



WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

MINUTES OF THE
168th MEETING OF THE
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

October 12–14, 2016

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1040 Richards Street, Honolulu, Hawai'i

Ahupua'a o Nu'uaniu, Moku o Kona

Mokupuni o O'ahu

Approved by Council:

A handwritten signature in blue ink, appearing to read 'Edwin Ebisui Jr.', is written over a horizontal line.

Edwin Ebisui Jr., Chair
Western Pacific Regional Fishery Management Council

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I. Welcome and Introductions

The following members of the Western Pacific Regional Fishery Management Council were in attendance:

- Edwin Ebisui Jr., chair (Hawai‘i)
- Michael Duenas, vice chair (Guam)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- McGrew Rice, vice chair (Hawai‘i)
- Bruce Anderson, Hawai‘i Department of Land and Natural Resources (DLNR Hawai‘i) (designee for Suzanne Case)
- Matthew Brown, US Fish and Wildlife Service (USFWS)
- CDR. Rula Deisher, US Coast Guard (USCG) (designee for Read Adm. Vincent Atkins)
- Michael Goto (Hawai‘i)
- Christinna Lutu-Sanchez (American Samoa)
- Domingo Ochavillo, American Samoa Department of Marine and Wildlife Resources (DMWR) (designee)
- Matt Sablan, Guam Department of Agriculture (DOA)
- Richard Seman, CNMI Department of Lands and Natural Resources (DLNR CNMI)
- Dean Sensui (Hawai‘i)
- Archie Taotasi Soliai (American Samoa)
- Mike Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)

Council member Michael Brakke, US Department of State, was absent. Also in attendance were Council Executive Director Kitty Simonds and NOAA Office of General Counsel (GC) Elena Onaga.

Speaking for Gov. David Ige of Hawai‘i, Anderson welcomed everyone to the state. The Hawai‘i Division of Aquatic Resources (DAR Hawai‘i) was recently petitioned to change its rules addressing the working conditions on Hawai‘i-based longliners. In two days, Alton Miyasaka will testify in opposition to some of the recommendations. Anderson looked forward to hearing the Council members’ comments on the topic.

During the September International Union for Conservation of Nature (IUCN) Conference, the governor pledged to a 30 by 30 commitment, which means that Hawai‘i would effectively manage 30 percent of its nearshore waters by the year 2030. This provides an opportunity to define effective management. Anderson said effective management would preclude the need to close areas, noting the importance of coral reefs, which contribute approximately \$360 million annually to Hawai‘i’s economy. The recent worldwide bleaching

events are a reminder of the devastating effects of climate change and rise in ocean temperatures on coral reefs around the world. In 2015, 50 percent of the corals in West Hawai‘i were killed, many more were bleached and some recovered. Scientists predict bleaching events will recur and worsen in years to come. There seems to be some consensus among scientists that the health and function of at least 30 percent of nearshore reef areas are necessary to sustain their productivity.

To improve the resilience of corals and to ensure they provide benefits to Hawai‘i’s people and the economy, the coral stressors that are within Hawai‘i’s control need to be effectively managed. These stressors include polluted runoff, invasive species and unsustainable fishing. Anderson’s definition for effective management included reasonable laws to encourage sustainable fishing practices and time and area closures for fisheries replenishment. He emphasized that monitoring of the management measures is critical to ensure they are effective.

Monitoring 30 percent of Hawai‘i’s coastlines will be a challenge. Currently, approximately 13 percent of state waters are under active management, which includes Fishery Management Areas and Marine Life Conservation Districts (MLCDs), the Bottomfish Restricted Fishing Areas (BRFAs), the Kaho‘olawe Island Reserve and other areas. The Northwestern Hawaiian Islands (NWHI) is also closed, which nears the 30 percent goal.

He said effective management means imposing appropriate regulations that are effectively enforced and actively monitored to ensure they are achieving its intended purpose.

Anderson noted a number of collaborative efforts underway, such as development of a comprehensive plan to address coral bleaching based on management measures being implemented throughout the world. Hawai‘i will strength statewide regulations and dramatically increasing monitoring programs. There is a request for the legislature to fund monitoring coordinators on all of the islands and increase resources to support monitoring to be sure that the abundance of fish and coral cover is maintained. The process will be an inclusive endeavor that involves fishermen and many other stakeholders. By committing to effectively managing 30 percent of nearshore waters, the State is joining with the Council in trying to sustain reefs and fisheries to support Hawai‘i’s people and the economy. He said he looks forward to working with everyone on the challenge.

Simonds said fish is not included in the governor’s food production comments. Fisheries are at the top of the list in terms of food production for Hawai‘i, according to tHawai‘i DOA reports. She would like to ensure it is included on the governor’s list.

Anderson said the governor likely focused on terrestrial agricultural activities. Anderson acknowledged fish are crucial to Hawai‘i’s economy and would relay Simonds’ comment. He emphasized that fish is probably the largest economic engine for the State in regards to food production and cannot be ignored.

Lutu-Sanchez voiced agreement with Simonds' comments.

Anderson noted the oversight and will remind the Governor of the importance of fish production to the people of Hawai'i.

Gourley said to beware of people trying to undermine the definition of effective management to mean designating marine protected areas (MPAs) as was done during the Micronesian Challenge.

Anderson added that MPAs are an excuse for not effectively managing an area, and the State has no intention of designating 30 percent of Hawai'i's coastlines as MPAs. Hawai'i has a very small percentage currently designated as MPAs, which may be effectively managed. Effective management means allowing for sustainable fishing and other activities that are critical to peoples' livelihood.

Sensui said he and other members of Hawai'i Fishermen's Alliance for Conservation and Tradition met with Gov. Ige and spoke to the importance of fishing as being a part of Hawai'i's attempts to become more independent from outside sources of food. Fishing aids the effort to make Hawai'i's food sources more secure. He added that a reminder would be useful.

Anderson said the governor is very focused on the marine resources and understands their importance to Hawai'i. With 80 percent of the fish that are caught and brought to shore by the longliners consumed locally, it is important to understand that fish is vital to the economy and Hawai'i's sense of well-being and food security. Anderson said he was preaching to the choir, but he would keep reminding the governor.

II. Oath of Office – Dean Sensui, Christinna Lutu-Sanchez and Archie Soliai

Sensui, Lutu-Sanchez and Soliai were duly sworn in as Council members by Tosatto.

III. Approval of the 168th Agenda

Moved and seconded.

Motion passed.

IV. Approval of the 166th and 167th Minutes

Moved and seconded.

Motion passed.

V. Executive Director's Report

Simonds announced the Council members and others have the opportunity to tour the Inouye Regional Center on Ford Island. The staff has been working diligently on completing the Council's 40-year report. The Council is celebrating its 40th anniversary this year. Staff produced a number of monographs for the occasion, including a community monograph that

shows the different projects that the Council has supported throughout the years, such as the Puwalu for native Hawaiians and projects throughout the Territories.

President Obama's proclamation to expand the NWHI Marine National Monument (MNM) will be discussed. The Council with NMFS is tasked with developing the regulations to prohibit commercial fishing and allow non-commercial fishing between 50 and 200 miles. The Council will seek the public's input on topics such as the management system for the noncommercial fishing and native Hawaiian subsistence fishing, among others.

The Council will deliberate on the 2017 Territorial bigeye tuna limits. Staff participated in the IUCN Convention. The Council's displays were very popular, with members from foreign countries expressing interest in developing mitigation for turtles and seabirds similar to those practiced by the longline fishery.

Simonds, as well as the chair of the New England Council, traveled to Washington, DC, for Secretary of State John Kerry's Our Oceans Conference to represent the fishery management councils. The conference was supported by the major environmental groups. Very few fishermen attended.

She referred to the South Pacific Tuna Treaty as a topic of interest to Council members which will be discussed during the meeting.

VI. Agency Reports

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Tosatto reported that NMFS is holding public meetings around Hawai'i to solicit public comment regarding the proposed rule for protection of spinner dolphins. Proposed rule-making actions are listed in the Federal Register (FR) notice.

South Pacific Tuna Treaty renegotiations and revisions have been taking place. The treaty allows fishing access by US purse-seine fisheries into the zones of 16 Pacific Island countries. The industry pays for access through a Vessel Day Scheme managed under the treaty both with Parties of the Nauru Agreement and the Forum Fisheries Agency (FFA). The US government also has a separate associated economic assistance agreement with those parties that provides a payment of \$23 million per year. The price per day and number of days for the access varies year to year in an annual negotiation. For 2016, there are 4,400 days of access for the price of approximately \$77 million. There is agreement in principle to the text, as the final versions are being worked out. It has been approved at the ministerial level within those countries. The State Department is working on clearance within the US government. Once there is approval, the US would withdraw the Notice to Withdraw from the treaty and the new revised treaty would be signed. Senate approval of the revisions to treaties is needed, which requires legislation. Once the legislation is in place, regulations will be put into effect. The US is entering into a Memorandum of Understanding (MOU) with those Pacific Island parties to avoid any disruption

of the operation of the fishery. Once the treaty is signed, it will be in effect for 10 years, with annual or biennial negotiations regarding price and number of days for access.

The office participated in the recent IUCN conference with booths, posters and field trips. One field trip was provided in collaboration with the Council and others to the fish auction and Pier 38. The tour provided information regarding the sustainable operations of the Hawai'i longline fleet, the importance of the fish as food for Hawai'i and management of bycatch in the industry.

The Federal Program Office recently published an annual report containing information on PIRO grants issued throughout the region for activities to benefit the communities.

The National Standard 1 Guidelines are set to be published in the FR in the near future. The guidelines were last updated in 2009. National Standard 1 addresses overfishing. All of the Fishery Ecosystem Plans (FEPs) must meet it as well as the other national standards. The updates largely focus on the overfishing issues, rebuilding fish stocks and how to treat data-poor stocks and stock assessments. There is no need to amend the Council's FEPs until a change is recommended by the Council's Plan Teams or Scientific and Statistical Committee (SSC). Because of overlapping definitions, the update included National Standards 3 and 7.

Gourley asked about the status of NMFS's Endangered Species Act (ESA) Section 4(d) determination for listed corals.

Tosatto said staff is addressing 15 coral species in the Western Pacific Region that were listed and working on the critical habitat designation first. They will be developed similarly to the way the Southeast Regional Office designated critical habitat for Caribbean listed corals. The process will move forward from the proposed rule and final rule on critical habitat, to the need for a 4(d) rule and, finally, to recovery planning.

Gourley asked for clarification as to critical habitat designation in nearshore areas.

Tosatto said the process is reasonably complex. Features essential to the survival of the species must be characterized in a way that is understandable and actionable by agencies that use that critical habitat designation in consideration of their actions. Essential features for coral habitat will be considered for critical habitat, since saying exactly where every coral sits is difficult. The general conditions necessary for growth are known and will be described. The proposed rule will largely refer to those features that are necessary for the species' survival.

Gourley said, with so little known about the distribution of the listed corals, critical habitat would be very difficult to define.

Tosatto said the decision will be based on the best available scientific information.

Gourley asked if critical habitat for green sea turtle will affect a wide swath of the surrounding areas of the islands.

Tosatto said the process is first to determine the features that are essential to the species' survival. With the green turtle, their presence or absence in certain locations and their use of some features in and around island communities are known, as well as their nesting and use of certain nearshore areas for feeding. The focus will be on features that are essential for survival.

Gourley asked if NMFS was working with USFWS.

Tosatto replied in the affirmative, USFWS and NMFS jointly manage the species.

Gourley asked if the critical habitat is likely to include beaches as well as marine waters.

Tosatto did not know the answer. PIRO and USFWS have worked hand-in-hand with each other. He will confirm the answer to Gourley's question.

Gourley said CNMI is extremely interested in the critical habitat designation of corals and green sea turtles. He hoped for coordination with CNMI as early as possible.

Ochavillo said, in American Samoa, much work was done on the distribution of corals under ESA and information was requested on mapping the corals. He said there should be more initiatives for completing distributional coral studies. There are many concerns about the taxonomy of the corals, and it would help if some efforts were made on how to identify corals. There is also concern regarding public access to areas designated as critical habitat for green turtle, which is now listed as endangered in American Samoa.

Tosatto said he will ask staff to address the issue as State and Territory governments and private citizens have a lot of anxiety about critical habitat designations and access concerns. NMFS characterized critical habitat as an important part of the ESA, but it largely is a consultation trigger for federal action agencies proposing actions that might adversely affect habitat. It is not outright restrictive in its nature. He will task the Protected Resources Division (PRD) staff to provide updates and the designation process so the Council will be informed on progress on critical habitat designation.

Sablan said that would also be beneficial to Guam.

2. Pacific Islands Fisheries Science Center

Michael Seki, director of the Pacific Islands Fisheries Science Center (PIFSC), reported that the Fourth Hawai'i Commercial Bottomfish Data Workshop was completed. It was a big achievement by PIFSC staff and the bottomfish community, which invested four weeks in interpreting catch per unit effort (CPUE) for use in the main Hawaiian Islands (MHI) bottomfish stock assessment. The fifth workshop will convene in November and focus on weight data collected by DAR Hawai'i. Fishery-independent fishing surveys are currently being conducted. At that point, attention will focus on the 2018 stock assessment.

Since the last Council meeting, PIFSC conducted cruises for Hawai'i cetaceans, monk seals and the West Hawai'i Integrated Ecosystem Assessment (IEA). The *HIIALAKAI* just

completed the Hawai‘i Reef Assessment and Monitoring Program (RAMP) cruise to the MHI and NWHI. Summaries will be out soon.

The *OKEANOS EXPLORER* returned recently from the Mariana Archipelago, with stops on the return at Wake for mapping work and at the NWHI MNM for camera and mapping work.

The monk seal field season was successful with a good amount of data collected on pup survival, pups marked and deaths due to shark predation. The program to return seals to the wild that have recovered in the Kei Ka Ola in Kona is ongoing. Seven seals that were in very poor condition have been rehabilitated at the hospital in Kona, returned to the wild and continue to do well. Four seals were brought back in 2016 to rehab over the winter and are expected to be returned to their respective grounds in the spring.

The MHI cetacean cruise conducted research with three objectives. The first objective was to pilot test the applicability of a hexacopter to supplement visual surveys. The remotely operated, unmanned vehicle had challenges with sea conditions and the small size of the unit. The second objective was to improve cetacean estimates of abundance and visual identification of species. The third objective was to identify why insular false killer whales are drawn to specific areas. So far, 14,000 photos and 49 biopsies have been collected for a number of spotted rough-toothed and bottlenose dolphins, melon-headed whales, false killer whales and a pod of killer whales sighted off the Big Island.

The West Hawai‘i IEA cruise recently returned. This ongoing program uses West Hawai‘i as an IEA site. This recent cruise conducted shallow- and deep-water trawl surveys along the slope areas to capture the meso-pelagic boundary community. This community is comprised of mid-water animals that tend to associate with land and occupy the slope areas; they are believed to form the forage base for many of the cetaceans that tend to be more present in the West Hawai‘i area. The cruise also conducted some surface slick work. The surface slick areas consist of early life stages of animals (planktonic phase) and are a dynamic piece of the West Hawai‘i ecosystem.

Earlier in the year the *SETTE* was in American Samoa and invested a fair amount of time conducting life history research together with the local agencies. More than 1,000 life history samples were collected, such as otoliths, gonads and fin clips for genetics of bottomfish populations. Also collected were a number of large giant ruby snapper, a new species, and eight-bar groupers, which are fairly rare, as well as a fair number of spatially separate samples from fish from lightly fished areas around Samoa. Preliminary results found significant differences in the structures of the fish that were taken in the fished areas versus the lightly fished areas.

Work was also conducted on a comparative life history of Hawai‘i parrotfish.

Seki noted the upcoming election and that PIFSC is currently operating under a budgetary continuing resolution, which is the Fiscal Year 2016 inactive budget minus 2 percent. PIFSC is planning accordingly and preparing for any transition, which places constraints on the upcoming year’s work and research planning. PIFSC will focus on the Hawaiian Islands Cetacean Ecological Assessment Survey to remain compliant with the Marine Mammal

Protection Act (MMPA) and to look at the distribution and abundance of marine mammals in the area. This will involve two ships, the *SETTE* and the *REUBEN LASKER*. The cruise will be 120 days and will cover tracks to the exclusive economic zone (EEZ) around the MHI and the NWHI and will be the first survey of the newly expanded monument.

The advanced tech portion of the bottomfish independent survey is getting underway for 15 days in the near future and will include the BRFA's in a random stratified sample design. The areas not covered on the cruise will be covered in the March cruise.

The Climate Science Regional Action Plan puts forth some of the climate efforts to understand some of the impacts on fisheries and the ecosystems. The first step is to conduct the climate vulnerability analyses. Three for protected species, fisheries and coral reefs are expected to be completed or well underway during Fiscal Year 2017.

Seki briefed the Council on the upcoming tour of the Inouye Regional Center.

Simonds asked about the market price of the bottomfish.

Seki said the number caught was low, in single digits.

Lutu-Sanchez said the average price for fresh bottomfish varies from \$1.50 and up per pound.

Simonds said it would be good to know what the different species sell for and how many there are.

Ochavillo said it is not a very common bottomfish species and it is caught in deep waters. PIFSC is in the process of identifying the species. The fish in the photo is 42 years old. He asked if an area-specific climate change vulnerability analysis, such as for American Samoa, will be undertaken for ESA-listed species.

Seki said he did not think there is any other way to do a climate assessment than place-based.

Sensui asked if the bottomfish survey is being done in conjunction with Pacific Islands Fisheries Group (PIFG).

Seki said yes. The PIFG piece of the survey is to have commercial bottomfish vessels fish a grid in a stratified sampling design or to dictate where to fish. As weather and time permits, they do their respective share of the survey. In addition, there are camera surveys. They will go back and in a very similar manner repeat the process. There is some overlap between some of the grids that they fish and some of the stuff that the cameras do to get the full coverage.

Sensui said it was a nice example of cooperation between the commercial fishermen, the people who really know the resource, and NOAA and other agencies.

Simonds asked when the Council could expect to get a draft report from PIFSC regarding the bottomfish work that is going on currently, as well as reports on the cruises.

Seki replied that the report is expected before the end of the calendar year.

Simonds said, at that time, discussion regarding the BRFA's can be revisited with DAR Hawai'i.

Anderson said DAR Hawai'i has been searching for ways to better and more objectively determine the effectiveness of the BRFA's. He said it would be helpful if Seki would keep that in mind when putting the report together. Data teased to determine whether or not the population around the BRFA's is more abundant than the surrounding areas would help the State in its decision-making.

Seki cautioned Anderson that it was just one cruise and to be careful what to expect from one cruise. It will contain what was caught in, out and around.

Anderson said any information is helpful and he looked forward to the report.

Sensui asked if the BRFA's are included in the surveys.

Seki replied in the affirmative.

Simonds asked if the hexacopter can identify the different species of whales.

Seki replied in the negative. The researchers have to perform the identification from the photographs taken. There are 1,000 photographs from visual surveys. There is a huge cetacean library maintained from all of the activities undertaken. Most of the animals are identified through various markings on their fins and bodies.

Simonds noted particular interest in false killer whales and any information collected by the hexacopters.

Rice said he saw a TV report in which Erin Oleson said there might be more animals than previously thought through the use of the hexacopter.

Seki said that they saw a couple of pods.

Goto asked for information regarding the killer whale pod that was sighted.

Seki said it is not a new sighting and the pod is still in the area.

Rice said the orcas are seen annually in May or June in Kona.

Ebisui said his son had photographs orcas on the North Shore during the past 'ahi season.

Gourley asked if their research was limited to a 400-foot ceiling with drone work.

Seki replied that it is dependent upon where it is operating and the unit being used.

Gourley asked if a special permit was required for photographing protected species.

Seki deferred to Tosatto.

Tosatto said the research program has an authorization letter. If aerial observations were contemplated, it would be included in the permit for the research program.

Seki added that permits are broad intentionally, both for cetaceans and for monk seals.

Tosatto said, at some point in the future, drone heights will receive attention as NMFS pursues its research program and the use of technology. This came up during development of the spinner dolphin proposed rule. Aircraft cannot approach lower than 1,000 feet, and the Federal Aviation Administration (FAA) put out rules that private zones cannot extend above 400 feet. Headquarters has some policies around permitting of drones for different activities. There is also science out about how drones affect some species, large and small. Some things about research are being debated.

B. NOAA Office of General Counsel, Pacific Islands Section

Onaga reported on three pending litigation actions being handled in conjunction with Department of Justice.

The Territory of American Samoa filed a complaint against NMFS in March 2016 seeking declaratory and injunctive relief to set aside the 2016 American Samoa Large Vessel Prohibited Area (LVPA). The complaint asserted that NMFS violated other applicable laws and the Magnuson-Stevens Act (MSA). NMFS recently received the filing of Plaintiff's Motion for Summary Judgment in July. NMFS' response to the motion is due in October. A hearing of interest to the Council is scheduled for February.

The case of Turtle Island Restoration Network and Center for Biological Diversity against both NMFS and USFWS is a 2012 action filed against the shallow-set fishery. Plaintiffs challenged the Wildlife Special Purpose Permit under the Migratory Bird Treaty Act, as well as the accompanying Environmental Assessment (EA) that supported the Special Purpose Permit. The action against NMFS challenged the biological opinion (BiOp) for the increase in the turtle interaction rates. An oral hearing before the Ninth Circuit was held in Honolulu in June. Parties are awaiting the Ninth Circuit decision, which usually takes about six months.

The final case is Natural Resources Defense Council versus Secretary Pritzker and NMFS. This complaint was filed in July. It asserts that NMFS did not meet the ESA requirement to designate critical habitat. NMFS filed an answer recently. Parties are now awaiting the briefing schedule from the court.

C. US Department of State

The US Department of State representative was not in attendance, so there was no report.

D. US Fish and Wildlife Service

Brown announced the USFWS superintendent for the Marianas Trench MNM, Larisa Ford, PhD, is currently duty stationed in Guam.

The post-Cyclone Victor reconnaissance of Rose Atoll MNM was recently completed. There has been an incredible rebound since Cyclone Victor earlier in 2016, with a record number of sooty terns and other seabirds in that part of the ocean. Further north in the Line Islands at Palmyra there are almost no nesting seabirds, with zero nests at many of the survey sites, which is unusual. That part of the ocean is undergoing a substantial drought, with 40 inches below normal rainfall for the year. It has a potential to impact the field station work.

They continue to maintain a presence at Palmyra and at Johnston within the Pacific Remote Islands (PRI) MNM. The field station in Midway, which also supports the State field station at Kure Atoll within Papahānaumokuākea, also remains active.

Gourley asked whether unencumbered ownership is being given to the CNMI for the 0 to 3 nautical miles surrounding the monument islands since the MOU which transfers the submerged lands to the CNMI was signed.

Brown said the MOU was an agreement between Department of Commerce (DOC), Department of Interior (DOI) and CNMI for the transfer of that land to the CNMI that's currently going through its 60-day period before being finalized. Part of the agreement was that until such time as CNMI is ready to take on the full management responsibility, the USFWS and NMFS in consultation with CNMI will manage the area.

Gourley said it does not equal full unencumbered ownership if CNMI must manage the area according to what USFWS and NOAA says.

Fred Tucher, NOAA GC, clarified that there is a patent that conveys title with an easement. There is a reservation of federal interest that requires coordination of management consistent with the Proclamation, which is a burdened conveyance.

Gourley reiterated his understanding is that CNMI gets to say CNMI owns the land provided they do what NMFS and USFWS says.

Tucher clarified that CNMI is allowed to make management decisions and have title to the land provided those management decisions are consistent with the Proclamation. There are provisions in the memorandum of agreement (MOA) that requires coordination between the CNMI and the federal resource managers. It does not say that CNMI does what NOAA and USFWS say, but that there will be coordination of management.

Gourley said he understands that CNMI has to comply with what the Proclamation says.

Tucher said CNMI must comply in the same way that the USFWS and NMFS have to comply with the terms and conditions of the Proclamation in all management decisions.

E. Enforcement

1. US Coast Guard

Deisher presented a summary of USCG fisheries law enforcement activities in the Western and Central Pacific Region for the period of May 21 to Sept. 30, 2016.

From the end of April through June, the USCG had a boarding team onboard a US Navy asset that patrolled the US EEZ waters around the MHI, Kingman Reef, Palmyra Atoll, American Samoa and Guam. The USCG boarded 10 vessels on the high seas under the Western and Central Pacific Fisheries Commission (WCPFC) High Seas Boarding Inspection Authority. One potential Vessel Monitoring System (VMS) violation was found. A Federated States of Micronesia (FSM) ship-rider was onboard. Seven foreign-flagged purse-seiners were boarded in the FSM EEZ, with no violations noted. A Palau ship-rider was onboard when three longliners were boarded in the Palau EEZ with four violations noted, which included improper catch logging and a Palauan fish bait permit that was not being followed.

In May and June, short patrols were conducted in Guam, the MHI and CNMI. No incursions were noted.

From June 13 to 25, the *SEQUOIA* patrolled the EEZ around Guam and the CNMI. They boarded five vessels on the high seas, noting one potential violation of WCPFC VMS rules.

From the end of June through August, the USGC Cutter *KUKUI* patrolled the EEZ around the MHI, Kingman Reef, Palmyra Atoll and American Samoa. A shiprider was onboard from Tuvalu, and three boardings were conducted in the Tuvalu EEZ, with one safety violation. A Cook Islands shiprider was onboard, with four boardings conducted in the Cook Islands EEZ with one violation for no gear markings. Six boardings on the high seas resulted in no violations observed.

In July, shore patrols were conducted in Guam, CNMI and the MHI, with no foreign violations noted.

From Aug. 8 to 13, *GALVESTON ISLAND* was underway in the EEZ around the MHI with an NOAA uniformed officer aboard. Twenty-one boardings were conducted on US flagged longliners out of Hawai'i, with 81 safety violations noted on 15 of the vessels. One vessel had 20 violations. Otherwise, the vessels averaged three safety violations each. There were three terminations during the patrol due to especially hazardous conditions and five violations for lack of turtle mitigation gear.

In September, *SEQUOIA* patrolled the US EEZ around Guam and the foreign EEZ of Palau. Six WCPFC high seas boardings and inspections were conducted, with four vessels incurring violations for excessive shark fins, no turtle mitigation gear, no daily catch log and no license on one of the vessels. Eight boardings were conducted in the Palau EEZ, with one potential violation for a vessel not having an FFA VMS on.

Several C130 patrols from Air Station Barbers Point were conducted with multiple patrols in the MHI and three trips to the NWHI. Three patrols were also conducted at Kingman and Palmyra and two at Johnston Atoll.

Duenas said he attended a presentation by the Joint Region Marianas on Guam regarding training activities and outreach conducted to the public and fishermen with notification of closure times and areas. The military asked if the outreach was adequately reaching the public. Duenas asked the USCG if they kept a record of incidences where fishermen or boaters had to be cautioned to leave an area closed for military training.

Deisher did not know the answer. She will check with Sector Guam to see if the Command Center keeps a record and will get back to Duenas with the information.

Anderson asked, with the establishment of the monument expansion, if the USCG had plans to increase surface vessel surveys or if other actions are being considered to ensure foreign vessels are not coming into the EEZ. He also asked for information on the ability of an aircraft to escort a foreign vessel out of a prohibited area.

Deisher said, if an aircraft were to come across a foreign vessel, the aircraft would document the vessel and the USCG would take over the incident and be able to communicate with the vessel via the aircraft. As far as future plans for the monument, the USCG has not received any additional resource hours and will continue to monitor with the aircraft, automatic identification system and VMS. The WCPFC VMS is also able to talk to ships that are transiting the area.

Soliai commented on recent management personnel assignment changes to American Samoa, noting that government leaders are concerned that the USCG enforcement has been overzealous.

Deisher said she will talk to the captain of the port and will get back to him with the information, though she was sure outreach will continue to be conducted. She is now aware of what has happened since the arrival of the new lieutenant to American Samoa.

Lutu-Sanchez said in 2015 Council staff sent a letter to USCG about inconsistencies of high seas boardings and inspections at port. Rear Adm. Atkins has since responded. In the most recent visit, it was relayed to the captain that even though the response has been sent to the Council, the concern about consistency with inspections has not been addressed. Everyone attending, especially representatives from industry agreed that they are doing their part. The inspections are for the security of the vessel and crew. Because of the very small group in American Samoa, it is important that the Marine Safety Center in Samoa is connected with the unit that controls the cutters patrolling the high seas. Lutu-Sanchez asked the USCG to bring the subject up again with the captain of the port.

Gourley asked if the USCG has received or expects to receive additional funding to increase enforcement for the NWHI monument.

Deisher replied in the negative.

Simonds said John Podesta, who at the time was Obama's chief of staff and now the campaign manager for Hillary Clinton, promised the Council enforcement. Western Pacific agencies have not had any increase in enforcement funds. Simonds also noted that many safety violations in the longline fishery were reported during the USCG report. She suggested PIRO provide outreach and hold another training session to notify the vessels of safety standards.

2. NOAA Office of Law Enforcement

Bill Pickering, from Office of Law Enforcement (OLE), reported the office was involved in a large wildlife trafficking investigation regarding elephant and marine mammal ivory that was being finished and smuggled to Hawai'i illegally and then sold in Hawai'i and overseas. Black corals from Mexico were also brought in, manufactured and then sold illegally within the state, as well as online.

There were 288 incidents since the last Council meeting, mostly protected resources, fishery management and sanctuary-type cases. One case in the last week in September in Samoa involved a longline vessel fishing in Samoa's waters. This vessel became the first US flagged vessel nominated for an illegal, unreported and unregulated (IUU) violation by another country. Due to the immediate action and prosecution by the Enforcement Section, the State Department and PIRO, the nomination of the American-flagged vessel was withdrawn. Pickering said he is looking forward to discussion in Fiji in December on IUU vessels.

Several cases of OLE cooperating with the FAA in monitoring, control and surveillance operations across the Pacific helped detect IUU fishing throughout the WCPFC Commission area.

Pickering reported that that effective cooperation between OLE and the American Samoa Government resulted in the determination that the death of an observer on a US flagged purse-seine vessel was due to natural causes.

The US has conducted training in American Samoa, Guam and CNMI following the enactment of the Port State Measures. An eight-day Port State Measure Pulse Operation in Pago Pago will follow the training. In the operation, OLE will board foreign vessels in search of Port State Measures and WCPFC violations.

OLE was instrumental in helping WCPFC and FFA to successfully change the VMS software.

Duenas asked the status of a second agent being stationed in the Marianas.

Pickering said a second enforcement officer, John Evangelista, has been hired and will be in Georgia to receive training for five to six months. He is hopeful that in the future an agent will be placed in CNMI.

Duenas noted his appreciation for the local hire to fill the position.

Simonds asked about the process for three violations in the report: failure of foreign fishing vessels to stow or secure fishing gear prior to entering the US EEZ; failure to submit prior notice of arrival; and numerous violations with regard to penalties and fines being received by the Territories.

Pickering said the flag state and WCPFC will be notified, as required by the compliance measures.

Simonds said the violations were MSA violations and asked whether the MSA would apply in terms of fines and penalties.

Pickering said the flag state and WCPFC are notified when WCPFC violations occur when not in port. The cases will be taken to GC Enforcement Section if the violation is pertinent to US law or regulation. If not, then the notification is made to WCPFC and the flag state for their action.

Simonds noted that the topic will be discussed during the week.

3. NOAA Office of General Counsel, Enforcement Section

Duane Smith, from the Office of GC, Enforcement Section, reported that nine cases are in various stages of prosecution. Some are awaiting hearings, some are awaiting decisions by judges post-hearing and some are charged but not yet resolved.

Seven cases were resolved. One of interest to the Council is a district court case pending with the *PACIFIC RANGER* and is the last of the purse-seine cases where respondents challenged the agency's interpretation of incidental take. The district court recently published an opinion to dismiss the respondent's case and granted the judgment for the agency, clarifying that incidental take means accidental. The purse-seine industry argued that it is still incidental take if nets are set when whales are known to be in the area. There is time for the ruling to be appealed to the circuit court, but two district court judges, both in the same district, have opined that the respondents are wrong and the agency is correct. It is only incidental take if whales are not known to be in the area when nets are set.

He noted that all of the information in the report is available on the public website, which also contains decisions.

Simonds said Smith's office is doing a good job, but she is still waiting for a case that will provide a monetary benefit to the region.

Smith said there are always benefits from the cases; the law is being enforced, the playing field is being leveled, and bad actors are being held accountable. The cases serve as a deterrent.

F. Other Items

No other items were reported.

G. Public Comment

No public comment was offered.

H. Council Discussion and Action

There was no further Council discussion and action.

VII. Pelagic and International Fisheries

A. Addressing the Associated Press Article on Foreign Crew in the Hawai'i Longline Fleet

Goto reported that in September the Associated Press published an article by Martha Mendoza, who had been documenting human rights abuses occurring in certain fisheries in Southeast Asia. She then turned her attention toward domestic fisheries, specifically citing the Hawai'i longline fishery. The author had been in Hawai'i a brief period of time and interviewed certain individuals within the industry who cited forced labor accusations and dire vessel conditions. The article had a negative tone toward the Hawai'i longline fishery. As a result of the article there were certain market implications, most notably Whole Foods decision to stop the intake of Hawai'i-landed product. Fortunately, other vendors did not react so drastically. Although the article is not an accurate or comprehensive representation of the fleet, a formal process was begun to investigate foreign crew issues and the accusations of forced labor. A Hawaii Longline Association (HLA) initiative to create universal crew contracts is underway. Each vessel that chooses to sell its fish through the United Fishing Agency (i.e., the Honolulu fish auction) must verify through its contracts that each crew member is documented and that it is not undergoing forced labor or mistreatment. In addition to the universal crew contract, documentation will verify that crew members are receiving wages based on their employment with the vessel. The United Fishing Agency is the first cutoff point in determining if the crew contracts cannot be completed by the vessel. If the crew contracts aren't complete, the vessels will not be able to bring their product into Hawai'i through the United Fishing Agency, which is almost the exclusive wholesale market of Hawai'i longline-landed catch.

Further, there is an independent audit being conducted through crew interviews about vessel cleanliness and sanitation. The goal is to obtain interviews with 100 to 140 of the current active vessel crews and to check vessel facilities. Once the information is compiled, the data will provide the clearest picture of the current situation. HLA is confident that the overall picture will show that the majority of the fleet is operating above standard and the foreign crewmen are not being abused.

In conjunction with HLA's efforts, Customs and Border Protection (CBP), the federal agency with jurisdiction over the foreign crewmen's immigration status, has also taken its own initiative. CBP recently visited Piers 17 and 36 and talked to every crewman on vessels docked at that time in an open-air session. The captains and owners were kept separated from the crewmen as CBP wanted an objective view from the crewman without any pressure. Not a single crewman complained or claimed that he wanted to leave Hawai'i and return to his home nation.

The United Fishing Agency is not working directly with CBP, but it is working cooperatively to ensure that the vast majority of the fleet is not guilty of the accusations made in the article. There will most likely be an additional step once the findings are compiled.

The marketing sector has not seen a dramatic downturn from the article. Such accusations will most likely continue through other fisheries. The industry and federal agencies have a great deal on which to work.

Rice asked for information on how the crews get to the United States.

Goto said, to his knowledge, the vessel owners contact a foreign nation's contract agency, which for the Hawai'i fleet is through the areas such as the Philippines, Vietnam and Kiribati. The agents provide a list of crewmen or laborers who are trained in fisheries. The potential crew members are vetted through the agent to ensure that they are healthy enough to be aboard ships. The owner pays the agent a flat fee for that service. The owner then pays the airfare for each crew member to a foreign port. Since 9/11, work visas for these crewmen to fly directly into the United States became impossible, so they fly into Pago Pago or foreign ports, such as Mexico or Canada. To pick up the crew, vessels have to steam from Honolulu to these foreign ports. It is not a cost-effective method to acquire crew, but it is the only possible way. It would be a great benefit to not only the owners, but also the crewmen, themselves, to be able to come directly to Honolulu, as they were able to before 9/11.

Duenas asked about the restrictions the crew must abide by when in port.

Goto said, according to the CBP regulatory regime, any labor outside of fishing practices is forbidden; they are not able to do vessel maintenance, such as painting the vessel. A crewman could be found in violation by simply carrying a hammer. The penalty for many of the violations is deportation, which does not benefit anyone. The crewmen are in Hawai'i willingly, and they make wages that benefit themselves and their families back in their home nation. Many crewmen are career Hawai'i longline fishermen. They return despite the stringent regulations in port. The crew is aware that they have one of the best opportunities that they could have by being contracted into this fishery. It is hoped that this story will be shown to contrast the accusations stated in the Associated Press article.

Duenas said the fact that they are returning to the job is an indicator that they're being treated well. The conditions are like night and day when compared to Taiwanese, Chinese and other foreign vessels out of Guam.

Simonds asked if after 9/11 there was legislation or a policy change that keeps crew from flying directly to Honolulu. She also noted that in the past Sens. Inouye and Hirono had attempted to draft legislation to allow the contract laborers to fly in to Honolulu.

Goto surmised it was a policy decision, as many policy decisions were made for security reasons following 9/11. Any activity that would bring foreign nationals to the United States was under heavy scrutiny.

Simonds asked if that is the case for all contract laborers other than fisheries. She suggested that it may be time to go to the administration to make these kinds of changes, especially if it is only for fishery contract workers. There are also agriculture contract workers and cruise ship workers, who are able to get off the boat without strict regulations.

Goto said it is both fortunate and unfortunate that the situation occurs. US fisheries in Hawai'i and the US mainland as well as oil rigs, cruise ships and other maritime industries rely on foreign workers. It is not consistent across the board with all of these situations.

Simonds said the contract workers are all documented beginning from the country from whence they came.

Rice asked if NMFS has any input on policymaking for foreign crew points of entry.

Tosatto replied in the negative. CBP manages for its issues. NMFS is an industry partner agency but not on manning and movement about ports. NMFS has participated in the interagency discussion, which was the first non-NMFS meeting held in the new Service Center in Pier 38 multipurpose room.

Sensui said the Associated Press painted a bleak picture of the conditions on the boats about abuse, even hinting at slave labor. He asked, after the cooperative investigation, how many boats out of the 140 vessels were found to not be in compliance with either with CBP or HLA?

Goto said there has never been a prosecuted violation of human rights abuses in the Hawai'i longline fishery. That is not to say there are no minor issues that can be improved upon. At the highest level, there has never been anything close to the accusations made within the Associated Press article. No Hawai'i-based longline vessel was named in the article. Only one vessel or individual owner/captain named was named in the article, the *SEA QUEEN II*. This vessel had come to Hawai'i and has a Hawai'i longline permit, but it is based out of San Francisco where the owner lives. It is currently the only named party that could be under legal prosecution. The vessel had occasionally come to the Honolulu port. It was a separate issue, probably one of a few isolated instances that became overblown in the article.

Rice asked if permits can be pulled.

Tosatto said it would take an enforcement action of an MSA violation to have a permit sanction. On the characterization of a West Coast-based boat with a Hawai'i longline permit being called part of the Hawai'i fishery, West Coast based vessels are routinely treated as part of the fishery. Regarding the growing amount of California-based boats, the two Councils have some thinking to do about how much longer to continue to treat it as a single fishery. He reiterated that currently they are part of the longline fishery, even though they are California-based. A permit sanction is not a likely outcome from type of action.

Rice asked if United Fish Agency can entertain sanctions against the California-based vessel.

Goto said, under the present circumstances, the vessel would not be able to get through the first step of the process and the product would not be accepted into the Honolulu port.

Ebisui said, in reaction to the article, the US Attorney in Hawai‘i, Florence Nakakuni, said nothing illegal is occurring. That message needs to be publicized to dispel the perception that was caused by the Associated Press article.

Goto said the question of legality was never the issue and the onboard detainment situation was also exaggerated. It goes back to the system, itself, and knowing how that process works from beginning to end, knowing that a lot of the situation is out of the hands of the owners and the crewmen. The crewmen are allowed off the vessel for basically a five-minute radius. Attempts were put into motion two or three years ago to get State property to be permitted to have facilities made for these crewmen while they are docked in Honolulu with showers, washing machines and recreational areas, which in cooperation with CBP would be federally approved. The situation could be better, and it could be worse. It is not a perfect world, but it is not what was illustrated by the Associated Press article.

Simonds asked about the current situation with the State in terms of that piece of property right being used for the purposes just outlined.

Goto said two State-owned lots are being considered on Pier 18 and Pier 36. The Pier 18 property needs to be built first because there is infrastructure in place for plumbing. HLA is working on approval for a building permit for the Pier 36 property. It has been a multi-year process, but the current media coverage may serve to expedite the process.

Sensui said it appears the longline industry has been a victim of exaggerated stories and misreported information, which seems to happen a lot. Unfortunately, the whole fishing industry gets painted as being bad guys. He recommended the development of an outreach program to educate the reporters and editors on what’s really happening so they have a better sense of the current circumstances, rather than report their own personal perceptions of the industry.

Goto said the public has never made the connection between the harvester and the consumer. For fisheries, even in a state like Hawai‘i surrounded by water, where it has been part of the culture for so long, for the everyday consumer to not understand even the Council process shows there is a disconnect between the point of take and the point of consumption. He voiced agreed with Sensui’s recommendation for educational outreach to start fostering appreciation for the seafood industry based out of Hawai‘i and the Territories, and what it means to have this domestic source of product despite all the recent scrutiny. In 2016, the NWHI monument expansion and the crew issue showed the same process of people rushing to judgement because they’re not making that connection.

Rice agreed. He said the fisheries and harbors are like an afterthought to the State.

Lutu-Sanchez agreed, as well. The fishing industry in American Samoa, which is the tuna capital of the world, is desperate for more appreciation. She asked if the USCG has issued any violations due to insufficient crew contracts to any of the boats in Honolulu. She also asked

whether HLA has a list of local fishermen who are waiting to get on the boats and whether there have been any claims by local fishermen of discrimination against them, where an owner prefers a legally contracted fisherman from a foreign source versus hiring locally.

Goto said there was no local outcry for participation in the fishery. Longline fishing for multiple weeks at a time is not attractive to a US contract laborer. The foreign crew contracts have been in place for the past few decades and are what has made these crewmen a career. It is not displacing domestic workers with foreign crew labor, especially in Hawai'i. Goto deferred to the USCG with respect to violations due to insufficient crew contracts for any Honolulu vessels.

Cmdr. Rula Deisher said boardings are conducted for inspections for the existence of contracts. Officers are trained on indicators of human trafficking. If crew contracts are not available, the USCG will return with Homeland Security agencies, such as CBP. USCG has regular meetings with CBP and has been walking the docks for the last couple of years with the captain of the port, USCG boarding officers and CBP agents. She was not aware of any contract violations.

Simonds asked Anderson about a petition received that was reported in the newspaper.

Anderson said a recent headline in the paper said the State was planning to deny a petition and was complicit with the longline industry in doing so. The petition was submitted to DLNR Hawai'i to amend its rules to require information that the petitioners believed is not already required. In addition to the federal permit, a State commercial fishing license is required of all fishermen who sell fish in the state. Approximately 700 longline fishermen have been permitted by DLNR Hawai'i. The permits are issued to the captain, crew and everyone who fishes per the current regulations. It appears the petition is an attempt to shut down the longline industry. DLNR Hawai'i's position was to deny the petition because the information is already being collected and there is no added value from amending the rules. The focus of DLNR Hawai'i's rules is on the management of the fishery; it is interested in who is catching what, where and when. DLNR Hawai'i does not have the authority to regulate labor issues. More specifically, the petition asked for a number of changes to certify that an applicant has read and understood the terms of the form and is allowed to fish in US waters and to require the vessel owner to have a list of licensees on his/her boat, which is already part of the requirements. When applying for a license, a valid and current passport must be presented. Applications have been rejected from people who have expired passports. Applicants also have to present a form from the Department of Homeland Security, which in essence says authorization is required to fish in US waters, but the applicant cannot step ashore.

DLNR Hawai'i is managing the fishery. The application and the permit require that they report what they catch. In the case of longliners, each fisherman is obviously not reporting individually what he caught. The vessel is reporting what it caught. There has been discussion regarding changing the permit requirements to require reporting by vessels rather than by individual. The bottom line is the Department's position is all of the information that is needed is being collected. The petitioners are using the Hawai'i license as a way to advocate for change or possibly even shut down the industry. There is a Land Board hearing coming up and the matter will be reviewed. A decision is required within 30 days within the receipt of the petition. The

people who filed the petition are well-known social justice activists. It is not a major issue from a fisheries management standpoint. In addition to the USCG inspecting to make sure that there is a contract for the workers onboard, Division of Conservation and Resource Enforcement (DOCARE Hawai'i) officers who board the vessels ensure that they have a valid fishing license and all of the crew are interviewed and are asked to present their licenses. The State licensure program is adequate for the purposes for which it is intended and is serving its needs.

The charge on State of Hawai'i fishing licenses will be modified. There are ongoing hearings to evaluate the issue. The State was sued because nonresidents were charged more than residents for commercial fishing licenses. The court ruled that was not appropriate so the fees are being modified.

Goto said the media prints what it wants to print. But half-truths cause problems. He hoped people can read between the lines. When in California recently, he saw Whole Foods purchased fish from Indonesia, Fiji and other places that have proven occurrences of slave labor. He found Whole Foods hypocritical for rejecting Hawai'i-caught fish because of the article.

B. Report on Pelagic SAFE Report Development

Kevin Kelly, Council contractor, presented an update on the Pelagic Stock Assessment Fishery Evaluation (SAFE) Report development. The objective of the project is to incorporate new guidelines for National Standard 2 into a SAFE report and mesh that with the existing annual reports. The Council and NOAA goals were to develop a report structure that both met the requirements of National Standard 2 as well as the Pelagic FEP.

The document begins with the executive summary and a table of where the SAFE requirements are met. Another goal of the Council is to replace interpretive text that isn't annually updated with a new chapter called the data integration chapter, where ecosystem indicators and trends in the fisheries will be included to assist in drawing conclusions and support management recommendations.

As the annual reports are difficult to compile, efforts are ongoing to develop a template and standardized data outputs that can then be dropped into the documents. A "cheat sheet" will be provided to assist in updating the report, with names of people to confer with and what must be done to make it more streamlined to update on an annual basis.

A draft of the SAFE Report was submitted in September. The human dimensions section is not complete, and the question is what information should be incorporated. The SSC gave some direction on this at its recent meeting. The project will be finalized through work with the Human Dimension's group at PIFSC.

The requirements for the SAFE Report are fisheries characterizations and fishery stock status information, all of which comes from the international community at WCPFC and Inter-American Tropical Tuna Commission (IATTC) and usually becomes available in late July or early August. The requirement is to have the SAFE Reports completed by the end of June. Pushing it back a couple of months may allow this year's SAFE Report to contain this year's

stock assessment information. The executive summary needs to be written, and the Council recommendations will be incorporated into the report.

Simonds noted her appreciation for the progress that has been made and thanked the Council, Plan Team, PIFSC and PIRO staff, as well as Kelly, for moving the effort along.

C. Hawai'i and American Samoa Longline Fisheries Reports

1. Longline Fisheries Reports

Russell Ito, from PIFSC, presented the Hawai'i longline logbook report for the first half of 2016, summarized quarterly to illustrate seasonal differences in the fishery effort and catch. The few vessels that operate out of California were shown in aggregate form and do not affect the overall statistics and summaries.

For the first half of 2015 versus 2016, 139 vessels were active. The effort in total number of trips and sets was the same, with less shallow-set effort. The total number of hooks, 26 million, was a record with a million more than last year. Most (almost 20 million) of the hooks were set on the high seas. The dominant components of the catch, as well as the two target species, were bigeye tuna and swordfish. Bigeye tuna catch declined. Pomfret is the second highest component of the longline catch.

Blue shark, which has no economic value but recorded by the longline fishery, was the third-largest component of the catch, at 38,000 fish, followed by mahimahi and ono. Swordfish catch is down about 6,000 fish for the first half of 2016 versus the first half of 2015. Bigeye tuna catches reached the quota in the Western and Central Pacific Ocean (WCPO) a month earlier in 2016 than in 2015, mostly because of the size of the fish.

The fishery has been dealing with several issues including expansion of the monument. Eleven vessels are operating out of California; seven are deep-set longline vessels, and four are shallow-set vessels. Their activities are tracked with cooperation of the OLE. The fleet has had to deal with weather and ocean-related issues, a strong El Nino year and quite a bit of hurricanes during the season. The sea surface temperatures and areas fished have been atypical. One of the more visible issues that the fishery has been dealing with is the recently published foreign crew article.

Rice referred to the slide stating that only 7 or 8 percent of the catch comes out of the NWHI EEZ and asked for more information.

Ito said some analyses showed between 7 and 10 percent, with swordfish accounting for a higher percentage. Some shallow-set longline vessels with Hawai'i permits start from California in the early season and work down to Hawai'i as the fish migrate south. During the peak of the season they fish in higher latitudes above the MHI and also the NWHI because of historically good catches of swordfish. So although the NWHI may represent 7 to 10 percent of the overall swordfish catch, Ito presumed a higher proportion of swordfish catch is landed in Hawai'i, as opposed to the swordfish that are accounted for in the logbook program but actually landed in California.

Rice said most effort is on the high seas, but when they do come into the US EEZ around the NWHI their catches increase even though they fish there for only a short period of time.

Ito said the peak CPUE in the first and second quarter usually is around the Hawaiian Islands, including the US EEZ around the MHI and NWHI. In the MNM area, throughout the course of the year, about 80 to 110 longline vessels fished outside of the Protected Species Zone, so 80 to 110 fewer eyes are now there to watch for IUU fisheries in US EEZ.

Simonds asked if the decline of swordfish catch can be attributed to lower trip numbers.

Ito replied in the affirmative.

Simonds asked to what the size of fish is attributed.

Ito said a table in the Hawai'i SAFE Report shows average weight of fish caught by each sector of the fishery. The shallow-set fishery catches much larger swordfish relative to the deep-set fishery. The mean size in 2015 was higher than average, about 180 to 190 pounds. In general there was quite a higher proportion of small fish. Ito then deferred to Goto.

Goto said the shallow-set fishery brings in larger than the average-sized swordfish. It also brings in a large volume of the smaller size, as well. As far as the deep-set fishery, there was a decline in retention. It is unfortunate that effort is going down just because it is a viable fishery to maintain. Economics are obviously part of the issue, but it would be great to maintain a productive fishery.

Simonds raised the question of competition, as it is known that swordfish are coming in from South America and Central America.

Goto said the shallow-set swordfish fishery competes globally with other swordfish fisheries in South America, Canada and the East Coast, but it is the largest US domestic supplier. Quality is a driving factor. Hawai'i is a fresh fish fishery. There are also logistical issues in getting the product to the destination with highest revenue. Further, the local market in Hawai'i has still not caught on to the sword product, itself, despite it being popular among people who know what it is.

Rice said the swordfish boats would be pushed out once the MNM expansion is established.

Goto said that, within the next year, we will learn the benefit of the restricted area and how that affects fisheries.

Sensui asked about the status of the swordfish stock.

Ito deferred to Tosatto.

Tosatto said there are two swordfish stocks, the Northwest Pacific and the Southwest Pacific stocks. The Hawai'i fishery fishes almost exclusively on the North Pacific component,

although the West Coast group now could be taking a number of the Southwest Pacific stock. The North Pacific stock is healthy, no overfishing is occurring and it is not overfished.

The southwest stock is not in that same state. He noted a need to double-check, but he believed overfishing is occurring in the fisheries out of Central and South America on that stock; he was not sure whether it is overfished or not. A letter was sent to the Council in 2015 requiring action based on the stock status. The response was that the fishery takes a small component, so it should be handled internationally without domestic measures.

Daxboeck asked about the voluntary cap on the striped marlin in the industry.

Tosatto said the management measure is still in place and effective. It limits the catch of striped marlin to a historic baseline level. The catch has remained and is anticipated to remain under the baseline. No further action has been taken other than monitoring it against the records. The Council does have a draft amendment to address it going forward.

Anderson asked about the ability to track the vessels, themselves, where they're regularly fishing and what vessels frequent the NWHI and to over time determine where they were going and whether they were as successful or less successful in catching fish in other places. One question the State is facing is the impact is on the industry. It would be interesting to see if there were vessels that regularly fished the areas that are now closed.

Ito replied said the PIFSC website has a set of annual tables that tracks vessels in aggregate because of confidentiality issues. One can get an overall impression by looking at fleet-wide effort and catches in that area and then compare them to some of the other areas, such as the EEZ waters around the MHI or the high seas. The fishery has been broken down into deep and shallow by each area. The CPUE in the NWHI stands out.

Daxboeck noted there is a recommendation on that subject in an upcoming agenda item.

Keith Bigelow reported the annual trends in the American Samoa longline fishery. In general, vessel participation was down in 2016, with 16 vessels participating in the first six months. For the first six months, the data is confidential because fewer than three vessels participated in the EEZ. The 115 trips in 2015 declined to 73 in 2016. The sets also decreased from 1,300 in 2015 to fewer than 1,000 in 2016. The 3.6 million hooks set in 2015 declined to about 2.5 million in 2016.

The target species was albacore tuna. In a typical year, American Samoa catches about 100,000 albacore. Thus far in 2016, about 30,000 albacore have been caught. There is a seasonal trend in albacore CPUE in the second and third quarters, or during the austral winter, when albacore CPUE is highest. CPUE is down in 2016 compared to 2015, to less than 12 fish per thousand hooks.

Of secondary importance is yellowfin tuna. Typically, about 20,000 yellowfin tuna are caught annually. In 2016, less than 7,000 yellowfin have been caught. Yellowfin CPUE was also down in 2016 compared to 2015.

The CPUE between 2015 and 2016 illustrates a reduction of effort and corresponding reduction in catch; some of the CPUE are also declining.

2. Hawai'i Longline Bigeye Catch-Per-Unit-Effort Trends

Jeffrey Polovina, PIFSC, reported that longline bigeye CPUE has been increasing over the past year or two. The industry provides dealer data, logbook data and observer data that are processed in timely fashion through the Region. Environmental data is near real-time. Ecosystem models enable PIFSC to monitor the pelagic environment in a near real-time process in different dimensions.

Bigeye CPUE has varied. The CPUE recent increase started in 2013, with the rise in catch rate and subsequent rise in weight. Three hypotheses were tested to see if they account for the CPUE trend. There was a shoaling in vertical structure that would allow change to the catchability of bigeye. The fishery expanded to the north and to the east and has moved into area of higher catch rates. There was also an increase in bigeye recruitment.

In 2015 we noticed the shoaling in the vertical structure by 25 to 50 meters, which compressed bigeye habitat. This variability was largely due to the strength of the trade winds; 2015 was a period of weak trade winds. The inter-annual variability in the depth of bigeye habitat is 50 meters or so, and this change may affect catchability. The depth of the habitat is shallower in the northern and eastern part of the archipelago and could account for some of the higher catch rates in the area, as the tuna are more compressed between the surface and the foraging depth. There hasn't been a persistent multi-year shoaling of the vertical structure that would account for the rise in bigeye CPUE in 2013, 2014, 2015 and 2016. The changes in vertical structure do not account for the rise in CPUE in all years.

The second hypothesis was that the expansion of the fishery to the north and east accounted for the CPUE trend. Most of the effort was in the three and a half million square kilometer area centered on the MHI. In 2005, an increase in effort to the north and east, areas with higher CPUE, persisted almost in a linear fashion. But the core fishery also saw an increase of bigeye CPUE in the past couple of years. So the expansion contributed to higher CPUE in the overall fishery, but that doesn't explain the trend in the core area.

The dealer dataset shows the weight of each bigeye that comes through the auction. The fishery size classes have increased in the fishery over time, which can be linked with logbook data. A catch rate can be computed as a function of each size class with a growth curve. In the third quarter of 2013, there was a big pulse of fish between two and three years of age. But that propagates over time each quarter. Then in the fourth quarter of 2013 and the first quarter of 2014, this big pulse of recruits that occurred in late 2013 propagated through the fishery and contributed to this high CPUE.

The fact that the catch rate by weight lags the catch rate by number again indicates a pulse of small fish. As they grew, the weights increased, which is starting to trail off in the first half of 2016. The mean weight by month is low by the end of 2013. By the end of 2014, the

weights increased. By 2015, the weights increased further. Going into the beginning of 2016, the average rates were some of the highest recorded.

The work of NMFS PIFSC scientist Chris Boggs showed the fishery closed a little earlier this year because the effort and weights were up even though the catch rates were down a little in 2016 compared to the first six months of 2015. It is not known what caused this big recruitment pulse. The viewpoint of some in the Western Pacific is bigeye recruitment improves after an El Nino.

So with this stream of data, it will be possible with monitoring to provide a good forecast. If there is going to be a pulse of small fish coming into the fishery, it is usually in the third or fourth quarter of the year. The third quarter is a challenge because effort can be quite variable. There is a way to monitor the fishery and develop a forecast for a number of years out as these fish propagate through the fishery.

Sensui asked how the age of fish is determined and whether predicting recruitment pulses help in planning ahead.

Polovina said a number of bigeye studies are based on otoliths and some are based on tagging data. A number of growth curves are available. Some growth curves are computed based on stock assessments that back-calculate to what the age of the animals should be. Polovina was uncertain of the ages of the animals. The ages are fairly approximate and can vary from year to year. Also, if there is a big pulse of juvenile fish concurrent with limitations of resources, they will grow more slowly than in a year with a small year class going through. The Secretariat of the Pacific Community (SPC) has used its estimates of growth in its bigeye stock assessment work. The model progressions track year classes by their age but are subject to uncertainty.

Sensui asked the length of the life span of a typical bigeye.

Polovina said animals are seen in the fishery through five years. Tagging studies and otolith studies carry the growth curve out to 10 or 12 years.

Anderson asked the average age of an 80-pound bigeye.

Polovina said it would be between four and five years old.

D. Western and Central Pacific Ocean Spatial Longline Bigeye Analysis

Bigelow reported that a management measure within the WCPFC attempts to decrease the fishing mortality on bigeye tuna. One of the components of the measure is to have annual longline catch limits for six members, one of which is the United States. The majority of the members do not have annual longline catch limits because they are Small Island Developing States (SIDS) or Participating Territories.

The Council on numerous occasions has indicated that the US catch limit is too low and needs to be raised and requested consideration of spatial management of bigeye tuna. There are

nine spatial regions in the stock assessment. Most of the catch of bigeye is between 20°N and 20°S latitude, with balanced catch between the purse-seine and longline fisheries.

A brief review in the trend in spawning biomass showed a decline over time. The stock is experiencing overfishing and is also overfished in relation to Commission control rules but not overfished in relation to Council reference points. The WCPO stock is estimated to have declined 80 percent from natural levels in the absence of fishing, and the fishing impact in the most recent years is equally shared by the longline and purse seine fisheries.

There are differential impacts in the various regions. Regions 2 and 4, in which the Hawai'i longline fleet fishes, still has a decent amount of biomass. Region 2, or north of 20°N, is responsible for relatively low fishing impact (20 percent) compared to the tropical regions (about 80 percent). The possibilities of catches in other regions that are lightly exploited were also considered.

The Scientific Committee (SC) has previously commented on spatial considerations given high fishing exploitation rates and fishery depletion in some regions of the assessment. The SC expressed concern about depletion in some regions for yellowfin mostly in the Western Pacific and bigeye in the tropics.

At the most recent SC in August, the United States requested some scientific analyses towards a spatial management approach. That project was incorporated into the work plan of the SPC. Subsequently, NMFS provided WCPFC money for the SPC to conduct the analyses. The 2014 assessment will be used to do some deterministic projections of alternative catches in the different regions.

There were options to use long-term or recent recruitment. The preference is the use of the most recent recruitment. Various assumptions were made moving forward. Two scenarios will be considered, since the idea of the management measure is to reduce fishing mortality to the fishing mortality at maximum sustainable yield (MSY), which will be done in simulations. In Scenario 1, combinations of longline effort that represent similar regional exploitation rates, or the same fishing mortality among regions, will be identified. In Scenario 2, the model will solve for similar regional depletion estimates in each of the regions and spread the exploitation in one scenario and also split out the exploitation so there is similar depletion among the nine different MultiFAN-CL regions. The SPC is working on the analysis, and the results should be available at the Commission meeting in Nadi, Fiji, in December.

E. Report on Western and Central Pacific Ocean and Eastern Pacific Ocean Bigeye Tuna Limits

Paul Dalzell, Council senior scientist, reviewed the status and brief history of the WCPO and Eastern Pacific Ocean (EPO) bigeye catch levels. The base year was the 2004 catch of 4,181 metric tons (mt). The limit was reduced between 2009 and 2013 by 10 percent to 3,763 mt and further by 5 percent in 2015 to 2,554 mt. There will be a further 5 percent reduction in 2017 to 3,345 mt.

Over this period, the fishery closed near the New Year in 2009 with negligible impact. In 2010, the fishery closed in November, 40 days early, during the period of high demand of the holiday season. In 2011 to 2014, there were no closures.

The congressional authority was given to develop arrangements between US fishing entities and the Territories to allow transfer of bigeye catch. In the interim, Amendment 7 was developed. It went through the NMFS review process and was finalized in 2014. In 2015, the WCPO was closed to the fishery in early August and reopened in October under a Territorial agreement.

In 2016, the WCPO was again closed, but this time in mid-July. After a several week lag, it was able to continue to operate under the Amendment 7 transfer arrangement with CNMI. Although not ideal, a gap usually occurs between reaching the limit and the Territory Agreement authorization due to the NMFS review and approval process.

In the EPO, there is no overall catch limit for all vessels. The limit of 500 mt applies only to vessels greater than 24 meters in length. The EPO was closed to vessels greater than 24 meters in August 2015, forcing nearly 30 boats to tie up. In 2016, the EPO was prematurely closed to vessels over 24 meters in July, with only half of the catch limit landed, or with 250 mt remaining. NMFS recently reopened the EPO to large vessels to reduce unnecessary impacts. Smaller boats may still fish in the east even when the limit has been reached, but the distance that has to be traveled is far and is not within the range of all small craft.

Christofer Boggs, PIFSC, presented graphs depicting cumulative Hawai'i longline bigeye tuna catch in the WCPFC area for 2008 to 2016 and cumulative US longline bigeye tuna catch in the WCPFC and IATTC areas through 2016 for which data are reasonably complete. The closures in 2015 and 2016 were due to increased size of fish caught and higher catch rates rather than increased effort. The early closure in the WCPO was due to higher CPUE almost exclusively, with very slight increase in fishing effort. The limit was exceeded by approximately 200 mt according to the most recent estimates, which is the largest overage yet. Estimates are revised when the data for the whole year are complete and the auction data are processed. In the EPO, the catch was much smaller than in the WCPO. There are limits applicable to vessels greater than 24 meters. The large vessels did not reach the 500 mt limit, and the EPO has reopened.

In both 2015 and 2016, the CPUE for bigeye by the Hawai'i longline fleet in the WCPO in the first half of the year has been approximately 40 percent higher than for years from 2007 to 2014. In the first half of 2015 the average weight of bigeye landed by Hawai'i longline vessels was larger than in the prior year; and in 2016 preliminary fish size was larger than the average in years 2007 to 2014. Both of those factors, combined with phased catch limit reductions, have contributed to the Hawai'i longline fishery reaching the US WCPO longline bigeye limit in 2015 and 2016 sooner than in previous years.

Boggs said there may be an ability to develop an EPO forecast if better models existed to incorporate information on where the vessels are in real-time as well as some environmental data as presented earlier by Polovina. The managers do not have any hard information to guess when

that will happen and currently can only surmise. The catch rate in metric tons per set in January to June in the WCPO shows the beginning of 2016 to be higher than 2015, which is different from all of the other information presented thus far.

Dalzell emphasized the importance of fishing in the EPO to the Hawai'i longline fishery with a third of the catch of bigeye now coming from that area. There is hope the quota will be increased in the EPO where the stock is not subject to overfishing and the total longline catch limit for the Asian longliners is not being taken.

Discussion

Rice said that, with the trend for the last two years resulting in a closure to the fishery, efforts should already be underway to access the quotas from the Territories now.

Dalzell deferred to the upcoming presentation by Council staff member Eric Kingma. He reiterated that the Hawai'i longline fishery has a big stake in the EPO and is the biggest US longline fishery in the EPO. Attention to what happens in the IATTC is important. The Council's SSC has IATTC representation in its membership.

Ebisui asked for a comparison of the Hawai'i longline quota in the Western Pacific to the overall WCPFC quota.

Tosatto said the Hawai'i longline quota is approximately 3,500 mt. The six countries that have quotas add up to around 50,000 to 55,000 mt. The Hawai'i longline fisheries are an order of magnitude below that or more. The total catch for bigeye by longliners in the region is about 65,000 to 70,000, depending on the year. Overall, the Hawai'i quota is a small fraction of the catch, as low as 5 percent.

Ebisui said, if the Hawai'i longline quota is 5 percent of the overall quota, how can the US be the only country approaching its quota and resulting in closures?

Tosatto said one reason is the United States closely monitors its fishery and has a high level of accountability. Another reason is it is drawn against a baseline of the 2004 level of catch, which was the natural level of the fishery, with a 30 percent reduction, then with additional reductions that amounts to 50 percent from when the quotas were established. The fishery is growing and developing in the region. At the same time, Japan was in an opposite dynamic. Japan had a quota of over 20,000 mt and since then has severely curtailed its longline fisheries, retracted its distant water fleet and is nearing the top of its limit. China is in a developing mode and is also nearing the limit and comes in at 1 mt under its limit with some frequency.

Rice asked if some percentage could be added back into the new measure in the upcoming negotiations.

Tosatto said the United States is still developing its negotiating position for this year's annual meeting.

Sensui asked whether the catch consisting of larger bigeye is an indicator of the condition of the stock and asked what impact the stock transfer has to the stock.

Dalzell said a new stock assessment that will be conducted in 2017 and will be driven primarily by the trend of the Japanese longline fleet, which operates primarily in the equatorial waters. Data have been presented the past couple of years that indicated the bigeye CPUE in the longline fisheries across the Pacific has been good, which makes a cautiously optimistic expectation that the recruitment may have some benefit to the stock. Still, the stock is subject to fishing pressure, and fisheries are dynamic. The stock in the EPO is not overfished and not subject to overfishing. The Western Pacific has been fished at about 50 percent higher than its MSY. The new assessment may show that has been tempered by the increase of the performance of the fishery, suggesting that there may be more bigeye than there was before. The fishery has always tended to benefit from relatively increased recruitment in the fishery. The impact of the transfer to the stocks will be addressed in an upcoming presentation.

Goto said the increase in effort for the longline fishery coincides with the increase in demand for the product. The increased demand for domestic bigeye and other pelagic species drives the deep-set fishery, the main segment of the Hawai‘i longline fishery. The market crashed sporadically because that volume was unforeseen. In the first half of 2016, there was the same high CPUE but the market remained stable, which means the domestic demand went up. There is a shift away from frozen import and CO₂-treated tuna. It goes back to nations like Japan decreasing their effort while other nations like China and Chinese Taipei are increasing their effort. There are efforts to offset that by increasing Hawai‘i’s productivity to a domestic seafood market with a top of the line domestic product. The transfer agreements can stabilize the market, drive up consumer confidence and demand, and stabilize fishing in an unstable industry.

F. 2017 US Participating Territory Bigeye Tuna Limits (Action Item)

Kingma reviewed for final action consideration the specification of the 2017 Territory bigeye catch limits applicable to the US Territories of American Samoa, Guam and CNMI, as well as the amount that Territories can transfer to US longline vessels permitted under the Pelagic FEP. The issues before the Council in the action included a) Consider the range of catch limit options; b) Take into account the latest WCPFC conservation and management measure; and c) Take into account recent fisheries performance and bigeye catch; and, If needed, direct staff to develop further analyses to other options as appropriate.

Background information presented included the framework that allows the Council to specify Territory longline limits and requires it to be conducted on an annual basis and the authorization provided to the US Participating Territories through Amendment 7 to the Pelagic FEP to use and assign the limits provided to them to transfer to US vessels permitted under the Pelagic FEP under specified fishing agreements as long as those agreements include either landing in the Territory or some funding to support fishery development projects that are identified in the Territory’s Marine Conservation Plan (MCP).

Kingma reviewed the specification options of the 2017 Territory bigeye limits pursuant to Amendment 7 of the Pelagic FEP:

- Option A: Status quo. Specify a 2,000-mt longline bigeye catch limit per US Territory, of which 1,000 mt per Territory could be transferred to US vessels permitted under the Pelagic FEP.
- Option B: Specify 2,000-mt longline bigeye catch limit for each US Territory, of which up to 2,000 mt per Territory could be transferred to US vessels permitted under the Pelagic FEP.
- Option C: Specify greater than 2,000-mt longline bigeye limit for each US Territory, of which greater than 2,000 mt per Territory could be transferred to US vessels permitted under the Pelagic FEP.

Kingma emphasized the importance of considering the recent performance of the fisheries in the WCPO. Most of the impact on the bigeye stock is a result of the combination of purse-seine and longline fisheries where the longline fishery is capturing and harvesting the adult fish and the purse-seine fisheries are incidentally catching juvenile bigeye while fishing on fish aggregating devices (FADs). The FAD fishery started in the early 1980s, coinciding with when the impacts to bigeye became apparent. Over the course of the last few years, the purse-seine fishery has increased its catch of bigeye. The purse-seine catch in 2013 was the highest on record and surpassed the longline catch, which targets bigeye. Since then, both the longline and purse-seine catches have been declining. In 2015, the purse-seine catch was approximately 48,000 mt. In 2015, the longline catch was approximately 60,000 mt. The combined total is the lowest since 1996.

The WCPO bigeye stock status is subject to overfishing, where the current fishing mortality rate is beyond that associated with fishing at MSY. Under the Council's FEP, the stock is not considered to be in an overfished condition. Given the current spawning stock biomass in association with that biomass capable of producing MSY, the stock is not in an overfished condition. However, the Commission has adopted a limit reference point which is associated with spawning biomass in relation to spawning biomass in the absence of fishing over the course of the last 10 years. The current depletion level is below the limit reference point established by the Commission for the entire WCPO stock.

Fishing mortality is not distributed equally across the Pacific. The Hawai'i longline fishery operates in Regions 2 and 4 as well as the EPO. Ninety percent or greater of the bigeye fishing mortality occurs between 10°N and 10°S across the Pacific as well as the WCPO. On a WCPO-wide level, the current level of spawning biomass is at 16 percent of unfished biomass; in Region 2, however, depletion is very small, indicating that fishing is having very little impact on stock biomass levels in Region 2. In Region 4, where the Hawai'i fishery also operates to a lesser extent below 20°N latitude, there is a substantial impact on depletion levels.

The WCPFC has been managing bigeye through a series of conservation and management measures (CMMs) since 2008 that include purse-seine and longline provisions. The purse-seine fishery is managed through seasonal FAD closures and FAD limits. For longline, the provisions are annual catch limits by flag.

The latest measure, CMM 2015-01, expires at the end of 2017 and includes seasonal FAD closures and a high seas FAD closure for most fleets in 2017. It also maintains the longline bigeye limits. The longline limits represent a 40 percent reduction from the 2001 to 2004 baseline that was incorporated into the 2008 measure. Different countries have different limits, which are based on historical catches within the WCPO and subject to reduction through 2017.

For countries that do not have much historical catch and are not considered SIDS, such as New Zealand, Australia, the European Union (EU) and the Philippines, the catch limits are 2,000 mt per country. It is important to recognize that the SIDS and Participating Territories, which include American Samoa, Guam and CNMI, were not provided limits under the measure in order to support their fisheries development aspirations. In 2008, in the first measure that addressed bigeye, the SIDS and Territories were provided 2,000 mt limits but were allowed to exceed those limits if conducting responsible fisheries development.

Because of the performance of the fisheries in response to these measures, the total bigeye catch has been fairly stable over the last few years. The longline catch has been reduced since 2004, with further reductions to the quota in 2015, which saw the lowest longline catch since 1996, the lowest purse-seine bigeye catch since 1995 and total lowest catch since 1996. The low catches could be a reflection of the measures working, or they could reflect oceanographic conditions.

Kingma suggested that the bigeye stock has had some improvement over the last few years, based on the recent catches. There has been some evidence of a slight improvement in the spawning biomass ratio when projected forward with a substantial reduction in fishing mortality levels. The next stock assessment is due in the summer of 2017. If the recent recruitment trends and fishing conditions continue, it should provide a better outlook for the stock.

The US longline catches by the Hawai'i fleet were on average bumping up to the limit of 3,764 mt. However, in 2015 and 2016 the limits were reached much earlier. A change in the CPUE of bigeye resulted in more transfers to the Hawai'i longline vessels. The amount of transfer was approximately 500 mt in 2011; 800 mt in 2012; 500 mt in 2013; 1,000 mt in 2014; and 1,800 mt in 2015. The 2016 transfer will be around the same level because the fishery reached the US limit in July

Based on industry information, catches have been falling off midyear in 2016 and are expected to revert back to historical average catch levels. Oceanographic conditions and the CPUE experienced in the last couple of years have resulted in more transfers in that period.

Different scenarios were analyzed with respect to the authorization of Territory transfers per territory but under an overall limit of 2,000 mt. A rigorous analysis evaluated the potential impact of Territory transfers on the bigeye stock status utilizing information from the 2014 stock assessment and scalars on the 2012 catches, which was the latest year incorporated in the 2014 stock assessment. The potential catches were scaled under various scenarios, from a 1,000-mt transfer up to full utilization of the Territories' 2,000-mt limits. Each scenario was evaluated against various stock status reference points, including fishing mortality levels and spawning stock biomass, as well as the spawning biomass level in relation to unfished biomass. The impact

of Territory transfers was not found to be impeding conservation objectives of the Commission to eliminate bigeye overfishing. The added fishing mortality as a result of transfers is almost insignificant and is not precluding the elimination of bigeye overfishing in the combination of CMMs projected forward under recruitment levels and the fishery's performance. The impact is less than 1.0 percent change on the stock status reference points. The outcomes of the measure in combination with international measures and the transfers are still having a small impact on bigeye stock status projected forward.

The Council evaluation included the impacts to the bigeye stock, the need to prevent overfishing and the need not to impede any international conservation measures to eliminate bigeye overfishing. The analysis was consistent with the evaluation conducted by the SPC that considered outcomes of different provisions that could be implemented by country with regards to the length of the seasonal FAD closure, different FAD set limits, the longline catches and potential future catches. A similar analysis will be performed for the Commission meeting in December based on 2015 conditions.

Based on 2015 fishing conditions, the stock status has likely improved. Fishing mortality has been reduced, and recent recruitment is believed to have remained higher than historical levels, leading to higher levels of spawning stock biomass. The SPC's 2015 evaluation identified purse-seine FAD sets and longline catches as being on track with the measure, while recognizing that several countries do not have limits. Based on the fisheries performance and the impact of the transfers, it is believed that the transfers would not have a significant impact on the overfishing condition. In terms of a brief impact summary, the status quo does provide a small increase in fishing mortality as compared to an action of not authorizing any Territory limits or transfer. However, it is not believed to have any impact on the prevention of overfishing in combination with international measures. It is further mitigated by catches occurring above the 20°N area, which has a very low impact on bigeye.

The Territory agreements support fisheries development, which is important with regards to catch history within the within WCPFC. The other SIDs have a treaty with the United States that provides funding for access of US purse-seine vessels. The Amendment 7 framework provides funding for fishery development opportunities in the US Territories, whereby such opportunities are not readily available from other sources. For example, the US Territories do not receive fisheries development funding under the South Pacific Tuna Treaty. The US Territory agreements provide funding that can be utilized to support fishery development projects in each respective jurisdiction. Current ongoing projects are the American Samoa longline dock improvements, CNMI fishing base improvements and Guam fishing platform.

Under option B, the same impacts as modeled are likely to occur with bigeye as well as support for fishery development funding. The impact of the options that are greater than 2,000 mt and greater than 2,000 mt in allowable transfers is not known and would require an additional analysis to take into account the stock assessment once those levels have been identified. These options also support fisheries development funding for the Territories.

The Council was reminded that the Amendment 7 framework requires the specification of Territory limits on an annual basis, including the amount allowed to be transferred.

Simonds asked to hear the Territories' future aspirations for longline fisheries and noted the Council's ongoing support for the construction of docks in American Samoa and CNMI.

Lutu-Sanchez said that the American Samoa landings are much less than the proposed maximum catch numbers, whether they are 2,000 or 3,000 mt. American Samoa has not developed its fishery. One cannery, Tri Marine, recently announced it would cease operations in December. It is imperative that American Samoa's development aspirations are kept in mind, with the understanding that the specifications are to be reviewed on an annual basis.

Duenas said some Advisory Panel (AP) members chose the status quo option because no local longline fleet currently operates in the Mariana Archipelago. Funds for MCP projects were an appealing idea. At the same time, they liked the conservation aspect of only 1,000 mt being transferred. There was still a lot of talk of developing a local fleet. While trying to wrap their head around an increase and still maintaining some level of conservation, they realized that status quo would probably be the best choice.

Sablan agreed with Duenas' comments as well as support for annual review.

Simonds said another way to acquire funds to support the Territories is through the MSA section regarding Territories and foreign fishing. CNMI could consider this because it has a large EEZ area. American Samoa has a small EEZ but there is that opportunity. The Governor can initiate the process through a letter to the State Department. In terms of increasing the limit for the Territories, she asked if there was a reason to discuss raising the quota to 3,000 mt but keeping the transfer specification to the Hawai'i longliners at the 1,000 limit. She also asked when the EA was completed in the last two years, what the options would look like and what would have to be done to increase to 3,000 mt.

Kingma said, if a recommendation was made for a level greater than 2,000 mt, the authorization would need to catch up to that level, which would be 9,000 mt (3,000 mt per Territory) plus the US limit of 3,500 mt or the 2017 level at 3,345. The analysis has not been done. It would be beyond the levels associated in his table in terms of impact to the overfishing level. If all those catches were assumed and utilized, it would add fishing mortality to the system. The level of impact would still be a few percentage points on the reference levels, and it probably would not be below the overfishing level based on the current analysis. It would be difficult to specify that and also be consistent with MSA in preventing overfishing, which is an obligation of the Council, as well as not to impede international conservation measures. If only 1,000 mt per Territory were utilized under a transfer system, for which an analysis exists, there would still be 3,000 mt in transfer, but it would be consistent with MSA in preventing overfishing in combination with international measures.

Tosatto asked Jarad Makaiiau, PIRO staff, to offer some input on the analysis. He reminded the Council that the 2,000 mt number is not without foundation. The quota is assigned to the non-SIDs, non-major fishing countries, such as Australia, New Zealand, the EU and others. In the first conservation measure, 2,000 mt was assigned to Territories and SIDs. It is a number that the WCPFC considered an appropriate quota to meet the developmental aspirations

of the SIDS and the Participating Territories and is meaningful as approval of the measure is considered.

Makaiau said, when the Council recommends management measures, an analysis is performed to demonstrate that the action when implemented to its full effect is consistent with the MSA and other applicable laws. Those include not only the National Environmental Policy Act (NEPA) and the ESA but also international obligations under the WCPFC. The assumption of the analysis is that all catch would be utilized because that is what is being approved. In the analysis presented, the 2,000 mt limit for each Territory and the US limit of 3,500 mt in the years 2015, 2016 and 2017 add up approximately to the level of overfishing, which means the distinction between the authorized catch and the maximum fishing mortality threshold is a razor thin line. If a recommendation is made that exceeds the 2,000 mt limit, the projection of the fishing mortality is pushed above the threshold that is allowable under the MSA. Any limits greater than status quo would not only be inconsistent with the National Standards but also likely impede the goal and objective of the Commission to end overfishing. While the Territories may not fully utilize the entire limit, the impacts of the maximum amount authorized must be analyzed.

Increasing the transfers while keeping the quotas at 2,000 mt would need to be evaluated as the purpose of Amendment 7 is partially to promote development of the Territories' fisheries. The reason for establishing the limit is not to have unfettered potential for the Territories to catch bigeye tuna without a limit or to transfer away the limit; the socioeconomic effects would also have to be evaluated to ensure that the justification for setting the limit matches what the anticipated outcome. In December there will be a new projection from the SPC and a re-evaluation as to whether or not the CMMs for bigeye tuna have been effective in meeting their goals; that information will need to be considered in making its final decision.

The fishery has also exceeded its Incidental Take Statements for certain species of green sea turtles. A BiOp was prepared and will be a new piece of information that will become available in November. That's something that the Council should also consider when making its final recommendation for bigeye tuna specifications for 2017. In order for the action to be reviewed and approved, it has to be consistent with applicable laws. Because the agency just recently survived litigation, the fishery is being scrutinized and the analysis must be complete.

Rice noted that under WCPFC measures the Territories have no limit.

Makaiau agreed.

Rice said the Council must consider if the 1,000 mt remain transferrable but the fact is the Territories do not have to have a limit.

Tosatto said Amendment 7 requires the Council to set a limit to allow the transfer. If no limit is set, no transfer would be allowed and the analysis would not have to be done; the Territories could still catch and retain bigeye to the level they would naturally. Action would have to be taken if it somehow began to impede the progress of the WCPFC. The limit needs to be in place to do the transfer.

Tucher agreed with Tosatto and Makaiau, particularly regarding the status of the fishery in a post-litigation environment. NMFS prevailed in some intensive litigation on the 2,000 mt for each Territory, of which 1,000 is subject to allocation under specified agreements. Those agreements and that total amount of allocation have been subject to exhaustive analysis under NEPA to ensure compliance with National Standard 1, which requires the Council to recommend actions that prevent overfishing while ensuring the achievement of optimum yield, the most important of the National Standards. Preventing overfishing is the primary objective of the MSA. The developmental aspirations of the Territories, while important, are subject to the conservation needs of the stock. If the harvest pressure on a stock that is currently subject to overfishing increases and the analysis does not support that increased harvest pressure, it is subject to possible disapproval for noncompliance with National Standard 1. The analysis is not currently before the Council to make the decision for implementing 3,000 mt per Territory. The amount that is subject to authorization, not what is actually harvested, has to be evaluated for consistency with recovery goals under the WCPFC. The intended direction is to be aware and cautious and make the analysis or recommendation on informed modeling and scientific information, which is not currently before the Council. The other issue of serious concern from the legal perspective is NEPA. The existing EAs extensively cover the 2,000 mt. If harvest pressure is going to be increased on the stock, which is subject to overfishing, the possibility of significant impacts must be considered, and that requires the preparation of an environmental impact statement (EIS).

Rice said the US purse-seine boats are catching a lot of bigeye and asked how their catch can be slowed down, which counts against the WCPO quota and is bycatch.

Tucher said WCPC has to address that problem, collectively. According to NEPA impacts, the action being authorized has to be analyzed cumulatively with all other impacts in the region. If other fishing effort, totally unrelated to the action, increases harvest pressure and mortality on bigeye tuna, the impact has to be cumulatively taken into consideration. The cumulative impact can be significant even if the action contributes a small portion of mortality.

Tosatto said, in the purse-seine fishery, juvenile bigeye is a bycatch. Yet, it is the cumulative impact that needs to be considered with all of the impacts on the bigeye. The rule for retaining bigeye allows for the retention of bigeye by swordfish fisheries, and that can be estimated for the cumulative impact.

Simonds asked why the United States wouldn't take a position to establish a quota for the US purse-seine fishery, in light of Rice's comment.

Tosatto said the United States manages the purse-seine fishery. If that management action were needed or had a purpose, the United States could put in place a quota for the US purse-seine fishery even though no other nation has a quota for their purse-seine fishery. It would pose some litigation risk. The longline measures have resulted in a significant reduction in the mortality of bigeye. The amount of bigeye taken since the measure went into place increased in the purse-seine fishery. While bigeye mortality is declining, the purse-seine bigeye mortality is increasing and longline catch is slowly creeping down. There is an imbalance. The US negotiating position is the purse-seine fishery needs to contribute to the conservation of bigeye.

Tucher agreed with Tosatto. As a legal issue, the National Standard 1 Guidelines specifically address annual catch limits (ACLs) for fisheries that are managed internationally. NMFS is not required to set ACLs for those stocks because that would put the burden of conservation on the backs of US fisheries when the problem is created at the international level and that would disadvantage US fishermen at regional fishery management organizations (RFMOs). There would have to be a convincing justification to set a local ACL. The Territories have quotas but that are in conjunction with the allocation limits to justify the transfer of Territory quota to US fishermen to help build the Territories' fisheries.

Simonds said the Hawai'i longline fishery has been terribly disadvantaged over the last several years and is much more disadvantaged than the US purse-seine fishery. The agency was asked to look at this topic several years ago. The United States could do many things with the fisheries to reduce the catch of bigeye but it is not doing it equally.

G. Impacts on Effort Limit Area for Purse Seine on American Samoa Economy

Valerie Chan, from PIFSC, presented results of an analysis conducted to evaluate economic impacts of the 2015 Effort Limit Area for Purse Seine (ELAPS) closure. NMFS received a petition from Tri Marine during May 2015 asking NMFS to undertake an emergency rule-making that would establish an ELAPS limit and that any US flagged purse-seine vessel be exempt from the high seas limits if it declared that it would land over 50 percent of its catch in American Samoa. NMFS was already working on an ELAPS rule at the time, and nine days later published an interim final rule that established a fishing day limit in the ELAPS. The fishing day limit was reached, and NMFS closed the ELAPS to fishing in June for the remainder of 2015. In October, NMFS denied the petition but, at the same time, published an Advance Notice of Proposed Rulemaking, which stated that NMFS intended to examine the potential impacts of domestic implementation of Commission decisions for purse-seine fisheries on economies of Participating Territories and to examine connectivity between activities of US purse-seine vessels and economies of the Participating Territories. The goals of the study were to analyze the financial and economic impacts of the 2015 ELAPS closure and identify and evaluate connectivity between fishing activity and the broader American Samoa economy. The presentation focused on analyzing the financial and economic impacts of the 2015 ELAPS closure.

For the analysis, the analysts utilized cost and profit information from vessels, two canneries in American Samoa and several vessel support companies in Pago Pago. Because there are only two canneries and a limited number of vessel support companies, the information was combined together to avoid confidentiality issues. To meet the study goal, financial and economic cash flow analyses were conducted; the economic cash flow analysis excluded transfer payments, such as taxes. There was not a big difference between the two analyses.

The analysts compared the ELAPS closure to two counterfactual scenarios: a closure without ELAPS scenario, which is the average of 2012 to 2014, and the average of 2013 and 2014. Both examined what happened with historical prices, using 2015 prices for factors such as fish, fuel, electricity, water and access. Sensitivity analyses were conducted using Oracle Crystal Ball with varied prices of fish, fuel, electricity, fuel and water. Variations in some of the inputs

were assumed, such as total catch, proportion of tuna recovered during processing, cannery profit margin and number of trips landing in Pago Pago. The model was most sensitive to changes affecting vessels, such as change to fish price and total catch, but results were consistent under almost all scenarios evaluated.

In conclusion, the closure of the ELAPS in 2015 did appear to result in overall losses to the combined sectors of vessels, canneries and vessel support companies and compares into the two counterfactual periods. The model showed consistent and robust results, despite having limited information from the canneries and vessel support sectors. It is believed that the ELAPS will increase in importance to the US fleet because of rising access costs and limited opportunities in certain Pacific Island countries.

Soliai said the analysis was conducted with respect to the importance of the ELAPS to the American Samoa economic and its fishery, but the tuna canning industry is highly dependent on the US purse-seine fleet. Access to the ELAPS is of vital importance to sustain cannery operations and to maintain the fishery. Since the closure in 2015, there have been very significant impacts from the closure. The Council knows that Tri Marine, or Samoa Tuna Processors (STP), recently announced its operations will be suspended in December, which means that its canning operation will cease. Soliai said the information in the study was based on 2015 figures, yet the impact was not felt until 2016. He asked whether an analysis is planned based on the recent developments and now that STP has announced its closure.

Chan said the study was originally conducted as a response to the Tri Marine petition. It was submitted for consideration up the chain. There could be continued analysis, but that would have to be decided by other people and not herself.

Soliai asked whether a correlation could be drawn between the figures and the actual American Samoa economy.

Chan said they attempted to look at impacts of fishing days and tonnage unloaded in terms of jobs, but got very limited information from the canneries and other places. Because the information received is confidential, it cannot be revealed other than what was in the analysis.

Rice asked how many people would be put out of work with the Tri Marine closure and about the impacts to the economy.

Soliai said the cannery employs 800 to 850 people and the impact will be quite significant. One of the difficulties is that the analysis was focused on the impacts of the closure of the ELAPS to the American Samoa economy and not directly to impacts of the closure of canneries to the American Samoa economy. There are studies that talk about the economic multiplier effects of cannery jobs; those numbers are publicly available.

Tosatto said he would let Soliai's answer stand and added that continuing the investigation and learning about the industry components that are not in NMFS' traditional bailiwick of vessel operation is something that needs to continue. The study investigated the implementation of ELAPS. It was found that the action had a significant impact to the vessels,

shore-side processing and the economy. The purpose was to consider rule-making that would modify implementation of the rule moving forward in order to relieve the impacts on the remaining cannery, vessel operators and shore-side processing and support groups and potentially even mitigate some of the issues that STP has that would allow them potentially to resume the facility. Other studies can be undertaken within the economic analysis capacity to determine the next relevant questions to ask.

Simonds asked how many tons of fish are required daily to keep the cannery open.

Soliai said StarKist requires 450 mt per day.

Simonds asked about the StarKist closure.

Soliai said it will be the second one-week closure since the ELAPS closure. There was a week-long closure in April. He emphasized that some of the information may be misconstrued as a storage issue. It is not a storage issue, but a supply issue, as there was no fish.

Rice asked if Tri Marine's closure would expedite the ELAPS process.

Tosatto said PIRO always operates with the greatest haste to do a thorough analysis, obtain legal clearance and implement decisions as quickly as possible. Such events add urgency, but there has been urgency from the beginning. This measure, like Amendment 7, would be new and unusual to the WCPFC. It might not be well received. It might be challenged. The analysis is thorough so it will withstand scrutiny by the public, WCPFC compliance and the GC process.

Lutu-Sanchez brought the Council members' attention to written testimony by Western Pacific Fisheries, a family-owned purse seiner operating out of American Samoa for many years. The letter highlighted the importance of access to fishing grounds by the ever-decreasing fleet. As the Council meeting was occurring, three of the purse seiners are in the process of being reflagged, one to Mexico and two to Ecuador, as they were purchased by other owners. Also, Joe Hamby, CEO for Tri Marine, is going to be forwarding written statements, of which a small section read as follows:

NMFS has studied and confirmed the adverse economic impacts of the closure of the ELAPS. When the high seas are closed, less fish is delivered to American Samoa. In these days, we are seeing the consequences of restricting the American Samoa-based US flag purse-seiners from fishing on the high seas. StarKist has had to shut down due to lack of fish. SPT is suspending canning operations for economic reasons, one of which is related to fish supply. American Samoa-based US flagged purse-seiners need unfettered access to the high seas, and those with fishery endorsements need access to the US waters, including MPAs. Tuna is migratory. MPAs serve no conservation purpose for tuna. This is the same for US-flagged American Samoa-based longliners. If US public policy does not change to protect and support the American Samoa tuna industry, support that can be measured in economic terms, it will be lost.

Lutu-Sanchez said the statement is blunt and straight to the point but is the feeling among many in the industry. She would not be doing her job as a Council member representing American Samoa if she did not relay the message to the rest of the Council.

Sensui asked what percentage of canned tuna is supplied to the US market from the American Samoan canneries.

Soliai replied 100 percent of what is produced at the canneries in American Samoa is exported to the United States.

Sensui said, if the canneries shut down in American Samoa, everybody will lose.

H. American Samoa Large Vessel Prohibited Areas Exemption and Recent Fisheries Statistics

Bigelow reported the LVPA was in effect from March 2002 to January 2016 in American Samoa. At its March meeting, the Council asked PIFSC to analyze effort from January to June against the effort that has occurred in the older LVPAs.

Sixteen vessels fished actively out of American Samoa, six vessels in the north. Two and half million hooks were set, and about 16 percent were deployed in the two different LVPAs in total. About 50,000 fish were caught in that six-month period, about 10 percent in Swains and 9.3 percent in Tutuila.

The last slide illustrated the catch between all areas, and Tutuila and Swains, and the corresponding CPUE on the right. While Swains actually looked higher at about 18.5 fish per 1,000 hooks for albacore, Bigelow said it is deceiving because the highest CPUEs occurred during the second and third quarter. Swains had the least amount of effort in the second quarter and very little effort during the first quarter. In the second quarter, catch in Tutuila and Swains was identical.

Lutu-Sanchez asked Tosatto if there have been any gear conflicts between the larger and smaller longline vessels in the LVPA since it has opened.

Tosatto said he has not received any reports.

Deisher said no reports have been received of such incidents.

Lutu-Sanchez asked if there was any information on catches by vessels other than longliners, such as trollers, especially for similar species.

Bigelow said the PIFSC fisheries information network for the Western Pacific conducts creel censuses, especially around Tutuila. The information is available and is extrapolated to annual values from participation estimates. For Tutuila, some species of importance to the troll fisheries are not caught in any great numbers by the longline fishery. For example, longline vessels caught only 10 blue marlins and 1,000 yellowfin tunas. Statistics on troll and longline catches in American Samoa can be compared in the pelagic annual report (now SAFE report).

Sensui asked if there is any reporting on mortality of released sharks.

Bigelow said in the report there is retained, kept and bycatch, or discarded. Virtually all of the sharks in American Samoa are discarded. The only way to get at mortality of discarded sharks is to attach electronic tags to see the destiny of the shark. Mortality tends to be somewhere between 16 and 30 percent, depending on effects from handling.

Lutu-Sanchez directed Council members to a revised version of a written statement by one of the longline owners, which was testimony on the importance of the amendment to the fishery in American Samoa, as well as the decreasing fleet in American Samoa. Since the implementation of the amendment, the longline owners had sworn to work together with other users in the EEZ. As soon as it was implemented, their word was solidified to work together. Efforts were made to ensure vessels avoided the locations of the traditional fishing grounds for our game fishers during the tournament. The tournament this year was successful with nice catches and nice-sized fish. The efforts continued with communication by phone, and they are committed to work with the rest of the community.

Rice asked if the alia fleets were building up to return to fishing.

Lutu-Sanchez said she had asked Bigelow that question and he did not have an answer.

Bigelow said he is still uncertain if that alia vessel is one of the 16.

Lutu-Sanchez said, when she last checked, there was no Class A permit. There is an ongoing effort to get back into longlining with projects such as the super alia project, which would require a permit. She reiterated there is currently no active Class A permit.

Rice noted he has not seen any action in the alia fleet yet.

Lutu-Sanchez said she believed most alia are bottomfishing at this time and there are no active permits to longline.

Ochavillo said there is only one alia longline. He will present data under an upcoming agenda item but not the catch for confidentiality reasons as there is only one vessel.

Simonds asked for information on the status of the super alia project.

Ochavillo said he is not privy to the super alia.

Lutu-Sanchez replied that a presenter from the government shared information on the status of the project with the AP in American Samoa, which is the same stage of where they were several years ago. The main concern, though, from other AP members is the cost of the vessel, which was very prohibitive to most fishermen, and did not include operating costs. Unless someone subsidizes the building of such vessels, including the operating costs, it is very difficult to get.

Simonds asked about the status of the plan to repair fishing boats in the Manu‘a Islands to enable them to get back to fishing and provide fish to the Tutuila fish market.

Ochavillo said the DMWR is in talks with the shipyard and is committed to repair the boats in Manu‘a. The budget is being finalized, and a contract is being developed.

Simonds looked forward to the results.

I. Update in Hawai‘i Longline Electronic Reporting/Video Monitoring

Bigelow reported that the Council, PIFSC and PIRO developed an Implementation Plan for Electronic Reporting (ER) and Electronic Monitoring (EM) in 2015. It looked at the current implementation of ER and EM and at all the FEP fisheries that could benefit from the technology. Some fisheries were not suitable because of low participation or the size of the vessels was too small for the equipment. It also gave a timeline for the path forward. Currently, Six projects are currently underway.

The first EM project is complete. OLE has conducted a wholesale replacement of the VMS units for all 160 Hawai‘i and American Samoa permitted longliners.

The second is a proliferation of EM throughout the longline fishery. For example, Australia deployed 75 EM systems on longline and gillnet vessels in the last two years. In the Indo-Pacific, The Nature Conservancy in cooperation with other Pacific partners is deploying 24 EM systems in a variety of locations, including Palau, FSM, Solomon Islands and Okinawa, Japan. In the Atlantic Highly Migratory Species fishery, the US vessels have installed more than 130 EM systems in the last year and a half, with the primary objective of monitoring Atlantic bluefin tuna discards. NMFS has received funds to implement EM on seven Hawai‘i-permitted shallow-set vessels in the upcoming months because longline retrieval in shallow-set vessels occurs during the daytime when the species identification might be more accurate. There are increased observer costs for the shallow-set fishery due to air fares for coverage on the vessels based on the West Coast. Saltwater Incorporated has been contracted for video review to initially be conducted at PIFSC using Joint Institute for Marine and Atmospheric Research (JIMAR) staff. Not all vessels have the electronic capacity to support these camera systems. Low-cost EM systems have been developed for smaller vessels, costing less than \$1,000 for each vessel. It contains high-quality video and uses global positioning system (GPS) with a separate battery source.

Three ER initiatives PIFSC and PIRO have been responsible for include monitoring of the US purse-seine fishery over the last three years. Purse-seine fishers can submit their regional purse-seine log sheet each day through iFIMs software. All operators have been trained and are now required to report on how many FAD-associated sets are conducted per day.

More locally, Hawai‘i vessels are transmitting their daily log sheet via satellite to PIFSC. A contract was awarded to iFIMs and is in the consultation phase. There is an ER reporting initiative for the PIRO Observer Program. The information in the observer program is backlogged for a variety of reasons. Beta testing at sea, in which observers use tablets to transmit

data to the PIRO Observer Program for more rapid ingestion into its databases, is ongoing. Testing will continue throughout 2017.

J. International Fisheries Meetings

1. Western and Central Pacific Fisheries Commission Science Committee

Bigelow said the SC, one of three WCPFC subsidiary bodies, met in Bali in August with 27 WCPFC members in attendance, seven participants on the US Delegation, five NOAA participants, one industry participant and one JIMAR staff. The themes of the meeting included Data and Statistics, Stock Assessment, Management Issues, and Ecosystems and Bycatch.

The total catch in 2015 was 2.6 million mt. The purse-seine fishery total was 1.8 million tons; longline, 243,000 mt; pole and line, 228,000 mt; and other fisheries, typically, Indonesia and Philippines, at 17 percent of the total.

Catch aggregated into species consisted of skipjack at 1.8 million mt; yellowfin, a new record at 600,000 mt; bigeye tuna at 134,000 mt, which is the lowest since 1996; and albacore at 120,000 mt.

The economic value, as ex-vessel price, has been declining since 2012, when it was at \$7 billion. In 2015, the purse-seine fishery decreased 28 percent, largely due to lower skipjack catches and prices. The longline fishery was at \$1.5 billion, and the pole and line, at \$420,000. The values of the catch by species were skipjack \$2.3 billion, yellowfin \$1.4 billion, bigeye \$600 million and albacore \$360 million.

For the first time in a long time purse-seine effort in 2015 was lower than in previous years. The longline fishery caught approximately 243,000 mt of fish, almost 100,000 mt of yellowfin, 63,000 mt of bigeye and 80,000 mt of albacore.

The four stocks assessed included skipjack tuna, which is moderately exploited, though exploitation has increased in recent years. There is no concern thus far as it is not approaching overfishing, nor is it overfished.

A Pacific blue marlin stock assessment was conducted, which showed it is close to full exploitation. According to US reference points, this Pacific-wide stock is not overfished nor is overfishing occurring.

The first attempt at a South Pacific blue shark stock assessment encountered problems in generating both the catch and the CPUE time series due to a paucity of observer data in the South Pacific. The assessment was viewed as a work in progress as the assessment scientists were not satisfied and did not give any stock status information for management.

The Pacific bluefin tuna has been experiencing overfishing and has been overfished for a number of years. The stock is now estimated to have declined to about 2.6 percent of its abundance in the absence of fishing, which relates to a large depletion of Pacific bluefin.

There were a number of recommendations on a variety of sharks, data and statistics and stock assessments. The proposed budget for 2017 is \$1.7 million, and the proposed stock assessments for 2017 are yellowfin tuna, bigeye tuna and Southwest Pacific swordfish.

Sensui asked what accounts for the overfished condition of the Pacific bluefin.

Bigelow said bluefin tuna spawn in Japan and make trans-migratory journeys to Baja California and California where they grow for about three years and then migrate back to southern Japan and Taiwan to spawn. About 98 percent of Pacific bluefin tuna are harvested at the age of one-year old or less, typically by purse-seine and troll fisheries in Japan. In both locations, the tuna are put into farms to grow out for four to six months, which is a young age to be harvesting a large amount of fish.

Sensui asked if the bluefin spawn while in the farms.

Bigelow said they may spawn in Mexico but do not spawn in Japan.

Tosatto said, even when they are grown out in Japan, they are harvested well ahead spawning. Japan is trying to change its culture of eating bluefin at such a small size.

Bigelow said bluefin does not spawn off of Mexico. Only larvae have been found in the Western Pacific. It is preferred to harvest animals while they are putting more of their energy into the flesh rather than reproduction.

Sensui asked if an international management plan is in place to change the practice, such as a minimum size requirement.

Tosatto deferred the question to an upcoming agenda item.

2. Western and Central Pacific Fishery Commission Northern Committee

Chan reported on the Northern Committee meeting held in Fujioka, Japan, in August. The IATTC and the Northern Committee had agreed to hold a joint meeting within the Northern Committee meeting. The WCPFC chair noted that, while the Northern Committee plays a central role in the management of Pacific bluefin tuna, she intends to have a full discussion on the management of the species at the next Commission meeting.

The focus of the joint IATTC and Northern Committee meeting was management of bluefin tuna, a species of importance to both RFMOs. The aim was to foster common understanding about management objectives and responsibilities. Six issues were discussed: harvest scenarios to be conducted by the International Scientific Committee (ISC), a rebuilding strategy, emergency rule, Catch Documentation Scheme (CDS), a future stakeholder meeting and any revisions to the current CMM.

In terms of looking at the rebuilding strategy, one of the important outputs of this meeting was a recognition that the management objectives of both the WCPFC and the ISC are to

maintain or restore fish stocks at levels capable of producing MSY. Items discussed were that the IATTC would work to adopt an initial rebuilding target similar to what the WCPFC has. They would also work on determining the various harvest scenarios that they want the ISC to conduct. In 2017, the WCPFC and the IATTC will agree on a second rebuilding target to be reached in 2030 and revise management measures as necessary.

Participants supported the ISC's intent to hold a Pacific Bluefin Stakeholders meeting. Japan wanted the meeting to occur in Japan with its stakeholders as a side meeting to the Joint Working Group.

In terms of other actions that occurred at the meeting, Canada intends to hold a third management strategy evaluation workshop in 2017 for albacore to focus on risk and harvest control rules. There will be another albacore stock assessment in 2017.

The United States had a couple of proposals that failed to be adopted. Japan had an emergency rule proposal, but the United States didn't feel that it was precautionary enough in either its trigger or its timeline of what management actions would occur if the accountability measures were triggered.

In terms of the CMM, Korea had a slight problem in which it has no quota for larger bluefin. The bluefin CMM is divided between small (less than 30 kilograms) and large (larger than 30 kilograms) bluefin. In 2015 some of its fleet over a period of a couple of days caught a couple hundred metric tons of large bluefin but did not have a quota. Korea suggested that it make up for it by transferring some of their small bluefin quota. Because there is a caveat prohibiting switching between fishing on small and large tuna, the issue will be evaluated by the ISC to ensure members do not take advantage in ways that were not intended.

The Northern Committee still wants to know if the North Pacific blue shark is a northern stock. It also discussed a CDS, while recognizing that CDS is an item being discussed at the larger Commission level.

Masa Miyahara was re-elected as chair, and Tosatto was re-elected as vice chair. Japan has historically tried to keep the Northern Committee in Japan, but it agreed to a non-Japanese location every other year. It will be held in Korea in 2017.

Gourley asked if the blue shark is marketed in any other countries.

Chan said she heard a factory could process the entirety of the blue shark, but she was not sure it is still in operation.

Bigelow noted Spain and Mexico.

Simonds asked if bluefin tuna is currently listed under the ESA.

Tosatto replied in the negative. There was a recent positive 90-day finding in response to a petition to list Pacific bluefin tuna, which means the petition had merits and presented valid scientific information that will allow the agency to move forward with a status review. In 2017

the status, merits and protections in place will be considered. NMFS would have to give thoughtful consideration before ESA listing an internationally managed fish species that is actively fished.

Rice said the United States is penalized for species listed on the ESA and other countries are not prohibited from take.

Tosatto replied not necessarily. The ESA is a framework for a variety of things, including developing recovery plans and use in consultations. There are endangered species of salmon that are caught commercially and non-commercially. ESA listing does not necessarily preclude the species from take; it refers to the management need of the species.

Simonds asked if bluefin tuna is on the IUCN List.

Tosatto said it is probably listed under some category on the Red List.

Simonds said the United States could sanction other countries and not allow their fish into the country.

3. Western and Central Pacific Commission Technical and Compliance Committee

Kingma reported on the outcomes of the 12th Regular Session of the Technical and Compliance Committee (TCC) of the WCPFC held in September in Pohnpei, FSM. The functions of the TCC are to provide the Commission with information and technical advice and recommendations related to the implementation of and compliance with CMMs; to monitor and review compliance with such measures adopted by the Commission; and review and implement cooperative measures for monitoring, control and surveillance.

The ongoing compliance review process is a provisional assessment conducted by the SPC, which is staffed in Pohnpei. The review consists of a) Member-submitted information regarding data provisions that are required; b) Annual data to be submitted by each member; c) Review against longline catch and purse sein effort limits; d) Observer requirements; e) VMS implementation; f) Transshipment requirements or prohibitions; g) FAD closure record of fishing vessels; h) Entry and exit notifications for the Eastern high seas pockets; and i) Review of high seas boarding and inspection. The process is currently a three-and-a-half day process within the TCC meeting, held in a nonpublic forum. The Report of Compliance goes to the Commission for final adoption.

Another consideration at the 2016 TCC is longline high seas transshipment, which the Commission prohibited in 2009, but then provided an exemption for transshipment at sea that would otherwise be impracticable. The problem is 1,500 vessels are allowed to transship on the high seas because they consider it impracticable to go into port. Recently, SPC developed draft guidelines that would deem impracticability only to longline-caught products that are ice-chilled, or fresh fish, or ultra-low temperature frozen fish destined for sashimi markets, e.g., bigeye or bluefin. Other products not destined for sashimi markets would be prohibited from transshipment, such as frozen albacore, yellowfin, sharks and shark fins. An estimated 30 mt of

bigeye is transshipped on the high seas. The monitoring issue may be put forth to the Commission.

Transshipment of iced fish by the Hawai'i longline fishery would continue to be allowed, but currently is a rare occurrence. Regulations and permits requirements are in place for vessels that receive transshipped fish. Transshipment could increase in the future, especially as the fleet may be forced to fish in more distant grounds as a result of the monument expansion.

Data gap issues continue. Operational level data are an important component of the evaluation and monitoring of national catches. Submission of operational data has improved for some Asian distant water fleets, including Japanese, Korean and Chinese. Chinese Taipei still does not provide operational data; Indonesia and the Philippines have substantial data issues.

The Convention requires a 5 percent minimum longline observer coverage level, which was agreed to 16 years ago. The measure in place became effective a few years ago. Several fleets are not meeting this requirement. The Hawai'i and American Samoa longline fishery are well above the 5 percent level.

Standards for the submission of electronic-generated data are being developed by an ER and EM Working Group and will be forwarded to the Commission for adoption at the upcoming meeting. The standards are partially consistent with what is being considered for the Hawai'i longline fleet; participation should continue as it could affect future operations in the longline fishery.

Among the proposals discussed at TCC was a US proposal on observer safety. The United States received several comments on the proposal. It is not clear whether it will be tabled at the meeting in December. It is important to ensure that the fishing industry is not unduly burdened by circumstances that are not necessarily real cases of observer safety.

The Commission is looking to further advance harvest strategies within the Commission, including the identification of management objectives and levels of acceptable risk for breaching limit reference points and the timeline for rebuilding bigeye above its limit reference point. The Australia delegation has put forward a proposal to the Commission for adoption of interim levels of risk associated with limit reference points.

The Commission chair has put forward a bridging measure for the tropical tuna measure expiring at the end of 2017. It includes a combination of harvest strategy objectives and a list of management options. Member feedback was provided, such as concerns about including South Pacific albacore. To date the tropical tuna measures have been applied to only skipjack, yellowfin and bigeye. There is also a concern that some of the harvest strategies, including acceptable levels of risk and rebuilding time frames, are inconsistent with the MSA.

The WCPFC meeting will be held in December in Nadi, Fiji.

4. Permanent Advisory Committee to the US Delegation to the Western and Central Pacific Fisheries Commission

Goto reported that the Permanent Advisory Committee (PAC) met in Honolulu at the Ala Moana Hotel. The PAC advises the five US commissioners to the WCPFC on issues to be addressed at the annual meeting. The PAC deliberated on many issues, including compliance monitoring, transshipment and the tropical tuna measure, resulting in 21 recommendations to the US Commissioners, which will be taken under advisement by the head of delegation, Russell Smith.

Kingma put forth some of the recommendations that were adopted by the PAC.

The United States has developed a draft tropical tuna measure. The PAC found that it lacked scientific explanation or rationale. The Council supported the development of the measure, though more is needed. There is also support for the development of the concept paper that included various management options, explanatory text and recommendations that the United States work with other members between now and the end of 2017 to gain support for the concepts and management options. A key piece of the US proposal included consideration of spatial longline limits, which has been recommended for five years and is important to be carried forward.

The PAC found that the United States should strongly oppose the exemption of the high seas FAD closure. Some countries are allowed to fish on the high seas with FADs with no exemptions in the last year of the CMM. It causes purse-seine vessels competing for certain flags to reflag or undergo chartering to those certain members. The balance is uneven, and the PAC recommended that the United States make some statements regarding evening the playing field.

At the December meeting, the Commission will ask members to record management objectives but will not be set to adopt them. There is discussion in PAC as to what recording means, and would that become the basis of the management measure or is it just simply listing management objectives. The PAC recommended the United States identify management objectives that are in line more with the Convention text and not necessarily with individual member's interest. This is an item to pay close attention to.

Time was spent discussing acceptable levels of risk for breaching limit reference points. Of worth noting is the limit reference points are more conservative than what is purported under domestic law and under MSA. It was felt there is room to be less conservative and put forward an acceptable level of risk that does not have to be low but more in the range of 20 to 50 percent, given the level of information. The PAC supported that the key tuna stocks and bigeye reference point be afforded a range of 20 to 50 percent level of acceptable risk. A minority of the PAC members disagreed and recommended lower risk levels.

The issue of adopting a rebuilding time frame for bigeye was discussed. Currently, the bigeye spawning biomass is below the limit reference point. Under the harvest strategy, one of the objectives is to rebuild that to above the limit reference point. Under MSA, if this were an overfished stock under the Council's management regime, the rebuilding timeframe would be 10

years. It is not overfished under the Council's control rules; nevertheless, the PAC recommended that the fishing mortality levels adopted by the Commission ensure that bigeye is rebuilt within 10 years above that limit reference point. Based on the 2015 conditions, best available information and the existing management measure with the various scenarios presented earlier, it is felt that the spawning stock will be above the limit reference point within 10 years.

There was also a recommendation about South Pacific albacore and concerns with the existing measure. The PAC also recommended recognizing the importance of the participation of the US Territories within the Commission, especially American Samoa and its dependence on tuna. The United States needs to advocate for the tuna fisheries based in American Samoa and ensure that the US Territories, including industry, participate as appropriate in the discussions within the WCPFC to represent their interests.

Simonds urged the Council members to review the recommendations.

5. Continuation of 90th Inter-American Tropical Tuna Commission Meeting

Dalzell reported that the 90th meeting of the IATTC was held in June and failed to achieve a consensus on a new resolution to replace C-13-01, which deals with tropical tunas. The 90th meeting is scheduled to resume in October. The US was seeking to increase its limits for vessels larger than 24 meters from 500 to 750 mt.

One of the problems discussed at length at the June meeting was about closing the purse-seine fishery and the duration of the closure periods. As reported in the Pelagic and International Standing Committee Report, the increase in purse-seine capacity has suggested that for the purse-seine fishing closure would have to be increased to 90 days to be effective, which is not something that would likely be acceptable to the purse-seining countries at IATTC.

Tosatto noted that he received an e-mail from Rini Ghosh, who was in attendance at IATTC, who said that there is nothing concrete to report yet and they are awaiting the plenary to reconvene. If anything more substantive arises, he would send information on. The IATTC meeting broke into two working groups, one focused on individual vessel quotas for purse seiners, one discussed FAD limits, and retrievals, amongst other items. There was no substantive discussion about longlining yet. There are proposals for increasing the vessel limit to 750 mt on the table, as well as a proposal to have the 62-day closure period apply to all gear types, including longliners. The most likely outcome is a rollover for another year with no change.

Rice said it appears an extra quota is needed because the fleet is being pushed more into the east, especially with the monument expansion.

K. Advisory Group Report and Recommendations

1. Advisory Panel

Judith Guthertz reported the AP pelagic and international fisheries recommendations:

Regarding the bigeye quota specification 2017, the American Samoa AP recommended that the limit for American Samoa be set at 3,000 mt with 2,000 mt transferrable.

Regarding the bigeye quota specification 2017, the CNMI AP recommended the Council explore the impacts of increasing the CNMI quota to 3,000 mt with 3,000 mt transferrable.

Regarding the bigeye quota specification 2017, the Guam AP recommended the Council select the status quo option, 2,000 mt with 1,000 mt transferrable.

Regarding the US Pacific tuna fishery, the American Samoa AP recognized the importance of US flag vessel tuna and recommended the Council assist in exploring a possible designation for tuna caught by those US flag vessels.

Regarding the Hawai'i longline fishery, the Hawai'i AP recommended the Council to look at changing the start date of the longline fishing year in order to ensure fish for the holiday season and to lessen the impact of any closures of the fishery.

2. Fishing Industry Advisory Committee

Joshua DeMello, Council staff, reported the Fishing Industry Advisory Committee (FIAC) has no pelagic and international fisheries recommendations.

3. Scientific and Statistical Committee

Daxboeck reported the SSC pelagic and international fisheries recommendations:

Regarding the SAFE Report development, the SSC advised that the SAFE Reports should be more concise and pertinent to the fishery, that they should not use regression lines in the figures and that they should include in the appendix tables of all available years of data. The SSC further noted that the SAFE Report should contain a section providing concise evaluation of the performance of the fishery with respect to the reference points and management measures.

Regarding the Hawai'i and American Samoa fisheries reports, the SSC recommended that PIFSC develop methods that both ensure data confidentiality while also presenting the bulk of the data that is non-confidential.

Regarding the WCPO spatial longline bigeye analysis, the SSC recommended that the boundary between Regions 2 and 4 used in the current tuna assessment models be realigned southward to better reflect stock structure, movements and fisheries. Further, the SSC recommended that Council staff prepare a supporting document on this recommendation to the regional administrator of PIRO and PIFSC representative to the SPC pre-assessment workshop.

Regarding the 2017 US Participating Territory bigeye tuna limits, if the Council chooses Option C, which allows for limits in excess of 2,000 mt for each Territory, the SSC

recommended that Council staff work with PIFSC to conduct a new analysis that evaluates the potential relative impact on fishing mortality and stock biomass reference points.

Regarding the impact of the ELAPS on American Samoa economy, the SSC recommended that a counterfactual study of the American Samoa economy using non-confidential macro-economic metrics, such as gross domestic product (GDP) or other available proxies, be undertaken with specific regard to the impacts of the ELAPS closure on the economy.

L. Standing Committee Recommendations

Rice reported that the Committee deliberated on all agenda items and deferred all recommendations to the whole Council.

M. Public Hearing

Henry Sesepasara, coordinator for the American Samoa Governor's Fisheries Task Force, offered a brief update on the status of the super alia project. The alia presently fishing are 25 to 28 feet long, double-hulled canoe-like fishing boats. The super alia is 45 to 48 feet long. Ueta Faasili, who was the liaison officer for the Council in American Samoa, developed a structured plan of the super alia, which was used to develop the detailed plans for the super alia with DOI and local funding. A contract was awarded in June. Once that plan is approved, the next step is the development of a contract for construction. The location of the vessel construction will depend on who is awarded the contract. The governor asked the task force to look for funds to complete the project.

The Manu'a Islands alia are not fishing. Since the earthquake and the tsunami in 2009, almost all of the damaged alia have not been repaired. Reports of the Manu'a Islands alia from the Council and Sesepasara were released and were almost identical. The governor instructed DMWR to come up with funds to start repairing the Manu'a alia. The American Samoa Shipyard has allocated a space for the alia repair.

American Samoa was involved with the transfer of bigeye tuna to the HLA in 2011 and 2012 by a previous administration. The current governor was unaware at the time of the transfer and was not involved in the 2013, 2014 and 2015 transfers. For 2016, the American Samoa Government has an agreement with HLA for transfer of tuna. The governor has instructed the Fisheries Task Force attorney to draw up an agreement for 2017 and 2018.

Simonds expressed appreciation for Sesepasara's update.

Sesepasara asked if there is a breakdown of the domestic longline catch taken between 12 miles and 50 miles available for use to brief the task force and the governor.

Dalzell said Bigelow's report contains the information and was forwarded.

Lutu-Sanchez said an American Samoa AP recommendation at a previous Council meeting was to define what indigenous means. She asked if the definition of indigenous is pending the outcome of LVPA litigation or is there a standard Council definition for indigenous.

Tucher said there is no definition of indigenous in the MSA. It is necessarily contextual, as was in the amendment for the noncommercial fishing in the three monuments. He deferred further comment until the American Samoa agenda item.

Simonds noted there is a Council definition of indigenous for Hawai'i.

N. Council Discussion and Action

Regarding the specification of 2017 Territory longline bigeye limits, the Council recommended the specification of 2017 US Participating Territory longline bigeye tuna limits at 2,000 mt per Territory, whereby up to 1,000 mt per Territory would be authorized to be allocated to US fishermen through specified fishing agreements as authorized under Amendment 7 to the Pelagic FEP. The Council also noted the Amendment 7 requirement to review and recommend Territory limits on an annual basis and thus the recommendation of the 2017 limits are without prejudice to the future catch limit recommendations in recognition of the fisheries development aspirations of the US Participating Territories.

Further, the Council deemed that regulations implementing the recommendation are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directed Council staff to work with NMFS to complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, the Council authorized the executive director and the chair to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The executive director and the chair were authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.

Lastly, and consistent with the Regional Operating Agreement, the Council directed staff to work with PIRO staff on the completion of the NEPA analysis and associated documentation required for the specification rulemaking process.

Moved by Goto; seconded by Duenas.

Motion passed, with abstention by Tosatto.

Regarding the Pelagic SAFE Report development, the Council directed the Pelagic Plan Team to ensure that the next draft of the SAFE Report a) Be more concise and pertinent to the fishery; b) Not use regression lines in the figures; c) Include in the appendix tables of all available years of data; d) Contain a section providing a concise evaluation of the performance of the fishery with respect to the reference points and

management measures; and e) Ensure that all National Standard 2 SAFE report requirements are included.

Moved by Goto; seconded by Duenas.

Motion passed, with abstention by Tosatto.

Regarding Hawai'i and American Samoa longline fisheries reports, the Council requested that PIFSC in future presentations include both annual and quarterly data points, maps (of effort, catch and CPUE) and clear indication where there are no data (i.e., real zeros or no fishery activity) versus time periods with no non-confidential data in the numerous data visualizations presented. The Council further requested PIFSC develop methods that both ensure data confidentiality and also present the bulk of data that is non-confidential.

Moved by Goto; seconded by Duenas.

Motion passed.

Regarding WCPO tuna stock assessments, the Council recommended that the boundary between Regions 2 and 4 used in the current tuna assessment models be realigned southward to better reflect stock structure, movements and fisheries. Further, the Council directed staff to work with PIFSC and other tuna scientists to prepare a supporting document on this recommendation to the regional administrator of PIRO and PIFSC representative to the SPC pre-assessment workshop.

Moved by Goto; seconded by Duenas.

Motion passed

Regarding the American Samoa LVPA, the Council requested that PIFSC provide information on catch and CPUE of troll vessels and continue analysis of economics in the American Samoa longline fishery.

Moved by Goto; seconded by Duenas.

Motion passed.

Regarding the impact of ELAPS on American Samoa economy, the Council recommended that a counterfactual study of the American Samoa economy, using non-confidential macroeconomic metrics, such as GDP or available proxies, be undertaken with specific regard to impacts of the ELAPS closure on the American Samoa economy as a whole. The Council further recommended that NMFS continue to develop rulemaking to address disproportionate impacts to the economy of American Samoa from high seas effort limits applicable to US purse-seine vessels.

Moved by Goto; seconded by Duenas.

Motion passed.

Regarding the next WCPFC tropical tuna measure, the Council recommended that NMFS continue to develop a draft tropical tuna conservation and management proposal

including spatial longline bigeye catch limits that take into account sub-regional exploitation rates. The Council further recommended that the US government, in consultation with the Council, prepare a concept paper on management alternatives for 2017 and beyond, taking into account the outcomes of WCPFC13, and to include explanatory text, scientific rationale and other information relevant to conservation and management options.

Moved by Goto; seconded by Duenas.

Motion passed

Regarding foreign crew issues in the Hawai‘i longline fishery, the Council encouraged NMFS, in its participation in the multiagency working groups examining fisheries labor issues, to request that the law and/or policy that prohibits foreign fishing crew from flying into Hawai‘i be reviewed as it appears allowing foreign crew to fly into Honolulu would facilitate monitoring and documentation by the Department of Homeland Security and eliminate impacts to Hawai‘i longline vessels from picking up contracted foreign crew in distant ports.

Moved by Goto; seconded by Duenas.

Motion passed.

Goto suggested an addition referring to the ability to fly foreign crew directly into the Honolulu Airport would serve to alleviate the hassle of having to travel that distance for owners and crew as it is now referencing the documentation.

Simonds pointed out that the wording ‘eliminate impacts to Hawai‘i longline vessels from picking up contracted foreign crew’ addressed that.

Goto said he was referring to the crew, themselves, but it may be repetitive.

Rice noted it works for both, the vessel and the crew.

Regarding factors that influence catch and fisheries performance in various Council-managed fisheries, the Council requested PIFSC provide similar analyses for other managed fisheries as presented by Polovina that include consideration of oceanographic conditions, size of fish, CPUE, catchability and other aspects of fisheries performance.

Moved by Goto; seconded by Duenas.

Motion passed.

Regarding the 2016 PAC meeting recommendations, the Council endorsed the recommendations from the PAC meeting that was held Oct. 6-7, 2016, and directed staff to write to the Secretary of Commerce, Secretary of State and US WCPFC Commissioners to convey support for these recommendations.

Moved by Goto; seconded by Duenas.
Motion passed, with abstentions by Goto and Tosatto.

Simonds suggested wording, the Council endorses instead of recommends.

Tosatto noted his abstention as he and Goto are members of the US Delegation.

Anderson pointed out there was mention of a recommendation regarding obtaining information on the impacts to the vessels by the establishment of the monument expansion.

Simonds said the monument recommendations would be addressed during the Program Planning and Research agenda item and acted upon in the Administrative Matters section.

VIII. Program Planning and Research

A. Expansion of Northwestern Hawaiian Islands Monument (Action Item)

1. Recommendations on Implementing Fishing Provisions of the Papahānaumokuākea Monument Expansion Proclamation

Kingma presented background information on the expansion of the Papahānaumokuākea MNM, which was originally designated by President George Bush. Seven members of the Hawaiian community sent a letter to President Obama in January requesting the expansion. The expansion equates to a 317 percent increase from the monument's existing size. As a result of the expansion and when regulations are promulgated, 61 percent of the US EEZ around the Hawai'i Archipelago will be closed to commercial fishing. The area closest to the MHI is the Longline Prohibited Area, which is approximately a 75-nautical mile closure around each of the islands. South of the prohibited zone is an area of protection for the insular false killer whale stock. If two false killer whale interactions are observed in the longline fishery in the EEZ, the entire false killer whale zone will also be closed to the Hawai'i longline fishery. If that were to occur, over 80 percent of the EEZ around the Hawai'i Archipelago would be closed to the Hawai'i longline fishery.

The Council submitted letters opposing the expansion. The opposition was based on general considerations including lack of conservation benefits to highly migratory species, low threats to the environment from existing activities and preexisting comprehensive management regulations, monitoring and enforcement. There are no scientific support for biomass spillover from the expansion area to the MHI; no evidence that the expansion area would enhance resiliency or provide any buffer against climate change impacts; and negative socioeconomic impacts to Hawai'i fisheries, seafood markets and seafood consumers today and into the future.

The Council noted calls for high seas closures pushed by environmental non-government organizations. The United Nations (UN) is currently negotiating the establishment of MPAs on the high seas. The IUCN just made a call for 30 percent of all ocean areas to be closed, including the high seas. With the expansion and high seas closures, the Hawai'i longline fishery and other fisheries will have little room to fish. Marine monuments have been established in the US Pacific Island region to an extent greater than any other region in the United States.

Information was provided indicating that the depth of the expansion area was on average over 15,000 feet deep. Pockets of biodiversity or deep-sea bed communities may be worthy of protection. The potential threats to deep-sea resources from fisheries have been precluded by the Council's prohibition on drift gillnets, tangle nets and bottom trawls. The existing longline fishery fishes the upper 400 meters of the water column and poses no threat to the benthic resources. Currently, 52 percent of US EEZ waters in the Western Pacific Region are closed or will be closed to commercial fishing.

In addition to the Council's first letter of opposition sent in April, opposition came from the Hawai'i State House of Representatives and local mayors. The Council on Environmental Quality (CEQ) held a series of meetings with the Council and federal agencies in May. CEQ met privately with the Council, fishermen, agencies and proponents and promised to return to hold additional public meetings.

On May 26, the Office of Hawaiian Affairs (OHA) voiced expansion support conditioned upon OHA receiving the designation of a fourth trustee. The Council Coordination Committee (CCC) in May developed a resolution opposing monument expansion with the Antiquities Act superseding the MSA and the congressional authorities provided therein.

In June, Senator Schatz outlined what became the actual designation and his support for expanding the monument west of 163°W.

The Council sent another letter to the President, which included a rebuttal to the Pew Puuhonua monument expansion supporting document. The rebuttal was reviewed by PIFSC. A third letter was sent to President Obama in August reflecting the Council's resolution from a teleconference meeting. A fourth letter was sent in August with two spatial options for the President to consider that would achieve what proponents were seeking through spatial options that would minimize impacts to the Hawai'i longline fishery. A week later, President Obama expanded the monument based on the Schatz proposal.

The decision was articulated in Proclamation 9478, the Papahānaumokuākea MNM expansion. It sets aside an area adjacent to the monument that would constitute the monument expansion. It appears there are two monuments because the Proclamation issued by Obama did not change any of the management regime articulated in Proclamations 8031 and 8112 issued by George Bush. This is a question to be posed to NMFS and DOI on whether or not there are two monuments or one monument and one management regime.

The Proclamation provides the Secretary of Commerce, working through NOAA in consultation with DOI, with the responsibility of management of species and activities, including fisheries, within the monument expansion area (MEA) under Magnuson and other applicable law. The Secretaries shall prepare a joint management plan within three years in consultation with the State of Hawai'i and shall promulgate implementing regulations, as necessary. The Proclamation also prohibited commercial fishing or anchoring on any living or dead coral. It outlined activities that may be authorized, approved and regulated, including native Hawaiian practices: exercise of traditional, customary, cultural, subsistence, spiritual and religious practices within the MEA; and noncommercial fishing, provided that the fish harvested, either in

whole or in part, cannot enter commerce through sale, barter or trade and that the resource is managed sustainably.

The Council received a letter on Sept. 23, 2016, from Tosatto requesting the Council to amend the Hawai'i and Pelagic FEPs to establish appropriate fishing requirements under the MSA to include prohibition on commercial fishing and the regulations for noncommercial fishing. Obama saying management of the resources should be taken under MSA immediately invoked Council's management authority provided under MSA. This is a similar process that occurred with the designation of the PRI, Rose Atoll and Marianas Trench MNMs in 2009, whereby the Council went through a regulatory development process to recommend both a prohibition on commercial fishing and also the regulations associated with noncommercial fishing, recreational for hire fishing, traditional indigenous fishing, etc.

DeMello reported that staff needs information in order to amend the FEPs and create regulations. Some of those items included the legal authorities, the responsibilities, who is responsible for the expanded area, what are the shared responsibilities and what are the issues regarding the native Hawaiian access portion of the Proclamation, among many other items. Staff is working with potential partners to collect the information, including the native Hawaiian partners and OHA as the new potential trustee, as well as the State, PIFSC, USFWS and Monument staff. The staff will begin collecting this information and addressing questions with the partners through the public scoping that could be used for NEPA purposes. It will be brought back to the Council in the form of options to amend the FEPs.

Rice noted the longliners adjusting where they fish could result in areas being taken from the rest of the Hawai'i fisheries. The expansion causes a problem for not only the longliners but also the recreational, small commercial boats and noncommercial boats in Hawai'i.

Simonds asked NMFS what stumbling blocks are foreseen for achieving the allowable activities and the native Hawaiian subsistence fishing.

Tosatto said the process will be complex. Native Hawaiian practices are a regulated activity, including traditional, customary, cultural, subsistence, spiritual and religious practices, that the Proclamation says Secretaries may permit if deemed appropriate. The word "fishing" is not there. Tosatto suggested the starting point is the argument that fishing is not included in the paragraph to implement. The Council would have to consider native Hawaiian fishing practices and potentially include that in the other regulated activity, which is noncommercial fishing, and interpret how those two fit together. Within the current monument, there are existing native Hawaiian permits. He recommended that the Council focus on the responsibility of fishing for the resources covered by the MSA. The clear path forward is to stick to native Hawaiian fishing practices and not cross into other areas.

Rice said NMFS needs to define native Hawaiian fishing and who is funding it. With Rice versus Cayetano, if the federal government provides funding, then you cannot exclude anyone from being native.

Tosatto agreed with Rice's comment, which is why it would be hard to consider a subsistence practice that was not fishing within the MEA, which has no emergent land. Other spiritual, religious, traditional, customary or cultural practices could occur that are not fishing related. There will be the rare occasion when management is needed for a singular activity, and it will be a complicating factor. If it is exclusionary, then it would have to be worked out going forward. His advice was to be as clear, transparent and focused as the Council can be.

Simonds noted the native Hawaiian group wants to fish.

Gourley said there were promises made multiple times that CNMI would be an equal co-manager to the Marianas Trench MNM, but it never happened. He found it interesting that OHA apparently has been promised to be a fourth trustee. He asked how it would work when it comes time to passing fishing regulations and co-management.

Tosatto said nothing in co-management is a problem until it's a problem. If done well, in a transparent and open process, it would not be a problem to include OHA as a fourth trustee.

Gourley said he was told by a USFWS representative that if the terms are not written in the Proclamation it is not relevant.

Simonds said the same situation applies here because it is not written in the Proclamation.

Gourley is concerned that people were promised something and that they are not going to get what they thought they were going to get. It is interesting that OHA would be coming in as a fourth trustee in an area that is entirely federal waters.

Tucher said neither the original Proclamation nor the Expansion Proclamation uses the word "trustee." "Trustee" does not appear anywhere in the MOA. It is mentioned in the regulations but not the Proclamation. That does not mean that additional parties cannot be included in regulations, in management plans or in MOAs. The Proclamation, which has the force and effect of law, merely identifies the two Secretaries in consultation with the State of Hawai'i. There can be additional roles at lower levels, but it is not in the Proclamation.

Anderson said his experience on the Monument Management Board (MMB), of which OHA is a member, are decisions on permits in Papahānaumokuākea are by consensus. From a practical standpoint, if MMB members disagree, the matter is elevated to the executive board. The intention is that OHA will be represented at the executive board level, which does not exist now. Currently, the DOI, DOC and the State of Hawai'i make up the executive board. The Proclamation would add OHA. If it works the way it works in the old monument, OHA would participate on issues on which the MMB could not agree, but OHA is already represented on the MMB, along with the DLNR Hawai'i and other agencies. This is a different situation where the State is not an equal partner in the Proclamation. They have three years to figure it out during development of the management plan, and it will probably take that long. It is a very difficult and complicated situation. The MMB is struggling with this issue right now as they consider what they want to recommend as far as managing the MEA.

Simonds said that it says they are only to consult with the State of Hawai‘i. It is all federal water, and she understands why it is written that way.

Tosatto said the Secretaries addressed the elevation and roles for OHA after the fact for both the existing monument and the MEA. He encouraged the Council to focus on developing fishing regulations in a step-wise fashion. Initially, it would be to gather appropriate recommendations and seek input from the stakeholders. Let the problems become problems when they are problems and do not force them onto the situation by trying to fret how to engage with OHA. Invite OHA to the table. Take its input into the deliberations. The MSA process is being followed to get a recommendation. How that recommendation is acted upon by the agency in consultation with partners is when OHA comes into play.

Rice said the CEQ visit seemed to be an appearance to show they made the effort to talk with the community.

Gourley agreed. The same thing happened in the Marianas; it was simply checking off boxes.

Lutu-Sanchez agreed that it was the same with the Rose Atoll MNM.

Simonds said Rose Atoll was overlaid crooked on the Council’s closure. It should have been put exactly on the Council’s closure. She noted that all of the monuments have been based on the Council’s closures. There was a loss of several hundred thousand dollars’ worth of fish, and the American Samoa Government should have asked the federal government for compensation for that loss.

Sensui said it is unfortunate that fishery management decisions are being based upon popular opinion and not upon good vetted science, as it is supposed to be as proscribed by the MSA. He would like to see that change on state and federal levels.

Simonds said the federal government, no matter what the Antiquities Act says, could go out and do NEPA, which the Council and others asked them to do. Just because it is not in the Antiquities Act does not mean that they are not allowed to seek public knowledge and comments. Legislation is not needed to do it.

2. Economic Impact of Lost Exclusive Economic Zone Fishing Grounds

Minling Pan, from PIFSC, presented information on behalf of Justin Hospital on recent catch and effort in the NWHI and the potential for direct and indirect economic impacts to the fishery. The NWHI used to be defined by 121°W. The area associated with the monument is 133°W, which equals 2.7 percent less area. 9.2 percent of the total longline catch is taken from area, which represents 10.8 percent of the catch for the shallow-set fishery and 6.7 percent for the deep-set fishery. Total pelagic landings equal 2.48 million pounds. Total effort in terms of total number of hooks set by the shallow-set fishery equals 11.6 percent as an annual average and 6.5 percent of the deep-set effort from 2010 to 2015. There is a general declining trend. The catch is comprised predominantly of yellowfin, swordfish and striped marlin.

The potential total direct revenue lost from the NWHI is \$7.84 million as the annual average from the period of 2010 to 2015. Indirect losses from shore-side services to the fleet include fuel, gear, supplies and dry dock services. In 2015, the direct loss was \$6 million. The indirect loss was approximately \$9 million. The household income was estimated to be \$4 million. It was estimated that 75 jobs would be lost with \$0.5 million in tax revenue. These direct and indirect losses reflect the upper bound of the estimates of the impact, assuming that the vessels are not going to the NWHI and are not able to make up their catch from other areas. Even if the fleet moves to other areas to make up part of the catch, fishing costs could be increased.

The Economics Monitoring Program can continue to estimate or monitor the future trends of the fishing costs. Data are available from the Hawai'i longline trip cost data collection program since 2004. From 2010 to 2014, the average deep-set trip cost was about \$27,000 and for shallow-set, \$53,000. Trip costs rise as distance traveled to fish increases.

The longline economic performance can also be monitored with data from 2002 to present to measure the annual active vessels, total number of trips and total catch and revenue. A similar approach used to evaluate the ELAPS estimation of economic impact can be used for the NWHI and the longline fishery. PIFSC can also develop some location choice models because humans are part of the ecosystem and their response can be modeled, which is essential to protecting the ecosystem. When the fishery location choice model is developed, it can predict the location of the effort or space to assess the economic impact of the fishermen and the fishery related to the closure.

The sociocultural impact for the closure needs to be considered including the quality and amount of the domestic market share that will be replaced with imports. With 61 percent of the EEZ designated as monuments, domestic seafood safety and seafood security needs to also be monitored.

Rice thanked Pan for saying that fishermen are part of the ecosystem.

Simonds thanked PIFSC for the reports needed for the management of the fisheries.

Anderson said the economic impacts associated with the closure are still uncertain. He appreciated the qualifications on that. He was not clear as to whether the results were looking at the NWHI as it is previously defined or the area that was excluded by the monument. It would be helpful to know how the numbers were generated. When DAR Hawai'i looked at non-longline commercial catch, the distinction made a huge difference in the economic impacts. He suggested that when presenting this information in the future to clarify which fishery is the subject of the presentation. He said the economic impacts associated with the closure may largely be made up by other boats going other places. He is interested in seeing what the net impacts are from the closure. Also, the recent Hepatitis A outbreak had nothing to do with the freshness of the product. It was an infectious disease that was probably a result of contamination at the source. Many other illnesses are associated with improper refrigeration, among other things.

Pan said the estimated impacts are based on the MEA.

Boggs clarified that most of the analysis was done on 161°W and is an approximation.

B. Marine Recreational Information Program Strategic Planning Workshop Update

Marlowe Sabater, Council staff, provided an update on the ongoing strategic planning efforts of the Marine Recreational Information Program (MRIP). The strategic planning started when Sen. Rubio called for a subcommittee meeting of Oceans, Atmosphere, Fisheries and Coast Guard to foster improvements and innovations in fisheries management through improving data collection on noncommercial fisheries. The Government Accountability Office was tasked with reviewing recreational fisheries management. In its report, one recommendation was to develop a strategic plan for MRIP. NOAA Headquarters concurred and started the strategic planning process, which will also expand upon the existing MRIP implementation planning efforts.

The first planning session in May via webinar defined the ground rules of the strategic planning process and the different stages of development. Sabater represented Simonds on the executive steering committee in July 2016 in Baltimore, which addressed the different components of the strategic plan. In late October, a meeting will review the strategic directions of the plan and develop an X-matrix to rate the different tactics against longer term objectives. Two teams were formed out of the steering committee to brainstorm and develop different strategies and tactics that will be part of that plan. By January, the final plan would be submitted to Headquarters.

The national strategic plan is under development concurrently with the Pacific Islands Regional Implementation Plan. A small working group is being formed to develop the Regional Implementation Plan, comprised of Council staff, representatives from MRIP Headquarters, Hongguang Ma and Stefanie Dukes from PIFSC, Andrew Torres from PIRO and Tom Ogawa from DAR Hawai‘i.

The National Academy of Sciences will be releasing its report in December. It will once again review the MRIP Program, looking into the technical details of the implementation of recreational fisheries data collection and analysis and the MRIP program itself.

C. Council Coral Reef Conservation Program, Fiscal Year 2017 through 2019 Project Proposals

DeMello reported that since 2001, the NOAA Coral Reef Conservation Program (CRCP) has provided funds to the regional fishery management councils to amend the coral reef fishery management plans. The Council has applied for and received funding since that time. Previous projects included life history information, fishery archeology and anthropology and development of the Coral Reef Ecosystem Fishery Management Plan. Since then, the Council is moving towards filling gaps in fish life history data, as well as ecosystem research.

There currently is an opportunity to propose program priorities, ranging from ecological to ecosystem-based information. The current proposal themes include projects that build capacity

in coral reef fishery science and management, including stock assessment models and projects to assist in collecting life history information and better inform the ACL specification process.

DeMello asked for Council member feedback after review of the list of projects. From there, projects will be drafted as proposals for submission for the three-year grant period. The list included piloting a bio-sampling program for Hawai‘i and other modeling availability for coral reef fishery production and examining community capacity to manage and monitor the communities’ fishery resources.

Simonds encouraged Council members to review the material and get back to DeMello with any projects that need to be added. The Territories, the State of Hawai‘i and the Council receive their own funding. The Council also assists the Territories and the State with projects.

DeMello said the next step is to put the proposals together and then meet with the Territory and State staff.

D. Updates on Marine National Monuments

1. National Marine Fisheries Service

Tosatto said incremental progress has been made in each monument with continued collaboration with the USFWS and, where relevant, the Territory governments. The MOA on the transfer of the submerged lands in CNMI was signed, which will facilitate the development of the management plan in the Marianas Trench MNM. The recent exploration by the *OKEANOS EXPLORER* provided new information about the status of monument resources.

Gourley asked if the draft management plan will be completed by the end of 2016.

Tosatto said a couple of complications need to be ironed out, such as political clearance of documents. He had no estimated completion date.

Gourley asked about the status of the Marianas MNM Visitors Center.

Tosatto said he had no information regarding a Visitors Center.

2. US Fish and Wildlife Service

This agenda item was deferred.

E. Report on International Union for Conservation of Nature World Conservation Congress

Asuka Ishizaki, Council staff, reported on the Council’s involvement in the IUCN World Conservation Congress, which was held in early September and for the first time in the United States. The Congress is held every four years. This year’s theme was Planet at the Crossroads. The Council recently became a member of the IUCN.

The Council's exhibit was open to the public for the entire duration of the event. Hawai'i and Pacific Island fisheries and the Council's sustainable management over the last 40 years were the themes of the exhibit. The Congress implemented a green policy and asked exhibitors to go paper-low, which encouraged the staff to be creative with more interactive and visual displays instead of paper handouts. The booth attracted many people and provided opportunities for conversation with IUCN delegates and the public on various topics, including the monument expansion.

The Council also participated in the forum component of the Congress, which included a number of high-level sessions, workshops, knowledge cafes and pavilion events. The Council worked with PIRO, the Hawai'i Seafood Council and Conservation International on a fish auction tour. Approximately 20 delegates attended the excursion, primarily from various non-governmental organizations and academia worldwide. The excursion included the typical tour inside the auction and dockside with a classroom session on bycatch mitigation measures and discussion.

The second half of the Congress consisted of the Member's Assembly. The Council voted on a number of issues that came on the floor. One of the main activities at the Member's Assembly was voting on conservation resolutions. A total of 99 motions were put forth in advance, 85 of which went to an electronic vote prior to the Assembly. The remainder went to a floor vote. Several urgent matters and six additional motions on IUCN governance were brought up on the floor as well.

The Congress also held contact groups on each of the floor-vote motions to discuss the motions and make amendments before the vote was taken. For example, one motion was to endorse the process underway at the UN to create a new Convention on activities, including fishing, occurring in areas beyond national jurisdiction. There was discussion on a motion to set the 30 percent MPA target and eventually making that 30 percent no take.

The Council voted consistent with Council policies and management on two-thirds of the matters, which were pertinent to Council activities, and abstained from a number of resolutions.

Gourley asked if all of the motions passed.

Ishizaki replied in the affirmative.

Gourley asked if the attendees were made aware of the motions beforehand.

Ishizaki replied in the affirmative. All 99 motions, including the floor-vote motions, went for an initial online discussion in May and June. All of the IUCN members had a chance to review them and provide input in advance. Several controversial motions got push-back from certain members. One of the hot topics was the ivory trade issue. In some of the contact groups and related discussions on the 30 percent MPA issue, several persons raised concern about the effectiveness of MPAs.

Sensui said he volunteered at the Council's booth at the IUCN. The people understood the Council's conversation role to ensure a sustainable fishery and protect the environment. From

that kind of outreach, people began to understand what fishermen are interested in and what the Council is trying to do.

F. Status of Aquaculture Programmatic Environmental Impact Statement

Kelly reported on the status of the Aquaculture Programmatic Environmental Impact Statement (PEIS). The objectives are to amend the five FEPs to include a permit and a reporting system required to operate any aquaculture system in the federal waters of the Western Pacific Region and to provide analysis of the environmental impacts that would allow for tiering of future projects. Kelly provided a brief review of the background of efforts to date by NOAA and the Council regarding aquaculture. The Notice of Intent was published in August, and the comment period is open until the last day of October. After review of the scoping comments, preliminary alternatives will be developed for Council consideration and input on the preliminary alternatives in December. The preliminary Draft PEIS is tentatively expected in March of 2017. The NEPA phase of the amendment process will offer several opportunities for public comment outside of the regular Council meetings. The Final PEIS is tentatively expected by early 2018.

NMFS has held a number of public scoping hearings. Recently PIRO hired an Aquaculture lead, Dave Nichols. Outreach has been conducted in various formats, such as through the Federal Register Notice of Intent, PIRO aquaculture website, e-mail list-serves and radio interviews and newspaper articles to inform the public.

The structures of the alternatives are based on existing plans and public comments and will meet the goals and objectives of the aquaculture policies of the Council and NOAA. Sufficient detail must be provided to allow analysis of potential projects but maintain the programmatic nature by establishing a framework for future tiering. To ensure the alternatives are accepted by both PIRO and the Council, seven or eight aspects were developed with consideration given to various Council actions and the Gulf of Mexico Aquaculture Fishery Management Plan.

Kelly stressed the importance of the Council and PIRO approving the alternatives because of the tight timeline. There may also be a presentation for an upcoming Fishers Forum. The FEPs will be amended according to the variations of how aquaculture will be managed in the different regions.

The Aquaculture America's Conference, an annual conference, will be held in Honolulu in 2020. Kelly suggested an aquaculture working group might be useful to help the process along as well as in the future when aquaculture is a practiced endeavor. He asked the Council members to consider the information and provide comments before the comment period ends as well as throughout the process.

Simonds noted her appreciation for the progress made to date. She encouraged the jurisdictions to publish notices in the free sections of newspapers.

Tosatto noted his appreciation of the progress, as well. He looked forward to it continuing in a thoughtful, transparent way. Aquaculture could become a much needed food source because of the increasing areas of the ocean being closed to fishing.

Rice asked if there are efforts to look at the positive effects of the deep-water aquaculture to the fisheries around that area.

Kelly said it was mentioned at the Kona meeting. Fishermen said they appreciate the FAD factor that's associated with aquaculture.

Rice agreed, noting that aquaculture works as a massive FAD and is better than the State FADs.

Anderson said Hawai'i has been promoting and permitting aquaculture facilities offshore for a long time. Hawai'i was the first state to do so, and it has been very successful. He encouraged using Hawai'i's experience. The difference between putting a cage out 2 miles or 4 miles is not great. He offered to share the State's experiences with permitting, monitoring and enforcement.

Kelly said he has the State of Hawai'i aquaculture regulations on his computer.

Goto said it would be useful to know what the quality of the products would be.

Anderson said the only place you can get moi is from aquaculture facilities. There is also a long experience in kahala, or kampachi, which are fish that are not competing with wild catch.

Sensui noted oysters are farmed as well.

Anderson said oysters and shrimp are growing at Moli'i fishpond at Kualoa with no competition with wild captures. There have been many different aquaculture species. The PEIS is talking about offshore aquaculture and cultivating pelagic species, primarily. He agreed with Goto's point that it is important to look at future impacts to the wild-caught industry and other issues.

Kelly said one interesting comment from the Kona meeting was the concern from a wild catch fisherman that an aquaculture facility can hold the fish and then dump it on the market whenever it chooses because the fish are not dead until they are pulled out of the water. The effect on prices will be incorporated into the socioeconomic analysis.

Goto agreed that there is definitely a dilution factor similar to foreign competition overtaking the market. Controls could potentially be put in place. It will be a big concern to more than one pelagic fisherman when the shift starts, whenever that happens.

Simonds said fish will need to be caught to feed the aquaculture fish.

DeMello said a member of the Kona community does not want people to catch the local sardines and herring or baitfish for aquaculture.

Tosatto said there are soy-based aquaculture food feeds and two projects in Hawai‘i for turning fish waste into fish protein.

Daxboeck said the canneries also use the waste for meal, of which most goes to aquaculture feed mills. The PEIS should consider the differences between farming and closed circuit offshore aquaculture. The kampachi farm uses onshore breeders in a closed cycle system, in contrast with the bluefin farms. In the Mediterranean, juvenile fish, like the southern bluefin tuna, are taken from the wild to be put in pens and fattened up.

G. Regional, National and International Outreach and Education

Sylvia Spalding, Council staff, reported that the monument expansion and the Associated Press article on the foreign crews in Hawai‘i led to more than two dozen calls from national and international media. The summer newsletter featuring the MNMs was mailed out electronically a week before the President made his announcement. The press copies were being enveloped and labeled for delivery when the announcement was made. The press copies were mailed out anyway.

The International Pacific Marine Educators Network biennial conference took place in Indonesia. The Council was very instrumental in creating the group, which is celebrating its tenth year. An online video was prepared for presentation at the conference. The conference theme was “Making a Splash.”

Council monographs were published on various topics, such as fisheries development projects. The Council’s 40 year report is being worked on, and is currently incorporating multiple outside reviewer comments.

Besides media requests, there were many requests from the public, especially during the third quarter. As far as sponsorships, besides sponsoring the International Pacific Marine Educators Network, the Council sponsored a collaboration between artists and scientists that was exhibited at the art museum in Honolulu in conjunction with the IUCN Conference in September.

The US Pacific Territories Fisheries Capacity-Building Scholarship program is sponsored by the Council jointly with NMFS and all of the fisheries departments and universities in the Territories. As a requirement of that program, scholarship recipient Faasalafa “Diana” Kitona from American Samoa completed her internship with the Council. Kitona analyzed climate change data and the American Samoa fishery performance in the 2015 Annual Report. After her internship ended, she was hired to do a similar analysis for the Guam and CNMI annual reports. The information shared during community workshops. Keena Leon Guerrero from CNMI completed her summer internship in 2015. In summer 2016, she worked with Gourley in CNMI on life history. Frank Villagomez is the first scholarship recipient to be a graduate student; he is from the CNMI and will study at the University of Guam in the spring of 2017. Carey Demapan, from CNMI began the current semester as a new undergraduate student at University of Hawai‘i (UH) at Hilo. Valentine Vaeoso, who is a recipient of the Council–American Samoa Coral Reef Advisory Group scholarship, which predates the current capacity-building scholarship, has

received the maximum three years of funding under that program but still has a few classes to go. Craig Severance, who is a retired UH at Hilo professor, is working with her.

H. Advisory Group Report and Recommendations

1. Advisory Panel

Gary Beals, Hawai'i AP chair, presented the AP's program planning and research recommendations:

Regarding the proposed CRCP priorities, themes and projects for 2017 to 2019, the American Samoa AP supported and endorsed the listed items; the CNMI AP endorsed the list of projects as presented by Council staff; the Guam AP endorsed the coral reef projects as proposed and encouraged staff to include projects on Guam sea cucumber survey and marine preserve effectiveness where applicable; and the Hawai'i AP supported the proposed coral reef projects with the caveat that the projects explicitly state what the projects are going to do with the data.

Regarding the MNM expansion and any potential future monument expansions, the American Samoa AP recommended NMFS conduct an economic impact study.

2. Social Science Planning Committee

Adam Ayers, from PIFSC, reported the Social Science Planning Committee (SSPC) program planning and research recommendations:

Regarding the SAFE Reports, the SSPC endorsed having the socioeconomic sections as stand-alone sections in the five SAFE Reports.

Regarding the SAFE Reports, the SSPC requested that Hospital review and provide a response on behalf of its members to Paul Callaghan's recommendations regarding the content and layout of the SAFE Reports' economic sections.

Regarding PIFSC Socioeconomics Program, the SSPC recommended the Council request the PIFSC Socioeconomics Program to undertake a rollout of the community snapshot tool when it is ready to the Council and PIRO staffs and other interested parties so that these groups know how to utilize the tool for policy analyses and other uses.

3. Scientific and Statistical Committee

Daxboeck reported the SSC program planning and research recommendations:

Regarding the monument expansion, the SSC recommended Council direct staff to work with PIFSC and State of Hawai'i in acquiring data regarding historic fishing activity in the expanded monument area. Further, the SSC recommended the Council consider the use of customary exchange as used in other monuments for providing subsistence/non-commercial fishing options in the expanded monument area.

Regarding the Coral Reef Conservation Program project proposals, the SSC endorsed the project ideas for full proposal development. The SSC recommended that prioritizing projects that would build capacity in the region.

I. Public Hearing

Robert Duerr emailed a comment regarding sports fishing in NWHI, voicing support for access to public lands and waters as sport fishing is a priority of the US Congress, as well as to have private contractors provide air transport into Midway with government-designed accommodations provided for fishermen. If government planes are flying, seats should be available to fishermen. Catch and release should be allowed throughout the NWHI on all species. Depending on results of stock assessments, catch should also be allowed with an allotment for take-away home consumption. If there are government-sponsored culling programs, sport fishermen should be the first to have access. Permitting should be streamlined and camping sites accommodated.

Simonds clarified that the SSC's recommendation regarding the Coral Reef Program was a proposal for more projects being directed toward capacity building.

Daxboeck replied in the affirmative.

Simonds noted it was included in the proposed recommendations and questioned whether it should be included.

Gourley asked Daxboeck to reread the recommendation.

Daxboeck read:

Regarding the Coral Reef Conservation Program project proposals, the SSC recommended prioritizing projects that would build capacity in the region. Any project that could build capacity in any of the areas should be prioritized for funding.

J. Council Discussion and Action

Regarding MRIP, the Council directed staff to work with representatives from PIFSC, PIRO, the State of Hawai'i and the Territories in developing the MRIP Regional Implementation Plan and Regional Transition Plan.

Moved by Rice; seconded by Duenas.

Motion passed.

Regarding the CRCP proposal solicitation, the Council endorsed the project ideas and directed staff to develop the full proposals and submit the package for CRCP review and funding. The Council further directed staff to prioritize projects that build capacity in the region.

Moved by Rice; seconded by Duenas.
Motion passed.

Regarding social science planning, the Council requested that the PIFSC Socioeconomics Program undertake a rollout of the “Community Snapshot Tool,” once available, to Council and PIRO staffs and other interested parties so that these groups know how to utilize the tool for policy analysis and other uses.

Moved by Rice; seconded by Duenas.
Motion passed.

Regarding aquaculture, the Council directed staff to provide comments on the aquaculture PEIS development to include the Council’s position included in its aquaculture policy.

Moved by Rice; seconded by Duenas.
Motion passed.

IX. Protected Species

A. Hawai‘i Longline False Killer Whale Project Updates

1. Depredation Mitigation Device Project

Dan Curran, from PIFSC, reported on a project entitled Testing the Commercial Viability and Practicality of a Catch Trigger Deterrence Device for Mitigating Marine Mammal Depredation in the Hawai‘i Deep-Set Longline Fishery. The principal investigators were Svein Fougner, David Itano and Derek Hamer. The rest of the team consisted of Ishizaki, Chris Stoehr, Bigelow and Leland Oldenburg, owner/operator of the Fishing Vessel *SEA HUNT*. The project originated from field trials conducted by Hamer in 2015 of a device called a pod in Australian and Fijian longline fisheries with the goal of minimizing false killer whale depredation events. In the field trials, there were 27 depredation events by false killer whales: 24 on control branch lines with no device and three on branch lines with the device.

The pod design consisted of a stainless steel chain to deter mammals from getting the fish. There were two major challenges with the device. It is heavily engineered and the lowest price point expected for manufacture is \$15 to \$20 per unit. It also requires an extra set of hands on deck during the deployment and haul phase.

HLA was awarded a Saltonstall-Kennedy (S-K) grant to encourage fishermen involvement to develop a cost-effective device. Fishermen developed a device that is integrated into the gear and deploys the chain when the fish bites. The redesigned device cost less and did not need an extra set of hands during the deployment and haul phase. Three alternative devices were developed for trials in the commercial longline fishery along with the pod. On one of the devices, a stainless steel chain was replaced with a wire leader that is currently used in the fishery.

Information was collected on catch by hook type, whether or not the device triggered and deployed, whether or not the device tangled in the branch line, depredation events, fish survival in terms of mortality at vessel retrieval and haul times by section type. The final report will reflect 69 sets, and the preliminary results include 59 sets from the first four trips. The results so far are promising and similar to the Australia results.

The preliminary results conclude that designing and deploying an effective alternative to the pod device that is relatively inexpensive and easy to construct and repair at sea is possible. It can be integrated into existing branch lines, and is also easy to remove. It does not need an extra fisherman on deck to deploy or retrieve and does not negatively affect catch rates, haul times or fish quality. The most recent design appears to function best in terms of handling ease. The device could be further simplified and improved with more research and testing.

Tosatto asked how the wire or chain works to deter the whale.

Curran said it is not documented whether the marine mammals can detect the metal. There is a longstanding history of mammals avoiding the stainless steel hooks in the fisheries. Gear is often retrieved with just a fish head that is severed right below the hook. One theory is whales can detect metal.

Tosatto asked if the results were conclusive that the devices deterred depredation.

Curran said the test did not try to address the depredation rates in the Hawai'i longline fishery because of the low rate of depredation as compared to the Australian and Fijian fisheries. Only one set and one haul back had marine mammal depredation evidence. Curran clarified that the study looked at the CPUE of the target catch for the fishery.

Tosatto said he understood the test did not address pelagic shark and rare events of marine mammal depredation.

Curran agreed the test did not address those topics.

Tosatto asked if there are plans to test for that depredation.

Curran said they hope to continue the research and streamline the device. Additional funding is needed to continue. There is no plan currently to do so. The S-K project will be ending soon. They are completing the final report and getting a paper published.

Simonds asked if a proposal has been submitted to move forward with the research.

Curran said he has not yet submitted a proposal.

Simonds asked the timing of the deadline for funding requests.

Curran said they tried several different funding sources before applying for the S-K grant. He hoped the results would improve success at acquiring funds other than S-K grant funding.

Tosatto suggested the Bycatch Reduction Program and other funding options.

Lutu-Sanchez looked forward to more projects from Curran's research.

2. Acoustic Monitoring of False Killer Whale Depredation

Allie Bayless, from PIFSC, reported on a project in collaboration with the Hawai'i longline fishery to better understand bait and catch depredation by false killer whales through acoustic monitoring. In Hawai'i, the longline fleet depredation of catch is most commonly attributed to false killer whales, results in financial loss for the fishermen and can result in serious injury and even death to the whales. Observations of the interactions are extremely rare, often happening at depth and at night. The hooks usually return with only heads left on the hook.

The project originated from the False Killer Whale Take Reduction Team, which discussed strategies for mitigation and bycatch and determined that any long-term solution for bycatch needed to address the issue of depredation. Observer Program data showed very few correlations between fishing parameters, such as gear, season and catch, and depredation events. The Team developed a list of research priorities to better understand patterns and mechanisms of depredation and bycatch.

The project's goal was to monitor the fishery. The acoustic signals produced by false killer whales are readily identifiable. Deployed acoustic recorders on longline gear can monitor vessel and gear sounds, false killer whale occurrence and false killer whale behavior around the gear, as well as identify potential acoustic cues that might attract animals to the gear.

The work was conducted in partnership and collaboration with HLA. Small, robust and easily handled acoustic recorders were developed for ease of movement on a fishing vessel and relatively easy and direct attachment to fishing gear. A saltwater switch was incorporated into it so no at-sea programming was necessary. As soon the recorder enters the water, recording begins, and, as soon as the recorder is placed on deck, recording ends. It has continuous broadband sampling so all species can be identified during fishing trips.

The project commenced in three phases. Initial testing addressed how the work would impact fishing activities and determined the best way to attach the instrument to the gear. The next phase was a series of chartered trips on a single fishing vessel, which required the PIRO observer to be trained to refurbish instruments while on a series of fishing trips. The idea was to discover where whales were detected within a set and how they moved through the gear by using multiple recorders across each given set. The third phase was to deploy single instruments on a voluntary basis across the fleet for a much broader sampling to determine whether some boats are noisier than others, if there are cues to depredation and if whales are detected on sets without depredation.

From the charter trips, 26 acoustic events were identified as false killer whale depredation. The false killer whale acoustic bouts were compared to the timing of fishing activity. False killer whale detections peaked during the haul of the gear, specifically during the beginning and middle of the haul. This suggested that the animals may be cuing in on some haul-

related acoustic cue to find and locate the gear. Also, false killer whale occurrence near the gear was much higher than suggested based on depredation rates alone.

Catch depredation during acoustically monitored trips averaged approximately 5 percent, similar to the average catch depredation rate from observed trips. By contrast, false killer whale detections with no reported depredation during the acoustically monitored trips were much higher, which suggested that false killer whales were potentially taking bait more often than catch.

Results also showed that false killer whale detections were moving towards the vessel during the soak and as soon as the haul began, they started moving away from the vessel. Data from the charter trips are in a manuscript that's in review with *Fisheries Research*.

Acoustic recorders are currently being deployed on a voluntary basis across the fleet. To date, more than 50 vessels have agreed to participate. In 2016, acoustic recorders have been deployed on many vessels across the fleet with data from all months except for portions of December and January. A total of 164 acoustically monitored sets have occurred on 20 different boats. Of these, 12 sets have shown classified false killer whale acoustic bouts of depredation and four of those 12 sets also showed signs of catch depredation.

Volunteer trips have the most false killer whale presence during the beginning and middle of the haul. At the end of each of the voluntary trips, feedback is provided to the fishermen in the form of a summary, which includes sets monitored, if any cetacean sounds were detected and whether they correlated to any events of depredation. Time/depth recorders have also been deployed on the gear.

In the future, gear and vessel sounds will be examined more closely to see if a haul-related cue may be attracting the animals. More vessels need to be recruited. Currently, two instruments are out. There needs to be comparisons of catch rates of sets with and without false killer whale detections to further explore the potential of bait depredation.

Tosatto asked how this would apply to preventing depredation.

Bayless said it is not known yet if there are any haul-related acoustic cues. It would be an evolving solution because false killer whales are intelligent mammals and would evolve to whatever is put forth. It is a tricky situation with no current solution available.

Duenas noted his appreciation for the information provided by the research, which will be useful for Guam fishermen who experience a high rate of depredation.

Rice said he knew for a fact that the mammals do know and pick certain boats.

B. Re-Consultation of the Hawai'i Deep-Set Longline Fishery

Dawn Golden, from PIRO PRD, provided an update on the Hawai'i deep-set longline fishery BiOp re-consultation under the ESA, noting that the current goal for completion is November. NMFS consulted on the deep-set BiOp in 2014. In 2015 the fishery exceeded the

Incidental Take Statement for green and loggerhead sea turtles. Subsequently, the fishery hit the trigger for olive ridley sea turtles. The re-consultation is on the green, olive ridley and loggerhead. However, the final rule came out for green sea turtles with six distinct populations segments in the Pacific. As a result, the agency is also consulting on the six different distinct population sections, as well.

Goto asked how many olive ridley interactions are in the most recent BiOp.

Golden said the Incidental Take Statement was for around 120 interactions over three years. In 2016, there have been 14 observed in a year with 20 percent observer coverage. The exact numbers will be in the BiOp when it comes out in November and will be passed on to the Council for review.

C. Rare Events Bycatch Workshop Update

Ishizaki provided a brief update in response to the Council's directive from the 163rd Council meeting for staff to review the approaches used to estimate anticipated sea turtle take in past BiOps and to consider future potential alternative approaches. The impetus of the request was the exceeding of the Incidental Take Statement to the BiOp shortly after it was issued. At the time, the levels of takes did not seem to be extremely high and could have been considered within the level of what would be expected from historical levels. Council staff has been working closely with PIRO PRD and the Sustainable Fisheries Division, PIFSC, the SSC and other external experts in efforts to bring everybody to the table to discuss how to move forward. The group will explore and evaluate a range of methodologies and statistical approaches both in the past and from other industry sectors to try to identify alternatives. The deep-set longline fishery, which has 20 percent observer coverage, will be the focus. There is much uncertainty in terms of extrapolating to the full fleet when performing expansion estimates.

The focus will also be on sea turtles because that is where most of the issues occur. Marine mammals are not currently a focus primarily because marine mammals are monitored differently under the MMPA and different requirements apply. For example, incidental take of marine mammals is counted when the interaction is determined to be a serious injury or mortality, whereas all turtle interactions are typically counted.

The workshop series started with a webinar on Sept. 14. The in-person meeting will take place in the Council Office next week. The webinar reviewed the past approaches and discussed alternative approaches. The upcoming meeting will include detailed discussion on the technicalities of model-based estimates and how uncertainties can be incorporated. Another planned topic is how to apply model-based estimates in the context of consultation or when the Council is looking at an action and analyzing the level of expected interactions in a NEPA document. An update will be provided at the March Council meeting.

D. Status of Marine Mammal Scientific Review Group Membership

Seki reported that the Scientific Review Group (SRG), which is the body of scientists established by the MMPA to provide primary science advice to NMFS and the USFWS on the

population status and related science for all marine mammal species. There are three SRGs: the Atlantic and Gulf of Mexico SRG, the Alaska SRG and Pacific SRG.

The three SRGs are currently going through a recruitment period. The Pacific SRG is taking nominations for 30 days, which began Sept. 29 and will end Oct 31. The solicitation calls for people with specific expertise in bycatch estimation, quantitative ecology, population dynamics, modeling and statistics, fishing gear techniques (particularly for Hawai‘i and Pacific Island fisheries), genetics and/or other methods to identify marine mammal population structure, passive acoustics, abundance estimation (especially distance sampling and mark-recapture methods) and southern sea otters. Expertise with fishing/gear techniques, particularly for Hawai‘i and Pacific Islands fisheries, was identified as the most pressing need and is also a recruitment focus.

In the 2015 nomination process, Tim Ragen was selected to fill the slot on the Pacific SRG. Since then, the review process has been modified. The new review process is for the entire 11-member Pacific SRG, which is split into three groups of three, four and four, corresponding to a three-year tenure for an individual member. In 2016, there will be three new members. Each year, the members being reviewed will be evaluated alongside the rest of the nominees and the best choice in terms of the overall composition of the team will go forward rather than the default to continue members without review, as has been the practice in the past.

In the gap analysis for the Pacific SRG, the expertise of the members up for review was considered, and identified expertise was included in the call for new members. Up for review in 2016 is Jim Harvey, a quantitative scientist; Kathy Ralls, with a specialty in population structure and genetics; and Mark Fraker, a southern sea otter expert. The nomination process is open, and nominations are encouraged.

Simonds asked what body or who chooses the members.

Seki said the group choosing members consists of Oleson, the PRD, and the chair of the SRG, among others. It will be vetted through the PIFSC directors.

E. Updates on Endangered Species Act and Marine Mammal Protection Act Actions

1. Humpback Whale Listing Final Rule

Golden provided updates on various ESA and MMPA actions.

Regarding corals, the listing came out in 2014 with no corals listed in Hawai‘i. Currently, PRD is working on critical habitat. It is considering areas within waters of American Samoa, Guam, CNMI and the Pacific Remote Island Areas (PRIAs) and looking at 4(d) Rules for take prohibitions for those corals that are threatened.

PRD is working with USFWS to come up with a green sea turtle critical habitat proposed rule, which is due out in 2017.

There was a not-warranted 12-month finding for the smooth hammerhead shark, which will not be listed. PRD is undertaking a status review for the white-tip shark, which was due in September and will be coming out in the near future.

The petition to list giant and reef manta rays received a positive 90-day finding in February and a negative 90-day finding for the Caribbean manta ray. A petition to list the Maui and Kona Reef mantas as distinct population segments (DPSs) had a negative 90-day finding published in June. The comment period on a status review for the giant and reef manta ray closed in April. The review is ongoing. There will be an update at the March Council meeting.

There was a positive 90-day finding to list the chambered nautilus published in August. The public comment period is open until Oct. 25. The chambered nautilus' range includes American Samoa, but there are no interactions in any of the fisheries that are managed.

There is a positive 90-day finding to list the Pacific bluefin tuna. The status review is ongoing. The public comment period is open until Dec. 12. PRD is seeking scientific information to help with the 12-month finding.

The petition to list 10 species of giant clams (eight *Tridacna* and two *Hippopus* spp.) under the ESA is awaiting a 90-day finding. At least five species are found within the Pacific Territories. The finding is due in November.

The Take Reduction Team has not had a meeting in 2016. The team, meeting by telephone recently, was given a slight update and discussed the upcoming recovery meeting. To date, three false killer whale interactions have been confirmed on the high seas and do not count toward the trigger to close the Southern Exclusion Zone.

Efforts are in the early stages of developing a proposed rule for the false killer whale critical habitat. The information gathered at the recovery planning workshop will be used to assist with that process to identify the threats and habitat requirements.

Regarding the false killer whale recovery plan, there will be no recovery team. The plan will be developed in-house and composed of three independent parts. First is the species status assessment, which will be updated as necessary with new information and can also be used as a five-year review as required under the ESA. Second will be the recovery criteria, actions and estimates of time and cost. The third, if necessary, will be an implementation strategy, which is not required. The entire document will be peer reviewed and go out for public comment. A workshop is planned for Oct. 25 to 28 at the Ohana East Hotel to develop the in-house recovery plan. It will focus on controlling high and medium threats. The PRD is seeking information, facts and perspectives and trying to gather all of the information available. A range of disciplines will be invited to the meeting, which will be open to the public. Public comment will be taken at the end of each day. The workshop will cover threats related to fisheries interactions in the longline and non-longline fisheries; threats related to nutrition, such as reduced prey, size in biomass, changes in prey distribution and competition with fisheries; and threats related to noise and contaminants.

The final rule to separate humpback whales into 14 different DPS was published in September. The Hawai'i and Oceania DPSs are no longer listed under the ESA. The West North Pacific DPS will be listed as endangered because it has only about 1,000 whales, which is below the level that signifies the population is not at risk. They are rare, with no signs of recovery in some parts of their former range, which are the coastal waters of Korea. Some information indicates increases in some areas but not consistently throughout their range. Fishing gear entanglement is high and is likely to affect the abundance and growth rates, as well as other threats in the area, including energy development, competition with fisheries, whaling and vessel collisions. These threats were determined to be higher than most of the other areas and are expected to increase.

The humpback whale approach rule under the MMPA was published at the same time the Hawai'i DPS was delisted. The approach rule that was promulgated under the ESA no longer exists because the humpback was delisted. Public comments are being taken until Nov. 7.

The protections for Hawai'i spinner dolphins to prevent disturbance proposed rule is ongoing. The new regulations aim to clarify and prohibit human activities that result in take of Hawai'i spinner dolphins under the MMPA, including harassment and disturbance. By reducing the chronic disturbance to Hawai'i spinner dolphins, the rule will hopefully prevent long-term negative impacts to local spinner dolphin populations and protect the sustainability of the populations for everyone to enjoy. The rule addresses all swim with dolphin boats that chase pods and dump swimmers on them, an activity that has increased in popularity over the last several years. The rule prohibits swimming with dolphins and approach within 50 yards. It applies to all forms of swimming with and approach in the water and by air. It includes approach by interception, which is going in the path or leap frogging of the dolphins, anticipating where they're going and then putting the vessel in their path. It applies to waters within 2 nautical miles of the MHI and in designated waters between Lana'i, Maui and Kaho'olawe. The regulations exempt vessels and swimmers who are already there and are approached by the dolphins, provided no effort is made to engage or pursue the dolphins. Additional exemptions include transiting to or from the port, when the space is inadequate to allow for safe navigation in restricted channels, when safety of a person or vessel is at stake and activities authorized by permit and government operations, when necessary. The comment period is open until Oct. 23. Six hearings have been held around the state: two on the Big Island, one on Maui, one on Kaua'i and two on O'ahu. In 2017, it is anticipated that the Final EIS, Record of Decision and the Final Rule will be published. Regulations will go into effect 30 days after publication.

The List of Fisheries proposed rule published in August. Only minor changes are proposed to revise the listed species injured or killed in the Hawai'i deep- and shallow-set longline fisheries and update the number of participants. The rule and the fact sheets are online.

Tosatto asked if the USFWS green turtle critical habitat is a single joint rule or two rules.

Golden clarified that it is one rule.

Ochavillo asked about the listing process for the giant clam, *Tridacna derasa*, which is an introduced species in American Samoa.

Golden did not know the answer to the question. She suggested submitting records for the species during the public comment period.

Gourley said he was surprised to see giant clams being considered for an ESA listing, as they are easy to culture and are sold throughout Micronesia.

Simonds agreed. She recalled a project where clams were spread throughout Pacific islands by helicopter.

Golden encouraged records of any activity to be submitted during the public comment period to be considered during the review.

Simonds said Ray Clarke from PIRO should have those reports.

Rice said the bluefin ESA listing puts US fishermen at a disadvantage with the rest of the international community. He added that spinner dolphins and swimming with manta rays attract a lot of tourism dollars and will be a big controversy with the Kona community.

Golden said an ESA listing does not automatically mean those activities will stop. If the species are listed and the activity is a threat to them, it would have to be addressed. Many things will have to be addressed before the process gets to that point.

Simonds asked when would be an appropriate time for the Council to request NMFS to look into removing the Southern Exclusion Zone under the Take Reduction Plan.

Tosatto said the method to effect change would be to engage the Take Reduction Team, which is the advisor to the Take Reduction Plan. Either through the team or the Council, request a review of where takes occur, the current nature of the fishery and the historical level of takes in those areas, among other topics. The Team was justified in stating that a couple of years are needed to measure the plan's effectiveness.

Dalzell asked if it is a conflict of interest for Dr. Meadows, from the Office of Protected Resources in Silver Spring, Md., to petition to list a species under the ESA. He agreed that giant clams are found throughout the Pacific Islands.

Golden said anyone is allowed to petition to list a species at any time.

Anderson asked how the effectiveness of the spinner dolphin proposed rule will be monitored and why the 2-mile boundary was chosen.

Golden deferred to Jean Higgins, from PIRO PRD.

Higgins said monitoring effectiveness is part of the plan that will be worked through during the upcoming year. Public comments are being received, and it is too early to know how to monitor the effectiveness of the nascent plan. With regards to the 2-mile boundary, the areas considered are where spinner dolphins are most likely found during the daytime. They come near

shore throughout the day and move up and down the coastal areas and into certain bays to rest. Information existed to include the area between Maui, Lana'i and Kaho'olawe s in the zone.

Rice asked what enforcement will be provided.

Higgins said it is enforced under the MMPA through OLE and DOCARE Hawai'i.

Anderson said the State of Hawai'i already raised the issue of enforcement.

2. False Killer Whale Take Reduction Team

This agenda item was covered in a prior presentation.

3. Insular False Killer Whale Recovery Planning

This agenda item was covered in a prior presentation.

4. Other Actions

This agenda item was covered in a prior presentation.

F. Advisory Group Report and Recommendations

1. Advisory Panel

There were no AP recommendations for protected species.

2. Scientific and Statistical Committee

Daxboeck reported that he SSC had no protected species recommendations, but it was encouraged by the productive collaboration between PIFSC and the local fishing industry on the depredation mitigation devices and looked forward to the analysis contained in the final results.

G. Public Comment

There was no public comment.

H. Council Discussion and Action

Regarding the Hawai'i longline fishery depredation mitigation device project, the Council directed staff to work with the HLA and PIFSC to explore follow-up activities that may be implemented in the Hawai'i longline fishery.

Moved by Goto; seconded by Duenas.

Motion passed.

Regarding the Marine Mammal SRG, the Council requested NMFS to prioritize filling the fishery expertise on the Pacific SRG during the current membership review process.

Moved by Goto; seconded by Duenas.
Motion passed.

Regarding critical habitat designations for ESA-listed green turtles and coral species, **the Council requested PIRO to provide a detailed presentation at the March 2017 Council meeting on critical habitat, with respect to its purpose and impacts to various activities.**

Moved by Goto; seconded by Duenas.
Motion passed.

Regarding ESA listing petition for Pacific bluefin tuna, **the Council directed staff to send a letter to NMFS responding to the 90-day finding, including issues identified at the 168th Meeting.**

Moved by Goto; seconded by Duenas.
Motion passed.

Regarding the ESA listing petition for giant clams, **the Council recommended that NMFS evaluate the status of giant clam populations across their geographic range and not just in the US Pacific Islands if NMFS determines in its 90-day finding that the petition may be warranted and it moves forward with a status review.**

Moved by Goto; seconded by Duenas.
Motion passed.

Simonds asked about the basis for a 90-day finding.

Tosatto said the agency determines whether the petition presents information warranting a review based on records held by the agency. The bar for a status review is reasonably low.

Public Comment on Non-Agenda Items

No public comments were offered.

X. Hawai'i Archipelago and Pacific Remote Island Areas

A. Moku Pepa

1. Hawai'i Coral Reef Bleaching Plan

Anderson reported on the State of Hawai'i Coral Reef Bleaching Plan. The state suffered its worst coral bleaching in 2014 and 2015. More than 80 percent of the reefs in West Hawai'i were bleached and 50 percent ended dying; 20 percent of coral reefs in Maui also suffered from bleaching with 20 percent dying. DLNR Hawai'i determined that the state needed to take a more proactive role than just monitoring the death of the reefs so a team was formed with the responsibility of looking at coral bleaching actions undertaken worldwide that may be applicable in Hawai'i. Team members included representatives from the UH, DAR Hawai'i, The Nature

Conservancy and other organizations. The group was asked to identify the most effective management strategies to promote coral recovery following a mass bleaching event.

Coral bleaching is the result of warming ocean waters and is not something that man can do much about it at a local level. But there are things man can do to help reefs recover after a bleaching event and possibly make the coral more resilient.

Experts worldwide were surveyed and a literature review was conducted. Managers and scientists from Hawai'i were brought together for a workshop at Pier 38. Questionnaires were sent to about 140 experts all over the world through Survey Monkey asking for their input. The experts had to be a lead author of a paper; they could have also participated in a coral bleaching workshop.

The surveys uncovered bleaching strategies that were effectively used in some areas. Networks of MPAs were often identified as an effective management tool. Restricting the take of herbivores, parrotfish for example, is another possible strategy. Preventing people from damaging the reefs was another strategy. Also often considered were aquaculture techniques or placing coral in areas where they would hopefully grow. Land-based sources of pollution are well known coral stressors in many places that receive polluted runoff. There are various eradication techniques. Crown of thorns was thought to contribute to the demise of reefs in some places.

The experts were asked to rank the management strategies from not effective to very effective in their particular areas. The management strategies were scored based on ecological effectiveness. The five most ecologically effective management strategies as ranked by experts around the world were listed as follows: 1) Reduce sediment stress on coral reefs by implementing additional land-based mitigation in adjacent water lens. 2) Reduce nutrient and chemical stressors from the same sources. 3) Establish a network of permanent fully protected areas. 4) Enhance marine enforcement efforts to ensure effectiveness of rules relating to coral reef protection, and that would include fishing restrictions. 5) Establish a network of permanent herbivore fishery management areas to protect the herbivores.

Ironically, restricting aquarium collection was listed as least effective, which was the potential stressor that sparked the State's effort to develop the bleaching management plan. Scientists on the Big Island and others where aquarium fish collection is popular agree. Their opinion is that the aquarium fishery is well managed and the small fish that are collected for aquariums are not significant in terms of removing algae and maintaining the health of the reefs.

Second on that list of least effective management measures was eliminating the crown of thorns. Crown of thorns go through a natural cycle that controls itself, and their elimination is not considered an effective strategy to protect reefs.

Another question posed was, if nothing is done, would the reef recover and is the natural rate of recovery sufficient? If it is not sufficient, then there are a whole series of intervening actions, which range from creation of MPAs to the reduction of human activities. In some situations, there is no recovery and active management of the area is necessary, which may include replacing dead corals through coral propagation and transport of coral fragments onto

healthy reefs. There are strategies that might be effective, but so far most of them have been failures. No anchor zones in various areas have been created. Moorings help to keep the anchors from dragging along corals and causing damage. They have successfully transplanted fragments of coral in other places, like the Philippines. Corals in Hawai‘i, as many of the corals in the Northern Pacific area, grow very slowly, at about one centimeter a year. Corals in other places grow much more quickly, and transplantation might be a better strategy. It has been tried and it has worked in some situations.

There was a brief discussion on Hawai‘i’s efforts in Kane‘ohe Bay with the Super Sucker to collect algae, used for compost. After algae are removed, sea urchins, grown in a nursery, are planted on the reefs to keep the algae from growing back in those areas. Hundreds of thousands of sea urchins have been planted on the reefs.

The statewide management recommendations for Hawai‘i were listed, and the top recommendation was to establish a network of permanent, fully protected, no-take MPAs. There are others that relate to dealing with polluted runoff, but it is practically impossible to divert storm drains to create artificial wetlands and otherwise try to reduce the amount of polluted runoff into an area.

The need to better manage the herbivores, basically the reef fish that are eating algae, was also listed, which is probably where the State will focus its efforts in the near future. Night scuba spearfishing has been identified as a major problem from the standpoint of taking large numbers of reef fish, primarily uhu (parrotfish), which sleep at night and can easily be speared. The indiscriminate use of lay gillnets was also on the list. Hawai‘i is the only state in the country that still allows monofilament lay nets; the nets are commonly used in recreational or commercial use nearshore. Every fish that swims into those nets die. Even if the fish are released, the net damages their gills and they die. Night spearfishing, particularly with scuba, eliminating the take of uhu and getting rid of the lay gillnets were considered very important.

Duenas asked which of the three recommendations were of highest priority.

Anderson said protecting the herbivores would be the highest priority because the other two are much harder to accomplish. Banning night scuba spearing, getting rid of the lay gillnets and putting a bag limit on parrotfish would be appropriate. For internal discussion purposes, two fish per person per day has been mentioned. Parrotfish are particularly important for reefs because they are considered scrapers and excavators and eat algae in the coral. In the process of digging out the algae they leave a denuded surface, which is important as habitat where the new coral polyps settle. There is no need to close well managed fisheries. The experts rated MPAs as important, but more work is needed to determine if and where they are needed.

Duenas said increased effort is occurring throughout the Pacific to save herbivores, which take care of the reef. He cautioned to conduct the appropriate research as parrotfish and surgeonfish will not eat all of the algae that are on the reef. That it may be one of the reasons Hawai‘i uses the Super Sucker to manually remove algae.

Anderson said an herbivore protection area on Maui has tried to select the important herbivores. The preliminary results show a difference between the areas where the herbivores are protected and where they are not protected. It seems that the suite of herbivores selected to be protected seems to be somewhat effective, but time will tell. He emphasized that it is important to monitor any new regulations or policies that are put in place to ensure the efforts are accomplishing what is intended.

Ochavillo said the herbivore hypothesis came from the Caribbean experience. The hypothesis was that the herbivore was declining in the Caribbean because of overfishing. They are now trying to reassess and believe land-based sources of pollution are causing the coral reef decline. He said it is good that there is an experiment planned to test the hypothesis. He asked Anderson to elaborate on one of the least effective strategies, the eradication of crown of thorns.

Anderson said, in many other parts of the world, crown of thorns appear to go through a natural cycle. They eventually die off, and the numbers will go down to a much lower number.

Simonds asked what the monitoring revealed about the effectiveness of the gillnet prohibitions on Maui and other parts of Hawai‘i and if there are plans for prohibition throughout the chain.

Anderson said nobody knows. In some areas nets are banned. In other areas the length is limited or the nets required to be registered. An experiment has been ongoing for 10 years in Waimanalo Bay where the use of nets is allowed, and adjacent to that, the Kailua/Lanikai area where nets are not allowed. The results of transect and seine net surveys show that the abundance of fish is higher in the Kailua/Lanikai area than it is in Waimanalo.

Rice asked if West Hawai‘i could be tested as it has been closed for 10 years.

Anderson said the area has good baseline data and would be a nice place to look. West Hawai‘i is another area where nets are banned in the fish replenishment areas in different places along that shoreline. Nets are allowed in most of the bays. It might also be a good test area.

Sensui noted that akule fishing is done with gillnets and that kind of operation is carefully targeted with little bycatch. It is an important fishery and is sustainable even with the nets. Any banning of nets should be carefully considered.

Anderson said he spoke broadly. There will be exceptions for some types of netting. He did not see the netting of ‘opelu and some other fish as a problem. Paipai netting presents many opportunities for indiscriminate fishing and is problematic for enforcement. He reiterated that DLNR Hawai‘i will work with the Council and other agencies to ensure actions taken are reasonable while not allowing activities that are destructive or damaging.

Gourley said protection of herbivorous fish is an interesting management topic in the Mariana Archipelago. He was interested in seeing whether or not the measures are effective. The CNMI prohibits scuba spear, which creates a depth refuge, and gillnetting is not allowed. Herbivorous fish are an important component of the diet. They are fast-growing and can take the existing fishing effort. Blocking areas off doesn't address the real problem, i.e., fishing effort.

Anderson said DLNR Hawai‘i is not proposing to ban the take of herbivorous fish, though targeted effort on parrotfish might be appropriate. He looked forward to sharing experiences of the efforts.

Ebisui today there are no piles of seaweed along the beach like there used to be. The seaweed is vital for herbivores to reproduce and for babies to grow. Green sea turtles are abundant and now graze like sheep on whatever limu is left in the estuaries around Haleiwa, like Anahulu River. It is contributing to the erosion/sedimentation problem. There seems to be a tension between species that are being protected and conserved. There comes a point where they are over-protected and over-conserved, which throws the natural balance off. He supported continual monitoring to make sure the actions are effective.

Anderson agreed it is a challenge. He suspected the sugar industry contributed a lot of nutrients that benefited the algae growth. Things are changing, and it’s hard to comprehend the impacts of anthropogenic stresses. Recently, he swam two miles of the North Shore on O‘ahu and did not see one parrotfish, where 20 to 30 years ago one could see 50 to 100 fish.

Duenas said, in Belize, the second largest barrier reef in the world, he observed the population does not eat parrotfish as part of their diet and the sand stretches for miles and miles.

Sensui said the pineapple lands in Kunia were regraded for seed operations to minimize runoff. Now when it rains heavily, West Loch and Pearl Harbor do not turn red. Kunia is one of the terrestrial areas where the companies in control are working with the City and County of Honolulu and construction companies to minimize runoff.

Anderson said the DAR Hawai‘i encourages good land management practice. It does not have much authority over what happens on land, but it works with others to control sedimentation runoff. There’s no question that sedimentation, chemicals and other problems associated with runoff are impacting the reef significantly in many areas.

Sensui asked if the oyster experiment was effective in clarifying the water.

Anderson said, anecdotally, it did. Each oyster grown in Ali‘i Pond filtered 30 gallons of water a day. A contract was just entered into for putting oysters in Pearl Harbor to help clean water in that area. On the East Coast, Chesapeake Bay, Delaware Canal and other places, it is a viable mediation measure to restore those areas.

Goto reported that since the last Council meeting, the fishery in the WCPO has reopened. Effort is not to the level of 2015 and may be beginning to show a decline from the El Nino effect. The fishery is still in a transition period into the full flow of the entirety of the longline fleet. There is also a lot of effort in the east recently, which coincided with the closure.

Ebisui reported there was a good yellowfin season on the North Shore of O‘ahu with fish in the 180- to-200-pound range. Prices were also good. It’s been a good season, and the fishermen are starting to gear up for the bottomfish season.

Rice reported it has been a good summer. Honokohau Harbor now has pavement on the north side of the harbor thanks to the State. A security fence has been installed on the B Dock. He asked the State to check on the Sports Fish Restoration Fund to improve the harbor. Guam and Saipan received funding for their improvements and construction. The next item needed at Honokohau Harbor is electricity.

Daxboeck suggested that Honokohau would be a nice area to try filtering the water with oysters.

Rice said more floating docks are needed to accommodate more slips.

Anderson reported that the MMB issued four permits since July: a Conservation and Management Permit, a Special Ocean Use Permit and two research permits. As far as the MLCs, monitoring is conducted every two to three months, or at least two to three times a year. During the last few months eight of the 11 MLCs were surveyed to determine their effectiveness. The State is pursuing an artificial reef at Kalaeloa. An EA is needed to get a permit to establish the reef. In the last few months a couple of FADs were replaced. The Sport Fish Restoration Fund primarily supports the FAD Program with matching Dingell-Johnson funds. There were no funds available for a period of time for deployment. The state is now trying to replace them as best they can and is interested in getting feedback from fishermen.

Rice said the FADs need structure. None of the FADs worked until the fishermen put structures on the FADs. Once they put structures on the FADs, then they were productive.

Anderson will pass that information on to the biologist involved with FADs.

The commercial fishing license fees will increase in Hawai'i, in part, because the State is no longer able to charge a differential between resident and nonresidential fishing licenses after being sued because the differential was not justified. The current price is \$50 for everyone. The DLNR last month allowed DAR to hold public hearings to raise the cost of the commercial fishing license to \$100. The plan is that in the coming year the fee will be raised to \$150 to maintain operations and for the issuance of the permits. There are 3,400 commercial licenses issued. In the future he would like to be able to justify a differential between residents and nonresidents. The residents are paying taxes, and some of that money is going toward supporting commercial fishing. Nonresidents are not, which can help justify the differential. An economist is needed to run the numbers to help justify the differential.

Simonds asked any other states charge differently for commercial and recreational licenses.

Anderson said other states probably do. A freshwater license fee is much higher for a nonresident. There is a commerce clause that says everyone has the right to fish in other state waters. As a result, it is prejudicial against out-of-state people who fish unless there is a justifiable reason. California was sued, as well. Oregon has a differential but has not been challenged.

Simonds said, in the 1990s, the longliners were willing to pay \$500 for their permits to help pay for the program.

Anderson said there are no complaints for the charges so far. This applies to US residents. For non-US residents, there is not a problem with charging a differential.

Rice said a group is looking at charging fishing license fees for everyone that fishes.

Anderson said there is an effort to look at a noncommercial fishing license, which includes recreational and subsistence. It is a privilege to fish, and people need to recognize that. It is important to have resources available to do the monitoring, enforcement and everything else that should be done because Hawai'i does not have that revenue stream.

Rice said, in Mexico, everyone on the boat had to buy a fishing license. There are many different options and different prices.

Anderson expected a bill related to noncommercial fishing licenses, but it is not an administrative bill as the deadline has passed.

B. Legislative Report

This agenda item was presented in the prior agenda item.

C. Enforcement Issues

There were no enforcement issues to report.

D. Community Issues

1. Promise to Pae'aina

DeMello presented an update on the Promise to Pae'aina. In 2014, the Council signed on to the Promise to Pae'aina, which includes five commitments to the ocean to be accomplished before the Hokule'a returns in 2017. The main efforts have been directed to the Our Livelihood commitment. The three targets are to explore a stronger fisheries management framework, to strengthen fishpond restoration and to systemize marine monitoring.

With regard to exploring stronger fisheries management, the Council is looking at feasibility and options for developing a license registry or permit for noncommercial fishing. A legal analysis was completed, and an economic analysis is ongoing using models to explore the price of a license and expected revenue. The pros and cons of different options are being examined, ranging from a registry to a free license to a fee. The draft analysis is expected in the near future, with a final report due at the end of November, early December.

The strengthening fishpond restoration efforts provide a toolkit of fishpond information for planning the restoration, including insurance, leasing organization, permits, waivers and monitoring. The Council provided monitoring supplies through Malama Loko Ea in Hale'iwa.

The supplies are with KUA, which has been supporting the fishpond restoration by providing a baseline of the ponds for eventual monitoring. The Council also supported a fishpond observation log with Hale O Lono in Keaukaha on the Big Island. A website will be handed over to the group, as well as a hard copy log. The Council will be included in the fishpond toolkit.

Council staff has been working on a nearshore marine ecosystem framework with The Nature Conservancy, UH, PIFSC, the Castle Foundation and Conservation International to develop parameters for healthy versus unhealthy reefs and, by proxy, the nearshore ecosystem. Once the parameters are narrowed and the data are available, standard monitoring for nearshore ecosystems in the future will be created.

The Promise to Pae‘aina participated in the IUCN with an informational video and displays, which included the Council’s logo.

The Council plans to work on a framework for ecosystem health, to then transition to developing monitoring standards and to finalize the noncommercial options.

The Hōkūle‘a was delayed by Hurricane Matthew and is currently in Virginia.

2. Status of the Ohai Community Development Program Application

Tosatto reported that the Ohai Community Development Program (CDP) application was withdrawn. The initial proposal changed several times. The documents provided needed work. He reminded the Council that the CDP is not a simple granting of proposals; it is a serious endeavor that requires thorough analysis. There has been mean-spirited criticism about the progress on the proposals, but he stands behind the diligence undertaken with the project. The project was seeking an exemption using the CDP to participate in the longline fishery, and several impacts needed analysis. The applicants went in a different direction for their own business purposes. The project is now complete.

Sensui asked for clarification as to the goal of the project.

Tosatto said the Council passed an amendment to its FEPs that implemented a CDP allowing communities in the region to submit proposals for the benefit of the community that might otherwise not be allowable under the regulations. The Ohai family was looking to pursue a traditional longline operation using the tarred gear as an educational platform. Over time, the proposal took various forms. It sought relief from the permitting requirement; they were not a longline limited entry permit holder. With a series of changes over time, the analysis would have to address the impact of adding the extra boat into the fishery, among other things. They were looking to operate like a longliner without a permit and fish closer to the islands, among other things. It was a complex analysis. The program is still viable. Other communities can investigate and pursue proposals, and the agency will respond accordingly.

E. Report of the International Union for Conservation of Nature and Sustainable Hawai‘i Initiative

Anderson reported that the Council had a great presence at the conference. The State also had a display. He was pleased with the successful outcome.

F. Analysis of Hawai‘i Management Unit Species Catch for Possible Ecosystem Component Classification

Makaiau delivered a brief update on a project funded to assist the Council with management of coral reef-associated and other non-pelagic species. There is a 12-month contract with the contractor, HT Harvey and Associates, to look at the management unit species (MUS) included in the Hawai‘i FEP.

The basic function of the Council and the MSA is to prepare an FEP and plan amendments for each fishery under the Council’s jurisdiction that require conservation and management. Fishery means both stocks of fish or the fishing for such stocks of fish. If a stock is caught predominantly in federal waters and is subject to overfishing or is overfished or is likely to become subject to overfishing or approaching the condition of overfished, it required conservation and management. Beyond that, the Council has the authority to determine which stocks are in need of conservation and management.

Implementing guidelines for National Standards 1, 3 and 7 provide several social, biological and ecological considerations for the Council when deciding what to include in a fishery management plan. Once the Council identifies stocks to be managed, there are requirements, such as to specify the biological reference points, MSY and optimum yield and the criteria for determining when a stock is subject to overfishing or overfished. The requirements are data intensive for stock assessments to come up with MSY and optimum yield. ACLs and accountability measures are necessary to ensure the limits are not exceeded or to correct operational issues that may cause an overage.

Doing multiple stock assessments each year is difficult and takes time and resources. The Council’s five FEPs manage hundreds of stocks within each plan. Some stocks are appropriate for grouping into larger taxonomic classifications, either by family or by some trophic guild.

The project’s objective is to provide Councils with information to help refine the number of stocks in need of conservation and management. The focus is limited to the Hawai‘i Archipelago. Council staff is applying the approach to the other island areas. The goal is to focus federal resources and management actions on priority fisheries. The National Standard Guidelines provide that ecosystem component species are those that the Council determines do not require conservation and management but are kept in the plan for data collection purposes or for ecosystem considerations. The benefit is the ability to manage the species without specifying MSY-based reference points. The species are monitored to determine if they are in need of conservation and management.

A contractor was hired to review DAR Hawai‘i landing data for each bottomfish, crustacean, precious corals and coral reef species between 2004 and 2014. The contractor is summarizing the data for trends and variability for each individual stock with taxonomic classifications within the DAR Hawai‘i database. The proportion of catch from state waters and federal waters around each island area and cumulatively throughout the entire state, excluding the NWHI, is also being summarized. The contractor will provide suggestions for determining which stocks are in need of conservation and management based on the 10 factors provided in the National Standard Guidelines, including social, economic and ecological considerations. The options will be to roll into the ecosystem component classification or remove from the plan altogether. The potential outcome is the contractor will help identify whether any stocks require conservation and management, such as stocks that are subject to overfishing or overfished or are likely to become subject to overfishing or overfished. He will also develop a list of species to be considered for conservation and management or building it into the ecosystem component classification or removed from the plan.

The next step is the contractor will be reviewing the Council’s Archipelagic FEP reports, the Council’s fisheries statistics, which include revenue data, and DAR Hawai‘i commercial landing reports and other sources to evaluate against the 10 factors. The contractor will work with PIFSC, PIRO and Council staff and key individuals with knowledge about particular fish stocks and then circulate a draft report to key individuals for review, with a final report delivery at the March SSC and Council meetings.

G. Report of the Main Hawaiian Islands Deep Seven Bottomfish Workshops

Seki reported that external reviewers rejected the 2014 bottomfish stock assessment, finding it unsuited for management purposes. The data used for the assessment were updated at the end of 2013.

PIFSC staff took the lead in conducting workshops to improve the data for the 2018 assessment. They enlisted fishers who had made it clear that they wanted to be involved in the effort to draw the connections between the interpretation of catch and the estimates of abundance. The MHI Deep Seven Workshops aimed for an agreement on a dataset for use in the new assessment.

The first workshop was a one-day event that outlined the issues with catch, weight and CPUE data. The second workshop continued to outline the data that were of concern in CPUE determination. The third workshop addressed filtering methods for catch. The goal of the fourth workshop, conducted in August, was to decide on filtering methods for calculating a nominal CPUE. The participants looked at which data records from DAR Hawai‘i should be considered bottomfish records; this entailed understanding the meaning of a single operating day that targets bottomfish and determining which units of effort to use over time. They also considered which data are most representative of CPUE trends over time as far as effort or longevity and quality. By the end of Workshop 4, they agreed upon a filtering scheme for CPUE. The fifth workshop is planned for November to look at filtering methods for weight. Attendees will be made up of representation from PIFSC, PIRO, DAR Hawai‘i and the Council’s SSC as well as six regular-

attending fishermen, who have been invaluable to the process. Seki expressed his appreciation for their participation and taking the time to help.

Because the assessment is due in early 2018, the 2017 calendar year will be used to complete the assessment itself. A data workshop report will be published and made public in early 2017. It will describe the discussion and decision points and serve as the guide for the stock assessment program to select data to use in the 2018 assessment.

H. Updates on the Hawai'i Marine Recreational Fishing Survey Data Collection Improvement Project

DeMello updated the Council members on the State's pilot project being conducted and funded through MRIP. Project collaborators included MRIP, PIFSC, PIRO, the State and the Council. The project included a roving survey, a mail survey, an aerial survey and weighing potential survey alternatives to improve the collection of shoreline fishing effort information. The project was conducted during 2015 on O'ahu.

The objective was to compare the three surveys to the original Hawai'i Marine Recreational Fishing Survey (HMRFS) survey that was occurring at the same time. A current limitation of the HMRFS survey is that because it's an angler intercept survey, the shoreline interviews are limited to specific sites and interviews cannot be conducted until the fishing trip is completed. The Coastal Household Telephone Survey is a random digit-dial process that calls landline phones, which problematic today because fewer households have landlines. The calls are also placed at inconvenient times when people are less likely to participate in a survey.

The roving survey was conducted from January to April, the mail survey from January to February and the aerial survey from February to April. The result of the surveys showed that the rod and reel was the dominant gear type used, followed by spear and hand pole.

When the roving survey was used, the number of mean interviews per assignment almost tripled. In January the rovers completed 2.41 interviews while HMRFS only completed 0.95. The roving survey advantages are better gear counts, eliminating recall bias and avoiding sampling incomplete fishing trips. The major disadvantages are the inability to sample remote or private access areas, traffic and accessibility complications and the difficulties, dangers and expense of night sampling.

The aerial survey used similar spotter planes to those used in the akule study. They could not do aerial surveys over Pearl Harbor or the Marine Base, Ka'ena or Laie Points. The coverage is during the same time period as the roving surveys. It has the advantages of sampling remote areas and private access areas and the images are geo-spatially referenced. Major disadvantages are the length of time to complete the data analysis, the effect of weather on photographic quality, decreased availability of sampling and inability to see certain gear types.

For the mail survey, rod and reel was the dominant gear type. A high percentage, almost one-third, of the fishing occurs at night in private areas, which is a gap that needs to be accounted for. The mail survey had a 25 percent response rate. The mail survey has its

advantages for covering the private restricted areas for night fishing. It is also cost-effective. The disadvantages are the information is dependent on the fishers' recall months later and a nonresponse bias because people may not want to send it in and those who do may not have fished.

The recommendations are to implement a rolling catch and effort survey for shoreline fishing with a complementary mail survey to cover gaps and then incorporate time block sampling to minimize survey error. Currently, the HMRFS and PIFSC are working on finishing a report on the pilot private boat catch survey. Council staff continues to work on the MRIP Regional Implementation Plan.

I. Updates on State of Hawai'i Research and Monitoring

This agenda item was deferred.

J. Biomass and Spatial Distribution of *Selar crumenophthalmus* from Aerial Surveys in O'ahu

John Wiley, a recent graduate from the Master of Marine Science Program at Hawai'i Pacific University, was contracted to estimate akule abundance around O'ahu using aerial spotters. The project, started back in November of 2015 to run through the end of October, followed up on a pilot study conducted in 2014 that evaluated the viability of using aerial spotters to estimate abundance. The study used standardized methods.

Akule, commonly known as bigeye scad, or *Selar crumenophthalmus*, are called halalu up to a length of 8.7 inches. The coastal pelagic species is distributed in the tropics worldwide. Adult fish in Hawai'i typically school in large numbers around the island in the morning after feeding at night. The adult fish have been shown to rarely venture offshore according to tagging studies and fishermen testimony. The akule fishery is the most productive insular fishery in Hawai'i, accounting for almost half of the catch and biomass.

The study seeks to use a fishery-independent means to estimate abundance. The fishery index used some advantages over the more traditional CPUE-based estimates. CPUE estimates might be subject to saturation because of hold capacities of the boats or catch limits, market demand or processing capabilities. The aerial surveys are able to report all observed biomass. It has been shown that CPUE can be maintained by actual decreases in abundance, which is especially true for coastal pelagic species, such as akule.

Aerial spotters have been widely used for large animals that are often near the surface, such as whales, dolphins, turtles and sharks. This study was modeled on some work conducted in California on species ecologically similar to akule, such as jack mackerel, Pacific mackerel, Pacific bonito, sardines and northern anchovy.

The spotter pilot used had a background in the fishery to help spot for the fishing vessels. His expertise and experience was utilized to locate schools and estimate the biomass. Using one spotter pilot eliminates multiple observer bias. Small, single-engine planes were used to circle the entire island and flew at an average of 1,000 feet, depending on air traffic or other issues.

When a school was spotted, the pilot would typically fly in a tight circle around the school to provide opportunity for photos to be taken and determine an estimation of biomass and life stage. The goal of 10 flights per month was determined based on a power analysis that was used in the pilot study in 2014 and the practicality of flying that often. Two to three flights were randomly assigned for each week to ensure it is spread out throughout the month. The tracks were downloaded and put into software from an onboard GPS unit.

Waianae Harbor, around the Kahe power plant and Makaha were top spots for spotting schools of akule. They often have “U” shapes or are uniform in their movement. Depths or colors were used to estimate biomass. Maps illustrated the location and size of schools corresponding with seasonal cycles. From November to December, 142 schools were spotted with 48,000 pounds per trip. Schools were highly concentrated all along the western coastline, ‘Ewa and the Kailua/Waimanalo area. The mid-season map from February through April had 182 schools sighted over 30 trips with an average of 53,000 pounds per trip, which amounted to an 8 percent increase. The schools were concentrated along the western coast, with schools spotted in the Kane‘ohe area and along the northern area. The peak season had a total of 298 schools over 30 trips and resulted in an increase of 27 percent in total pounds per trip with a 72,000 pound average, with more on the northern shore of the island. Collections are ongoing for October.

After a brief explanation of calculation for index values and fishing grids, measurement samples were illustrated. Bycatch were typically low amounts of 15 to 20 pounds, with only one to two fish of the most common species: o‘io, papio and lai. More biomass was found on the west side and southern shore. The north and east were relatively similar. On the western shoreline, there was a very distinct temporal pattern. The lowest values were found in the beginning months, from November to January, which increased into the middle and peak seasons, either stabilizing or increasing to the end. The actual observed biomass showed the same seasonal cycle from the beginning to the peak season and then tapering at the end of the season. The historical commercial annual catch from 1949 to 2014 also showed a similar trend.

Future work includes finishing the collection of data through October, comparing results with the commercial catch data and spatial/temporal CPUE trends with index values, and writing a manuscript for publication.

Duenas asked if the schools migrate or are a resident population.

Wiley replied that they are not known to move offshore and will often be seen in the same spot on a daily basis.

Sensui asked for Wiley’s personal impression of the fishing operation and amount of fish.

Wiley said the whole operation was impressive and very smooth. The pilot’s guidance was spot-on. It was Wiley’s first introduction to akule.

Sensui said people observing from shore assume fishermen net the entire school. This is an inaccurate myth that some are trying to dispel. It is a good example of a sustainable fishery.

Goto asked if any aku schools were spotted during the flights.

Wiley replied in the negative.

Goto noted that, in the aku fishery days, spotters would be used during aku runs. He suggested a future study including aku could be helpful to revive the fishery.

Rice said he has seen schools move offshore on the Kona coast out to 500 fathoms.

Wiley noted that information is not in the literature.

Rice said coolers are filled when a school comes under his vessel when fishing for tuna with lights at a depth of 500 to 600 fathoms.

Wiley noted that the species feed at night.

Rice said ‘opelu is caught in the same manner. FADs with structure also attract ‘opelu.

K. Education and Outreach Initiatives

Spalding reported that Council staff participated in *First Friday*, which is an ‘Olelo Community Television program. The episode focused on MNMs and their effect on fisheries. Six press releases were published since the June Council meeting. One press release was on the passing of Congressman Mark Takai, who was very supportive of the fishing industry and appeared in the Council’s *From Boat to Plate* video created for the 40th anniversary of the MSA. Four of the press releases addressed the monument expansion; one referred to the recent 124th SSC meeting. Council staff also put in an opinion piece in the *Honolulu Civil Beat* in response to its article questioning Council participation in the IUCN.

The Council received media requests throughout the Hawai‘i Archipelago from the Big Island to Kaua‘i on a variety of topics, including the bigeye closure, tuna quotas, the monument expansion, the Aquaculture PEIS, the foreign crews on the Hawai‘i longline fishery and other topics. The Council had an informational table at the Hawai‘i Chamber of Commerce annual meeting, which had 800 attendees. There was much support expressed for the fishing industry at a time when the monument expansion was still under discussion. The Council also had an exhibit at the IUCN, which was covered earlier by Ishizaki.

As far as public requests, the East West Center asked for staff to meet with one of their visitors from the Republic of China. The Hawai‘i Department of Transportation has asked several times over the past years for resource materials for its workshops. A Maui hotel requested copies of the Fishermen’s Code of Conduct in English, Hawaiian, Korean and Japanese to post on its properties. The Council has received ever-expanding requests to translate the Fishermen’s Code of Conduct into various languages because of its universal appeal.

L. Advisory Group Report and Recommendations

1. Advisory Panel

Beals presented the AP Hawai‘i Archipelago recommendations as follows:

Regarding family changes, the AP recommended that Shyla Moon replace Roy Sokolowski, who resigned for from the Hawai‘i AP for personal reasons.

2. Scientific and Statistical Committee

Daxboeck reported the Scientific and Statistical Committee Hawai‘i Archipelago recommendations as follows:

Regarding the update on the HMRFS data collection improvement project, the SSC recommended that the MRIP Implementation Team in coordination with PIFSC and DAR Hawai‘i provide educational outreach to fishermen in the various sectors to improve their understanding of accurate and complete catch reports.

M. Public Comment

No public comment was offered.

N. Council Discussion and Action

Regarding the HMRFS, the Council recommended the formation of a **Fishery Data Collection and Research Committee–Technical Committee** subgroup that would oversee the incorporation of the HMRFS-MRIP pilot projects and results into the **MRIP Implementation Plan**.

Moved by Rice; seconded by Goto.
Motion passed.

Regarding the ecosystem component reclassification analysis, the Council requested NMFS **PIRO to provide a copy of the final report of the Hawai‘i ecosystem component analysis for the Council’s consideration in developing the options for the ecosystem component amendment.**

Moved by Seman; seconded by Rice.
Motion passed.

Regarding the akule aerial spotter surveys, the Council directed staff to develop a proposal for the **NMFS Cooperative Research Program** for the validation of the aerial survey estimates through multiple observers, experimental fishing and acoustic surveys.

Moved by Rice; seconded by Goto.
Motion passed.

Regarding the State of Hawai‘i Sport Fish Restoration Program, the Council requested the **State of Hawai‘i provide a report at the next Council meeting on projects implemented under the Boating Infrastructure and Boating Access Grants under the USFWS Sport Fish Restoration Program.**

*Moved by Rice; seconded by Seman.
Motion passed.*

XI. American Samoa Archipelago

A. Motu Lipoti

Ochavillo reported activities during the last quarter for the DMWR Fisheries, Enforcement, Boating Access and Education and Information Divisions.

Nearshore fisheries include subsistence, spearfish, gleaning, rod-and-reel and throw-net. Bottomfish fishing is conducted by alia boats. The nearshore pelagic fisheries include alia vessels conducting longline fishing and trolling. Sport fish trolling is conducted mainly by the Pago Pago Game Fishing Association.

Data are provided by commercial receipt book collection and boat inventories. The catch recorded by the shore-based creel survey for the previous quarter included octopus, blue-banded surgeonfish and red-lipped parrotfish. Octopus is caught by gleaning. Surgeonfish and parrotfish were caught mainly by spearfish fishing. Last quarter's catch was more than 4,000 pounds. Boat-based creel survey catch from the bottomfish fishery species consisted of gray jobfish, snapper, and humpback snapper, and totaled over 5,000 pounds. The assemblage is shallow-water bottomfish. Spearfish catch is predominantly parrotfish and surgeonfish. The spiny lobster is also an important fishery in American Samoa. Nearshore pelagic fisheries by alia longline vessels cannot be reported because only one boat reports. The combined catch for alia longline and trolling is more than 3,000 pounds of albacore and 3,500 pounds of yellowfin tuna. Skipjack, mahimahi, wahoo and other pelagic fish are the main catch for the alia troll fishery. The catch from the commercial invoice data is basically spearfishing, totaling more than 5,000 pounds. The imported fish is mainly from Samoa. The boat-based creel catch revealed that mixed bottomfish fishing and trolling is the number one fishing gear, as well as spearfish fishing. For the sports fish creel survey from the Game Fishing Association, mahimahi was the number one catch for the last quarter, followed by yellowfin and skipjack tuna.

The MPA Program staff this past quarter has conducted community visits with the villages to discuss current issues. The Village Management Plans are being revised. Staff is in the process of developing village profiles and conducting MPA evaluations. The Leone Wetlands Restoration Grant provides funds to rehabilitate a village impacted by the 2009 tsunami. Two major activities are cleaning the mangrove and creating a coral nursery in front of the village. They grow coral fragments in the nursery for transplant to the areas degraded by the tsunami.

Currently, there is no Section 7 consultation covering DMWR's Sport Fish Restoration Program so all in-water activities are suspended.

Technical guidance staff attended the regular WCPFC SC meeting in Bali. Staff also attended the International Coral Reef Symposium in Honolulu, the Coral Reef Task Force meeting in Saipan and Guam, the IUCN Conservation Congress, climate change workshops and the FAD expert meeting hosted by SPC.

Staff is developing the latest version of the State Wildlife Action Plan, an organic document that's the basis of funding. A small project was developed for the Invasive Species Program of the DOI. Staff regularly attends the Project Certification Review System, which reviews coastal development projects in American Samoa, among other things.

The Coral Reef Advisory Group under the Fisheries Division is implementing several projects. One project observes nutrient dynamics in Vatia, one of the villages experiencing high nutrient loads in its coastal waters. DMWR also partners with the EPA on the Ridge to Reef Project, which integrates water quality and coral reef monitoring in American Samoa.

DMWR has worked with NOAA to develop the American Samoa report card, a product targeting policymakers. There is a marine debris island-wide cleanup. Work is ongoing with high school students on reef check methods and rain garden installations.

The Enforcement Division conducted activities in stores and roadside inspections, land and sea patrols, monitoring, and commercial fishing fleet and airport inspections. They boarded 53 foreign-flagged vessels. Some of the vessels were in violation of the Port State Measures. There was enforcement training for State Port Measures, an agreement under the UN Food and Agriculture Organization which entered into force this summer.

The Boating Access Division performs regular cleanups of ramps and maintenance of floating docks, marinas and boat access ramps.

For education and outreach, the annual fishing camp for kids was held. Staff conducted regular presentations in high schools and attended fishermen meetings. It also helped organize the Local Fisherman Day that was conducted in September. The DMWR and DOC initiative to support local fishermen is ongoing and will be held the first and third week of each month.

Regarding the American Samoa Disaster Relief Fund, the permit for the Fagatogo floating docks has been received. DMWR is working with the shipyard for the boat repair of alias and has obtained supplies and equipment, such as floodlights, a generator, floating dock parts and an ice machine. The ramp cannot be built within the harbor under the Harbor Master Plan. Work is ongoing on an amendment to do a repair of the Pago Pago ramp instead. A budget amendment is being prepared for Scott Bloom, PIRO, to review due to changes in the Disaster Relief Fund expenditure. The Pago Pago ramp is in need of repair. A slide was shown, depicting how the money was spent.

The Department is preparing for the palolo, which is culturally important worm.

Duenas asked if traps or nets are allowed to catch lobster.

Ochavillo said lobster is mainly harvested by spear. Nets or traps are not allowed.

Simonds thanked Ochavillo for the written Disaster Relief report.

Duenas asked for more information as to the Explosive Fishing Zone.

Ochavillo said the zone is near the airport and often hard to fish due to rough conditions.

B. Fono Report

Ilaoa reported that the Access Bill for Fisheries passed the House in early September. American Samoan Congresswoman Amata Radewagen is co-sponsoring the bill with US Rep. Don Young (AK).

The 34th Legislature just wrapped up. One bill dealt with land-based sources of pollution. It overhauled the Keep American Samoa Beautiful Act to make it more effective by empowering the village system to write citations for violators.

Gov. Moliga signed two immigration bills. The first one reduced the number required for quorum of the Immigration Board. There have been a number of hearings that were forced to be rescheduled due to lack of a quorum. The other bill doubles the number of foreigners granted permanent resident status every year. This addresses a rather large backlog of applicants.

Simonds asked the status of the Radewagen bill now that it passed the House.

Ilaoa said he heard that it was expected to pass after Congress returns to session.

Simonds said Sen. Schatz and others introduced a similar bill on the Senate side, which contained differences.

C. Enforcement Issues

This agenda item was presented in the prior presentation.

D. Community Activities and Issues

1. Report of the Pacific Islands Regional Planning Body Initiatives

Tosatto reported that the Pacific Islands Regional Planning Body was put together under Obama's National Ocean Policy, which outlined a coastal and marine spatial planning framework. Eight regions were tasked with having their Regional Planning Bodies create a coastal and marine spatial plan. Tosatto serves as NOAA's representative and the federal co-lead. Work on coastal marine and spatial planning in the region with no federal funding is ongoing. PIRO received a grant from the Gordon and Betty Moore Foundation and solicited the Udall Foundation for funds to assist with stakeholder engagement. Progress has been slow through the years. With a new administration coming in soon, the future of coastal and marine planning is uncertain. The National Ocean Policy is a policy of the Obama Administration. The Regional Planning Body will stay on track until they receive further instructions.

Since the last meeting, the focus has been to develop a sub-regional plan for American Samoa as the model for developing other sub-regional plans. American Samoa, the Pacific Remote Islands, the Marianas and Hawai'i are the four sub-regions. An Ocean Planning Team for the Territory was formed with federal governmental and nongovernmental participants. It has

met a couple of times with Ilaoa as interim chair. The Ocean Planning Team has done a good job making progress.

Government participation has been a struggle in American Samoa, as it has waxed and waned. Some departments are not coming to the table with the in-house government resources in a helpful way. It is a task that the Territorial government is taking on like the federal government, without resources. The planning team has met a couple of times and continues to make progress.

Efforts are underway to finalize a project to bring the Udall Foundation to American Samoa to engage the stakeholders in the communities in the planning process. Some of the participants in the process are new Council members and may have additions to the report.

A data team for the Regional Planning Body was convened. The data team will pull the best available information together for decision-making. The group is also tasked with developing options for spatially oriented the sub-regional plans.

Soliai voiced his appreciation for the importance given to the different sub-regions because, although the Territories are similar, they are also all very different.

Ilaoa reported that the Local Fisherman Day was held by the DMWR with the DOC. The goal was to assist the local non-longline fishermen in making the public aware that fresh fish is available to purchase from alia fisheries and other inshore fishermen. The event was held in response to the need of small-boat fishermen to have support from the government in selling seafood and informing the public about their fishery.

The DOC has gone through three operators so far at the Fagatogo market. A proposal request is out. The local longline association put in a bid but then rescinded its offer after it was asked to pay nearly \$2,000 a month and take out a \$1.2 million policy. The market will now be operated by a new businessman from the community. The DOC will be working with local fishermen to provide the fish for the market soon. The market is currently closed.

The local Port Administration is planning to hold captain training in anticipation of the arrival of a new vessel that will service the Manu'a Islands. The *MV MANUA TELE* was constructed in Washington State by the Nichols Brothers Ship Builders. The 140-foot multipurpose cargo and passenger ferry has twin 850-horse Caterpillar 32 C engines and seats 120. It is due to arrive in late November. The \$13.6 million used to pay for the vessel was a combination of Capital Improvement Project Funds and \$5 million from a recent bond sale.

Gourley asked what species of clams are eaten in American Samoa.

Ochavillo replied *Tridacna derasa* (which was introduced), an occasional *T. squamosa*, but mostly *T. maxima*.

Gourley noted that the clams in the picture were *T. squamosa*.

Sensui asked if the Local Fishermen Day Event is an annual event and/or something new.

Ilaoa said it is new and will be held every first and third Friday of the month.

Lutu-Sanchez said American Samoa fishery development projects for which the Council has provided resources and assistance are still incomplete. It is important that questions continue to be asked and to find out what happened, for example with the Fagatogo Fish Market. There was a definite purpose for the fish market; it was set up originally to be run as a co-operative. It has evolved over time. It is important that it should still meet the original need, which is to have a market for the small boats and small fishermen who don't have time to market their catches on a daily basis or have the resources to hire an agent or somebody to go and sell their fish. She said she was unsure of the government's plans or whether the market will be available for all small-scale fishermen. Those are questions that need to be asked. The Super Alia Project, which the current administration has made its priority development project, has gone year after year with no progress. The concern is the high cost and where the funds will come from. Questions to ask are what is the plan is and how will the vessel be made available to fishermen. The Council spent a lot of funds to build the supporting infrastructure to develop fishing in Manu'a, but then there were no boats. The AP has raised questions about this over and over. The questions need to continue as to what happened to the plan to repair those alia vessels.

Soliai said the new Council members need to meet with the local government upon their return. There may be some kind of disconnect in getting information to the Council. It is Soliai's intent to meet with those agencies that are pertinent to the issues.

E. Education and Outreach

Ilaoa reported that the upcoming 2017 lunar tide calendar and student art contest are currently underway. The teacher resource materials were sent to the Department of Education to distribute to the schools. The theme is fishing and farming using traditional knowledge. Three local artists will judge the students' art. In previous years, the Department of Education's Office of Curriculum helped get information to the teachers and collected the submitted art. The entries are due in early November, and the judging will be completed shortly afterwards.

F. Advisory Group Reports and Recommendations

1. Advisory Panel

There were no AP recommendations for American Samoa.

2. Scientific and Statistical Committee

There were no SSC recommendations for American Samoa.

G. Public Comment

Simonds drew the Council Members' attention to an e-mail from Joe Hamby regarding how the canneries and the American Samoa economy are dependent on fish.

H. Council Discussion and Action

Regarding fisheries development projects for American Samoa, the Council requested the American Samoa DOC provide a report on the design, construction and plan to fund the super alia vessel, as well as a timeline for the project. Further, the Council requested that the American Samoa DOC provide details on how the vessel will be used and whether there is a plan to include a fisheries training program and fishermen's lending scheme.

Moved by Soliai; seconded by Lutu-Sanchez.

Motion passed.

Regarding fisheries development projects for American Samoa, the Council recommended that the American Samoa DOC provide a report to the Council on its plan for the use of the Fagatogo Fish Market including the information on lease and types of fish that will be sold in the market.

Moved by Soliai; seconded by Lutu-Sanchez.

Motion passed.

Regarding fisheries development projects for American Samoa, the Council recommended that the DMWR provide an update on its previous commitment to repair the alia vessels in Manu'a, and share a plan and timeline for the repair work.

Moved by Soliai; seconded by Lutu-Sanchez.

Motion passed.

XII. Mariana Archipelago

A. Guam

1. Isla Informe

Duenas reported that August and September were rainy and windy on Guam. Several storms delayed Guam's usual August activities. The 21st Annual Marianas Fishing Derby was postponed until September. The winner of that derby with the largest marlin was James Borja, an AP member. The Marianas Underwater Spear Fishing Tournament was successfully held in August. Borja caught the largest fish, a 50-pound ulua.

Sablan reported on the number of shore-based surveys scheduled and conducted on a weekly basis between July and September and the top five species caught by weight in the shore-based fishery from the period of July through September. Unicorn fish topped the species, and hook and line was the most used gear (360), followed by gillnet (90) and snorkel spear (71). Trolling and bottomfish fishing were the top boat-based methods. The top species caught by weight during the boat-based fishery creel surveys was skipjack tuna by trolling.

Currently, Guam has four accessible boat ramps around the island. Talofoto Bay has been identified for construction of a boat ramp, as well. Five out of 14 FADs are online. Aerial

surveys are being conducted to confirm inventory. DAWR Guam received approval to deploy eight FAD systems.

Sablan expressed appreciation for the support provided by the Council, NOAA PIRO and US Fisheries for Guam's only Americans with Disabilities Act-compliant fishing platform. It provides great benefit and opportunity for people to enjoy family fishing activities.

The Kids Fishing Derby is held twice a year with over 100 kids participating.

2. Legislative Report

Duenas reported Bill 161-33, introduced by McCready, passed in 2015. It allows \$35,000 to be utilized for marine activities, like the fishing derby and surfing and paddling competitions. The allocation of the funds did not last through 2016. A new funding source has been identified that will run through the end of 2017. Funds will help support activities such as the Marianas Underwater Fishing Federation Tournament and the Guam Marianas International Fishing Derby. The funding did not come in time for some paddling competitions. Paddling organizations asked the Fishermen's Coop for help. The coop supported paddling tournaments and paddling races which raced from Agana Boat Basin to Tumon and back.

In 2015, Bill 160-33 was passed, creating the Ocean and Fisheries Management Council. The Council is made up of a group of stakeholders from the fishing industry and other aspects of the marine environment on Guam. The first member was confirmed in October, Jesse Rosario, who was chosen by the Governor and confirmed by the legislature. There are nine members on the advisory body. It is hoped the rest of the members will be confirmed so the advisory body can move forward and advise the various agencies and the legislature on marine-related activities and priorities for funding the various projects on Guam.

3. Enforcement Issues

Mark Aguon, from DAWR Guam Enforcement Division, presented information on the Enforcement Division's workload and updates on several sea cucumber cases. The Division is operating with eight officers for Guam and its waters. Capacity building is being explored to increase enforcement officers up to 20 officers. Some of the legislative body has promised to provide up to five new officers in 2017.

There are currently eight illegal fishing cases within the MPAs and three endangered green sea turtles violations. The Division is seeing more sea cucumber violations. Harvest is allowed for home consumption but is not allowed for commercial sale. Outreach is ongoing with the island community members and their groups to get the word out. Most of the illegal fishing activity has involved newcomers from other nation islands. There are complications, such as language barriers, education and the custom from their home nations, such as Chuuk, Philippines, Yap, CNMI, Palau, China and Japan. Sea cucumber harvest is one of the most common violations. Four cases are up for core processing, which were presented at the March Council meeting. One case was successful in court, but the punishment consisted of confiscation of a few old buckets and screens used to process the product. The statute of limitations ran out on

the criminal side. He voiced support for increasing deterrence from the illegal sea cucumber harvest through legislating more effective penalties.

Active cases to date with endangered species included two cases that went before federal courts; one case was commercial harvest and one was home consumption. Recent reports include a dive company harassing sea turtles out by Fish Eye Park and an isolated sea turtle take.

Since March there have been 61 cases of suspected illegal fishing and illegal hunting. Efforts are being taken to decriminalize Title 5 to a misdemeanor, which would require issuing a citation and would help to relieve some of the unnecessary workload. The Conservation Officer Program is looking for additional funding. Guam has two joint enforcement agreements (JEAs) with NOAA OLE. OLE will be assisting with efforts dealing with endangered and threatened species on Guam.

4. Community Activities and Issues

a. Report on Yigo Community

Carl Dela Cruz, the Council's Guam Island Coordinator, reported on meetings held with the Yigo Community. The Community-based Management Plan for Yigo is in its last preparations. The draft plan will be made available for community review and recommendations and then be finalized.

b. Report on Sea Cucumber Regulations

This agenda item was presented in a prior presentation.

c. Status of Guam Fisheries Council.

This agenda item was presented in a prior presentation.

d. Military Expansion Issues

Guthertz reported that she attended an AP meeting with representatives of the Joint Region Marianas, US Department of Defense on Guam. The focus was concerns that have been expressed for some time by Council and AP members from Guam and CNMI regarding plans to increase US military presence on Guam and CNMI. The biggest concern of the Guam AP is potential loss of access to fishing grounds and recreational areas that have been traditionally available to be used by the public, as well as the potential impacts of armaments on nearshore waters, fish stocks and marine mammals.

The military representatives were interactive, cooperative and supportive and provided a lot of information. They agreed to continue to observe Council AP meetings in order to share the status of the military buildup plans for Guam.

The Department of Defense cooperation was spontaneous and quick. There seemed to be a willingness to work closer with the communities that will have to host the changes and to try to

come to an agreement on what would work best for the military and the civil community. The military buildup on Guam and CNMI may expand further than originally planned due to circumstances regarding the presence of the US military in the Philippines. The new Philippine leadership does not support continued military exercises or US military presence in the Mindanao area or joint patrol of disputed waters near the Philippines.

Guthertz said the military has shared its plans of with the AP and promised to continue working with the Council and to attend the AP meetings.

e. Report of Guam Coral Reef Fisheries Mapping

Rebecca Walker, Council staff, presented an update on the mapping project of the Guam coral reef fisheries. The second of three workshops took place on Sept. 24 at the Guam Hilton. The Data Validation Workshop presented data that was collected by the contractor in the June Participatory Mapping Workshop. Workshop participants split into small groups, reviewed maps and offered corrections and additional information on fishing grounds. Participants were engaged in the accurate portrayal of their ocean use areas and preferred fishing grounds. The project will wrap up by the end of the 2016 with a third workshop. At that workshop, the fishermen will have the opportunity to ensure that there are no confidential data in the final report.

5. Education and Outreach Initiatives

Dela Cruz reported on numerous fishing events and competitions held in August. After many years of organizing the spear fishing challenge, AP members James Borja and Steve Mino teamed up to win first place. The 21st Annual Guam Marianas International Fishing Derby ended up with James and Ken Borja bringing in the winning marlin. Council coordinators assisted with the event. The Council Fishermen's Code of Conduct was put in the calendar and made available for distribution.

The 2017 Chamorro lunar calendar is in the development process. AP Member Jesse Rosario oversees the fishing seasons included in the calendar. The K-12 art contest has been announced, with participation by public, private and Department of Defense schools.

B. Commonwealth of the Northern Marianas Islands

1. Arongol Falu

Seman reported that a \$24,500 bid was received to deploy 10 FADs around Rota, Tinian and Saipan. FAD anchors have been fabricated. The Division of Fish and Wildlife (DFW CNMI) have spliced and rigged the ropes and chains. The FADs are ready for deployment.

Sport Fish Restoration Program funds for boating access are being secured for the replacement of the floating dock system at the Rota West Harbor Marina.

An invitation out to bid has been finalized for the Garapan Fishing Base Boat Trailer Parking Lot Project and will be funded through CNMI's MCP.

New security lights have been installed throughout the Smiling Cove Marina Dock facility. DFW CNMI continues to temporarily facilitate commercial and recreational loading and unloading of passengers and equipment on the transient and convenience dock due to the unsafe ruling of Outer Cove Marina.

NOAA and USFWS grants have been secured to support the ongoing tagging project within the Managaha MPA.

The Fisheries Research Section warehouse currently is undergoing renovation due to extensive termite damage. The completion of the project is expected before the end October.

Bid selection is complete for the purchase and installation of two new 300-horsepower boat engines for the Fishery Research Section. A 27-foot Boston Whaler is currently waiting on a vendor for installation.

In regards to community outreach, the Aquatic Education and Outreach Program provided a presentation about MPAs and fishery research projects to 35 summer camp children aged between six and 12 years old; DFW is constructing a base for the aquarium and a filtration system that is being installed at the Joeten Kiyu Public Library through a NOAA Marine Education and Training grant; and a poster of food fishes of the Mariana Islands has been printed and is being made available to the public.

The position of the MPA Coordinator has recently been vacated. A recruitment effort is underway. Ongoing work with several partners to devise a list of priorities for the development and installation of MPA marker and mooring buoys around Saipan and presentations about MPAs to natural resource students at the Northern Marianas College are two job responsibilities for the position.

A document for the design, engineering, construction and operation of the Outer Cove Marina has been completed and is now undergoing final review. The dilapidated facility was opened in 1998 and deemed unsafe since 2015 when a portion of its concrete gangway collapsed.

2. Legislative Report

Jack Ogumoro, the Council's CNMI Island Coordinator, reported that House Resolution 588 was introduced by US Delegate Doug Gregorio "Kilili" Camacho Sablan to amend a joint resolution to approve the covenant to establish the CNMI in political union with the United States of America and for other purposes. If passed, the bill will extend the CNMI's Foreign Worker (CW) Program from 2019 to 2029 and increase the CW cap from the current 12,999 workers to 18,000 workers.

3. Enforcement Issues

Ogumoro said that the 27-foot boat for the DFW Enforcement Section has been repaired. An engine, new watercraft and pickup truck were also purchased for the section using money from the JEA. Land has been identified for an enforcement warehouse to be utilized for enforcement personnel, equipment and vessels.

Council staff has been meeting with the community of the Northern Islands to develop its Community Management Plan. The goals and objectives have been developed. A draft is being developed for the community review. Community members and the Northern Islands Mayor's Office will review the plan and make recommendations. After the recommendations are applied, the community will have final approval before publication. Once the plan is published, the community will begin implementing it.

Richard Farrell, CNMI AP chair, reported that during the September AP meeting Bill Cavanaugh, who is the regional environmental coordinator from the Joint Region Marianas/Guam, and Jenny Flores, from the Mariana Range Complex Operations, had discussions with the AP regarding military activities within the Marianas, including upcoming training schedules, environmental requirements and enhancement, and the process for notifying communities about the military activities. Cavanaugh explained that the military will work with the government and others to make sure federal laws, including the ESA, are not violated during training within the CNMI, such as an incident on Tinian where amphibious training operations were cancelled due to the discovery of turtle nesting sites. He said the military surveys the beach before trainings. Flores mentioned upcoming training events, including Valiant Shield 16 and Forger Fury IV. The next military operation, Keen Sword 16, will occur near the end of October.

Ogumoro said, while the military activities were going on in the Marianas, the US military has been sued by environmental and conservative groups over concerns that too many different federal actions are meeting the same purpose and need. The group is unhappy with all of different actions being done separately and would like to have everything be presented at the same time for meaningful public input, as required by NEPA.

A MOU was signed in September to transfer submerged lands from the federal government to the CNMI. The MOU established the terms and conditions on managing the Marianas Trench MNM and provided rules and responsibilities of each party for preserving and protecting the natural resources at the monument. The transfer will occur 60 days after US Congressional review.

4. CNMI Submerged Lands Agreement

This agenda item was presented in a prior presentation.

5. Community Activities and Issues

This agenda item was presented in a prior presentation.

a. Report on Northern Islands Community Planning

This agenda item was presented in a prior presentation.

b. Military Expansion Issues

This agenda item was presented in a prior presentation.

6. Education and Outreach Initiatives

Ogumoro said the radio fish talk program was resumed in July. Different topics are discussed every Wednesday.

With respect to the 2017 Chamorro and Refaluwasch lunar calendars, the theme for the coming year is fishing and farming to the cycles of moon and seasons. The announcement for the art contest is out to the schools that the deadline is in November.

The first Marianas Trench Fishing and Cooking Festival held at the Garapan Fishing Base in July promoted sustainable fishing with live music and performers and cooking competitions by different chefs from the island hotels. The Council coordinator was involved and manned a booth with the Council materials and brochures on display.

The International Fishing Derby was held in July with over 60 boats participating. The winner was Pedro De Familia, who brought in a 138-pound blue marlin. The Council Fisherman Code of Conduct posters and 2016 lunar calendars were distributed.

The community of Rota recently had its fishing derby with participation by 20 boats, the majority from Guam. The winner was the vessel *VICTORIA*, captained by David Benavente, which landed a 102-pound blue marlin.

Simonds noted that Kili's bill is important for the Marianas. She asked whether the bill passed the Committee or passed the House.

Ogumoro said the bill was passed the Committee and was introduced at the House.

Simonds said she learned that Gov. Torres and Kili had written to the president asking that he consider initiating the designation of the present Marianas Trench MNM as a National Marine Sanctuary consistent with the National Marine Sanctuaries Act. She asked why he wrote such a letter and if he had been informed about what had happened when the monument was designated in Hawai'i. In the letter, he stated that the Sanctuary Management Offices should be based in the CNMI and staffed by qualified CNMI residents with funding from the federal government. The Hawaiian Islands Humpback Whale National Marine Sanctuary has 20 federal employees and half of a position at the State of Hawai'i, even though the sanctuary is co-managed by the State of Hawai'i. Simonds said she would not expect any funds coming from the federal government for hiring qualified Commonwealth residents because it has not happened in the past. It was also strange because the Governor wrote a letter earlier and spoke about the unfulfilled promises from the established of the Marianas Trench MNM. Everyone is aware that NMFS provides no money and no enforcement. She voiced her opposition to the letter and wanted to set out some of the reasons from the experience with the sanctuaries and the sanctuary system. A Sanctuary designation would potentially create management jurisdiction for a third federal agency, joining NMFS and USFWS. A third federal agency is not needed; with the local agency that would be four agencies.

Gourley asked if the sanctuaries program has potential to provide extra funds.

Tosatto said not necessarily. NOAA's 2017 budget is in place. The 2018 requests are being built, and the 2019 budget is being built. The soonest anybody could even request money would be for fiscal year 2020. NOAA's budgets have been flat or declining. He did not see it as an avenue for increased funding. Immediately after designation, Friends of the Monument did ask NOAA to consider sanctuary designation, and at that time NOAA responded that it would not be considered. There was consideration of whether the Sanctuary designation would or would not be appropriate, including this last designated monument where the President directed NOAA to consider it. NOAA considered it for Rose Atoll, but not in the Marianas. From the past actions, if it was a viable administration prerogative, it might have been done already.

C. Marianas Trench Marine National Monument Mapping Application

Bryan Dieter, from PIFSC, presented an overview of the Marianas Trench MNM web-based mapping tools, developed to provide access to science information collected by PIFSC. The project grew out of a request for better access to the data that otherwise is provided through individual data requests.

Data are organized in four web portals: coral reef ecosystem monitoring, fisheries research, marine mammal surveys, and NOAA cruises and seafloor mapping data. The focus has been on the Marianas Trench MNM. The data can be downloaded to a generic text file or shapefile for use in other software. Accessible data include locations for coral and fish monitoring sites, video transects, towed diver surveys, baited remote underwater video surveys, calcification accretion units, and bathymetry. There are links to metadata, monitoring reports and a listing of data layers. The web mapping interface includes a time slider tool to view data year by year. For fisheries research, two main datasets are available. The Resource Assessment Investigation of the Mariana Archipelago includes the locations of the operations, as well as the actual catch tables for species distribution and summary products, like CPUE and total yield for each of the banks. Information from the life history program is also available. Data related to research cruises include track lines of ships and cruise reports.

Meetings and webinars were held to demo the tools to get feedback from stakeholders, including PIRO, PIFSC and some of Territorial partners. The feedback included requests to expand to other areas, such as Hawai'i, the PRIAs and American Samoa, data accessibility and requests to host additional types of data. Ongoing efforts include making the tools easier to access on the PIFSC website and expanding beyond the Marianas to include the entire Pacific Region, for example, coral reef monitoring data, cetacean surveys, monk seals, turtles and the recent deep coral and sponge exploration work and development of a custom interface.

Duenas asked if baited remote underwater video station footage is accessible.

Dieter said the data are still being processed. There is a ways to go to provide seamless access to the raw data and raw video.

Rice asked if sea temperatures, wind and current information are available in real-time.

Dieter said other places provide access to that data. That is the goal of partnering with OceanWatch because it will be able to handle that type of data better.

Tosatto said a one-stop-shop is not the goal. He asked if datasets are available on the web portals from other agencies, such as US Geological Survey or Bureau of Ocean Energy Management (BOEM).

Dieter said the main focus currently is NMFS data. A better, worthwhile approach would be to build capacity with other agencies if they currently are not distributing their information.

Gourley asked how data quality is controlled.

Dieter said PIFSC works with the data owners to ensure data quality. Wherever possible, source datasets are linked so people can figure out how the data were collected and processed.

Gourley asked if that means that the data has to be vetted at its source.

Dieter replied in the affirmative, adding that one of the challenges of trying to manage other people's data is that the way it was prepared is not always known.

D. Advisory Group Reports and Recommendations

1. Advisory Panel

Farrell presented the CNMI AP recommendations for the Mariana Archipelago:

Regarding navigation channel lights, the CNMI AP recommended the Council assist the Department of Public Safety Boating Safety Division to seek funding to support the deployment of the navigation lights at the channels.

Peter Perez, Guam AP chair, presented the Guam AP recommendations for the Mariana Archipelago:

Regarding Council family changes, the Guam AP recommended replacing member Alan Ainbinder on the AP with alternate member Tom Camacho.

2. Scientific and Statistical Committee

There were no SSC recommendations for the Mariana Archipelago.

E. Public Comment

No public comment was offered.

F. Council Discussion and Action

Regarding navigational buoys in the CNMI, the Council directed staff to write the CNMI Department of Public Safety to request Recreational Boating Safety Grant Program funds to deploy navigational buoys at the channels in Saipan, Tinian and Rota.

*Moved by Duenas; seconded by Soliai.
Motion passed.*

Regarding access to fishing grounds at Farallon de Medinilla, the Council requested the Department of Defense explore the possibility of “splitting” usage at Farallon de Medinilla, similar to W-517 in Guam, whereby fishing can occur in unused portions of the training area.

*Moved by Duenas; seconded by Gourley.
Motion passed.*

Regarding defense training activities in Guam, the Council directed staff to make a request to the Department of Defense to broadcast military training advisories as Notice to Mariners on VHF channel 2.

*Moved by Duenas; seconded by Soliai.
Motion passed.*

XIII. Administrative Matters

A. Council Member and Staff Annual Training on Standards of Conduct

Tucher presented the annual ethics and standard of conduct training, which included lobbying restrictions. He stressed that Council members should call him or Onaga about any questions on standards of conduct or ethics and they, in turn, will contact attorneys at Headquarters, either Will Jacobi at the Ethics and Law Division or, if it concerns cost principles for nonprofit organizations or cooperative grant compliance, Jeff Joyner. When a Council member reaches out, GC provides a safe harbor for the member. The federal conflict of interest laws are criminal statutes and are used heavily in federal criminal practice.

Different ethics rules apply to different classes of individuals. Public members are those who are nominated by the Governor and appointed by the Secretary of Commerce. There are also government voting members, the Regional Director of NMFS, and the principal State and Territory officials. Public members who are nominated and appointed are subject to federal conflict of interest statutes in Title 18 of the United States Code, which are felony statutes, and also subject to Council conduct regulations at 50 Code of Federal Regulations 600.225.

Council members cannot accept anything of value for taking action or failing to take action as a Council member. Bribery in the federal government occurs, and people go to federal prison for accepting payment in exchange for influencing official decisions. 18 US Code, Section 201 applies.

Council members cannot communicate with any person, entity, federal agency or federal court concerning any particular matter involving identifiable parties that comes before the Council, like a contract between identified parties. A Council member cannot switch sides when not serving as a Council member and represent the other side before not only a federal court but also before any federal agency. Violation of that provision is a Title 18 felony. The restriction remains in effect after leaving the Council. This particular provision is more relevant to full-time federal employees, particularly those who manage portfolios and particularly attorneys.

A Council member cannot do anything when a particular matter before him/her is a discreet action, like a license, a permit, a contract, where he/she may have a particular interest and there are identified individuals involved. The Council member cannot participate in the decision, discussion or vote. He/she must recuse. A member should consult counsel should such a situation arise, and a recusal decision will be made.

The Council is composed of citizen stakeholders. The Council is expected to advise the DOC through NOAA on wise fishery management practices that affect the sustainable use of fishery resources while supporting fisheries development and economically viable fisheries.

Regarding restrictions on personal financial interests, disclosure in most circumstances cures any Title 18 conflict of interest when dealing with a Fishery Management Council member. The rule is, you may not participate on the Council on a matter that will have a direct and predictable effect on your financial interests or those imputed to you, whether that is your spouse, minor child, general partner, outside employer or prospective future employer unless the financial interest is a broadly diversified mutual fund or it is a publicly traded security of \$15,000 or less. In regard to interest in harvesting, processing, lobbying advocacy or marketing, the matter at issue before the Council must not have an expected and substantially disproportionate benefit to that interest. That means a Council member can vote and deliberate on almost anything provided he/she discloses it on his/her annual financial interest statement. That financial interest disclosure statement should be accurate, annually filed and updated when interests change. The exception is that, when it will have an expected and substantially disproportionate benefit to one's financial interest, it must be identified and the Council member recused. If the interest or ownership level on the matter before Council is close to 10 percent, the Council members should speak to the attorneys in the room. The remedy is only recusal from voting. It is not disqualification from otherwise participating.

Principal state officials are also subject to Council rules of conduct and cannot participate in matters affecting personal financial interest, cannot use nonpublic information for private gain and have to comply with applicable state and territory regulations that apply to conduct as a state official.

Fishery management council employees are also subject to federal conflict of interest laws at Title 18. The Council rules of conduct apply in the same manner; staff cannot participate in any matter affecting financial interests and cannot use nonpublic information for personal gain. SC members must file a financial statement of financial interest annually, but are not subject to federal conflict of interest statutes unless the member is a federal employee.

Lobbying generally involves the advocacy or attempt to influence the introduction or approval of disapproval of a bill or legislation. Questions and answers were as follows:

Question one: During a Council meeting, Council member Jefferson moves that the Council send letters to US Senators and Representatives from the Council's members advocating that the MSA be amended in ways that would increase commercial fishing in the Council's areas of jurisdiction. Answer one: Council members cannot do that because the cost principles for nonprofit organizations from the Office of Management and Budget Circular A122, codified in various provisions of the CFR, 2 CFR 430, as well as 50 CFR 600.227, which states that costs for certain lobbying activities are unallowable as charges of federal wards, including attempts to influence the introduction of federal or state legislation.

Question two: During the mid-morning coffee break and after his defeat during the meeting, the Council member asked if he can send letters to the US Senators and Representatives from the Council member states advocating that the MSA be amended in ways that would increase commercial fishing in the Council's area of jurisdiction. Answer two: Council member can do that. You never give up your right to petition your government in your private capacity. You have a right to write to your Congressman as long as you do not use Council equipment or materials or draft a letter on Council time, because that is using appropriated funds or grant funds, or reference your Council membership. But if you do, state that the comments are in your personal capacity and not those of the Council. Don't make your letter appear to represent the Council at large when it represents you as an individual and your personal beliefs.

Question three: The Council wants to send an unsolicited letter to a US Senator informing her of the Council's significant concerns with a bill introduced in the Senate. Answer three: The Council cannot do that. Attempts to influence the modification of any pending legislation are unallowable. You cannot attempt to influence the introduction of federal or state legislation.

Question four: In response to a US Senator's request for Council input on a bill introduced to the Senate, your Council wants to send a letter to the Senator informing her of the Council's significant concerns with the bill. Answer four: Council can do that because a request was received. Costs associated with providing a technical and factual presentation directly related the performance of a grant through hearing testimony statements or letters to Congress or a State Legislature are allowable if made in response to a documented request. You have to say what the impact is, make it informative and helpful to inform an intelligent decision, but cannot discuss your support or opposition for the legislation. Generally, the lobbying restrictions apply to unsolicited comments to Congress concerning pending legislation. If you do not have those component pieces, it is improper lobbying.

Question five. During a Council meeting, Council member Madison moves that the Council send a letter to Congress asking that funding be made available to the agency in order for the agency to conduct fishing surveys in the Council's jurisdiction. Answer five: The Council member cannot do that because it is an attempt to influence either the introduction or modification of pending legislation.

Question six: During a Council meeting, Council member Madison moves that the Council send a letter to NMFS strongly advocating that the agency adequately fund fishing surveys that are critical to the Council's management of its fisheries. Answer six: It can be done and is the proper way to do it. If you're concerned about what's going on, write to NMFS or the DOC. Lobbying NMFS to spend its appropriation in a particular way is not covered by the anti-lobbying restrictions at 18 US Code 1913. It is a very narrow provision in 2 CFR that applies to lobbying of the Executive Branch. It basically says you cannot lobby using improper influence, which would not invite a decision on other than the merits of the matter. If this issue comes up, contact your attorney. Don't try to self-advise.

Question seven: During a Council meeting Council member Adams makes an impassioned speech as to the need for adequate funding for fisheries surveys and admonishes the audience that if they want sustainably economically vibrant fisheries they should contact their legislatures and advocate that NMFS has appropriated adequate funding for this research. Answer seven: It cannot be done. Councils cannot urge members of the general public to participate in any demonstration or rally or fundraising or lobbying campaign or letter writing or telephone campaign using Council grant funds. The Byrd Amendment prohibits the use of federal funds or attempt to influence any member of the Executive Branch in order to secure a grant contract or cooperative agreement or any extension renewal or modification thereof that is in connection with the award, itself. Council members do not lobby Congress using your award to get more money.

Tucher welcomed questions either publicly or privately.

Ebisui asked how a legislator's request for information should be documented.

Tucher said a written request would typically be sent detailing the nature and scope of the request because the initial requests needs to be in writing. There is one other exception that is important and that involves the State legislation or proposed state or territorial legislation that interferes with the Council's performance under its grant, the management of fisheries under its jurisdiction, in which case the Council can preemptively and without invitation notify the State of its objections to that particular matter. This comes up in things like protective State and Territorial regulations that may impede the ability of fishery participants to travel interstate and land their catch in other states. In such a case, the Council member can write to a state legislature without being invited to do so. He encouraged Council members to contact an attorney if such a situation should come up.

Gourley asked if the request was verbal, and the response is prefaced with "in response to our telephone conversation on such and such, I am providing the following comments," is that sufficient documentation.

Tucher replied in the affirmative. It is well known that there is no requirement to respond immediately for a request for information. Time is needed to identify the appropriate person to answer the question and to familiarize him or her with the relevant facts. Tucher was not aware of any requests being denied as long as it is written in advance.

Gourley asked if Council members can go to their Congressman representing themselves and freely talk about fishing issues.

Tucher said you can always talk to your Congressman, but it must be clearly understood that you are not using information that you would know only as a Council member because Council members cannot disclose nonpublic information. It must be clear that you are representing yourself in your individual capacity and not representing the Council and you must not create an impression of representation of the Council's position.

Sensui asked if such a communication must also be documented.

Tucher said written documentation is not required for acting in an individual capacity but it would be a good defense position. One should not give up the right to act in an individual's capacity.

B. Financial Reports

Simonds reported that the Council is on track with its financials. The financial reports contain line items on compensation, Council travel, staff travel, SSC travel, contracts and equipment. The budgets rarely change unless NMFS gives the Council more money. Communications, education and liaison funds to the Territories and the State of Hawai'i help them do their job for the Council. Kingma is available to respond to any questions regarding the Sustainable Fisheries Fund. The different contracts are listed. The fund ends in 2018. Sustainable Fisheries Fund V funds went to the CNMI for its projects and the fisheries statistics database. Turtle 2015, which ends in 2019, is for personnel, fringe and travel supplies. The contracts listed show what is being paid for and what is still ongoing. Coral Reef 2014 ends in 2017. The contracts are for the projects reported during the Council meeting. Coral Reef 2015 is the same. It contains the list of contracts. The bulk of the funds are the contracts.

C. Administrative Reports

Simonds reported a staff change. Chris Hawkins, Council social scientist, resigned as of the end of September and has relocated to the Big Island. He will be retained as a contractor as there are many projects on which he can work. The Council's budget is audited annually. A new auditor was engaged in 2015. The review began in May and has resulted in the Council receiving an unmodified opinion, which is the highest one can receive.

The staffs of the Council, PIRO and PIFSC have been working for several years on transitioning the FEPs to include things that were not included, like climate change. The work continues. The Essential Fish Habitat (EFH) Agreement that was signed by PIRO, PIFSC and the Council will be attached to the Regional Operating Agreement. The Statement of Organization, Practices and Procedures (SOPP) is on the website.

D. Update on Information Inquiries and Responses

This agenda item was deferred.

E. Regional Operating Agreement, Essential Fish Habitat Appendix

Walker reported that the EFH Agreement has been signed by all parties and is ready for integration into the Regional Operating Agreement. It has not changed substantially since it was last presented in June.

The MSA gives the Council authority to comment on and make recommendations to agencies on activities that may adversely affect EFH. The Habitat Conservation Division (HCD) is required to perform EFH consultations while the Council has the option to make comments on them. Under the agreement, the types of consultations were divided into MSA fishery management actions, where the Sustainable Fisheries Division is the action agency, and the other actions, where any other federal agency, like US Army Corp of Engineers, is the action agency. There can be up to 300 of those non-fisheries activities with consultations occurring every year.

To narrow the scope of coordination, the Council voted in March to coordinate with HCD on two types of consultations: major federal actions with more than minimal adverse effect on EFH, such as the potential BOEM wind farms, or those actions identified by the Council or its advisory bodies. That provides flexibility in the event an action interests the AP.

HCD will send relevant information, like an EFH assessment or a draft conservation recommendation, and ask for the Council's input on actions that meet one of the two types of consultations identified in the scope. If there is input, the Council follows its procedures written out in the Council's SOPP, which were adopted in the early 2000s. But if the Council or one of the advisory bodies has an action about which they're concerned, then the Council will contact HCD for information on the activity.

The Council and NMFS are supposed to review the EFH designations every five years, which has only been done for MHI bottomfish. The Council approved a new FEP objective to refine the EFH designations in March. The EFH review process in the agreement is that the habitat staff from PIFSC, PIRO and the Council coordinate and manage completing the review documents, apply for funding to complete the work and draft the living schedule, which specifies which MUS will be reviewed in which years. The EFH review documents go through the Plan Team for recommendations. The Council then deliberates on whether or not the scientific information should be included in the FEPs through FEP amendments of the EFH components.

Three EFH reviews are currently underway. The MHI precious corals are the most out of date with respect to new science information. The precious corals and non-fishing impacts are scheduled for the April Plan Team meeting. Research and information needs may also be reviewed.

F. Council Family Changes

DeMello reported that the AP changes were noted in the AP reports. Hawai'i and Guam lost a member each. Kelvin Char has applied as an alternate.

Simonds said Char is bright, knows the region and is good at working with people.

Dalzell noted that at the 167th Council meeting changes were made to the SSC, which included appointing Ray Hilborn, Steve Martell, Debra Cabrera and Justin Hospital. Although Shelton Harley was approved, his government was not happy with the idea of him becoming an SSC member. In the subsequent interim, Kurt Scheaffer was recruited from the IATTC and Graham Piling from the SPC Oceanic Fisheries Program. The Council wanted to maintain continuity of advisors from both RFMOs. Council approval is needed for the SSC change of membership. Their resumés are available. Graham Piling has vast experience in fisheries modeling and environmental perturbations, such as oil spills. Kurt Scheaffer is the son of Milner B. Scheaffer, who developed the equilibrium stock production model, which is one of the cornerstones and foundations of stock assessment. Kurt is well known for his research on bigeye, particularly tagging bigeye across the entire Pacific, which has been very important for the Council in pushing for spatially explicit management measures in the WCPFC.

Simonds said Harley's appointment will be revisited in December. He has worked in both the WCPFC and IATTC.

G. Meetings and Workshops

Simonds reported that the recent Our Oceans Conference was interesting. Julie Packard from Packard Foundation, that is the Monterey Bay Aquarium, pledged \$550 million to help with projects in other parts of the world, such as small-scale fisheries and climate change. Another huge donor is the Walton Foundation, which pledged \$250 million. Simonds said it is unfortunate that the funds do not come to US projects.

The IATTC is currently meeting. Staff is waiting to learn the outcomes of the meeting and whether purse seine or longline matters are addressed.

Kingma said that, according to a member from the EU, no consensus was reached on any measure. IATTC will have to have another meeting, which may be around the margins of WCPFC 13 in Fiji, or possibly in January, but no venue has been determined.

Simonds said new Council members will attend training the first week of November. Anderson is pushing issuing licenses for recreational fishermen in Hawai'i. The WCPFC meeting in Fiji will not have any proposals except for reviewing the chairman's bridging measure. There was some pelagic discussion regarding the US and the PAC. Simonds asked Tosatto if he had any information to report regarding the PAC.

Tosatto said the Council will receive the minutes or summary of the meeting and the final version of the PAC's recommendations. As the PAC leads into the meeting, it will contain the meeting schedule around the delegation meetings and the development of any proposals or concept papers. Regarding the PAC recommendations for after the meeting, an analysis will come out early in 2017 to be completed in spring.

Simonds said the full CCC meeting will be in February and March in Washington, DC. The SSC meets next in the first week of March, and the Council meets the following week. The team meetings take place in April. The CCC May meeting will be in Gloucester, Mass. The

Council may participate in the high-level UN Conference for Sustainable Development in June, especially if there is discussion on large closures on the high seas. Simonds added, if members have a conflict in the month of June, let her know as soon as possible so the Council can schedule its June meeting. If there are other meetings members feel are important, send an email.

H. Other Business

There was no other business.

I. Standing Committee Recommendations

The Standing Committee recommendations report was deferred.

J. Public Comment

There were no public comments offered.

Daxboeck reported that, regarding the monument expansion, the SSC recommended Council direct staff to work with PIFSC and the State of Hawai‘i in acquiring data regarding historic fishing activity in the MEA. Further, the SSC recommended the Council consider the use of customary exchange as used in other monuments for providing subsistence or noncommercial fishing options in the MEA. The SSC noted that carbon footprints can be tracked and might indicate measurable differences prior to and post monument expansion. The SSC further indicated an interest in documenting the number, size, capacity and operational range of vessels that operated in the NWHI.

K. Council Discussion and Action

Regarding the Papahānaumokuākea MNM, the Council directed staff to begin drafting options to amend the Hawai‘i and Pelagic FEPs for Council consideration that include draft regulations that would a) Prohibit commercial fishing for precious corals, crustaceans, coral reef, bottomfish and pelagic MUS in the expanded area; b) Allow non-commercial fishing; c) Allow native Hawaiian traditional fishing practices including subsistence fishing; and d) Regulate other activities as appropriate.

Moved by Rice; seconded by Soliai.

Motion passed.

Gourley asked if permit means issued permit or permit to allow noncommercial fishing.

Ebisui said permit as used in B and C is synonymous with allow.

Tosatto said the word “permit” is not necessarily problematic. He reminded the Council members that it is a special area and in the current monument the only access is via a piece of paper held up as a permit. He asked the Council to consider whether that affirmative piece of paper permit is the means to allow, apply, permit or not. The language in the recommendation is

fine going forward. The Council needs to consider that it is a special place, a special management area. Therefore, an affirmative permit is different than three different interpretations: one can go in any time, or one can go in any time after one gets a piece of paper, or one can go in any time and does not need a piece of paper. He recommended the Council consider all three alternatives.

Simonds agreed because the Council may not want the native Hawaiians to have a permit because it has not been talked about.

DeMello suggested changing to the word develop options for noncommercial fishing or to develop options for native Hawaiian traditional fishing practices.

Ebisui suggested taking the broadest reading of the word permit, as Tosatto suggested, and leave all the options open.

Sensui suggested using the word “allow” rather than the word “permit.”

Simonds noted that permitting someone to do something is allowing someone to do something. A permit is something else.

Onaga agreed with Tosatto and clarified that the Council has a number of options. DeMello’s suggestion to change it to options gives the broadest form of developing ways to be consistent with the Proclamation provisions. These are things for NMFS and the Council to consider because what is being done is implementing the Proclamation provisions. It should be clarified so if someone reads it, he/she knows off the top that the reference to permit in this instance is not to merely the document that allows a person to fish.

Simonds suggested that instead of changing A, B, C and D, to use the words options and direct staff instead of drafting amendments or drafting options to amend the plans and to say “to amend the Hawai‘i FEP.”

Onaga noted that B and C still need to be changed because the reference is not clear. In this case, the Council is voting to allow for consistency with the Proclamation and is considering the options.

The maker of the motion and the second agreed to the amendment.

Regarding the Papahānaumokuākea MNM, the Council directed staff to collect and analyze historical information on fishing in the expanded area of the PMNM and to solicit public input on the draft FEP amendment/regulatory options through statewide meetings to be held prior to the March 2017 Council meeting.

Moved by Rice; seconded by Gourley.

Motion passed.

Kingma said, to be consistent with the first recommendation, to insert public input on the draft FEP amendment options.

The maker of the motion and the second agreed to the amendment.

Regarding the Papahānaumokuākea MNM, the Council directed staff to draft a letter to President Obama for Council chair signature highlighting impacts to the Hawai‘i fishing and seafood industries and indigenous communities as a result of PMNM expansion and further requesting the DOC mitigate those impacts through direct compensation to fishing sectors, phased-in prohibition on commercial fishing and other programs that would directly benefit those impacted from the Monument Expansion.

The Council further directed staff to send a separate letter to President Obama to communicate the concerns of Guam, CNMI and American Samoa from monument designations in their jurisdictions.

Moved by Rice; seconded by Gourley.

Motion passed.

Onaga reminded the Council, based on Fred’s presentation, to submit the letter to the Financial Assistance Attorneys in GC’s office before sending it.

Gourley asked if any content should be added to the letter about the other monuments in the Mariana and American Samoa archipelagos or should it be limited to NWHI.

Simonds said, according to discussions earlier in the week, depending on who is elected president, advocates may want to close as much as possible in the rest of the region as well. There could be another paragraph that includes the concerns of the three Territories or there could be one recommendation for Hawai‘i and one recommendation for the Territories.

Gourley noted that it was simply a question as to include it or not.

Simonds agreed it is a big concern and would have asked for the \$347,000 that American Samoa lost when the monument that was put delineated. She favored writing a second letter with the concerns of the Territories.

Ebisui agreed on two separate letters in one motion.

Gourley asked if the signatories should include the vice chairs.

Simonds agreed.

The maker of the motion and the second agreed to the amendment.

Regarding the Papahānaumokuākea MNM, the Council requested the PIFSC socioeconomic program to complete the economic impact analysis of the monument expansion

closure on the Hawai'i longline fleet and broader fishing and seafood industries for Council review by October 30, 2016.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding the Papahānaumokuākea MNM, the Council requested PIFSC to analyze the change in longline effort around the MHI due to the monument expansion in relation to changes in troll-caught yellowfin.

Moved by Rice; seconded by Gourley.

Motion passed.

Miyasaka asked the Council if they would be willing to send in a letter to Congress or the President to ask for more funding to help support the State management of the monument.

DeMello noted that Miyasaka missed the lobbying presentation.

Simonds said the Council has written to the Secretary of Commerce.

Rice noted that the Council just got lectured on that.

Simonds said it was mentioned earlier about the CNMI's Sanctuary request that in Hawai'i the federal sanctuary program employs 20 people and the State has half a person so it is not co-management. She suggested the Council consider writing a letter of complaint that could be another letter to the Secretary of Commerce.

Ebisui said the Council would have to work closely with NOAA General Counsel.

Onaga said the Council could write to Commerce.

Simonds said she works closely with GC, and they get grief for working with her.

Regarding the Papahānaumokuākea MNM, the Council directed staff to send a letter to the Secretary of Commerce to request funding assistance to the State of Hawai'i for co-management of the Papahānaumokuākea MNM and the monument expansion area.

Moved by Rice; seconded by Gourley.

Motion passed.

Gourley suggested adding an adjective as funding assistance had already been given.

Soliai asked the Council to consider a separate letter for the other two monuments and additional funding.

Gourley said that the two other monuments have no funding.

Simonds said that they do receive funding and it should be asked for.

Regarding the Papahānaumokuākea MNM, the Council directed staff to send a letter to the Secretary of Commerce to request funding for the CNMI and American Samoa for co-management of the Mariana Trench MNM and the Rose Atoll MNM, respectively.

Moved by Rice; seconded by Soliai.

Motion passed.

Gourley said co-management would be more appropriate.

Regarding the annual audit, the Council endorsed the 2015 annual audit as completed by the independent auditor.

Moved by Rice; seconded by Duenas

Motion passed

Regarding Council AP changes, the Council approved the SSC, AP and FIAC changes as presented by the staff: a) Appoint Shyla Moon to the Hawai‘i AP replacing Roy Sokolowski; b) Add Kelvin Char as an alternate to the Hawai‘i AP; c) Appoint Tom Camacho to the Guam AP replacing Alan Ainbinder; d) Appoint Shane Yoshimoto as Hawai‘i member to the FIAC; e) Appoint Baron Miho as Hawai‘i member to the FIAC; f) Appoint Kurt Schaefer to the SSC; and g) Appoint Graham Pilling to the SSC.

Moved by Rice; seconded by Gourley.

Motion passed.

Regarding labor issues, the Council directed staff to write a letter to the Associated Press regarding the article published on the use of foreign labor in the Hawai‘i longline fleet. While the article was informative and brought to light the use of foreign labor in the domestic fishery, it failed to convey the federally regulated immigration process and legal nuances that have been long established through CBP policy and did not acknowledge that the few bad actors in the report are not representative of the Hawai‘i-based fleet as a whole.

Moved by Rice; seconded by Gourley.

Motion passed.

Regarding the EFH Agreement, the Council adopted the EFH Agreement and directed staff to incorporate it into the Regional Operating Agreement, as necessary.

Moved by Rice; seconded by Soliai.

Motion passed.

XIV. Election of Officers

Regarding the Council Officers for 2017, the Council selected the following officers: Edwin Ebisui Jr., chair; Michael Duenas, vice chair Guam; John Gourley, vice chair CNMI; Christinna Lutu-Sanchez, vice chair American Samoa; and McGrew Rice, vice chair Hawai'i.

Moved by Rice, seconded by Duenas.

Motion passed.

XV. Other Businesses

There was no other business.

APPENDIX: List of Acronyms

ACL	annual catch limit
AP	Advisory Panel
BiOp	Biological Opinion
BOEM	Bureau of Ocean Energy Management
BRFA	Bottomfish Restricted Fishing Area
CBP	Customs and Border Protection
CCC	Council Coordination Committee
CDP	Community Development Program
CDS	Catch Documentation Scheme
CEQ	Council on Environmental Quality
CMM	Conservation and Management Measure
CNMI	Commonwealth of the Northern Mariana Islands
CPUE	catch per unit effort
CRCP	Coral Reef Conservation Program
DAR	Division of Aquatic Resources (Hawai'i)
DAWR	Division of Aquatic and Wildlife Resources (Guam)
DFW	Division of Fish and Wildlife (CNMI)
DLNR	Department of Land and Natural Resources Hawai'i)
DLNR	Department of Lands and Natural Resources (CNMI)
DMWR	Department of Marine and Wildlife Resources (American Samoa)
DOA	Department of Agriculture
DOC	Department of Commerce
DOCARE	Division of Conservation and Resource Enforcement (Hawai'i)
DOI	Department of the Interior
DPS	distinct population segment
EA	Environmental Assessment
EEZ	exclusive economic zone
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
ELAPS	Effort Limit Area for Purse Seine
EM	Electronic Monitoring

EPO	Eastern Pacific Ocean
ER	Electronic Reporting
ESA	Endangered Species Act
EU	European Union
FAA	Federal Aviation Administration
FAD	fish aggregating device
FEP	Fishery Ecosystem Plan
FFA	Forum Fisheries Agency
FIAC	Fishing Industry Advisory Committee
FR	Federal Register
FSM	Federated States of Micronesia
GC	General Counsel
GDP	gross domestic product
GPS	global positioning system
HCD	Habitat Conservation Division
HLA	Hawai'i Longline Association
HMRFS	Hawai'i Marine Recreational Fishing Survey
IUU	illegal, unreported and unregulated
IATTC	Inter-American Tropical Tuna Commission
IEA	Integrated Ecosystem Assessment
ISC	International Scientific Committee
IUCN	International Union for the Conservation of Nature
JEA	Joint Enforcement Agreement
JIMAR	Joint Institute for Marine and Atmospheric Research
LVPA	Large Vessel Prohibited Area
MCP	Marine Conservation Plan
MEA	monument expansion area
MHI	main Hawaiian Islands
MLCD	Marine Life Conservation District
MMB	Monument Management Board
MMPA	Marine Mammal Protection Act
MNM	Marine National Monument

MOA	memorandum of agreement
MOU	memorandum of understanding
MPA	marine protected area
MRIP	Marine Recreational Information Program
MSA	Magnuson-Stevens Act
MSY	maximum sustainable yield
mt	metric tons
MUS	management unit species
NEA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NWHI	Northwestern Hawaiian Islands
OHA	Office of Hawaiian Affairs
OLE	Office of Law Enforcement
PAC	Permanent Advisory Committee
PEIS	Programmatic Environmental Impact Statement
PIFG	Pacific Islands Fisheries Group
PIFSC	Pacific Islands Fisheries Science Center
PIRO	Pacific Islands Regional Office
PRD	Protected Resources Division
PRIA	Pacific Islands Remote Area
RAMP	Reef Assessment and Monitoring Program
RFMO	regional fishery management organization
SAFE	Stock Assessment Fishery Evaluation
SC	Scientific Committee
SIDS	Small Island Developing States
S-K	Saltonstall-Kennedy Grant
SOPP	Statement of Organization, Practices and Procedures
SPC	Secretariat of the Pacific Community
SRG	Scientific Review Group
SSC	Scientific and Statistical Committee
SSPC	Social Science Planning Committee

STP	Samoa Tuna Processors
TCC	Technical and Compliance Committee
UH	University of Hawai‘i
UN	United Nations
USCG	US Coast Guard
USFWS	US Fish and Wildlife Service
VMS	vessel monitoring system
WCPFC	Western and Central Pacific Fisheries Commission
WCPO	Western and Central Pacific Ocean