's experience and knowledge.

Discussion

Duenas asked for clarification in regards to whether the approach in the process will be top-down or bottom-up. Laursen replied she expects there would be several points through the process during which open public sessions would be held for input and feedback.

Simonds asked if the CEQ will be the body that the reports will be directed to. Laursen answered in the affirmative. Simonds asked further if activities or issues that fall under the MSA will be directed to the Fishery Councils. Laursen replied that, as she understands, the process would address conflicts and potential questions before an action is sent to Washington D.C. for approval and consideration.

Simonds further asked what would happen if the Council disagrees with a proposed recommendation. Laursen could not supply an answer, but expected it would be taken care of before it was sent to Washington. Simonds noted she has been told in the past such recommendations would come back to the Councils for the Councils to deal with, as they have the statutory responsibilities.

Tosatto stated he expected there would be recognition within the framework of the statutory agencies' authorities and thinks the goal will be to look to the regional bodies to solve their regional issues.

Sablan noted that acknowledgement of Carolinians as an indigenous group in CNMI was left out of the presentation and asked if she expects a one-size-fits-all scenario. He stated a top-down approach does not work well in the Pacific Islands areas. Laursen apologized for her oversight

and replied she did not expect a one-size-fits-all approach.

Duerr asked what the plan is for considering issues that may cause conflict between, for example, drilling issues and fisheries. Laursen replied that the purpose of the process is to bring everybody to the table to discuss the issues. Tosatto commented that in such an instance, the Mineral Management Service (MMS) will probably be the ultimate decision-making authority where drilling occurs, but the process will ensure that the MMS is aware of and will hear from the fishing constituency.

Torres cautioned that local communities that have coastal management programs and maintain local jurisdiction must also be involved in MSP because they may also be doing spatial management. He asked that in regards to any MSP meetings that may be held in Guam, that the Dept. of Agriculture be invited.

E. Status of the Stocks Report

Adam Bailey, NMFS PIRO Sustainable Fisheries Division, reported that the MSA, as amended by the Sustainable Fisheries Act of 1996, requires an annual U.S. fisheries status report be presented to Congress that contains updates in the regional stock status determination, changes in stock status, and identifies fisheries that are overfished or are approaching an overfished condition. The 2009 report lists 522 stocks and stock complexes, and includes changes to overfishing, overfished and approaching overfished conditions, as well as changes in biomass levels for index stocks, mortality trends for stocks undergoing rebuilding plans, ACL summaries, regional status determinations, and the fish stock sustainability index (FSSI).

The Western Pacific Council has 16 stocks in the FSSI Index, 29 non-FSSI stocks, and a few co-managed stocks with the Pacific Fishery Council. Since the Year 2000, the score has risen from 357.5 to 573. The goal score is 920. There are 46 total stocks or complexes.

- Subject to overfishing: Pacific-wide bigeye tuna stock
- Subject to an overfished condition: Seamount Groundfish Complex
- Unknown or undefined status: 11 FSSI stocks, 21 non-FSSI stocks

Discussion

Duenas asked if there is any way to change the status of the Hancock Seamount groundfish status to convey that the fishery has been shut down for decades and there is no fishing on the seamounts. Bailey said he would relay the information to contacts at Headquarters.

F. Hawaii Regional, National, International Education Outreach Initiatives

Sylvia Spalding, Council staff, reported on many ongoing projects, including the Coral Reef '09 grant projects, fishermen informational kits on awareness of coral issues; bottomfish and pelagic fact sheets; production of a DVD entitled Fisheries Management and Us (shown at fishing clubs); the creation of a database of all fishing, diving and boating clubs in Hawaii; the high school summer course on fishery and resource management for Hawaii, which is now credited by the Department of Education ads, press releases, community calendar notices, flyers, posters, mailings, work on the website, updates to brochures and many more regional, national and international outreach activities.

Discussion

Martin thanked Spalding for her hard work and for making the Council look good.

G. Community Demonstration Project Program Advisory Panel Report

Charles Kaaiai, Council staff, reported the Council received seven proposals from the recent Community Demonstration Project Program solicitation from all of the regions. The following four projects were selected:

- The Multicultural Marine Conservation Exchange Demonstration Project from U.H. Sea Grant
- Reviving, Demonstrating and Teach Pre-contact Indigenous Fishing Techniques in Guam
- The Guam ADA Compliant Fishing Platform
- Malama Loka Ea from Alu Like, to teach traditional knowledge about fishing

Kaaiai added that if the Council approves the report, it will be forwarded to PIRO.

There were no comments or questions.

H. Program Planning Recommendations from the Council Advisory Groups

Martin referred members to the written report included in the Council binder.

I. SSC Recommendations

Severance reported the SSC recommendations which included:

On establishing a process for ACLs:

1. The SSC selected Alternative 2 as its preferred alternative because it provides for continued monitoring and detection of changes that might occur in the role of a stock or stock complex in the fishery. With nearly 800 species taken in Council-managed fisheries, taking no action was clearly not a reasonable choice. The SSC did not support Alternative 3 because the removal of stocks from Fishery Ecosystem Plans (FEPs) would remove any incentive to monitor for any potential changes in the contribution of a stock to Council-managed fisheries.
2. The SSC supported several criteria to determine which species should be designated in the fishery or as Ecosystem Component stocks based on spatial, temporal and/or catch information.
3. The SSC chose Alternative 2 as its Preferred Alternative, i.e., a four-tier system for the SSC to set the ABC as the best means of incorporating science into the decision process and dealing with different levels of data quality and stock assessment information.

Additional mechanisms:

4. Associated with this, staff discussed two alternative approaches which were put forward at the 2nd National SSC meeting that the Council could use in determining the probability level of overfishing that they would accept for setting ABC (and ACL). The Council could adopt the approach of the Mid-Atlantic Fishery Management Council with their SSC. This consists of a graphic with the probability of overfishing on the vertical axis and Biomass over Biomass at MSY on the horizontal axis and curves for stock

assessments grouped into ideal, preferred and acceptable categories as shown in Figure 1.

5. Rather than selecting any of these alternatives the SSC recommended the formation of a working group for further development of alternative methods for setting ACLs and for the selection of acceptable probabilities -- that's the term P-star -- of exceeding OFL used in the setting of ABCs and ACLs. The SSC noted that the probability or the P-star should be specific for a given stock or stock complex and would need to be set for each management year.

For Accountability Measures:

6. The SSC selected Alternative 2 as its Preferred Alternative. The SSC believes that no single measure would cover all circumstances and that a suite of measures is likely to be more effective.

Management Measures for Aquaculture in the Western Pacific:

7. The SSC recommends adopting Alternative 2 to require permitting and reporting via Federal logbook to monitor the aquaculture fishery. Concerns were raised in prematurely developing a limited entry program because there is not enough information available on operations in Federal waters and because of uncertainty regarding how these fisheries may develop in the future. It is also premature to designate aquaculture zones since it is unclear what will be cultured and what technology will be used.
8. The SSC also recommends that planning should be added to permitting and reporting in Alternative 2. Doing so would provide the opportunity for the Council and other interested parties to review the proposal and provide comments and guidance as the fishery develops.

Cooperative Research Priorities, the American Samoa Archipelago:

9. The SSC supported Project 2, a study to determine what the FADs are producing in terms of catches, size structure and look at stock structure by tagging fish at FADs and exploring the potential for using an alternate improved FAD design, but suggest that the term catches in that recommendation should include both landed fish and discards.

The Mariana Archipelago:

10. The SSC supported Project 1, an evaluation of the potential market impacts on Guam and CNMI be conducted regarding the emerging longline fishery in the CNMI and recommends that this project be made a high priority given that the CNMI-based longline fisheries is expanding.

For the Hawaiian Archipelago:

11. The SSC supports Project 1, determine the diet of taape, *Lutjanus kasmira*, through stomach content studies, but recommends that the diet study include techniques such as stable isotope and fatty acids analyses, in addition to stomach contents. These techniques are more stable over time and more accurate in determining diet.
12. The SSC recommends adding as a high priority a new Project 3 that continues tagging of

Deep Seven species by experienced fishermen to provide additional life history data on these species.

For Pelagics:

13. The SSC supports Project 1, suggesting that projects such as bigeye post-hooking mortality be coordinated with the Pelagic Fishery Research Program.

Discussion

Dela Cruz asked for whether the "A" is *acceptable* or *allowable* in the ABC. Severance replied *acceptable* is the appropriate term.

J. Public Hearing

There was no public comment offered.

K. Council Discussion and Action

Young moved to rescind the action relative to the bottomfish catch that was made previously in the meeting:

The Council recommends the 2010-2011 TAC for the MHI Deep 7 Commercial Bottomfish be set at 254,050 pounds based on the previous SSC analysis of the MHI Deep 7 population and updated analysis of associated risk levels provided NMFS PIFSC.

Moved by Young, seconded by Thielen.

Motion failed on roll-call vote; Young and Thielen voted aye; 11 nays; no abstentions.

Tucher clarified rules pertaining to motions to rescind.

Young proposed to rescind the Council action that adopted the MHI bottomfish TAC of 254,050 pounds, arguing that it exceeds the TAC recommendation of 244,000 pounds from the SSC and thus is contrary to the Council Members' obligations as set forth in the MSA. Duenas voiced opposition to the rescission noting the MSA guidance is not applicable to the recommendation of a TAC. Thielen asked for clarification about what the Council is recommending if it does not qualify as an ACL.

Tucher clarified that the current TAC was established by FMP amendment and reiterated that the ACL definition is only provided in NS1; the TAC closes the fishery when it is reached, but the ACL does not. However, the ACL process requires establishing accountability measures. The Council is not legally required to treat a TAC as an ACL. The ACL is constrained by the ABC and ABC control rule, which is a different situation than with a TAC. Tucher added that since there is no ABC at this time, we cannot determine if the TAC exceeds it. He concluded that the TAC is consistent with NMFS guidelines and case law.

Duenas explained that the SSC sets the OFL and ABC first, then recommends an ACL. Itano agreed that it is clear a TAC is not an ACL and commented that the Council is including uncertainty in the data and considering social and economic impacts of its recommendation. Tosatto said he believed Young was misinterpreting "[Councils] may not exceed [SSC's ACL

rec...]" and that at this time, an ACL process is not in place, therefore the TAC determination does not go against TAC guidelines.

Regarding the Council's Draft Amendment for Establishing ACLs in the Federally Managed fisheries, the Council:

1. Endorsed the SSC recommendations as follows:

- **Selected Alternative 2 (Utilize the Ecosystem Component Designation) as its preferred alternative because it provides for continued monitoring and detection of changes that might occur in the role of a stock or stock complex in the fishery. With nearly 800 species taken in Council managed fisheries, taking no action was clearly not a reasonable choice. The SSC did not support alternative 3 because the removal of stocks from FEPs would remove any incentive to monitor for any potential changes in the contribution of a stock to Council managed fisheries. The Council further supports several criteria to determine which species should be designated "in the fishery" or as Ecosystem Component stocks based on spatial, temporal, and/or catch information.**
- **With respect to ABCs, selected Alternative 2 as its preferred alternative, i.e. a four-tier system for the SSC to set ABC as the best means for incorporating science into the decision process and dealing with different levels of data quality and stock assessment information.**

Staff discussed two alternative approaches put forward at the 2nd National SSC meeting that the Council could use in determining the probability level of overfishing that they would accept for setting ABC (and ACL). The Council could adopt the approach of the Mid-Atlantic Fishery Management Council and their SSC. This consists of a graphic with the probability of overfishing on the vertical axis and B/B_{MSY} on the horizontal axis and curves for stock assessments grouped into ideal, preferred and acceptable categories. Rather than selecting any of these alternatives, the SSC recommended the formation of a working group for further development of alternative methods for setting ACLs and for the selection of acceptable probabilities (P^* s) of exceeding OFL used in the setting of ABCs and ACLs. The SSC noted that the P^* s should be specific for a given stock or stock complex and would need to be set for each management year.

- **With respect to accountability measures (AMs), selected Alternative 2 as its preferred alternative. The Council believes that no single measure would cover all circumstances and that a suite of measures is likely to be more effective.**

Moved by Martin, seconded by Torres.

Motion passed; Tosatto abstained.

Regarding Offshore Aquaculture, the Council:

- 2. Recommended Alternative 2, permitting, and reporting for aquaculture operations in the Western Pacific region, and include criteria for a limited entry program and environmental monitoring from production wastes.**

Moved by Martin, seconded by Sword.
Motion passed; Tosatto and Young abstained.

Young asked for clarification from PIRO as to deferring action until a National Policy is developed. Tosatto replied in the affirmative.

Itano said he did not see any harm by accepting the recommendation. Martin agreed. Tosatto responded that the policy is likely to be similar, but he was unsure if the National Policy would contain the administrative burden for reporting that the Council's aquaculture amendment contains.

Simonds noted the many years the Council has been waiting on a National Aquaculture Policy. Tosatto noted the policy has taken a long time, partly because of slow progress in Congress. He also pointed out the Draft National Offshore Aquaculture Act places the burden of the permit review process on the Agency.

Regarding Exemptions from Federal Permitting and Reporting, the Council:

- 3. Recommended Alternative 1b, exemptions for children under 16 years of age from non-commercial Federal fishing permits.**

Moved by Martin, seconded by Sword.
Motion passed; Tosatto abstained.

Thielen asked for clarification on whether the motion means exempted from registering or from permits. Tosatto clarified all participants would need to be included in the registry with a permit and required to submit individualized reports. He further clarified that if ten people are on a boat, they need to have 10 permits.

Regarding Cooperative Research, the Council:

- 4. Directed staff to transmit the presented list of cooperative research priorities to NMFS for funding.**

Moved by Martin, seconded by Sablan.
Motion passed; no abstentions.

Regarding Enforcement, Fisheries Monitoring and Compliance, the Council:

- 5. Recommended the USCG monitor the Tao Buoy Array when conducting a patrols of the region as these buoys are known to be targeted by foreign fishing vessels.**

Moved by Martin, seconded by Sword.
Motion passed; no abstentions.

- 6. Recommended the U.S. draft a conservation and management measure for consideration by the WCPFC that would require CCMs to require their vessels to mark fishing gear.**

Moved by Martin, seconded by Duenas.
Motion passed; Tosatto abstained.

7. **Final motion: Recommended NMFS Office of Law Enforcement increase Joint Enforcement Agreement funding to the CNMI to allow for the purchase of a vessel with sufficient size and range to be used for enforcement and monitoring of area patrols of longer distances.**

Original motion: The Council recommends that the NMFS Office of Law Enforcement increase Joint Enforcement Agreement (JEA) funding to the CNMI to allow for the purchase of a larger vessel to be used for enforcement and monitoring for patrols of longer distances.

Moved by Martin, seconded by Dela Cruz.
Motion passed; no abstentions.

A friendly amendment was offered to further clarify the description of the vessel, which was accepted with no objection. The following text was added: "... vessel with sufficient size and range..."

8. **Recommended the U.S. ensure that the WCPFC working group on CCM compliance with conservation and management measures continues its work to provide the WCPFC a process and mechanisms to censure or sanction a CCM that is not in compliance with conservation and management measures.**

Moved by Martin, seconded by Duenas.
Motion passed; Tosatto abstained.

9. **Final motion: Directed staff to draft a letter to USCG to consider the use of improved technologies, including harbor wing technologies, in the monitoring of the PRIAs.**

Original motion: The Council directs staff to draft a letter to the U.S. Coast Guard to consider the use of Harbor Wing Technologies in the monitoring of the Pacific Remote Island Areas.

Moved by Martin, seconded by Sword.
Motion passed; no abstentions.

Thielen offered a friendly amendment to include language like "consider the use of improved technology, including Harbor Wing Technologies..." The friendly amendment was accepted with no objection and read as: *The Council directs staff to draft a letter to the U.S. Coast Guard to consider the use of improved technology, including Harbor Wing Technologies in the monitoring of the PRIAs.*

10. Directed staff to continue to draft a new VMS policy and to work with NMFS, the fishing industry, and other appropriate groups on its development.

Moved by Martin, seconded by Dela Cruz.

Motion passed; no abstentions.

Regarding Marine Spatial Planning:

11. Supported the creation of a new Marine Spatial Planning Working Group, composed of a Science Working Group and a Management Group.

Moved by Martin, seconded by Torres.

Motion passed; no abstentions.

Regarding Status of Stock report, the Council:

12. Recommended NMFS properly note in the Status of Stocks report that the Hancock Seamount groundfish fishery for armorhead was never conducted by U.S. fishermen and is currently under a moratorium and that the stock is overfished due to exploitation by foreign fleets on nearby seamounts outside of the U.S. EEZ.

Moved by Martin, seconded by Duenas.

Motion passed; Young and Thielen abstained.

Tosatto noted the recommendation is not likely to be undertaken as the Status of Stocks Report is merely a statistical report. Council Member Martin noted it might also be helpful to other regions as it moves forward.

13. Recommended NMFS PIFSC conduct a research cruise on the Hancock Seamount to assess the status of the local groundfish stocks.

Moved by Martin, seconded by Duenas.

Motion passed; Tosatto abstained.

8. Public Comment on Non-Agenda Items

There were no public comments.

9. Pelagic and International Fisheries

A. Action Items

1. Recommendations on the Hawaii Longline Bigeye Tuna Management under a Catch Limit

Dalzell reported the Hawaii longline fishery west of 150° W was closed December 29-31, 2009, under the WCPFC bigeye catch limit of 3,763 metric tons for 2009 to 2011. Since the 146th Council meeting, staff has worked to narrow the management choices to changing the fishing

year, limiting effort to keep the landings under the limit, incorporating the Pelagic Plan Team recommendations to examine variance associated with the fishing year changes, and doing an expanded analysis of the impacts to the Hawaii economy from the fishing year changes. Alternatives presented included no action; fishery year changes of September to August, October to September, November to October and December to November; limit number of hooks per deep set for bigeye; limit number of deep sets targeting bigeye; limit number of trips per vessel targeting bigeye; or a combination of alternatives. Dalzell pointed out that the Plan Team was not in favor of effort limits.

There was discussion of the economic impacts of calendar year changes that ranged in terms of business sales from \$9 million to \$26 million and income ranging from \$8 million to \$11.5 million, affecting between 260 to 360 jobs and causing a loss of State of Hawaii tax revenue from \$1 to \$2 million. Discussion of social impacts included impact to crew, loss of market share and high-end trade for other quality fish, health impacts, loss of holiday quality sashimi, and culture solidarity. There will also be a negative impact to the marginal operators in the industry and loss of market niche.

The requested Council action was to consider the alternatives presented, including no action, change in fishing year, effort limits, and any additional measures to maintain the fishery below the 3,763 metric ton catch limit.

Discussion

Simonds pointed out that this measure will not be effective until October. Dalzell agreed, adding that the feedback from fishermen will be presented at the October Council meeting. Martin requested distribution of information to the fishermen prior to the meeting to ensure informed feedback.

Dalzell added a brief update on responses staff have received regarding catch limits in the longline and other fisheries. A recommendation was made to explore development of a catch shares program in the longline fishery at the 144th Council meeting. At the 145th meeting, the recommendation was made to review the PIRO permit database and PIFSC logbook data, including current ownership patterns, recent sales of vessels and permits, associated catch reports and other characteristics. These attributes would be used to develop a catch shares program, or an allocation system, that reflects participants' history and involvement in the fishery. A working group was formed to undertake the task and the work is ongoing.

There were no other comments or questions.

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

Dalzell reported on alternatives to modify the 2004 Final Rule that limits the deep-set tuna-targeting fishery to 10 swordfish per trip that was put in place to prevent deepset longline vessels fishing for bigeye and yellowfin tuna from switching to shallow-set gear to target swordfish. The Council amended the Pelagics FMP in 2009 to remove set limits on swordfish for 2010 onwards as it was duplicative and burdensome for longline fishermen, the swordfish is deemed healthy and not overfished, and the limit causes discarded bycatch.

The alternatives developed included:

- 1) No action
- 2) Modify the swordfish trip limit
 - a) Change trip limit of 10 swordfish
 - b) Modify trip limit to 25 per vessel when using circle hooks, ten swordfish per vessel with tuna hooks and vessels carrying an observer regardless of the type of hooks used, be able to retain and land all swordfish (*Preferred alternative*)
- 3) Remove trip limit

Dalzell described the pros and cons of the alternatives and requested the Council take final action by confirming the preferred alternative. The Council staff will work with PIRO to finalize the regulatory amendment and undergo the rule-making process.

There were no comments or questions.

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

Finn presented a brief history of the fishery and the American Samoa Limited Entry Program, with alternatives for modifying the program to simplify it based on review and comments from the fishing sector, the SSC, Plan Team, and the Council; to ensure there are no unnecessary obstacles to obtaining and renewing permits; and to ensure the long-term continuity of the fishery.

Alternatives for vessel class sizes and minimum landing requirements included:

- 1) No action
- 2) Remove the vessel class sizes and landing requirements
- 3) To combine A and B and C and D (*Preferred alternative*)
- 4) Have two vessel class sizes and no minimum landing requirements

Alternatives for permit issuance eligibility criteria included:

- 1) No action
- 2) Change criteria date
- 3) Retain criteria but remove criteria date
- 4) Remove eligibility criteria (*Preliminarily Preferred*)

Finn displayed slides listing the pros and cons of each alternative option.

Recommendations from the Western Pacific Longline Fisheries Regional Meeting include 1) combine vessel class sizes A and B to form a new Alternative E, and 2) consider Spatial Management in American Samoa, such as reducing the large vessel closed area around Tutuila and Manua Islands on a temporary basis until the small vessel fleet is rebuilt. The Pelagics Plan Team recommended the Council consider modifying the Class A vessel criteria with respect to the eligibility criteria date and landing requirements to promote participation for vessels less than 40 feet, and maintain the separation of B, C and D vessel size classes and minimum landing requirements.

Finn requested the Council select a preferred alternative and address recommendations from the public and fishers' meetings regarding potentially modifying the spatial or temporal extent of the large vessel longline closed areas.

Discussion

Young asked if the recommendation was to stay at 60 permits. Finn answered in the affirmative.

Itano suggested that opening the closed zones should be further studied, but cautioned that once a zone is opened, it is usually hard to close it again. He added that it may hold merit, particularly with regards to the closed area around Swains. Finn commented criteria could be applied to note a temporary closure be periodically reviewed.

Duenas suggested research, as a CDP project, should be done that addresses what revenue could be derived from the area.

Council Meeting Aside:

Martin, after discussion with Regional Counsel, recused himself from participation, discussion, and voting on Agenda Item Recommendations on the Territory Fisheries Development amendment proposal based on his financial interest in longline vessels and position at Hawaii Longline Association, which has signed contracts with the American Samoa Government and may be affected by the passage of the measure.

4. Recommendations on Territory Fisheries Development

Kingma reported on the background of the amendment to the Pelagics FEP to establish a catch limit for bigeye with limited authority to the Territories to utilize that bigeye catch limit and criteria for domestic chartering. The Western Pacific Territories are interested in developing their longline fisheries, especially for bigeye tuna. The bigeye stock is a Pan-Pacific stock and considered to be in an overfishing status, approaching an overfished status. There have been some conservation and management measures addressed for bigeye in the Western and Central Pacific Fisheries Commission (WCPFC) and the Inter-American Tropical Tuna Commission (IATTC). This item is regarding the area of the.

The U.S. Territories under the WCPFC were provided separate and different annual bigeye longline catch limits of an annual 2,000 metric tons or, if conducting "responsible fisheries development," there is no limit on catch. The Territories are interested in responsible fisheries development for longline fisheries. Staff has looked at options for stimulating growth and fisheries development, such as the domestic chartering program. Domestic chartering is the subject of the amendment.

In October 2009, the Council established longline bigeye catch limits of 2,000 metric tons for each of the Territories. The Council also provided limited authority to the Territories to assign all or a portion of their annual longline catch limits through charter arrangements or similar mechanisms with FEP-permitted vessels only and established criteria for U.S. vessels operating under domestic charter arrangements.

Kingma asked the Council to deliberate action on the issue of Federal charter permits and the potential of limiting assignable interest. The next step would be for staff to coordinate with PIRO to finalize the amendment for Secretarial Review, transmittal of the proposed rule, and final rule-making.

There were no comments or questions.

5. Recommendations on the WCPFC Transshipment Requirements

Brett Weidoff, NMFS PIRO Sustainable Fisheries, gave a brief background on the existing transshipment requirements in international and domestic regulations for longline fishing in Hawaii, the new WCPFC transshipment Conservation and Management Measure 2009-06, and achieving efficiency, effectiveness and clarity in the collective requirements.

Rini Ghosh reported the three primary objectives of Conservation and Management Measure 2009-06 are to encourage transshipment activities to take place in port, reduce unreported and unregulated transshipments, and support collecting information about catch data to support stock assessments.

The five main categories of the measure include:

- Requirement for a transshipment declaration form
- Timing requirement for submittal of the information
- Prior notice for high seas transshipments
- Requirements for observer coverage for transshipments that take place at sea and requirements for vessels to transship to and from vessels that are authorized by the WCPFC only
- Guidelines for high seas transshipments incorporated in the CMM

Included in Annex 1 of the Conservation and Management Measure are additional requirements for collection of information under the Conservation and Management Measure.

Weidoff added that NMFS is considering revising some of the required data elements being collected at the present time. Some of the items not required that they are considering removing include:

- General area of catch
- Number of days offloading vessels fished
- Number of sets made by offloading vessel
- Average number of hooks fished per day
- Broker or shipping agent, which the SSC recommended to retain
- Port of landing
- Change of timing requirements for submittal of data

Discussion

Itano urged consideration of the importance of items such as general area of catch to tagging studies and recommended communication with the RFMOs before making a decision on items to remove.

Tulafono asked if the existing transshipment requirements apply to purse seiners. Ghosh replied there are existing requirements for purse seiners in 50 CFR 300, which are not covered in the presentation. Tulafono further asked if the requirements apply to the transshipping that is ongoing in Pago. Ghosh replied that the requirement pertaining to that area is being looked at. Duenas asked for the information to be passed on to the Council. Ghosh replied in the affirmative.

B. IATTC Pacific Bigeye Tuna Stock Assessment

Dalzell reported the improvements to the stock assessment methodology, which will be incorporated into the IATTC bigeye tuna stock assessment that is going to be conducted at its October meeting. The improvements will also be incorporated into assessments for other species.

There were no questions or comments.

C. International Fisheries

This item was taken out of order during the Council meeting.

Duenas directed Council's attention to the Council briefing book for information regarding the Fifth International Fishers Forum (IFF5), WCPFC meeting, Kobe Bycatch meeting and the Coral Reef Triangle Bycatch Meeting.

Itano offered material he brought from the Kobe Bycatch Meeting for Council staff.

D. Pacific Pelagic Advisory Panel Recommendations

Dalzell reported the Advisory Panel pelagic fisheries recommendations to the Council.

The Hawaii FEP Advisory Panel Recommended:

1. The Council request data to evaluate fishing effort and catch information to assess the performance of the longline area closure and seasonal adjustments to that fishery. The AP further recommends the Council consider re-evaluating the longline closures and seasonal adjustments based on the findings of this data, if warranted.
2. The longline limited entry program modifications consider changing the program to provide the American Samoa community the priority to obtain permits.
3. The Council should re-visit the efficacy and purpose of the existing large vessel closed area. Council staff should look into adding spatial alternatives to the limited entry program amendment.
4. That the DMWR and EPA conduct a study on the potential attraction of sharks to cannery sludge dump site as well as investigation potential impacts of the sludge on coral reefs around Aunuu and the northeast side of Tutuila.

E. Pelagic Plan Team Recommendations

Dalzell reported the Pelagic Plan Team recommendations to the Council.

In regard to the CNMI and Guam:

1. The Pelagic Plan Team reiterates its recommendations that the landings of the emerging CNMI longline fishery should be sampled to obtain average weights and length-weight conversion factors so that logbook catches in numbers can be expressed as weights. Further, landings in both CNMI and Guam need to be reported and sampled to meet both domestic and international fishery management requirements.
2. The Pelagic Plan Team recommends that further outreach be conducted by Guam Division of Aquatic and Wildlife Resources (DAWR) to seek greater voluntary reporting of fishery landings by fish dealers currently not collaborating with DAWR in reporting commercial fish catches.
3. The Pelagic Plan Team recommends that PIFSC conduct a study of the apparent correlation between the catch rates of mahimahi and wahoo in the Mariana Archipelago with El Niño-Southern Oscillation (ENSO) events.
4. The Pelagic Plan Team reiterates its recommendation that Guam DAWR investigate the potential to survey fishing activity by vessels launched from boat ramps on military property and work with the military to monitor fishing activity from military property. If the military will not allow Guam DAWR staff to enter military facilities but employs their own personnel to collect data, then the Pelagic Plan Team strongly recommends that they liaise with Guam DAWR staff to ensure compatibility of the survey methodology used for shore-based and boat-based fishery data collection.

In regard to American Samoa:

5. The Pelagic Plan Team recommends that the American Samoa DMWR be included in pelagic fisheries tagging projects in order to learn mark-recapture techniques and documentation of findings used to investigate the migratory pelagic species in the region.

In regard to region-wide recommendations:

6. The Pelagic Plan Team strongly recommends that the PIFSC conduct a stock assessment of blue marlin in collaboration with the relevant institutions and science providers for the IATTC and the WCPFC.
7. The Pelagic Plan Team recommends that PIRO conduct the necessary administrative action to revise the common and scientific species names of the following four Pelagic Management Unit Species (PMUS) in the regulations implementing the Pelagics FEP. These are:
 - Northern bluefin from *Thunnus thyunnus* to *Thunnus orientalis*.
 - Striped marlin from *Tetrapturus audax* to *Kajikia audax*.
 - Indo-Pacific blue marlin from *Makaira mazara* to *Makaira nigricans*.

- Black marlin from *Makaira indica* to *Istiompax indica*.

In regard to establishing ACLs:

8. The Pelagic Plan Team recommends that the 28 species or species groups, Pelagic Management Unit Species currently in the FEP be categorized as follows:
 - In the fishery an international exception would be albacore, bigeye, yellowfin, skipjack, blue marlin, striped marlin, swordfish, bigeye thresher, short-fin mako shark, mahi, wahoo, moonfish, the oilfish, *Ruvettus pretiosus*, the escalor, *Lepidocybium flavobrunneum*, and the pomfrets, *Taractichthys steindachneri* and *Eumegistus illustris*.
 - In the Ecosystem Components would be Pacific bluefin tuna, kawakawa, other small tuna relatives, such as *Auxis scomber* and *Allothunnus*, black marlin, short-bill spearfish, sailfish, pelagic thresher shark, common thresher shark, silky shark, oceanic white-tip shark, longfin mako, salmon shark other Gempylidae, other Bramidae.
 - And in the one-year life span, the three species of squid (diamondback, neon flying and purple-back flying squid).

F. SSC Recommendations

Severance reported:

With regard to Hawaii Longline Bigeye Tuna Management under a Catch Limit:

1. The SSC noted that with respect to the changes in fishing year, the results were complex and variable. So noting that the analysis has not as yet been presented to the longline fishermen, the SSC felt that any regulatory change to the fishing year should be deferred until the industry has had a chance to consider the results of the analysis and commented on the question.

Given that a catch limit is already in place, the SSC feels that fishing effort limitation is redundant and would create undesirable complication while implementation of a catch shares system is being investigated. Therefore, the SSC suggests that an effort limit should not be established at this time.

With regard to yellowfin catch limit:

2. The SSC supports the Council's Preferred Alternative to modify the current trip limit of 10 swordfish per trip and to allow 25 swordfish per trip for deepset tuna targeting vessels using circle hooks, but retaining the 10 swordfish per trip limit for vessels using tuna hooks. The SSC also supports the Council's Preferred Alternative that there should be no retention limit for any deepset vessels carrying an observer, regardless of the type of hook used.

With regard to the American Samoa Longline Limited Entry Program Modifications:

3. The SSC notes that a temporary lifting of minimum landing requirements would make it easier for local fishermen to recover from the impacts of the 2009 tsunami and remain in the fishery.

On data removal from new transshipment reporting forms:

4. The SSC recommends that port of landing and broker or shipping agent be retained in future transshipment reporting requirements.
5. The SSC supported the recommendations made by the Pelagic Plan Team.

There were no comments or questions.

G. Pelagic Standing Committee Recommendations

Duenas reported briefly that the Standing Committee met on Monday, June 28th, from 1:30 p.m. until 4 p.m. The discussion was forwarded for full Council consideration with recommendations by the Advisory Panel, Plan Team, and SSC. There was no public comment.

There were no comments or questions.

H. Public Hearing

There was no public comment.

I. Council Discussion and Action

Simonds noted some of the following recommendations have been sent forward to the State Department or to the Regional Administrator and need to be acted upon for the upcoming WCPFC meeting in December. Tosatto reminded the Council of the Memorandum of Understanding (MOU) between the Councils and NMFS for considering the recommendations.

Regarding Pelagic Fisheries:

1. **The Council endorsed the Pelagic Plan Team reiteration of its recommendation that the landings of the emerging CNMI longline fishery should be sampled to obtain average weights and length-weight conversion factors so that logbook catches in numbers can be expressed as weights. Further, landings in both CNMI and Guam need to be reported and sampled to meet both domestic and international fishery management requirements.**

Moved by Duenas, seconded by Sword.
Motion passed; no abstentions.

2. **The Council recommends that further outreach be conducted by Guam DAWR to seek greater voluntary reporting of fishery landings by fish dealers currently not collaborating with Guam DAWR in reporting commercial fish catches.**

Moved by Duenas, seconded by Torres.
Motion passed; no abstentions.

3. **The Council recommends that the NMFS PIFSC conduct a study of the apparent correlation between the catch rates of mahimahi and wahoo in the Mariana Archipelago with El Nino-Southern Oscillation (ENSO) events.**

Moved by Duenas, seconded by Sword.

Motion passed; no abstentions.

- 4. The Council endorsed the Pelagic Plan Team reiteration of its recommendation that Guam DAWR investigate the potential to survey fishing activity by vessels launched from boat ramps on military property and work with the military to monitor fishing activity from military property. If the military will not allow Guam DAWR staff to enter military facilities but employs their own personnel to collect data, then the Pelagic Plan Team strongly recommends that they liaise with the Guam DAWR staff to ensure compatibility of the survey methodology used for shore-based and boat-based fishery data collection.**

Moved by Duenas, seconded by Tulafono.

Motion passed; no abstentions.

- 5. The Council recommends that the American Samoa Department of Marine and Wildlife Resources be included in pelagic fisheries tagging projects in order to learn mark and recapture techniques and documentation of findings used to investigate the migratory pelagic species in the region.**

Moved by Duenas, seconded by Tulafono.

Motion passed; no abstentions.

- 6. The Council recommends that Council staff develop an options paper regarding the American Samoa longline fishery exploring the spatial management options in the American Samoa EEZ to better reflect the current configuration of the pelagic species, including temporal options for modifying spatial management.**

Moved by Duenas, seconded by Torres.

Motion passed; no abstentions.

- 7. The Council recommends that Council staff explore options for assisting the small vessel fleet in American Samoa on utilizing the Community Development Program to assist in small-boat fishery development and continuing Samoan involvement in the fishery.**

Moved by Duenas, seconded by Torres.

Motion passed; no abstentions.

Tosatto asked for clarification of the recommendation. Duenas clarified this recommendation was to look at all of the options to ensure opportunity for assistance in their fisheries development.

- 8. Final motion: Recommended that regarding the modification of the American Samoa longline limited entry program, the Council select as a preferred alternative under Topic 1, Alternative 1C: Modify to Have Two Vessel Class Sizes and Minimum**

Landing Requirements whereby the four vessel size classes would be replaced with two vessel class sizes (small and large) whereby Class A and B vessels (up to 50' max) would be considered "small" and Class C and D vessels (50.1' and larger) would be considered "large". All those currently possessing permits would have their permits modified into one of the two size classes. Analysis of the preferred alternative should include consideration of a cap on vessel size in terms of length and gross tonnage. In addition, under this alternative, existing minimum landing requirements would be modified to a 3-year minimum PMUS landing requirement of 500 lb for the small vessel category and 5,000 lb for the large vessel category.

Further, under Topic 2, selected as preferred, Alternative 2C: Remove Eligibility Criteria whereby eligibility would be limited to U.S. nationals and U.S. citizens, with no other qualifying criteria.

Original motion: The Council recommends that regarding the modification of the American Samoa Longline Limited Entry Program, the Council select as a preferred alternative under Topic 1, Alternative 1c, modify to have two vessel size classes and minimum landing requirements whereby the four vessel size classes will be replaced with two vessel size classes, small and large, whereby Class A and B vessels up to 50 feet, max, will be considered small, and Class C and D vessels, 50.1 feet and larger, would be considered large. All those currently possessing permits would have their permits modified into one of the two size classes.

In addition, under this alternative existing minimum landing requirements will be modified to a three-year minimum PMUS landing requirements of 500 pounds for the small vessel category and 5,000 pounds for the large vessel category.

Further, under Topic 2, select as Preferred Alternative 2c, remove eligibility criteria whereby eligibility would be limited to U.S. nationals and U.S. citizens with no other qualifying criteria.

Moved by Duenas, seconded by Torres.
Motion passed; Young abstained.

After brief discussion, the recommendation was amended to add "Analysis of the preferred alternative should include consideration of a cap on vessel size in terms of length and gross tonnage."

- 9. Council recommends a temporary lifting of minimum landing requirements for the American Samoa limited entry longline fishery as this would make it easier for local fishermen to recover from the impacts of the 2009 tsunami and remain in the fishery.**

Moved by Duenas, seconded by Sword.
Motion passed; Young abstained.

- 10. The Council recommends the longline limited entry program modifications consider changing the program to provide the American Samoan community the priority to obtain permits.**

Moved by Duenas, seconded by Torres.

Martin asked for clarification on the modifications. After brief discussion, it was determined the recommendation is no longer necessary and was withdrawn by the Maker of the motion and second to the motion.

- 11. The Council recommends that American Samoa DMWR and EPA conduct a study on the potential attraction of sharks to cannery sludge dumps around Aunuu and the northeast side of Tutuila.**

Moved by Duenas, seconded by Sword.

After brief discussion, the recommendation was deferred to the American Samoa Archipelago section of the agenda.

- 12. The Council strongly recommends that the NMFS PIFSC conduct a stock assessment of Pacific blue marlin in collaboration with the relevant institutions and science providers for the IATTC and the WCPFC.**

Moved by Duenas, seconded by Torres.
Motion passed; no abstentions.

The recommendation was amended by friendly amendment to add "Pacific" before "blue marlin." There was no other discussion.

- 13. The Council recommends that PIRO conduct the necessary administrative action to revise the common and scientific species names of the following four PMUS in the regulations implementing the Pacific Pelagic FEP.**

Moved by Duenas, seconded by Torres.
Motion passed; no abstentions.

- 14. The Council endorsed the Pelagic Plan Team recommendation that the 28 species or species groups of PMUS currently in the FEP be categorized as conducted by the PPT. (see 9E, #8)**

Moved by Duenas, seconded by Torres.
Motion passed; no abstentions.

- 15. The Council recommends that with respect to managing the Hawaii longline fishery under a Western and Central Pacific Ocean (WCPO) bigeye catch limit, that any regulatory change to the fishing year should be deferred until the industry has had a**

chance to consider the results of the analysis since the analysis has not as yet been presented to the longline fishermen.

Given that the catch limit is already in place the Council feels that fishing effort limitation is redundant and would create undesirable complication while implementation of a Catch Shares Program is being investigated. Therefore, the Council recommends that no effort limit should be established at this time.

With regard to the yellowfin catch, the information presented indicates that maintaining an annual bigeye catch limit of 3,763 metric tons in WCPO by the Hawaii longline fishery will assure that the Annual Catch Limit in the WCPO will very likely remain below the limit of 771 metric tons.

Moved by Duenas, seconded by Sword.
Motion passed; no abstentions.

16. The Council recommends that for the Draft FEP amendment on Responsible Fisheries Development that Federal domestic chartering permits or similar mechanisms to provide appropriate NMFS oversight of a domestic chartering agreement.

Moved by Duenas, seconded by Sword.
Motion passed; Tosatto abstained; Young voted nay; Martin recused himself.

Young asked for clarification if such details like allocation of catch and home ports of boats are included in the recommendation with respect to charter agreements and, if not, when such details will be discussed. Kingma clarified the criteria and catch limit of 2,000 metric tons will be maintained and the catches will be assigned to the Territories. The action today is to allow the PIRO Regional Administrator to maintain oversight of the chartering arrangements. Tosatto further clarified that all actions passed at the 146th and 147th meetings are carried forward as adjusted by this recommendation.

Young objected to the way the recommendation was worded because it does not contain details and is overly broad. Tucher clarified this is the final action on this subject except as modified in this recommendation. Young still objected, noting details were not fully presented to the Council. Kingma reiterated it was presented to the Council and if confusion remains, members can refer to the documents in the Council Meeting briefing documents binder.

Duenas stated the discussion is not germane to the recommendation as the allocation is set by the WCPFC and not Domestic Chartering Arrangements.

17. The Council recommends that for the Draft FEP Amendment on Responsible Fisheries Development that the amount each Territory could assign under a domestic charter arrangement be limited to 750 metric tons per year.

Moved by Duenas, seconded by Torres.

Motion passed; Tosatto abstained; Young voted nay.

Young voiced concern over the wording of the recommendation and asked for clarification of the total amount that can be assigned per Territory. Duenas clarified the amount is 750 metric tons. Young also voiced concern that the amount of landings in the chartering arrangement does not seem as it is enough to be considered an integral part of the Territory domestic fishery and is not consistent with the WCPFC conservation and management measures (CMMs). Duenas noted the arrangements will help the Territories to develop the infrastructure to handle the landings and allow for adjustments.

Young reiterated his concern on the details of the arrangement, the small benefit such an arrangement would provide the Territories, and the windfall it will provide to the fishers, arguing that this recommendation is inconsistent and contrary to the Council's responsibilities under the Magnuson Act and the WCPFC CCM 2008-01 action. Torres pointed out that it will provide Territories with experience and knowledge of the process of such arrangements.

- 18. The Council recommends taking final action on the Preferred Alternative of 25 swordfish per trip for deepset tuna targeting vessels using circle hooks, retaining the 10 swordfish per trip limit for vessels using other hooks and no retention limit for any deepset vessels carrying an observer regardless of the type of hook.**

Moved by Duenas, seconded by Sablan.
Motion passed; no abstentions.

Martin noted the Take Reduction Team (TRT) is considering a similar measure. After a brief discussion, there was a friendly amendment to only use the term, circle hooks, to avoid confusion with other types of hooks.

- 19. The Council recommends the port of landing and broker or shipping agent be retained in future transshipment reporting requirements.**

Moved by Duenas, seconded by Tulafono.
Motion passed; no abstentions.

- 20. The Council recommends a report on pelagic fish catch being caught in the Northwestern Hawaiian Islands under the management provisions of the Papahānaumokuākea Marine National Monument.**

Moved by Duenas, seconded by Torres.
Motion passed; no abstentions.

Tosatto noted the request is actually for a report of the catch of pelagic fish taken out of the monument; there are provisions for reporting for research take and sustenance take.

Regarding International Fisheries Management:

1. Final motion: Recommended the U.S. advocate for several options related to a new bigeye and yellowfin conservation measure, which may include the following:

- Purse seine bigeye tuna catch limits for all purse seine fleets in the Western and Central Pacific Ocean
- Mandatory port sampling
- More extensive FAD fishing closures and monitoring of FAD fisheries
- Evaluation of the FFA/PNA vessel day scheme for bigeye conservation
- Options for non-calendar year longline fishing years
- Rolling three year catch limits for longline fisheries

The Council further requested NMFS PIRO respond to the letters sent by the Council requesting consideration of these issues. Council staff should work with the staff of NMFS PIRO International Division to address these issues.

Original motion: The Council recommends that the U.S. advocate for several options relating to a new bigeye and yellowfin conservation measure which may include the following:

- Purse seine bigeye tuna catch limits;
- Mandatory report sampling, and that's sampling of catches and landings to look at the percentage of bigeye;
- More extensive Fish Aggregating Device (FAD) fishing closures;
- Evaluation of the Forum Fisheries Agency/Parties to the Nauru Agreement, Forum Fisheries Agencies, Parties to the Nauru Agreement, Vessel Day Scheme for bigeye conservation;
- Options for non-calendar year longline fishing years; and
- Rolling three-year catch limits for longline fisheries.

Moved by Duenas, seconded by Torres.

Motion passed; no abstentions.

Duenas explained these are measures which have been reviewed over the last two years of Council deliberations.

Duenas commented that regarding the purse seine BET catch limit, the purse seiners doubled their catch the year before, which raises some concern, particularly because it's in excess of the Hawaii longline fishery. Furthermore, many were juveniles. Regarding FAD closures, there were violations, so more time is needed to control them. The options for the non-calendar year and the rolling 3-yr catch period are standard with the commission.

Itano clarified for Duerr that in the West Central Pacific, about half the catch for purse seiners is from FADs and close to half the catch is caught on floating objects. This varies yearly by fleet. About 62 percent of the effort is on unassociated schools.

Dalzell recommended adding "...PIRO respond to the letters sent by the Council requesting consideration of these issues and Council staff work with the staff of NMFS PIRO International Division to address these issues." There were no objections.

Itano suggested a friendly amendment to add "...catch limits for all purse seine fleets in the Pacific" to clarify that it is for all countries in the west and central Pacific. There were no objections. Itano also suggested text for the FAD closures, to which there were no objections. There was also an amendment to add mandatory port sampling, to which there were no objections.

10. Protected Species

A. False Killer Whale Take Reduction Team Meeting Report

Nancy Young, Coordinator for the False Killer Whale (FKW) Take Reduction Team (TRT), presented on the requirements of the Marine Mammal Protection Act (MMPA), the status of the Hawaii FKW TRT, and the three false killer whale stocks in the Region: 1) the Hawaii insular stock found within 75 nautical miles of the MHI, 2) the Hawaii pelagic stock occurring out to the EEZ surrounding the Hawaiian Islands, and 3) the Palmyra stock. The 2010 Draft Stock Assessment Report will be published within the next two weeks.

Prey species of false killer whales overlap with many of the species that are targeted in the Hawaii longline fisheries and depredation has been recorded in the fishery at the rate of 6 percent in the deepset fishery and 3 percent in the shallow-set fishery. In addition, FKW are occasionally caught as bycatch in the fishery. The FKW TRT was formed in an effort to reduce bycatch rates.

False killer whales are protected by the MMPA, the key goals of which include maintaining marine mammals as functioning elements of their ecosystem, obtaining optimum sustainable population levels for all marine mammals, and reducing serious injury or mortality bycatch, which is a form of take of marine mammals that occurs incidental to commercial fishing operations to insignificant levels. Fisheries are classified according to levels of marine mammal bycatch on the annual MMPA List of Fisheries.

In 2000, the Hawaii pelagic stock of false killer whales were designated as a strategic stock. The MSA specifies that Take Reduction Plans (TRPs) are designed to assist in recovery or to prevent the depletion of strategic stocks of marine mammals, which are defined as those listed under the ESA or those for which the level of human-caused mortality exceeds the threshold (i.e., the potential biological removals (PBR) level). The Hawaii deepset longline fishery is a Category 1 Fishery. The shallow-set longline fishery is a Category 2 Fishery. NMFS formed the TRT to develop the TRP that aims to reduce the incidental mortality and serious injury of the strategic marine mammal stocks to below the PBR levels within six months and to obtain a zero serious injury and mortality rate within five years. While not designated as strategic stocks, the Hawaii insular and Palmyra Atoll stocks are included in this TRP because they are taken by the Category 1 deepset longline fishery.

The Team consists of 19 members, including representatives from the fishing industry, academic and research institutions, conservation organizations, State of Hawaii, the Marine Mammal Commission, the Council, and NMFS. Three meetings have been held to date and are ongoing. Draft recommendations will be submitted July 19, 2010, at which time the rule-making process

will begin. The Team will monitor the plan and amend when called for.

Potential management measures include required use of 14/0 to 16/0 circle hooks, testing for weak circle hooks, incorporating additional marine handling and release information and training, and prioritizing research needs and activities. The TRP may also include triggers, such as number of interactions, for reconvening (with the goal of avoiding reconvening) the TRT.

Discussion

Martin asked if triggers to avoid reconvening means reconvening is off the table. Young replied not necessarily, but the issue is with rule making. In response to a question from Martin, Young clarified that takes in the overlap area are pro-rated to a stock. Martin commented that there is no PBR for the overlap area. Erin Olesen replied that the PBR for the insular stock is based on nearshore surveys, but is used to do the stock assessment for entire area.

Sablan asked if the rules will apply to the Territories as well. Young replied that it is likely any regulations will apply to wherever the Hawaii-based vessels with a Hawaii permit fish. Tosatto clarified that CNMI boats operating under a Hawaii permit would be required to comply, but vessels fishing with a CNMI permit do not need to.

Itano asked about the random distribution nature of the FKW stock, commenting that the number of interactions appear to be correlated with more fishing activity/hook density. However, that is probably necessarily correlated because the FKWs are in areas of high productivity. Itano recommended performing tagging studies. Martin encouraged acoustics to be incorporated into the surveys and added that the upcoming surveys in the late summer/fall may be occurring during the wrong time of year – fishermen generally see the insular stock now, not in the fall. This temporal variability of FKWs tied in with the non-random nature of their spatial distribution causes issues with determination of stock size.

Itano asked why the shortline fishery and kaka line fisheries have been targeted. Young replied because of the similarity of gear and anecdotal reports of interactions in the shortline fishery the fishery was listed as a Category 2 Fishery.

B. Sea Turtle Advisory Committee Report

Duenas directed Council's attention to the meeting report of the Sea Turtle Advisory Committee (STAC) held on March 30 and 31, 2010, in Honolulu. He submitted the 6 recommendations from the meeting report for Council's consideration.

There were no comments or questions.

C. Cetacean Survey Methodology

This item was taken out of order.

Oleson, Cetacean Program Leader at PIFSC, reported on biopsy sampling and serious injury in response to a question that arose at the 147th Council meeting. Biopsy sampling provides information on genetic makeup, stock structure, abundance, kinship, population size, sex, movement patterns, social structure and organization, foraging activity, sexual maturity and

more. A small portion of skin and blubber is taken. Trained staff use a crossbow or a biopsy pole with sterilized tips of varying size to take a sample from behind the dorsal fin of the animal.

NMFS guidance defines serious injury as any injury that will likely result in mortality. Resightings of individual animals well after being biopsied provide information on the long-term survival of the animals. She added there is potential for serious injuries, such as in the case of tips breaking off, stuck darts or mortalities due to sampling mistakes.

Currently, there is a national working group developing a serious injury policy for NMFS. Guidelines have been developed by marine mammal fishery and veterinary experts that include:

- A serious injury, in general, is one that impairs feeding and locomotion
- Ingestion of gear or an animal that is hooked internally
- Animal released with substantial gear attached to it
- A head trauma or body cavity penetration

Nonserious injuries include:

- An animal hooked externally in the flukes or in the body, not in the head region
- Released with no or minimal gear or that is too short to potentially wrap around the beak or the head or be swallowed by the animal

Serious injury criteria do not specifically address biopsy sampling, but most biopsy samples collected according to procedure will not result in a serious injury and/or in behavioral modification or disruption of the animal.

Oleson gave a brief overview of the upcoming fall HICEAS II survey from August to December in the Hawaiian waters. Two vessels will run parallel surveys with the goal of providing new abundance estimates for all cetaceans in Hawaiian waters with focus on FKW. Survey methods will include the traditional observer framework, acoustics, oceanography, photo identification, biopsy, satellite tagging and a number of other observation methods in order to facilitate future efforts of ecosystem modeling to predict abundance. She briefly described the methods to be used in the calculation for abundance estimates. They will also be assessing vessel attraction.

Discussion

Sablan asked if the two people sampling with crossbows in CNMI encountered any FKW and pointed out there are many pilot whales in CNMI waters. Oleson replied there were no observations of FKW in Guam or CNMI during the recent ship survey or small-boat surveys and offered to get the information regarding the CNMI waters for Sablan.

Martin asked if any FKW were identified using acoustics. Oleson replied that during transit on the high seas, one detection of FKW was made both visually and acoustically in both directions.

Martin encouraged re-evaluation of the serious injury criteria and expressed concern about a double standard from the industry's perspective as to injuries inflicted by the industry versus injuries inflicted in the practice of biopsy sampling. He expressed industry's concern over NMFS considering a hook in the mouth a serious injury when FKW prey on full-sized billfishes. Oleson answered that they have not had the opportunity to re-evaluate any FKWs hooked in the

mouth and one of the recommendations of the TRT is for some of the industry to collect photographs of hooked animals to help in re-evaluation of serious injury determinations.

Itano voiced concern regarding a longline vessel captain's plans to remove all hooks from FKW whale after attending a TRT meeting because if a FKW is hooked in the mouth, but subsequently unhooked, it does not count as a serious mortality. He cautioned against promoting such an activity, voicing concern about crew safety. Oleson clarified that a subgroup of the TRT is working on guidelines for avoidance and use of dehooking tools currently being used for turtles; safety-at-sea is the foremost concern.

Martin encouraged PIFSC to consider ways the industry can contribute to obtaining information for use in the assessments.

Regarding the HICEAS II survey, Torres asked about the track run methodology and Itano asked if there is a way to account for the non-randomness of the aggregates of FKWs. Itano, like fishermen, have always observed FKWs on FADs, thus he encouraged use of aggregation of the animals in the model and/or use of models that accommodate clumping of animals. Oleson said so far seeing false killer whales near FADs is not a strong signal in their surveys and offshore aggregations are more difficult to assess than the nearshore aggregations.

D. Update on Endangered Species Act Issues

Lance Smith, from NMFS Protected Resources Division (PRD), reported on the status of active ESA petitions and outlined the ESA Petition Response Process.

In 2007, two petitions requested designation of the North Pacific and West North Atlantic loggerhead turtle as Distinct Population Segments (DPS). In 2010, a NMFS Loggerhead Turtle Status Review concluded the species should be divided into nine DPS. The final rule is due March 2011.

In 2007, a petition requested revision of leatherback critical habitat by adding the West Coast EEZ. In January 2010, NMFS held the public comment period. There is no statutory deadline for responding to critical habitat revisions.

In 2008, a petition requested revision of the Hawaiian monk seal critical habitat by adding areas in the NWHI and MHI. In June 2009, NMFS published a 12-month finding stating revision of the Hawaiian monk seal critical habitat is warranted. The current estimated completion date for the proposed rule is December 2010.

In October 2009, a petition requested the listing of the insular population of the Hawaiian false killer whale as endangered and designation of critical habitat. A Biological Review Team (BRT) was established to complete the Status Review.

In October 2009, a petition requested listing 83 coral species and designation of critical habitat. A Coral BRT has been established to determine the status of the species, and concluded 82 species have substantial information supporting the petitioned action.

In January 2010, a petition was submitted requesting the listing of the bumphead parrotfish and designation of critical habitat. A Bumphead Parrotfish BRT has been established to determine the status of the species.

Discussion

Duenas said he is looking forward to NMFS' conclusions on the bumphead parrotfish and the 83 corals, as he sees no problems in the waters around Guam.

Simonds informed the Council members they were provided a copy of the Federal Register Notice regarding the petitions for listing of the bumphead parrotfish and 82 coral species and encouraged the Region's Fisheries Directors to submit comments to Pooley, Director of the Science Center, who is responsible for writing the BRT.

E. American Samoa Longline Amendment Consultation

Smith presented an update on the ESA consultation for the American Samoa longline fishery regarding the incidental take of ESA-listed species. NMFS PRD is writing a Biological Opinion (BiOp) on the effects of the American Samoa longline fishery on green sea turtles. Genetic samples are being collected. Five haplotypes have been identified from seven samples taken to date, including two unknown haplotypes and three found in widely-distributed nesting stocks. The expanded total is ~30 per year with the continuation of the American Samoa longline fishery as is. The next steps include providing the draft BiOp to the Sustainable Fisheries Division 90 days from the Consultation Initiation Date (expected August 12, 2010), and signing the final BiOp 135 days from the Initiation Date.

Discussion

Dela Cruz asked for clarification on the science involved in the ESA Petition Status Reviews for the coral and bumphead parrotfish petitions. Smith clarified the Science Centers will be providing the science in the Status Reviews and that the petition included all corals occurring in U.S. waters, with the exception of two corals already protected in Florida.

Sablan voiced concern regarding the fact that the villages of Saipan rely on their reef fish for food. Smith pointed out there are ways to authorize the take of listed species for certain activities, but cannot comment more until the Status Reviews are completed.

Duenas commented that thousands of islands in the Pacific have not been included in the information on the green sea turtle; also, only 5 percent of the CNMI and Guam waters are fishable. He questioned the estimation of the abundance of the bumphead parrotfish. He also questioned the ESA petition process that allows people outside of the affected area to initiate a petition.

Torres questioned the practice of species being designated as endangered or threatened while not restricting impacts from tourism-related activities.

F. SSC Recommendations

This item was taken out of order.

Severance reported the SSC recommendation.

Regarding the False Killer Whale Take Reduction Team Meeting Report:

1. The SSC notes the Potential Biological Removal used by the TRT uses a recovery factor equal to 0.4 and the SSC seeks clarification as to how the .04 level was selected from the range of 0.1 to 1.0.

G. Public Hearing

Joe Dettling, Senior, fisherman, stated that the *Report on Historic and Contemporary Patterns of Change in Hawaii-based Pelagic Handline Fishing Operations, Final Report* by Ed Glazier, sponsored by the Pelagic Fisheries Research Program, is so bad it should be rejected in entirety. He stated he has fished since before FADs were placed and realized early on the way to fish FADs around the Big Island was by culling marine mammals that interfered in fishing activities, which became a normal procedure. He added he witnessed using cyanide in opelu or cyanide on a State FAD to kill an entire population and has no doubt that it is still the practice around the Private Fish Aggregating Device (PFADs) as well as State of Hawaii FADs. He suggested a general amnesty so they may obtain accurate information on toothed mammals that interfere with fishing activities on inshore FADs.

Dettling also added he was the only fisherman to fish shortline at Cross Seamount for monchong. Time ran out for his public comment.

Joe Dettling, Junior, fisherman and dive boat captain, commented this from his observations of green sea turtles around the Island of Oahu and the Big Island of Hawaii, the numbers mentioned in the green sea turtle survey sound unrealistically low. He noted that thousands of islands that were not included in the survey.

H. Council Discussion and Action

This was taken out of order.

With regards to the potential management measures to address false killer whale bycatch in the Hawaii deepset fishery:

1. **The Council supports the trials of weak circle hooks to test the effects of such hooks on target catch as considered by the False Killer Whale Take Reduction Team.**

Moved by Duenas, seconded by Torres.
Motion passed; no abstentions.

Martin voiced support for the motion, commenting that there has been significant work in the Atlantic with weak hooks and TRT has a strong interest in evaluating how weak a hook can be used to minimize impacts to target catch. Duenas voiced concern that there is a major impact on FKW by hooks, but that the extent is largely unknown.

Duenas asked if a tagging study could be coordinated with the false killer whales hook trials in

an effort to get information on post-interaction survival. Asuka Ishizaki, Council staff, replied that such an experiment is not feasible because of the tight timeline for implementation of the Take Reduction Plan.

With regards to the ESA listing petition reviews for the 83 species of coral and bumphead parrotfish:

2. **Final motion:** Directed staff to draft a letter to NMFS requesting that they pay particular attention to fishing practices carried out in the Pacific Islands region that are likely to be affected by listings of such species. Fishing activity in the Marianas Archipelago and American Samoa are limited to a small area of the entire EEZ, and seldom occur around remote islands where abundance of corals and reef fish are likely to be higher than in populated areas. Such patterns of use should be considered by NMFS in the process of decision making. In addition, NMFS should provide education and outreach materials that include a list of all 82 species of coral that are included in the petition and are now considered in the review.

Original motion: The Council directs Council staff to draft a letter to NMFS requesting that it pay particular attention to fishing practices carried out in the Pacific Islands Region that are likely to be affected by listings of such species. Fishing activity in the Mariana Archipelago, for example, is limited to a small area of the entire EEZ and seldom occurs around remote islands where abundance of corals and reef fish are likely to be higher than in populated areas. Such patterns of use should be considered by NMFS in the process of decision-making.

Moved by Duenas, seconded by Sword.

Motion passed; no abstentions.

Tulafono offered a friendly amendment to add the American Samoan and the Mariana Archipelagos to the recommendation; there were no objections.

Duenas offered a friendly amendment requesting educational materials be provided regarding the listed species such as photos to train the community on species identification; there were no objections to the friendly amendment. Dela Cruz supported Duenas' addition. Itano also supported it, but added that NMFS should provide outreach and education regarding all 83 species in the petition, to which there were no objections.

Regarding the ESA Consultation NMFS Protected Resources Division is conducting on the American Samoa longline fishery:

3. **The Council request that NMFS provide Council staff with a copy of the Draft Biological Opinion on August 12, 2010, such that they may review and provide input on findings prior to their being included in NMFS' Final Biological Opinion.**

Moved by Duenas, seconded by Sword.

Motion passed; Tosatto abstained.

Tosatto clarified that if a copy of the BiOp is provided, it will be at such time that it would be open to the public for review. Duenas disagreed, noting the workload should be shared as part of the interagency working group.

Regarding the North Pacific Loggerhead DPS and Endangered Listing Proposed Rule:

- 4. The Council recognizes the deficiencies in scientific information, such as demographic data, used to derive the listing proposal and directs staff to include this view in their comment letter in response to the proposed rule.**

Moved by Duenas, seconded by Torres.
Motion passed; Tosatto abstained.

Regarding Council's Sea Turtle Projects:

- 5. The Council endorses the STAC recommendations to:**
 - A. Continue support for TREDs, which is the Turtle Research and Monitoring Database System, and its ongoing maintenance and recommends that staff, with South Pacific Regional Environmental Program (SPREP) and other relevant partners, explore alternative sources of long-term funding, such as corporate donor funding.**
 - B. Continue to support egg relocation where appropriate as part of nesting beach monitoring and conservation in Japan, but recognizes the need to evaluate the relocation strategy as a valid conservation strategy.**
 - C. Direct staff to further explore the option of preparing a paper on policy issues of offsets as a valid conservation strategy and, if appropriate, issue a request for proposals during 2010 and work with a contractor to prepare the paper.**

Moved by Duenas, seconded by Torres.
Motion passed; no abstentions.

Tosatto cautioned that the Council needs to ensure they are not using government funds to raise more, but supported the concept of increasing outside funding for Council and international cooperation on these issues. Simonds clarified that this is in respect to all partners, not fundraising.

Regarding the U.S. National Research Council's Review of Sea Turtle Population Assessment Methods:

- 6. The Council directs staff to review the document as soon as it is available and provide a report at the next Council meeting.**

Moved by Duenas, seconded by Sablan.
Motion passed; no abstentions.

Duenas asked for the addition of "provide a report at the next Council meeting" prior to making the motion.

11. Mariana Archipelago

A. Arongo Flacey

Torres directed Council members' attention to the island report included in the Council Briefing book. He commented that while they have been able to deploy 10 new FADs, 4 were lost so they are back to 10 instead of 14. The FADs were not deployed in time for the mahi and wahoo runs. Guam has entered its rainy season, which will result in additional pollutants in the coastal areas. He noted he may seek Council assistance to address pollution concerns in the near future.

B. Isla Informe

Dela Cruz directed Council members' attention to the CNMI island report included in the Council Briefing book.

Duenas reported that Guam had a great mahi season that lasted 7 months, an inundation of EISs by Federal agencies, a number of ESA petitions, and expressed a concern that cumulative impacts from the military buildup and recent Monument Designations are not being addressed.

C. Legislative Report

Dela Cruz reported on:

- HB17-33, which amends Public Law 12-14, the Fair Fishing Act of 2000, to allow the use of traditional net fishing for noncommercial purposes for the Island of Rota, which was passed by the House on May 25th. The bill is now headed to the CNMI Senate.
- On May 6, 2010, the U.S. Senate Energy and Natural Resources Committee approved HR934, which conveys the submerged lands around each of the islands in the Northern Mariana Islands back to the people of the islands. The Act conveys to the Northern Mariana Islands the submerged lands out to three miles from the shoreline of each of the islands, which gives the Northern Mariana Islands the same benefits in its submerged lands as Guam, the Virgin Islands and American Samoa. The Committee approved the bill without amendment. The House of Representatives unanimously passed the bill in July of 2009.
- On May 11, 2010, the CNMI legislature passed a joint resolution, 17-4, opposing the Secretary of Interior's report as prepared pursuant to U.S. Public Law 110-229 regarding the CNMI, which was submitted to the U.S. Congress in April of 2010. That report recommended Congress consider permitting alien workers who have locally resided in the CNMI for a minimum period of five years to apply for long-term status under the Immigration and Nationality laws of the United States.

Torres reported that the ongoing indigenous bill that the Guam Department of Agriculture and Guam DAWR is still at the drawing board.

Duenas noted that there is a pending scuba bill as a result of the recent petition for the bumphead parrotfish. Fishermen held a meeting with the Guam Legislative Committee Public Oversight to voice opposition to the bill.

D. Enforcement Issues

Dela Cruz and Torres directed Council members' attention to the CNMI Enforcement Report and

Guam Enforcement Report included in the Council Briefing book.

Duenas reminded the Council about a previous discussion about JEA and asked if Guam could have conservation officers be part of the JEA.

E. Action Items

1. Recommendations on Fishery Management Measures for the Marianas Trench Marine National Monument

Kingma reviewed recommendations passed at the 147th Council meeting for the newly-established monuments and the issue of prohibition on commercial fishing within the Islands Unit, which is presently prohibited in the Islands Unit under the Proclamation, but not in any regulations. In regulation, non-commercial recreational and traditional indigenous fishing is allowed, as well as commercial fishing in the Marianas Trench Marine National Monument (MNM). Presently trolling and other types of pelagic fishing are occurring.

At the 147th meeting the Council adopted three general definitions:

- Customary exchange as the nonmarket exchange of marine resources between fishers and community residents for goods, services and/or social support for cultural, social or religious, and may include the cost recovery through monetary reimbursements or other means for actual trip expenses, examples being, ice, bait, food or fuel, that may be necessary to participate in fisheries in the Western Pacific Region.
- Non-commercial fishing as 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 as fishing conducted for sport or pleasure, and recommended that recreational fishing be allowed in all of the Marine National Monuments, but the catch cannot be sold, bartered or traded nor included in customary exchange. The Council made a distinction here that recreational fishing is where the primary motivation is for sport or pleasure shouldn't be necessarily included in the other types of noncommercial fishing, where the motivation is more for social support or cultural, religious reasons.

Also at the 147th Council meeting regarding the Marianas Trench MNM, the Council:

- Recommended to authorize fishing conducted for sustenance, subsistence or traditional indigenous purposes of uses as allowed for under customary exchange of fish.
- Recommended that recreational fishing be allowed, but the catch cannot be sold, bartered or traded nor included in customary exchange.
- Recommended that charter for-hire fishing be allowed, but the catch cannot be marketed for sale, barter or trade and the customary exchange of the catch is prohibited.
- Recommended that permits and logbook reporting be required for all fishing in the Islands Unit, and the CNMI's Department of Land and Natural Resources (DLNR) and Guam Department of Fish and Wildlife (DFW) be included in the administration and monitoring of the permits.
- Recommended that separate permit and logbook requirements be established for charter for-hire fishing to monitor the sustainability of this type of fishing, as well as potentially limit the number of participants.

- Recommended that the CNMI DLNR and Guam DFW be exempted from permit requirements related to scientific research and exploration.
- Recommended that staff prepare an options paper regarding regulating commercial fishing in the Volcanic and Trench Units of the monument and other fisheries related in the Proclamation.
- Recommended the Marianas Trench Marine National Monument Advisory Council include representation from Guam as an observer.

Alternatives presented at the 147th Council meeting regarding commercial fishing included:

- No action
- Prohibit commercial fishing within the Islands Unit of the Marianas Trench MNM

Recommendations in terms of implementing regulations presented at the 147th meeting included:

- Consider the terms used in the Draft Regulations
- Consider administrative and enforcement issues
- Consider refining recommendations as appropriate

Kingma briefly reviewed the Draft Proposed Regulations in the FEP amendment, which included the prior three definitions. He noted some minor technical explanatory changes may be included in the regulatory text. He presented the following items to be considered:

- Prohibition of commercial fishing
- Recommendations on permit eligibility
- Whether or not record-keeping for monetary reimbursements is necessary
- Permit applicability. For example, everyone onboard versus owner/operator only
- Permit duration
- Options for the timing of logbook submission
- Reporting requirements

Discussion

Palawski noted the Omnibus Amendment does not include the pelagic fishery, but because the charter-for-hire will be targeting pelagic species, the pelagic FEP may need to be amended to match the Monument regulations. Kingma said omitting Pelagic species is a housekeeping issue. Palawski also commented that USFWS still believes there is a need to develop a definition for traditional indigenous fishing. Kingma replied that there was a discussion in the SSC about traditional indigenous fishing. Regarding Council history, traditional indigenous fishing also includes longline gear and, under the CDPP, also includes commercial fishing. That, in addition to the low level of fishing that is expected to occur, led the SSC to not feel like specific definitions were necessary. If it is too specific, questions of ethnicity and other requirements arise. Requiring a permit should not detract from the value of traditional indigenous fishing, and for ease of administration, requiring a general permit for non-commercial fishing seemed appropriate.

Duerr commented that sharing with anyone is customary in the islands. Haleck agreed, saying that American Samoa has the same customary exchange tradition.

Itano voiced support for a very broad definition of customary exchange. He suggested the

definition say "residents, citizens, and visitors to CNMI."

Duenas pointed out customary exchange is an unwritten law, and there is an injustice in trying to document it and make it a rule. Tosatto responded that we all recognize that this is an island traditional practice that is trying to be translated into Western vernacular so it's understandable to the public and the decision-makers. He is encouraged by the progress that has been made. He added that it's important for this document to best describe customary exchange to make it a supportable and approvable activity; the rest of the country will look to this definition. Torres added that this definition is nice in that it embraces his views and his ancestors' views on customary exchange and was pleased that various Council members from all regions commented positively about it.

F. Mariana Bottomfish Survey Report

This item was taken out of order.

Mike Seki, Deputy Director of NMFS PIFSC, reported on the survey cruise conducted earlier this year in the Mariana Archipelago which included benthic habitat mapping of important fishery resources, gathering quantitative information about deeper reef fish assemblages at banks near Guam, Rota and Saipan, assessing the feasibility of non-extractive sampling gear for use in comparison with other data, and to supporting NOAA's Teacher-at-Sea Program. He noted cooperative fish sampling will be conducted in Guam from July 17-August 1, and the cruise data analysis is ongoing.

Discussion

Tulafono asked for clarification of the NOAA Teacher-at-Sea Program. Seki explained that it is a program for teachers to participate and personally experience the cruise, which can be carried back to benefit students.

G. Community Activities and Issues

John Calvo, Council Coordinator on Guam, reported:

- The Council and the University of Guam College of Extension Services summer program will be held during the Summer High School Marine Education and Training Program together with various parties, including the Guam Fishermen's Cooperative and Marine Lab, DAWR at the Department of Agriculture.
- Various ACL and Catch Share presentations were conducted on Saipan, Rota and Guam presenting an overview of the ACL and its impact as mandated by the MSRA.
- Community Monitoring Workshops under the Community Development Program will be occurring in August, which will include biosampling methods, species storage and transfer process and reporting, community reef fish tagging programs, methods and outreach, ecosystem indicator monitoring, online reporting and monitoring support through the Council FishBox and the Community FAD projects.
- The Department of Agriculture Ridge to Reef Program, which pertains watershed systems effects on the coral reef systems.

There were no comments or questions.

H. Update on Military Activities

Sablan directed Council members' attention to the report included in the Council Briefing book.

I. Education and Outreach Initiatives

This item was taken out of order.

Calvo reported Council outreach activities included participating with exhibits at various events, including the University of Guam Charter Day on March 9th, Earth Day on April 26th, the Department of Agriculture Organic Farm, Enriched Reef Annual Open House on May 11th, and the Middle and Elementary School Annual Picnic on May 18th. Work continues on Chamorro lunar calendar and with the science teachers at the various high schools. In August a workshop will be held for high school science teachers and in September the Coral Reef Task Force will be meeting in CNMI.

Jack Ogumoro, Council Coordinator in CNMI, reported the Northern Mariana Islands College Cooperative Research Extension and Education Service held a series of public planning sessions to solicit input from the community for the purpose of developing a Five-Year Aquaculture Development Plan. Species recommended for aquaculture included talapia, giant clams, marine finfish milkfish, sea urchins and cucumbers. Also, he reported that CNMI held its Environmental Expo on April 21st and 22nd in which over 500 students participated. The Saipan International Fishing Derby is scheduled for July 17th and 18th. The 2010 Saipan Summer High School course on Marine Fisheries and Resources started on June 21st; 42 students are participating.

Discussion

Dela Cruz asked if Calvo had been notified of the status of the coral ESA petition and if there were any public hearings held on the subject. Calvo responded he learned of the petition via the Federal Register Notice; no public hearings were held.

Tosatto explained the petition process, reiterating that the public is notified at the point a finding is made by way of a Federal Register Notice. He noted a petitioner often issues a press release on their activity at the time of the filing of the petition. When the proposed rule is published, the public will be provided an opportunity to comment on the proposal.

Torres stated he learned of the petition from Calvo. He noted the information can easily be overlooked when the notification method is publication on the internet, thus people must have a staff person watching for Federal Register notices and other publications to find that information. He pointed out the importance of holding public hearings in the area where the proposed action will occur.

Duenas noted he has not seen any federal documentation listing reasons why the species would or could be listed under the Federal Species of Concern List. Tosatto clarified that the bumphead parrotfish is on the Species of Concern List, noting the objective of being placed on the list is to address the species before they are at risk of extinction. The corals were on the International Union of Conservation Networks (IUCN) Red List, which denotes international concern. The Endangered Species Act list of Endangered Species relate to the species globally, and the ESA

applies to all US citizens regardless of where the species occurs. Duenas argued that the three major impacts on these species do not occur in the Marianas and local depletion only occurs in one of four island areas, thus the action is arbitrary. He challenged the agency to reconsider.

Duenas reiterated the lack of scientific documentation regarding the reason why the corals and bumphead parrotfish should be listed and asked the Agency to reconsider moving forward with listing the species.

Dela Cruz quoted regulations in the Endangered Species Act of 1973, pointing out global climate change, acidification of the oceans, and excess production of greenhouse gases, which the people of the Marianas have no control over, are greatly impacting the coral species and bumphead parrotfish, and it is unfair to impose regulations that will affect their livelihood. He added that public hearings regarding the listing should be held in the Marianas because they will be highly impacted.

Duenas noted there is clean white shrimp brood stock available from the Guam University if CNMI needs it.

J. SSC Recommendations

Severance reported the recommendations from the SSC.

With regards to Update on Potential Management Measures for Fishing in the MNMs:

- The SSC notes that given the distances involved and the limited amount of fishing before the monuments were declared it is unlikely that there will be significant fishing pressure under any new regulations. The SSC reiterates its support of a general noncommercial fishing definition including sustenance, subsistence, traditional indigenous and recreational fishing.
- The SSC supports development of Council regulations that allow fishing for customary exchange in the Rose Atoll and Marianas Trench Marine National Monuments.
- Though the SSC is including traditional indigenous fishing within the general category of noncommercial fishing, the SSC does not mean to lessen the importance of traditional indigenous fishing. The SSC supports requiring permits and reporting of numbers and species of fish landed. The SSC does not support post-landing monitoring of the particulars of fish distribution and cost reimbursements, because those calculations of the equivalencies run counter to the cultural values and benefits of sharing fish.
- The SSC also does not support permit requirements or processes that would pose unnecessary or inappropriate burdens on fishery participants. The SSC suggests that if the Council were to consider a residency requirement for permits for noncommercial fishing in the monuments, the SSC calls the Council's attention to the fact that many of the indigenous people affected have family members and relatives who are residents elsewhere but return regularly to participate in cultural and family events.

Discussion

Council members commended the SSC for their recommendation regarding customary exchange.

K. Public Hearing

Leana Sablan Hofschneider, a CNMI indigenous woman, offered comment that public hearings for the Marine Monument should be directed at the indigenous people of the Marianas. She asked the Council to reconsider and to hold public hearings in the Marianas Islands, specifically Saipan, Guam, Tinian, Rota and the Northern Islands. She commented the Council cannot continue to exhibit a colonial, imperial and paternalistic mentality when it comes to indigenous people. She added cultural sensitivity lies within the person that is being affected and the Federal rules proposed for the listing of corals is further imposition on the livelihood of Chamorros and indigenous people.

Richard Hofschneider, from Tinian in the Marianas Islands, voiced objection to the definition of traditional customary exchange being formulated by the Council without sufficient indigenous peoples' input, requested public information be provided on the entity that originated the petitions, noted a lack of sufficient public notice for the Council meeting, and was not satisfied with the Council's noncommercial permit proposal for the National Marine Monuments with respect to indigenous rights. He would like information on the heavy metal levels found in mafute. He requested the Education and Outreach Initiatives be extended to Tinian. He also argued that people of CNMI should be allowed to eat green sea turtle due to its high abundance.

L. Council Discussion and Action

Regarding the Marianas Trench Marine National Monument:

- 1. The Council recommends that commercial fishing be prohibited within the Islands Unit.**

Moved by Sablan, seconded by Torres.
Motion passed; no abstentions.

Thielen asked whether the definition "within islands unit" was sufficient for people to understand the boundaries. Sablan replied that it was.

- 2. The Council recommends that eligibility for noncommercial fishing permits be limited to residents of the Guam and Northern Marian Islands Fishing Communities, as that term is defined under the MSA.**

Moved by Sablan, seconded by Torres.
Motion passed; Young voted nay; Tosatto and Thielen abstained.

Thielen commented that she has an issue with the definition for a number of the motions for non-commercial fishing, so will abstain because she agrees with other parts of the motions.

- 3. The Council recommends that eligibility for recreational charter for-hire fishing permits be limited to owners/operators of a charter business legally established in Guam or Northern Mariana Island fishing communities.**

Moved by Sablan, seconded by Duenas.
Motion passed; Tosatto and Thielen abstained.

Duenas voiced concern about the wording "fishing community legally established" because he was unsure that fishing communities were legally allowed to be established. Sablan clarified that it referred to those businesses with licenses to take boats fishing. Torres asked for clarification about what owners and operators meant, questioning whether it included a family-owned corporation in which the son operated the vessel. Kingma clarified that the son would need the permit in that instance.

4. **Final motion: Recommended non-commercial fishing permits be required for the owner and operator of a vessel fishing in the Islands Unit and not all fishing participants on that vessel and further that the valid permit must be carried on board the vessel.**

Original motion: The Council recommends that noncommercial fishing permits be required for the owner/operator of a vessel fishing in the Monument and not all fishing participants on that vessel, to be clear.

Moved by Sablan, seconded by Torres.
Motion passed; Tosatto abstained.

Young questioned about whether everyone on the boat fishing would be required to have a permit, or just the owner. Sablan said yes. Tosatto commented that every vessel in the Monument would be required to have a permit, but asked whether the owner and/or operator could have the permit instead. Under the longline program, the permit must be on the vessel, but it does not have to be owned by the captain, just the vessel owner. In this case, Tosatto thinks the permit holder would need to be on the vessel in the Monument. Duerr agreed, saying that the Council hadn't addressed a bare-boat charter where the person charts the boat without a permit.

Duenas argued that he liked how the motion was constructed because the owner must be responsible and both owner and operator would need a permit. Sword agreed with Duenas. Young argued that an enforcement officer would want to see the permit for the boat, which could waste a lot of time if that permit is on shore. Thielen offered a friendly amendment to change the wording to "permits required for owner *and* operator." There were no objections from the maker or seconder. Itano agreed and made a further friendly amendment to say the permits should be held on board during fishing operations. There were no objections from the maker or seconder. "Islands unit" was also added with no objections.

5. **Final motion: Recommended fishery participants conducting customary exchange not be required to report monetary reimbursements nor trip expenses due to anticipated behavioral modifications that would impact cultural practices related to the motivations of customary exchange.**

Original motion: The Council recommends that fishery participants not be required to record monetary reimbursements nor trip expenses due to anticipated behavioral modifications that would impact cultural practices related to the motivations of customary exchange.

Moved by Sablan, seconded by Torres.

Motion passed; Young voted nay; Thielen and Tosatto abstained.

Tosatto suggested the motion be amended to read "report" instead of "record." There were no objections.

Tucher was unsure what was meant by anticipated behavioral modifications and asked if that was due to discouraging cultural practices. Sablan said yes. Itano commented that he didn't think it was necessary to explain beyond "expenses," suggested removing "due to anticipated behavioral modifications," and added "but will be required to report catches in a trip report." Sablan countered that it would supply a rationale for the motion for people who do not understand island life.

Thielen commented that the Council's definition of recreational fisheries did not include reimbursements and suggested adding "cultural" as a descriptor for fishery participants. She noted that NOAA may want to look at financial trip expenses for non-cultural fisheries. There were no objections. Kingma supplied a different wording: "fishery participants conducting customary exchange..." There were no objections.

6. **Final motion: Recommended customary exchange of fish harvested within the Islands Unit be allowed to include family and friends of residents of Guam and Northern Mariana Islands Fishing Communities.**

Original motion: The customary exchange of fish harvested within the Islands Unit be allowed to include family and friends of residents of Guam and Northern Mariana Islands Fishing Communities.

Moved by Sablan, seconded by Torres.

Motion passed; Young voted nay; Thielen and Tosatto abstained.

Tosatto questioned whether the intent of the Council was to allow it to include or limit it to family and friends. Sablan clarified that visitors are included as "friends." Tosatto argued that this recommendation is moot because that definition is already allowed. Duenas agreed that it is already encompassed in the language defining customary exchange; he cautioned that this may limit that visitors could not eat Guam's fish. Duenas agreed the motion is unnecessary. Itano countered that this motion addresses who is to be included in the definition and "family and friends" is necessary because "residents of Guam and CNMI" does not incorporate the fact you may send dried fish to friends and family in CA. Thielen cautioned that this goes to the heart of problems where people do commercial activities when they are not supposed to and argued this could create an influx of people trying to massage the rules. Duerr agreed that the Council knows what it means, but that doesn't mean the reviewers and public will understand; he argued it must be broad enough to be all-encompassing.

7. Recommended all non-commercial permits be valid for one year after issuance.

Moved by Sablan, seconded by Torres.

Motion passed; Tosatto abstained.

Thielen commented that some permits have language saying "subject to revocation due to violation" and suggested adding that to the motion. There were no objections by the maker or seconder. Duenas commented that "good standing" is a qualifier, but the agency has different types of penalties and penalty ranges and did not know how far "in good standing" would go. Tucher clarified that the issue would be addressed by adding rescinding terms. Cole agreed, saying the MSA has permit sanction provisions included, thus none would need to be included because any permit issued under the MSA is subject to those provisions. "In good standing" was then removed from the motion. No changes were made to the motion.

8. Final motion: Recommended the permitted operator of a vessel fishing in the Island Unit be required to fill out the logbook and that the both the permitted owner and operator are required to ensure that catch logbooks for all fishing conducted on the vessel is submitted within 30 days to NMFS/CNMI DLNR.

Original motion: The Council recommends that only owners and operators of the vessels fishing in the Islands Unit be required to submit catch logbooks for all fishing conducted on the vessel within 30 days to NMFS/ CNMI DLNR.

Moved by Sablan, seconded by Torres.

Motion passed; Tosatto abstained.

Young commented that he could see the intent is not "all fishers" but just owner/operator. His concern is that all fishing conducted on the vessel could be cumbersome if the fishing occurred outside the permit area. He also questioned whether an unpermitted owner/operator would also be guilty for not reporting if he didn't report. Cole clarified that the owner/operator would just be charged for non-reporting if they are permitted; the larger violation of fishing without a permit would be dealt with first. She suggested adding "permitted" prior to "owners/operators." There were no objections to the addition.

Itano expressed concern that it could be vague who is supposed to report and the best person to report is someone on the boat. He suggested an amendment to the motion to read "permitted operator of the vessel." There were no objections. Duenas cautioned though that the responsibility of owners should not be divorced from the operators with respect to ensuring the logbook is filled out. Martin agreed with Duenas, saying that "jointly and severally" should be used. Tosatto also agreed that the owner and operator should both be held accountable and the Council may define who is held responsible for submitting a catch report, but reminded the Council that they were discussing non-commercial fishing, not commercial. Itano clarified that he is just trying to ensure someone is held responsible for the catch report, and suggested that a violation would fall onto the owner. There were no objections. Cole reminded the Council that for bottomfish, the operator is required to fill out the catch report, but *both* the operator and

owner are required to ensure it is submitted. Tulafono agreed, as did Sablan.

Regarding the potential ESA listing of bumphead parrotfish and corals:

- 9. The Council recommends that NMFS hold public hearings on this issue in Guam and CNMI (Rota, Tinian and Saipan).**

Moved by Sablan, seconded by Torres.

Motion passed; no abstentions.

Duenas asked if American Samoa could be included, to which there were no objections. However, this was included in the motions pertaining to American Samoa instead of captured in this motion.

Regarding Sea Turtle Management and Research Funding for the Guam and CNMI Government:

- 10. Final motion: Recommended that NMFS provide \$150,000 per year to each of the governments of Guam and CNMI for the purposes of sea turtle management and research and further that staff coordinate a workshop with NMFS and representatives from Hawaii, Guam, CNMI, and American Samoa to address the status and recovery of the green sea turtle in the Pacific Islands Region.**

Original motion: The Council recommends that the National Marine Fisheries Service provide \$150,000 per year to each the Governments of Guam and CNMI for the purposes of sea turtle management and research.

Moved by Sablan, seconded by Torres

Motion passed; Young and Tosatto abstained.

Tulafono asked whether the motion had been voted on before, and Duenas clarified that this is in response to a letter from NMFS that stated they could not fund it, citing that they have \$200 million for protected species and it is unfair to the island community to not fund it. Torres agreed, arguing that the best research needs to be done so that management decisions are not based on antiquated data. Tulafono added that in American Samoa, they do not have adequate funding for even one person to do the work.

Thielen suggested rewording the motion to say the Council wants NOAA to update their research on green sea turtles and update the recovery plan, which may be more in the scope of their Federal appropriations. Tosatto clarified that the letter went beyond available funding to state that they address each island jurisdiction individually, so they may allocate different funding levels to each. He added that they are trying to address conservation in the best way possible.

Simonds gave a brief history on the management measures the Council has tried to take over the last 30 years, concluding that workshops in the three island areas should be conducted that include cultural practitioners to develop a proper plan for scientific research. Dela Cruz commented that it is necessary to hire biologists who are truly dedicated to the recovery and the

program to hasten the recovery plan. Sablan concluded the discussion by saying that their 14 islands have a high number of green sea turtles and they are asking for the money because it is necessary to do the research required by NMFS.

There were no objections to the change in wording of the motion.

Regarding Funding Assistance to Analyze and Mitigate Impacts from the Military Buildup and Associated Military Activities:

- 11. The Council recommends that NMFS provide \$500,000 to share between the Governments of Guam and CNMI to analyze and mitigate the impacts from the Military Buildup and associated military activities on the fishing communities of Guam and CNMI.**

Moved by Sablan, seconded by Torres.

Motion carried; Young, Theilen, and Tosatto abstained.

Duenas commented that at the March CCC meeting in D.C., he requested agency assistance and that Robinson replied that he had \$1.5 million available through habitat funding; Duenas would like the money to analyze the impacts of the military on fishing.

Torres asked who the Council was asking to do the mitigation, saying that since the root cause is military, then it is up to the military to do the mitigation. The research that would be performed with the money identified in the motion would be used to just identify mitigation strategies from the impacts. Thielen agreed that the responsible party is the military, not NMFS – she supported NMFS helping the discussion but said she'd abstain from the vote because it's not NMFS' responsibility.

Simonds suggested that Duenas, Torres, Tosatto and she have a meeting to identify what the money would be used for; she said that the request made in D.C. was followed up with in an email with Risenhoover. Tosatto replied that the motion is not likely to produce a result – he did not agree with Duenas' characterization of the agency and asserted that Robinson may have been referring to the money the Navy was supposed to provide NMFS to do their job, but the funding was never realized. No additional funding has been received. He finished with stating that NMFS, USFWS, the EPA, and the government of Guam have been working to address the military buildup impacts.

12. American Samoa Archipelago

A. Motu Lipoti

This item was taken out of order.

Sword reported a very successful fishing tournament was held on May 17th with over 100 anglers.

Tulafono reported they are still recovering from the 2009 tsunami and their efforts are hampered by lack of equipment that was lost or damaged by the tsunami, such as vehicles used in creel

surveys. They are waiting on permits for replacement of fisheries and floating docks. He added that the first no-take MPA was established in the Territory in May. Three FADs are scheduled to be deployed in the coming week. He added fishing has been great for both longline and trolling.

Haleck reported that the one cannery in American Samoa is scheduled to lay off 800 people and he hopes the ASPIRE Bill will succeed in Congress, which will help canneries and the economy of American Samoa by suspending the next round of minimum wage increase due in September.

Discussion

Duenas commended the American Samoa Archipelagic Fisheries Ecosystem Report, Document 12(1), authored by Marlowe Sabater.

B. Fono Report

Tulafono reported meetings are being held in the legislature regarding the upcoming layoffs, and hopes to report on the outcome of the meeting at the next Council meeting. Also, the request by Governor Tulafono for \$5 million to purchase the Samoa Packing Facility Equipment is pending approval in the Fono.

There were no comments or questions.

C. Enforcement Issues

Tulafono directed Council members' attention to the Enforcement Issues Report provided in the Council briefing book. He thanked the OLE for funds provided in the wake of the tsunami, which has helped with equipment replacement.

There were no comments or questions.

D. Action Items

1. Recommendations on Management Measures for Noncommercial Fishing in the Rose Atoll and Pacific Remote Islands Marine National Monument

Kingma reported the Rose Atoll presentation includes similar items as in the recommendations for the Marianas non-commercial fishing management measures. He illustrated a map of the Monument area, as well as the large vessel area closure targeting PMUS. The areas are not congruent. He pointed out the issues are the same, as well as the definitions.

Specific recommendations for Rose Atoll include a no-take area from 0-12 nautical miles (nm); review of the no-take area closure after three years; authorization of fishing conducted for sustenance, subsistence or traditional indigenous purposes or uses as allowed for the customary exchange for fish harvested within the Monument; that recreational fishing be allowed in the Rose Atoll Marine National Monument and the fish harvested could be sold, traded or bartered or included in customary exchange; that recreational charter for hire fishing be allowed and the catch cannot be marketed for sale, barter or trade or customary exchange; that permits and catch reporting be required for all fishing; that the American Samoa DMWR be included in the administration of monitoring the permits and logbooks; that separate permit and reporting logbooks be required for any recreational charter for hire fishing to monitor the sustainability of this type of fishing; and that American Samoa DMWR be exempted from permit requirements

relating to scientific research or exploration.

With regards to prohibiting commercial fishing, the Council could choose not to include this in the FEP Amendments, or it could include prohibiting commercial fishing. There will be a 0-12 nm no-take MPA with the coordinates listed as appropriate. Similar terms and definitions would be incorporated. The term subsistence was included for Rose Atoll at the March meeting. Kingma reiterated the issues are very similar to the Marianas presentation.

Kingma presented a similar presentation regarding the Pacific Remote Islands MNM that included the same issues the Council will need to consider regarding Rose Atoll and, to a lesser extent, the Pacific Remote Islands Areas.

Discussion

Duenas asked for clarification on the term no-take. Kingma clarified no-take means all fishing is prohibited.

Sword asked if a blanket permit could be issued for tournament participants because people use their own boats in tournaments but some participants are nonresidents. Kingma replied that under the Council's recommendation, they would not be allowed to fish in the Monument area because it's limited to American Samoa community residents only. However, foreign vessels could still transit the Monument. Regular EEZ regulations between 12 and 50 nm, thus Tosatto said that the Council could address restrictions on foreign activities under the MSA that would otherwise be permitted. Regulations crafted under the Proclamation would all be formed with consultation with the governments of American Samoa, Guam, and CNMI, and the USFWS.

Itano noted that within the no-take 12-mile zone, research extraction is still going to be permitted.

Palawski asked for clarification on the process of determining the management measures from this point going forward, particularly regarding consultation with the Governments of American Samoa and CNMI. Kingma clarified it will follow the normal Council process: staff will incorporate Council recommendations and work with NMFS on review of that document and issues of other applicable law, and then the document will be transmitted for rule-making. The consultation would be part of the ongoing process between the Council and NMFS in coordination with USFWS and the Government of American Samoa.

Council Member Thielen raised the challenges for enforceability with regards to exchange of money in the context of traditional and customary exchange. Duenas pointed out all of the issues Thielen just raised were discussed and addressed in the earlier SSC report. Duerr added that the Internal Revenue Service would be the agency to oversee the monetary exchange. Kingma added that by promulgating the term customary exchange and including monetary reimbursements is not creating any incentives that do not already exist for fishing in these areas and the recommendation for logbooks and permits will allow for getting a handle on any fishing activity in terms of the participants and documenting the catch. Itano agreed, commenting that there is very little motivation to fish 20 to 30 miles outside the atoll and thus, there will be no rush to fish.

E. Community Activities and Issues

1. Report of Fishery Development

Simonds noted that Council staff and the DMWR are working on American Samoa fisheries development projects that were funded last year regarding the processing center, fuel storage, and docks in Manua. After NMFS approves the grant application, work will proceed with contracts being issued.

There were no comments or questions.

2. Report on Disaster Relief

Simonds asked Tulafono for the status of the Fisheries Disaster Relief package that was sent to the Governor of American Samoa for signature prior to being sent to the Secretary of Commerce. Tulafono reported the Legal Counsel informed him the package has been referred to the Governor for his approval, and after review, the package will be transmitted to NMFS. Simonds asked to be kept informed of the progress.

There were no comments or questions.

F. Education and Outreach

Fini Aitaoto, Council Coordinator in American Samoa, reported that there has been a great increase in the need for more lunar calendars. 400 copies have been printed and distributed to village communities. The Council has provided outreach and educational materials to schools that visit DMWR offices. The local community appreciates the Honolulu Council staff sending over information on Federal grants available for outreach projects. Lastly, the two-week summer program for local students was very successful.

There were no questions or comments.

G. American Samoa Advisory Panel Recommendations

Judith McCoy, Advisory Panel Chair, presented the American Samoa Advisory Panel recommendations as follows:

- The Advisory Panel recommends that the longline limited entry program modifications consider closing the program to provide the American Samoa community the priority to obtain permits.
- The Advisory Panel recommends that the Council support new and existing projects, for example, fish processing, development of cold storage facilities, et cetera, to support fisheries development in American Samoa.
- The Advisory Panel recommends that the Council look at providing additional boat ramps on the west side of Tutuila in the Villages of Leone, Afao and Amanavae, in the existing fisheries development plans.
- The Advisory Panel recommends that the Council hold a student symposium on fisheries science and management in coordination with its next Council meeting in American Samoa at the 150th Council meeting.
- The Advisory Panel recommends that the Council provide teacher workshops in

- American Samoa to provide them with information on fisheries science and management.
- The Advisory Panel recommends that the Council provide opportunities for students who return home with marine science training when local agencies are not able to provide them with employment opportunities.
- The Advisory Panel recommends that the Council ask the US to provide some tangible benefits to the American Samoa community for the designation of the Rose Atoll Monument.

There were no comments or questions.

H. American Samoa Plan Team Recommendations

DeMello reported the American Samoa Plan Team Recommendations:

- The Annual Report should include a summary of landings for all species across all gears and surveys, followed by appendices that break out the landings and effort by survey.
- The Council should revisit the efficacy and purpose of the existing large vessel closed area.

There were no comments or questions.

I. American Samoa REAC Recommendations

Haleck reported the REAC Committee Recommendations:

1. That all Council documents used in meetings in American Samoa be translated into Samoan.
2. That the Fagatele Bay National Marine Sanctuary Program translate their proposal for additional sites into Samoan.
3. That the Council reconsider the 0-12 nm area closed to fishing around the Rose Atoll Marine National Monument to reduce impacts on Manua Island residents.
4. That the Federal Government provide assistance using Monument and other Federal funding sources to the Department of Education and DMWR to reinstitute marine resource education and expeditions to Rose Atoll and various locations in the archipelago.
5. That NOAA and USCG work together in regards to VMS enforcement so that fishermen are not cited if their VMS is not working without their knowledge.
6. That the Lyons Park area in Tafuna be considered as a site for a new boat ramp.
7. That the American Samoa lunar calendar be reprinted and distributed widely and that the calendar include explanations of the Samoan words and legends used.
8. That the DMWR and EPA conduct a study on the potential attraction of sharks to cannery sludge dump site as well as investigation potential impacts of the sludge on coral reefs around Aunuu and the northeast side of Tutuila.
9. That the Council take the leadership role in initiatives to restore coral reef stocks in island areas of the Western Pacific Region.

There were no questions or comments.

J. SSC Recommendations

Severance opened the SSC recommendations by making a statement from an anthropological

point of view. He stated that he can understand and anticipate the reactions of NOAA with a Western mind-set, but he tries to understand the cultures from an anthropological view. As outsiders, we can never fully appreciate the personal and cultural responses to the Monuments. He said that the SSC tries hard to appreciate the Islander perspective and recognizes the difficulty in translating that into text for Federal regulations.

Severance reported the SSC recommendations:

- The SSC notes that given the distances involved and the limited amount of fishing before the monuments were declared it is unlikely that there will be significant fishing pressure under any new regulations. The SSC reiterates its support of a general noncommercial fishing definition, including sustenance, subsistence, traditional indigenous and recreational fishing.
- The SSC supports development of Council regulations that allow fishing for customary exchange in the Rose Atoll and Marianas Trench Marine National Monuments.
- Although the SSC is including traditional indigenous fishing within the general category of noncommercial fishing, the SSC does not mean to lessen the importance of traditional indigenous fishing.
- The SSC supports requiring permits and reporting of numbers and species of fish landed. The SSC does not support post-landing monitoring of the particulars of fish distribution and cost reimbursement because those calculations of equivalencies run counter to the cultural values and benefits of sharing fish.
- The SSC also does not support the permit requirements or processes that would pose unnecessary or any inappropriate burdens on fishery participants.
- The SSC suggests that if the Council were to consider a residence requirement for permits for noncommercial fishing in the monuments, the SSC calls the Council's attention to the fact that many of the indigenous people affected have family members and relatives who are residents elsewhere that return regularly to participate in cultural and family events.

In regard to the American Samoa Advisory Panel, Plan Team, and REAC reports, the SSC had no objection to any of the recommendations of these meetings.

There were no comments or questions.

K. Public Hearing

Richard Hofschneider, member of the public, thanked Severance for reiterating the importance of talking to the Chamorros or Hawaiians or Samoans in defining what is the cultural tradition and noted there is a balancing between permit and non-commercial customary issues.

There were on comments or questions.

L. Council Discussion and Action

This item was taken out of order, occurring after the Council discussed 13F.

Kingma suggested taking 1-8 as a block. Young agreed, but commented that he had issues with a couple of them. Thielen replied that she stood by her record on prior votes for motions of the

same language and would abstain from this vote.

Regarding the Rose Atoll Marine National Monument, Items 1 through 8 were moved for consideration. The Council:

- 1. Recommended commercial fishing be prohibited within the Rose Atoll MNM.**
- 2. Recommended that eligibility for non-commercial fishing permits be limited to residents of the American Samoa Fishing Community (as that term is defined under MSA).**
- 3. Recommended that eligibility for recreational charter for-hire fishing permits be limited to owners and operators of a charter business legally established in the American Samoa Fishing Community.**
- 4. Recommended non-commercial fishing permits be required for the owner and operator of a vessel fishing in the Rose Atoll MNM and not all fishing participants on that vessel and further that the valid permit must be carried on board the vessel.**
- 5. Recommended fishery participants conducting customary exchange not be required to report monetary reimbursements nor trip expenses due to anticipated behavioral modifications that would impact cultural practices related to the motivations of customary exchange.**
- 6. Recommended customary exchange of fish harvested within the Rose Atoll MNM be allowed to include family and friends of residents of American Samoa Fishing Community**
- 7. Recommended all non-commercial permits be valid for one year after issuance.**
- 8. Recommended the permitted operator of a vessel fishing in the Rose Atoll MNM be required to fill out the logbook and that the both the permitted owner and operator are required to ensure that catch logbooks for all fishing conducted on the vessel is submitted within 30 days to NMFS/AS DMWR.**

Moved by Sword, seconded by Torres.

Motion passed; Thielen, Young, and Tosatto abstained.

Tosatto reminded the Council about the Proclamation consultation requirements, such as the requirement to consult with the Government of the Territories and USFWS. Measures that specify management of fisheries resources will be promulgated under the MSA, per the Proclamation.

Young requested his vote be handled consistent with the Marianas vote in regard to this set of eight recommendations.

Regarding the potential ESA listing of bumphead parrotfish and corals, the Council:

- 9. Recommended that NMFS hold public hearings on this issue in American Samoa (Tutuila and the Manua Islands).**

Moved by Sword and seconded by Sablan

Motion passed; no abstentions.

There was no discussion.

Regarding other American Samoa Archipelago fisheries issues, the Council:

- 10. Recommended all Council documents used in meetings in American Samoa be translated into Samoan, to the extent practicable.**

Moved by Sword, seconded by Torres.

Motion passed; no abstentions.

There was no discussion.

- 11. Requested that staff draft a letter to the Fagatele Bay National Marine Sanctuary Program to translate their proposal for additional sites into Samoan.**

Moved by Sword, seconded by Torres.

Motion passed; no abstentions.

There was no discussion.

- 12. Directed staff to draft a letter to the Federal government to provide assistance, using Monument and other Federal funding sources, to the American Samoa Department of Education and the Department of Marine and Wildlife Resources to reinstitute marine resource education and expeditions to Rose Atoll and various locations in the archipelago.**

Moved by Sword, seconded by Torres.

Motion passed; no abstentions.

Tosatto commented that he supports the motion and sees the value in it.

- 13. Final motion: Recommended staff send a letter to NMFS and the USCG to coordinate with fishermen in regards to VMS units not working without their knowledge.**

Original motion: The Council recommends staff to send a letter to NMFS and U.S. Coast Guard to coordinate efforts in regards to VMS enforcement so that fishermen are not cited if their VMS is not working without their knowledge.

Moved by Sword, seconded by Torres.

Motion passed; no abstentions.

Thielen questioned the enforceability of the recommendation. Kingma clarified there is coordination going on with the USCG and it is part of the Draft VMS Policy. Roberts stated the NOAA GC retains discretion on violations cited. Cole agreed with Roberts' comments.

Martin commented that the VMS policy is discussed a lot, but the problem is that even if the units are owned by an agency, it is not easy to identify when a unit is or is not working. Because the vessel is not responsible for the VMS repair, it can be a very lengthy process. Duenas added that VMS has been used heavily by enforcement recently and questioned whether a phone line could be set up in American Samoa by which fishermen could call to confirm their VMS is functioning properly. Cole replied that the fishermen can call OLE to confirm their VMS is working.

Kingma asked if "VMS enforcement" could be removed from the motion, to which there were no objections. Roberts added that "USCG" could be struck from the motion as well if "enforcement" is removed because the onus goes to NMFS.

Duenas clarified that American Samoa fishermen must call Hawai'i – Cole agreed, unless the USCG is monitoring in American Samoa. Kingma questioned what happens if the VMS stops working while a vessel is at sea. Roberts replied that he was unsure if the USCG would have the information. Tucher commented that the issue could be taken up later between the USCG and NMFS.

14. Final motion: Recommended that it support the restoration of coral reef ecosystems in island areas of the Western Pacific Region.

Original motion: The Council recommends that the Council take a leadership role in initiatives to restore coral reef stocks in island areas of the Western Pacific Region.

Moved by Sword, seconded by Duenas.
Motion passed; no abstentions.

Young felt this action was not part of the Council's authority. Duenas replied that 90% of the corals in the Marianas are in Federal waters, including the seamounts, which contain 90% of the coral habitat; he added that American Samoa probably has the same scenario.

Thielen asked for clarification on leadership role. Simonds said she assumed it meant for the Council to use Coral Reef funds for the initiatives.

Young asked if the recommendation includes Hawaii. Tucher noted the recommendation should include definite boundaries so there could be some measure of accomplishment of the items.

Simonds suggested that the motion be restated to say "Council support restoring Coral Reef ecosystems." Tucher replied that it is a statutory mandate in the ESA. There were no objections.

Regarding sea turtle management and research funding for the American Samoa government, the Council:

- 15. Recommended that NMFS provide \$150,000 per year to the American Samoa government for the purposes of sea turtle management and research.**

Moved by Sword, seconded by Tulafono.
Motion passed; Young abstained.

Regarding the Pacific Remote Islands Marine National Monument, the Council:

- 16. Recommended commercial fishing be prohibited within PRI MNM.**

Moved by Sword, seconded by Duerr.
Motion passed; Itano voted nay; no abstentions.

Itano commented that fishing disappeared with the designation of the PRI MNM and this recommendation is equivalent to "no action" by the Council. He supports all U.S. domestic fisheries, so does not support this motion. He clarified that this motion is for commercial fishing from 12-50 nm. Tosatto replied that the Proclamation already prohibits commercial fishing, thus this motion just uses the MSA process to implement regulations to enhance NMFS' ability enforce Proclamation provisions against purse seiners and longliners.

Duenas questioned whether it mattered if the Council voted yes or no. Tosatto replied that it does, because there are currently no regulations implementing the prohibition; this provides assistance to enforcement agencies. Cole added that there are people fishing in violation that OLE cannot do anything about – this would give the USCG and OLE a mechanism by which to enforce the fishing prohibition because the provision would be implemented under the MSA. Tosatto also said that if NMFS does not implement regulations, the Secretary of Commerce will. Tucher clarified that a vote to implement the prohibition would be consistent with the Council's previous action and there are forfeiture penalties available under the MSA against purse seiners that are not available under the Antiquities Act that was used to establish the PRI MNM.

Martin suggested encouraging foreign fishing within the zone and increase OLE and USCG funding, as a side line.

Simonds asked how much fish is being lost by the U.S. fisheries. Dalzell replied that in the past during El Niño years, up to 20 percent of the US purse seine catch came from the PRIAs and, about ten years ago, the Hawaii longline fleet was catching ~10-12 percent of its catch in the PRIAs, particularly around Palmyra and Kingman Reef. Itano noted he has seen in previous meetings the U.S. catches within the PRIAs have been downplayed.

13. Administrative Matters

This item was taken out of order.

A. Financial Reports

Simonds reported about the budget for the first four months of 2010, the Coral Reef budget, and

the Council Member Compensation Report. The Council is still waiting to receive turtle funds for the year.

There were no comments or questions.

B. Administrative Report

Simonds reported on the position remains open for an economist. The 2009 audit began in June and will be completed in August.

There were no comments or questions.

C. SOPP Review and Changes

Simonds reported the Council is still waiting for the NOAA Guidelines for Standard Operating Practice and Procedures (SOPP) to be published.

D. Council Family Changes

Mitsuyasu reported there are a number of different advisory bodies for which there are changes proposed that are listed in the document provided to the Council.

Simonds noted Dan Polhemus requested to be a member of the SSC. He is now working for USFWS. She is waiting to hear input from the Chair of the SSC.

Kaaiiai presented a proposed list of changes to the CDPP AP, whose job is to review and rank proposals.

Discussion

Duenas directed the Council Members' attention to Document 13.A(3) that details NMFS budget, including how much money is directed to the Councils.

E. Meetings and Workshops

Simonds reported on upcoming meetings of interest to the Council, which included the July International Pacific Marine Educators Network conference, the FKW TRT, National Marine Educators Association Conference, the International Fishers Forum in Taiwan, Guam Organization of Saltwater Anglers, the Western Central Pacific Science Committee meeting, the Guam Fishermen's Festival, and the Marianas International Fishing Derby Captain's Meeting, and many other meetings which will have Council representation.

There were no comments or questions.

F. Other Business

Finn asked for Council members to submit comments to her for recommendations to be a member of the Marine Spatial Planning Working Group, noting that USFWS has been added and the PIRO representative is to be determined.

Simonds reported on the redraft of the Marine Spatial Planning Policy and the comment period

regarding the listing of the Papahānaumokuākea Monument as a UNESCO site.

Discussion

Palawski asked to include a slot to invite a USFWS representative included on the Management subgroup. Finn replied in the affirmative.

Thielen stated she wanted to correct the record regarding the Papahānaumokuākea Monument nomination as a World Heritage Site and stated that as a representative of the Monument Management Team, it has been working extensively with a number of people on the nomination, including the Office of Hawaiian Affairs (OHA), which represents Native Hawaiian interests. They have provided permits for people to go there on a regular basis and the public is provided with notice and are allowed to review applications posted online. Cultural practitioners and educational groups also travel there. Additionally, the Monument Management Plan limits tourism.

Simonds reiterated that she wants to be sure there are safeguards against tourism so that the Northwestern Hawaiian Islands will not end up on the endangered list like other areas that have been designated. Thielen suggested the Council should take the position that the managers of the Monument should comply with the Management Plan and if the Heritage Nomination does go through, they should take care that it does not become a tourist area and ensure the implementation of the management plan the way it's been written.

Duenas stated he has grave concern that tourism could easily get out of control in the Papahānaumokuākea Monument and the indigenous rights get overlooked. Thielen pointed out OHA has been very involved and supports the designation. Simonds commented that a full analysis of the expected impacts on the NWHI Monument should be conducted and circulated for public comment prior to the nomination, safeguards should ensure against the area being overrun by tourism, and the Hawaiian people should have had an opportunity to give their views if they so choose.

G. Standing Committee Recommendations

Mitsuyasu presented the Standing Committee Recommendations:

- The Council recommends that adding Joseph Mendiola as a CNMI CDPP Advisory Panel replacing Herman Tudela, and also adding Kitara Vaiau as an American Samoa CDPP Advisory Panel Member.
- The Council recommends that staff invite the following list of individuals to be members on the Marine Spatial Planning Working Group, with the attached list.
- The Council requests USFWS have a representative added to the Management Working Group.
- The Council recommends the adoption of the following Archipelagic Plan Team membership changes, with the table of changes attached.
- The Council directs staff to meet with NMFS PIRO in July regarding the implementation of the Marine Education and Training Process (MET).
- The Council requests that NOAA GC review the Council's current Draft SOPP against the pending NMFS model SOPP.
- The Council reiterated its concern about the Northwestern Hawaiian Islands UNESCO

designation process as detailed by the comments that were provided in 2007.

Tucher said he did not know when to expect the Model SOPP.

H. Public Comment

There was no public comment offered.

I. Council Discussion and Action

Regarding Administrative Matters:

- 1. The Council recommends adding Joseph Mendiola as a CNMI CDPP Advisory Panel replacing Herman Tudela, and adding Kitara Vaiau as an American Samoa CDPP Advisory Panel Member.**

Moved by Haleck, seconded by Sablan.
Motion passed; no abstentions.

- 2. The Council recommends staff invite the following list of individuals to be members for its new Marine Spatial Planning Working Group, with the attached list with the inclusion of the USFWS representative.**

Moved by Haleck, seconded by Sablan.
Motion passed; no abstentions.

- 3. The Council adopts the following Archipelagic Plan Team Membership changes included in the table attached.**

Moved by Haleck, seconded by Sablan.
Motion passed; no abstentions.

- 4. The Council directs staff to meet with NMFS PIRO in July regarding implementing the MET Process as agreed to at the 144th Council meeting.**

Moved by Haleck, seconded by Sablan.
Motion passed; no abstentions.

- 5. The Council requests NOAA GC review the Council's current Draft SOPP against the pending NMFS Model SOPP when released for consistency and develop proposed revisions as appropriate for Council discussion and consideration.**

Moved by Haleck, seconded by Sablan.
Motion passed.

- 6. The Council reiterates its concern about the NWHI UNESCO designation process as detailed in the Western Pacific Fisheries Management Council public**

comments on nomination of World Heritage Sites that calls into question the transparency of the process to include public participation, the need to clearly provide the purpose and need or objective of the designation, and the role of the National Park Service administrative authorities and related jurisdictional issues.

Moved by Haleck, seconded by Sablan.

Motion passed; Thielen and Young voted nay; Tosatto abstained.

Thielen noted she circulated a response from the Office of Hawaiian Affairs describing the nine public meetings held throughout the State of Hawaii to discuss the subject of the recommendation. There was significant amount of public participation and public discussion. A management plan is in place which places very strict limits on entrance, permits and activities that can occur in the Monument. Activities beyond the scope of the management plan require an Environmental Assessment before any permit will be issued, including public hearings and approval by the Land Board and the Office of Environmental Quality Control. The State level includes safeguards. For these reasons, she asked the Council not to support the motion. She offered to invite OHA to the next Council meeting to explain the permitting process and State of Hawaii Environmental Review laws. Palawski, speaking as the co-manager of Papahānaumokuākea MNL and Manager of Midway Atoll National Wildlife Refuge, which is the only place open to public visitation in terms of tourists, also encouraged the Council to vote no on the recommendation.

Duenas said the recommendation is a concern of the Council as the area is located in Federal waters and questioned why the Council was not included in the process.