



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**MINUTES OF THE  
171<sup>st</sup> MEETING OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**October 17-19, 2017**

**Governor H. Rex Lee Auditorium**

**Utulei, American Samoa**

Approved by Council:

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

Edwin A. 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:

- Michael Duenas, vice chair (Guam)
- John Gourley, acting chair (vice chair, Commonwealth of the Northern Mariana Islands [CNMI])
- Ryan Okano, Hawai‘i Department of Land and Natural Resources (DLNR Hawai‘i) (representative of designee for Suzanne Case)
- Raymond Roberto, CNMI Department of Land and Natural Resources (DLNR CNMI) (designee for Anthony Benavente)
- Brian Peck, US Fish and Wildlife Service (USFWS) (acting for Matthew Brown)
- Lt. Cmdr. Adam Disque, US Coast Guard (USCG) (designee for Rear Adm. Vincent Atkins)
- Michael Goto (Hawai‘i)
- Christinna Lutu-Sanchez (American Samoa)
- Henry Sesevasara, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Matt Sablan, Guam Department of Agriculture
- Dean Sensui (Hawai‘i)
- Taotasi Archie Soliai (American Samoa)
- Mike Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)

Also in attendance were Council Executive Director Kitty Simonds, Acting Deputy Assistant Secretary for International Fisheries Samuel Rauch III, NOAA Office of General Counsel Elena Onaga and Scientific and Statistical Committee (SSC) member Domingo Ochavillo. Council members Edwin Ebisui Jr. (chair) and Michael Brakke, US Department of State, were absent.

Gourley opened the 171<sup>st</sup> meeting of the Council. Soliai gave a customary welcome, and Rev. Elder Ioane Evagelia gave an opening prayer. Council members introduced themselves.

Sesevasara gave Gov. Lolo Matalasi Moliga remarks for the Council. The governor detailed numerous challenges that the Territory faces in its efforts to keep its fisheries viable and provided a list of potential solutions, including the following:

- Continue the Internal Revenue Code section 30(A) Tax Credit (American Samoa Economic Development Credit);
- Ease fishing prohibitions for American Samoa-based US purse-seine vessels fishing on the high seas (i.e., beyond the US exclusive economic zone, generally 0 to 200 miles off American shores);

- Increase fishing days for US purse-seine vessels fishing in the US exclusive economic zone;
- Re-strengthen the U.S. Tariff provision Headnote 3(a), which provides American Samoa canneries with duty free access to the U.S. markets;
- Renegotiate international fishing treaties, and
- Revise the North America Free Trade Agreement.

Gov. Moliga recognized the Council's efforts to support fishing infrastructure development and ongoing litigation over a final rule that would open a portion of the American Samoa Large Vessel Prohibited Area (LVPA) to American Samoa longline vessels.

Rauch said he appreciated the governor's attention to the details of fishery matters, which indicates their importance to the Territory. Fisheries not only provide food and economic benefits but also define who we are and provide the fabric of many of the Nation's coastal communities. Rauch described the US fisheries management system as unique. Its strength is the fishery management council system where federal and state/territory agencies come together with fishermen and community leaders to have an open, honest debate on the appropriate fishery policy. The public Council process has been phenomenally successful across the country. Rauch acknowledged the various island cultures and communities in the Western Pacific Region and noted NMFS initiatives to coordinate with partners in the islands, territories and states.

## **II. Oath of Office**

Tosatto swore Gourley into office.

Simonds reported that Eo Mokoma was appointed by the Secretary of Commerce for American Samoa. He sent a letter to the Council that he will resign for medical purposes.

## **III. Approval of the 171<sup>st</sup> Meeting Agenda**

Gourley asked for approval of the agenda.

Moved by Sesepasara; seconded by Sensui.  
Motion passed.

## **IV. Approval of the 170<sup>th</sup> Meeting Minutes**

Gourley asked for a motion to approve the minutes of the 169<sup>th</sup> Council meeting.

Moved by Soliai; seconded by Sesepasara.  
Motion passed.

## **V. Executive Director's Report**

Simonds said several versions of bills amending the Magnuson-Stevens Fishery Conservation and Management Act (MSA) have been introduced in Congress. The primary bill that will likely emerge from the house is H.R. 200, introduced by US Rep. Don Young from Alaska. The bill includes a provision to ensure that regulations affecting fisheries pursuant to the

Endangered Species Act (ESA) and National Marine Sanctuaries Act will primarily be considered under MSA. The Billfish Conservation Act was another piece of legislation of interest to the Council. The bill would remove the exemption for Hawai‘i and US territories that allow billfish to be sold locally and on the US mainland if caught by US fishing vessels. With the exception of North Pacific striped marlin, billfish in the Pacific Ocean are not overfished. However, billfish in the Atlantic and Gulf are overfished. Simonds said it is unfair to include our fisheries in the same language as fisheries on the East Coast.

The executive orders (EOs) regarding monument reviews are also of interest to the Council. The president has not yet provided his recommendations. All of the governors in the region, except Hawai‘i, supported reopening commercial fishing in the marine monuments.

## **VI. Agency Reports**

### **A. National Marine Fisheries Service**

#### **1. Pacific Islands Regional Office**

Tosatto referred the Council to his written report and provided a few highlights. The Sustainable Fisheries Division (SFD) has restored staffing levels and hired Andrew Torres to become the recreational fisheries coordinator and Colby Brady to take on protected species work. Ariel Jacobs was promoted to become the regional National Environmental Policy Act coordinator. Josh Lee, a fisheries debriefer, will be joining SFD along with Gabriel Forester, Christina Stewart and Kate Taylor. The improved staffing levels should mean that PIRO will be able to process Council recommendations more timely.

##### **a. Status of Monuments and Sanctuaries Review**

Tosatto reported on the two EOs that required land and marine monument reviews. NOAA led development of the input for the Secretary of the Interior on marine monuments and awaits direction at the White House level. The second EO requires review of monuments and sanctuaries for energy development purposes, on which NOAA took public comment. The Secretary of Commerce is reviewing the comments and developing recommendations in response to that EO.

Simonds asked if Tosatto was familiar with the public comments, including Gov. Ralph Torres’ comments that the CNMI is interested in marine minerals.

Tosatto said he saw some comments but PIRO is not managing all of the comments.

Gourley asked for a status on the sanctuary request for the Marianas Trench, noting that the issue locally in CNMI is getting a little nasty, with resentment on both sides, and heading in the same direction as the 2008 monument designation.

Tosatto said the nomination was processed in accordance with the sanctuary review process and additional information was provided. The nomination has been placed on a list. The USFWS and NOAA have been developing a management plan in collaboration with the

government of the CNMI. The plan is on hold until the monument review is concluded. He noted that there is no monument management process that has a sanctuary overlay at this point in time.

Gourley said the request was factually inaccurate. NOAA should not have accepted it.

Simonds asked what may or could happen in the Northwestern Hawaiian Islands (NWHI) with respect to a sanctuary designation.

Tosatto said NMFS is the lead agency for NOAA's management of the Marianas Trench Marine National Monument and only provided advice to the National Ocean Service (NOS) with respect to the NWHI nomination. In the NWHI, NOS is the lead agency for NOAA. The sanctuary process for the expansion area has been put on hold during the monument review, but coordination is still ongoing between the trustees regarding and research and management.

Gourley asked if NMFS is involved in conducting the Marianas Trench Monument Advisory Committee (MTMAC) meetings.

Tosatto said USFWS and NOAA are the administrators. He would have to check with staff to determine when the last meeting was, who the members are and when the next meeting will be held.

Gourley said the MTMAC has not met since 2013. He asked Tosatto to determine what happened and to follow up.

Tosatto said the transfer of submerged lands and EO review delayed meetings of the MTMAC. He said he would get back to Gourley on this issue.

**b. Report on EOs 13771 and 13777 Requiring Regulatory Reform**

Tosatto said NOAA has taken comments and is working on a recommendation at the offices within Commerce on EOs 13771 and 13777, which require regulatory reform. The Department of Commerce (DOC) has committed to vet these issues through the regional fishery management councils.

Rauch said the EOs are designed to increase efficiency and reduce redundancy and regulatory burden on the public, which is something the Councils often do on their own. There was a broad-based request for public comment, which NMFS is still processing. The councils have also been asked to conduct a review of their regulations. The DOC will provide a report that will lay out the MSA and other regulations that the department intends to revise, for delivery sometime around January 20, 2018. The federal government is engaging in a process that involves two de-regulatory actions for every regulatory action in order to have a net neutral effect on the American taxpayer, consumer and industry. At the end of the year, the Councils, in general, because of the de-regulatory focus of many Council actions, have a net negative impact. He predicted that the year-end report will show that NMFS has saved the public around \$100 million mainly through the action of Councils.

**c. Report on Saltonstall-Kennedy 2018 Request for Proposals**

Tosatto said the Saltonstall-Kennedy (S-K) grant process is currently in the pre-proposal stage. NMFS will notify applicants within 30 days whether they are invited to submit a full proposal. He could not provide insight into the level of funding for 2018.

Simonds said the grant program includes a section called Territorial Science, which the Council requests territorial agencies to take advantage of through proposals. If that opportunity is not taken advantage of, it could be lost. Former Trust Territories were included in the S-K Act and are eligible to receive funding, despite the foreign support these countries receive. She encouraged citizens from the US Territories to apply for funding.

Rauch supported Simonds' comments about the Territorial Science Initiative and said the S-K funding is a national competition and requires quality applications to be submitted on time. He could not guarantee that funding will continue if NMFS doesn't receive high quality proposals.

Sesepasara said he assisted a Manu'a fisheries cooperative in developing a pre-proposal. He said they had a problem with the due date. Because of limited flights, they had issues with the logistics of the proposal submission. He requested consideration of the deadline due to the logistics issue.

Simonds replied that the deadline is posted and efforts should be made to submit the proposal early. She asked if the application was emailed.

Sesepasara said it was emailed but a response was provided that email was not accepted.

Tosatto said there is a five-day grace period. He will check on the status of the application. Email and fax submissions are not allowed due to control purposes.

Lutu-Sanchez thanked Rauch for elaborating on the importance of fisheries to the nation's economy. She reviewed the current situation facing the local longline fleet and the Council's action to provide relief, which is in litigation. She asked if there is a way to save the American Samoa longline albacore fleet.

Tosatto said the ongoing litigation does not foreclose Council action. He encouraged the Council to consider the needs of the community in its decision-making, including adjustments to the LVPA.

Rauch said that the Secretary of Commerce has repeatedly asked NMFS for ways to correct the seafood trade deficit, whether making sure imports come on a level playing field or expanding US access rights on the high seas. NMFS is working on items it can control, but some things are under Congress's control.

Simonds asked if Rauch was referring to emergency provisions.

Rauch said Congress has bailed out other fisheries in the past.

Simonds asked Tosatto what next steps could the Council take to address the longline fishery. She said there could be another lawsuit if the Council votes on another amendment.

Tosatto said it is difficult to discuss during active litigation, but the court decided we made a process error, so the Council must make a decision again using guidance from the court on the process to follow.

Simonds asked what happens now that the appeal has been filed.

Onaga said the general procedure, once a notice of appeal is filed, is that the court issues a scheduling order for parties within a couple of months, which is essentially a briefing schedule.

Sesepasara asked if the response to the appeal will happen before the end of the year.

Onaga could not say for certain, but it was unlikely. The swordfish appeal in the Ninth Circuit was filed in 2013 and has not been resolved.

Sesepasara said that, as the governor explained in his remarks, he cannot make a decision until the result of the appeal. The governor is willing to sit down to hear both sides of the issue, but he cannot make a statement one way or another until the dust has settled.

Onaga said she respects the governor's position. She encouraged the Council to continue following the MSA process and make recommendations. This is only the initial proposal, and two meetings are required before the recommendation is transmitted to the Secretary who may only approve, partially disapprove or disapprove the action.

Rauch said the Ninth Circuit has a mediation process.

Onaga said, based on the appeals she has been involved in the private sector, mediation may lengthen the process.

Rauch said the mediation process may extend the timeline as well.

## **2. Pacific Islands Fisheries Science Center**

Evan Howell, deputy director of the Pacific Islands Fisheries Science Center (PIFSC), reported on the center's activities over the last quarter. The Hawai'i community snapshot tool was released to the public last month. This web-based tool provides valuable community-level information on fisheries in the area. The snapshots include both the number of commercially licensed fishermen and seafood dealers in the community, as well as commercial landing trends, catch and revenue from major species landed in the region, and demographic attributes of the community.

The last of six external program reviews took place in early August, focusing on socioeconomics and human dimensions. The review panel included reviewers from both NMFS, internally, as well as outside academia. They produced a final report of remaining questions, recommendations and commendations.

In mid-September, PIFSC hosted the first Pacific Islands Region (PIR) collaborative climate science workshop. The workshop goal was to identify regional climate-related management questions, gaps and science that would address them.

PIFSC supported the Hawaiian Islands Cetacean and Ecosystem Assessment Survey this year, which included 187 days on two NOAA ships in systematic visual and passive acoustic cetacean surveys throughout the exclusive economic zone (EEZ). Concurrent oceanographic sampling and seabird observations were also conducted. More than 10,000 nautical miles (nm) have been covered, with 272 cetacean sightings and 550 acoustic detections. All of the Hawaiian cetacean species except for most of the large baleen whale species have been observed.

The NOAA ship *HI'IALAKAI* supported the NWHI Hawaiian monk seal population assessment and recovery efforts this year. One monk seal pup was translocated during the spring to the Ke Kai Ola seal rehabilitation hospital on Hawai'i Island and then returned to its natal site at French Frigate Shoals later in the season, marking the twentieth rehabilitated seal. The monk seal morbillivirus vaccination program was expanded to the NWHI. A total of 490 seals received an initial vaccination, and 74 percent of those received a secondary booster afterwards.

For sea turtles, this was the 44th annual Hawaiian green sea turtle nesting survey at French Frigate Shoals, which represents 96 percent of the central north Pacific distinct population segment. This year's observations found 413 individual nesting turtles, up from an observation of 87 the prior year, but below the maximum observed of 811.

The NOAA campaign to address Pacific monument science wrapped up after three years of deep ocean exploration throughout the PIR. NOAA's Office of Exploration and Research led the initiative, in coordination with PIFSC and PIRO, and many other partners to explore the deep ocean biology, geology and oceanography of the Pacific Islands monuments and nearby areas.

Howell concluded by mentioning ongoing initiatives such as a) a new American Samoa longline logbook drop-box; b) the CNMI bottomfish biosampling program; c) the Western Pacific Stock Assessment Review (WPSAR) for bottomfish this year; and d) the main Hawaiian Islands (MHI) bottomfish fishery independent survey. He noted that Kurt Kawamoto will be retiring at the end of the year.

## **B. NOAA Office of General Counsel, Pacific Islands Section**

Onaga reported on two actions in pending litigation. The Territory of American Samoa filed a lawsuit against NMFS in March 2016. The US District Court for the District of Hawai'i granted American Samoa's motion for a summary judgement against the agency, wherein they challenged the NMFS modification to the LVPA. The agency filed a motion for reconsideration, asking the court to reconsider the order. The court on August 10 denied the motion for reconsideration. On October 6, the Department of Justice on behalf of NOAA filed a Notice of Appeal and now awaits the scheduling order.

The second update relates to the Hawai'i shallow-set longline fishery and the litigation involving Turtle Island Restoration Network and Center for Biological Diversity against NMFS and USFWS. This was a challenge to the continued operation of the shallow-set longline fishery, under the agency's biological opinion (BiOp). The plaintiffs challenged the BiOp and other agency authorizations. NMFS and USFWS prevailed in that case, and the plaintiffs filed an appeal. NOAA GC was still waiting for the Ninth Circuit to issue its decision. The Ninth Circuit issued an order requesting additional supplemental briefing with respect only to the Migratory

Bird Treaty Act Permit. The papers were submitted in May 2017. Since then no further communication had been received.

### **C. US State Department**

Gourley noted that Brakke was not present at the meeting and called on Council staff, Eric Kingma, to present Brakke's report. The report thanked the Council and staff for their role in coordinating the Western and Central Pacific Fisheries Commission (WCPFC) intersessional meeting that was hosted by the United States in Honolulu on August 22 to 24. While delegations remain far apart on many of the most important fisheries and management issues, the meeting provided an important opportunity for delegations to exchange views and discuss next steps for the WCPFC tropical tuna measure. Brakke also extended his appreciation of the US Participating Territory representatives for their excellent cooperation in those discussions. He said he looked forward to continuing to work with them. Kingma said some information regarding the United Nations biodiversity beyond national jurisdiction initiative was also in the report. A fully sanctioned United Nations Conference to negotiate an agreement will begin in 2018.

Kingma said the report provided an update on the 48 Pacific Islands Forum meeting that Brakke attended in Apia in September. Most of the Pacific Islands Forum members were represented at that meeting at the head of state level. The United States is not a Pacific Islands Forum member but seeks to cooperate with the forum as a dialogue partner. One outcome of the forum was a communique with a statement on the tropical tuna measure and the need to respect EEZ-based measures.

### **D. US Fish and Wildlife Service**

#### **1. Status of Monuments Review**

Peck reported that the service has provided input for the monument and ocean energy EO reviews through the Department of the Interior and NOAA. He had no update or new guidance on the matter.

## **E. Enforcement**

### **1. US Coast Guard**

Disque summarized the USCG's written report to the Council. Four patrols were made to enforce living marine resources in the MHI, Guam and the CNMI. A C-130 conducted a 10-day deployment to Guam to support EEZ enforcement and surveillance. There was a five-day patrol in American Samoa for the same purposes. The C-130s also supported two international fisheries surveillance efforts from the Forum Fisheries Agency and conducted two marine protected species transport requests for NOAA to move monk seals from various islands. The USCG conducted the Oceania Maritime Security Initiative onboard the *USS Rushmore* to carry out fisheries enforcement operations on the high seas and the EEZ of Vanuatu.

### **2. NOAA Office of Law Enforcement**

Bill Pickering referred to his written report and provided a few highlights. During the reporting period, there were 173 incidents related to protected species, fishery management and sanctuaries. His office has increased and includes a uniformed position in Guam and American Samoa and up to six individuals in Hawai'i. There has been great cooperation with vessel owners with regards to vessel monitoring system (VMS) installations and coverage. All of the region's Joint Enforcement Agreements (JEAs) have been successfully signed. He commended everyone involved. JEAs enhance NOAA's ability to enforce fishery, ESA and Marine Mammal Protection Act (MMPA) regulations and benefit the territories and the State of Hawai'i.

Duenas asked what laws the JEA officers are able to enforce.

Pickering said MSA and ESA regulations.

Duenas asked if enforcement would be able to respond to calls from local fishermen spotting activity within the marine protected areas (MPAs).

Pickering said yes.

Duenas said enforcement is a challenge. Spreading the word that JEA allows for this type of collaboration would be a great idea.

Pickering said the local outreach individuals target fishing derbies and university events.

Sablan said there are ongoing cases.

Pickering introduced James Landon, the director of NOAA Office of Law Enforcement (OLE) for the United States, who is on his first trip to American Samoa. Landon and Pickering have listening sessions scheduled with various organizations over the next few days.

Landon said effective fisheries management requires effective enforcement. The unsung heroes who are part of that enforcement program are the men and women who comply with the regulations that are issued in order to protect the resources. Other vessels are in many respects the

eyes and ears on the water. NOAA has a 1-800 Enforcement hotline number (1-800-853-1964), which is answered 24 hours a day.

Lutu-Sanchez said VMS in American Samoa is a valuable tool for safety, as not all of the vessels carry a satellite phone. The new system is not as durable as the old system, but the systems are important safety tools for the longline fleet.

Soliai said, about two years ago, an outreach event with all the boat owners, longliners, alia and purse seiners was well received. He suggested that OLE perform more local outreach with the fishery, particularly with foreign-flagged vessels.

Landon said they are always looking for opportunities for education and outreach.

### **3. NOAA Office of General Counsel, Enforcement Section**

Smith reported on the NOAA GC Enforcement Section activities. Twelve cases were in litigation. Smith emphasized the importance of not fishing in somebody else's EEZ. At the recent WCPFC Technical and Compliance Committee (TCC) meeting, some other nations were not happy both in terms of violations and vessels detected that were not on the WCPFC registry. These other nations thought that US penalties were too low. Smith urged everyone to remind fleets to honor other countries EEZs. He said subsistence fishing or recreational fishing off commercial fishing vessels is prohibited by most nations, including the United States.

He also emphasized checking permit expiration dates. A number of vessels recently had expired high-seas permits and attendant WCPFC area endorsements. Failure to comply meant a vessel could be listed as illegal, unreported and unregulated (IUU) and issued penalties. The vessel owner has the responsibility of ensuring all permits are valid.

Lutu-Sanchez asked if any American Samoa longline limited entry permit vessels fished illegally within the LVPA and whether that was a common occurrence.

Smith said it was not a common occurrence. A vessel two years ago was fishing in the LVPA and the monument area. But it was not a common occurrence.

Lutu-Sanchez asked if this vessel was permitted with an American Samoa longline limited entry permit.

Smith said the vessel had an American Samoa longline permit associated with the vessel.

Lutu Sanchez asked how vessels were identified that went into the LVPA.

Smith said enforcement uses all the tools available to them. VMS was a primary enforcement tool that allows OLE to see when the vessel enters the LVPA in real time. USCG reached out to vessel owners and alerted agents to do a follow-up boarding.

Sesepasara asked how the fines are assessed and who assesses the fines.

Smith said the fines are assessed through a national penalty policy. It is applied equally across the board and available to the public on an OLE website. It lists the infractions and associated penalty matrix. His office uses the penalty schedule to issue the notice of violation and penalty.

Simonds asked if other countries have similar processes.

Smith said every country has a different process. Several nations consider fisheries violations to be criminal violations. Everyone has some process for assessing penalties.

Simonds asked if their penalties are higher than ours.

Smith said anecdotally he had heard that they were higher.

Soliai asked if OLE has found vessels switching off their VMS equipment.

Smith said he does not run the VMS program. OLE monitors the VMS. If a vessel turned off its VMS that is a separate violation. OLE would call the owner to inform him/her that the VMS was not recording and to ask if there was a problem. Sometimes when that happens, no one was aware that there was a problem. Technicians will work through the process to figure out the problem and get the unit working. He does not see evidence of vessels deliberately turning off VMS.

Soliai asked about foreign fleets.

Smith asked Disque to respond to this.

Disque said that the USCG conducts a daily analysis of VMS from NOAA, the WCPFC and the Fisheries Forum Agency. No evidence had been found of any incursion into US EEZ or widespread shutting down of a system. Further, a C-130 conducted an aerial patrol surveillance operation to identify dark targets. This entails spotting a vessel, identifying and reporting its name and vessel number, and verifying whether it is transmitting a VMS signal. In two years, USCG has not found a dark target that was in violation.

Sensui asked how often the NWHI monument area is monitored, if there have ever been dark targets identified therein and how would the USCG protect the EEZ considering US commercial fishing vessels no longer have access to the area.

Disque said the USCG conducted four separate patrols of the monument this period. There was no evidence of dark targets moving through there or any incursion in the US EEZ.

## **F. Public Comment**

Sua Alex Jennings, chairman of fisheries and agriculture committee in the American Samoa Legislature, said the LVPA ruling is a sensitive topic that raised a lot of questions and opened a can of worms for American Samoa. He asked the GC to continue to advise the Council on the process to formally reduce the LVPA despite the ruling of the district court.

Onaga said the court order required the agency to consider protecting cultural fishing practices in federal rule making. It is a procedural issue to re-evaluate the management measures in light of the court order.

Jennings asked if that is a short way of saying go ahead and possibly incorporate the LVPA reduction.

Onaga said that the agency is looking at how cultural fishing practices may be impacted by a conservation and management measure the Council is undertaking. It is not a good practice for the agency to ignore a court order. By moving forward, it is complying with the court order.

Jennings said he received a copy of a letter from the governor that was a response to the request that the Council made. He asked if that is an indication that the Council is proceeding with revisiting the LVPA.

Simonds said that the Council is proceeding with decision-making regarding the LVPA.

Tapaa Dan Aga said around five or six years ago he provided a presentation to the Council on the Deeds of Cession. He wondered whether the Council was anticipating the threat that the LVPA represented to the Government of American Samoa and the harm that it has caused to some of our local fisheries. He noted that the Deeds are important, but they were made at a time of unabashed colonialism and Samoans had no legal representation. There were no democratic processes that were used to develop the Deeds, and they are imperfect documents. It is all that we have from those times, and we consider them as almost sacred documents handed down to us by our ancestors. He noted that the Deeds served to constrain the kind of laws that Congress could pass on American Samoa and that there was an implicit obligation in the Deeds to respect the Samoan way of life. With regards to cultural fishing, he noted that definitions like the kind of gear to be used or the disposition of the fish, whether it's commercial or subsistence, and the impacts on the catch may be a limited way of thinking. He suggested that to define cultural fishing is to define the nature of fishing and that the Council should use that as a broader set of parameters such as universal values, like sustainability and ecological responsibility and what is commercially viable. When looking at defining cultural fishing practices, there is also a need to consider the changes that happened from the time of the Deeds of Cession 117 years ago, such as in the population, knowledge, tools and quality of life people expect and strive for, as well as changes in values and principles. He said he loves people on both sides of the argument and looks to move from a win/lose situation, to a win/win situation and for the Council to look at the data from both sides. The question of authority is what the lawsuit is about. For a US Territory like American Samoa, it is a question of self-determination and not political independence. It is the compelling interest of a people to make fundamentally important decisions that impact their way of life. He urged the Council to consider fairness and equity moving forward.

Carlos Sanchez said he was not surprised by the governor's message. The governor is asking for money, and the federal government has some grants to release. The American Samoa Government (ASG) is in trouble. The canneries have asked many times to allow the longliners to fish inside the 50 miles because that is the only albacore that can be sold to the military. They need it for the school lunches. They need it for the United States of America. The governor is

deaf to the canneries. At the same time, the governor is asking to open waters closed by Obama to the purse seiners because the economy needs it. If Trump said something like that, he would be called insane. Sanchez said he and his wife own vessels in the fleet. She's Samoan, and the American-flagged fleet that operates out of American Samoa is managed by three women. He questioned whether the governor respects women or is against the fleet because these women married non-Samoans. He said the ASG is paying for the litigation against NMFS with federal grant money, which he believes is illegal. He urged the Council to continue LVPA action and for NMFS to continue the appeal.

## **G. Council Discussion and Action**

*Regarding enforcement, the Council recommended that NOAA OLE and USCG conduct education and outreach activities in American Samoa for both US-flagged and foreign-flagged vessels.*

*Moved by Soliai; seconded by Seseapasara.  
Motion passed.*

Disque asked what type of outreach is requested.

Gourley said the affected Council members could meet to work out the details.

## **VII. American Samoa**

### **A. Motu Lipoti**

Ochavillo reported that the DMWR provides technical assistance to villages to develop village marine management plans. The Department will re-initiate its collaboration with the villages to update their priorities and incorporate climate change and invasive species management in their planning.

Regarding the creel survey program in the territory, the shore-based survey monitors nearshore fishing. The top styles of fishing in the shore-based survey are gleaning, rod and reel and throw net, which are subsistence fisheries. Top species for the last quarter were bigeye scad, triggerfish, malau (*Myripristis* spp.) and malau matapula (*Priacanthus* spp.). The major species for the boat-based fisheries in the last quarter were yellowfin and skipjack tuna. Gray jobfish was the top caught bottomfish. In the spearfishing survey, surgeonfish was the highest caught species, with parrotfish and groupers rounding out the top three. Regarding the commercial receipt book database, about 5 percent of the catch is reported as imported, but this is likely underestimated.

A ridge-to-reef program in collaboration with the Environmental Protection Agency (EPA) has been monitoring fish biomass and reef habitat to watershed characteristics at 15 sites spread across Tutuila. A Leone Wetlands Restoration Grant was received to fund a coral ocean nursery and mangrove rehabilitation. DMWR is also involved in Council and international fisheries management meetings and training workshops.

DMWR staff coordinates the local fish market on the first and third Saturday of every month. A palolo catch occurred October 11-13. The next palolo rising is predicted to occur on November 12.

Simonds said the Council donated an enforcement boat to one of the villages several years ago. She asked what came of the boat.

Sesepasara said unfortunately Tutuila did not have much palolo, but Manu'a had a good spawning. He said he would try to ship some palolo from Manu'a.

Ochavillo said the boat is still in good condition, but the engine needs to be repaired. When the engine is out, the boat is not in use. Re-initiation of the village program will revitalize the enforcement.

Sensui said it's interesting that spearfishing brought in 16,000 pounds compared to 26,000 pounds for longlining.

Ochavillo asked for his staff to clarify.

Sensui said it looks like spearfishing is a huge portion of the take.

Tepora Lavatai, DWMR, said that spearfishing is a large component of the catch.

Sensui said it highlights how much islanders rely on that type of fishing to provide for the community.

Lutu-Sanchez asked if reported revenue could be attributed to vessel types.

Lavatai said it includes associations and organizations that represent the longliners actually selling to the market. The data collection was originally developed to track local fresh fish. It also has information on imported fish and resold fish in the local market. It captures longline information, identifies the longliners and collects direct catch information from the canneries.

Lutu-Sanchez asked if the longline column includes foreign-flagged longline catch that is sold locally as well.

Tepora said yes.

Soliai asked if it includes roadside sales.

Tepora said it does not include roadside sales, which may be captured in the boat- or shore-based creel surveys.

Soliai asked if the boat-based survey includes alia.

Ochavillo said it did not include alia catch data for confidentiality reasons, i.e., fewer than three boats reported.

Soliai asked if there was a long-term trend in the boat-based data.

Ochavillo said this is in the pelagic annual report.

Sensui asked if there is a licensing system for noncommercial, recreational fishing.

Ochavillo said the creel survey has a protocol to estimate total catch. There is an expansion algorithm to include the noncommercial, recreational catch in the total catch.

Lutu-Sanchez said there is a licensing system for local bottomfishers who sell their catch. She asked what percentage of the total sales is from local boats?

Tepora said that the bottomfish, spearfish and trolling are all local.

Sesepasara said that he would like to elaborate on a couple of projects in Ochavillo's report. The Leone Restoration Project funded by the Department of the Interior is unique. The project is to restore the reef that was damaged by the 2009 tsunami and clean up the swamp area at Leone. It is unique because it involves the whole community. Six different families were contracted to clean up six different areas of the swamp. Students from four schools and village women's association were invited to help with the cleanup.

One fish aggregating device (FAD) program was deployed yesterday. DMWR is hopeful that more will be deployed in the near future. Two are planned for Tutuila and a couple for Manu'a.

The tsunami damaged 20 alia. A contract is in place to repair the alia. Six alia have been repaired and are out fishing. The trailer for alia boats is complete. There are plans for boat ramp that was damaged, pending an environmental assessment to accompany the application to the Army Corps of Engineers.

The floating dock behind DMWR is nearly complete. Ten more piles need to be driven to hold the dock.

The ice machine is here. The request for the land use permit is with the DOC. When this is granted, DMWR can begin construction of the ice house.

Another project is to start a fishermen's cooperative for Manu'a. The fishermen are well organized on Ofu and Olosega. Sesepasara introduced the new president, Clinton Ilaoa.

Sensui asked about the depth of the FADs and if they have structure.

Ochavillo said the nearshore FADs are less than two miles from shore. The deep FADs are set at around five or six thousand fathoms. One design is called the Indian Ocean design with submerged floats. The other is a catamaran design. They are moving to another design for the FADs. Nets discarded from purse seiners are used as aggregators.

Sesepasara said a meeting of the South Pacific islands on FAD design took place in Western Samoa about four weeks ago.

Ochavillo said deepwater FADs have an average life span of three to four years. One local problem is vandalism; one FAD near Aunu'u was clean cut.

Sensui said Hawai'i had a problem with tugboats running over FADs.

Simonds asked if DMWR is repairing boats in Manu'a.

Sesepasara said the new president was selected to help repair the boats in Manu'a. Sesepasara will contract with him to repair the boats and find someone to bring the aluminum welding tools to Ofu and Olosega.

Lutu-Sanchez asked how many boats are in need of repair.

Sesepasara said seven boats in Ofu and 13 in Ta'u need repairs. One boat actively fishes in Ta'u, and three actively fish in Ofu.

Okano asked if there is a difference in the lifespan for the two FAD designs.

Ochavillo said the submerged one is new so its longevity is unknown. The other deep-water FAD lasts for three to four years but can be lost in bad weather. The longevity of the different designs is still being assessed.

Soliai provided an update on the cannery, which is planning a five-week shut down from Oct. 21 to Nov. 26, 2017. During this time the plant will undergo upgrades. Market volatility continues to challenge the canneries. Only one TriMarine vessel is regularly homeporting in American Samoa. The Marine Stewardship Certification (MSC) process is still underway.

## **B. Fono Report**

Nate Ilaoa, the Council's American Samoa island coordinator, reported on the newly passed legislation to increase the port fees. The government estimated that the new fee will generate roughly \$2 million in revenue annually. Local businesses, the Chamber of Commerce and some members of the Fono voiced concerns that the increased fees could strain local businesses and affect consumers if the fees are passed to local businesses from the shipping industry. The fee increases will not be applied to StarKist.

Simonds asked what the StarKist exemption means.

Ilaoa said the exemption covers the suppliers.

Soliai said the governor has not signed the bill yet, but the attorney general did confirm that the canneries are protected under the exemption.

## **C. Enforcement Issues**

Peter Eves, from DMWR's enforcement division, said roadside sales are inspected for licenses, prohibited species, etc. DMWR also inspects local restaurants to ensure compliance and proper filling out of receipt books. Enforcement checks licenses, receipt books and suspicious

activities. Land enforcement focuses on village MPAs. During the last three months enforcement contacted 16 alia fishermen and boarded 12 vessels, including three US longline, two purse seiners and six foreign carriers. Enforcement officers are stationed at the airport to inspect luggage and personal effects of travelers for any contraband. Enforcement also does education and outreach. They post signs for turtle nesting on beaches and signs for the village MPAs.

American Samoa has a JEA and works with NOAA OLE and their federal counterparts. They are authorized to enforce the Naval Act, Port Measures Act, Lacey Act, National Marine Sanctuaries Act, and the Presidential monuments. Under the joint agreement, they boarded eight US registered fishing boats to inspect their permits and documentation. Enforcement inspected two US purse-seine vessels forwarding the information to NOAA for investigation.

Enforcement inspected 39 foreign-flagged vessels for violations on marking, gear and VMS violations. Dolphin teeth were found on a Taiwan vessel, and information forwarded to NOAA. Walrus bones were found on another vessel and sent to USFWS. A case was initiated regarding the Shark Fin Prohibition Act. American Samoa's regulation is going through a public comment period in the hopes of mirroring the federal regulations to make it easier to enforce.

Duenas asked how many enforcement officers they have.

Eves said they have six officers.

Sesepasara said DMWR plans to advertise for two officer positions next week.

#### **D. Community Activities and Issues**

##### **1. Report on the Governor's Fisheries Task Force Initiatives**

Solip Hong, head of the governor's fisheries task force, reported on the task force initiatives. The governor established the group in 2014 to help keep him informed on fisheries issues. They seek input on all relevant fisheries. While the canneries and purse seiners land fish in the territories, they are tasked with developing recommendations on each fishery in briefing the governor. They cannot provide recommendations on the LVPA. They remain open to suggestions and comments on all issues.

Sensui asked if the task force provided information to the governor on how important the cannery is to the economy of American Samoa.

Hong said the governor has been informed and the task force provided data and analytical studies to support that but this issue has moved beyond fisheries into a sovereignty question, for which they cannot provide recommendations. The task force has provided information on albacore catch, etc.

Sensui asked what types of fish are caught in the pelagic fisheries.

Sesepasara said that alia catch pelagic by longlining and trolling. Trolling catches pelagic fish on the surface. The longlining alia catch albacore, but the catch is low.

Sensui asked about competition for albacore between alia and longliners.

Sesepasara said that would be difficult to answer. There is only one alia longlining and that is inside close to shore. Longliners fish outside.

Sensui said there might be undue competition for fish between the larger longliners and the smaller alia fleet.

Sesepasara said the alia longline fleet collapsed down to one boat. Two alia permits are issued, but only one is being actively fished.

Sensui asked about the driving factor behind the collapse of the alia fleet.

Hong said that participation in the alia fleet dropped from 2005 to 2009. The 2009 tsunami damaged the majority of the vessels. Work to repair the alia was delayed and resulted in a lack of fishing effort. The damaged boats are repairable, and a majority could be put back in service. Then there was the proposal for the super alia and an opportunity to improve some of the outdated fishing methods. The governor supports development of the super alia.

The task force met with Council staff to discuss ways to provide for the longliners. That cooperation would be contingent upon any pending legal action. When that is resolved then the opposing groups can work toward cooperation and regulation. Recommendations were that the longliners could be in the same fishing zone. Seven options were considered, including closing East Bank, Southeast Bank and other areas for use by the recreational and cultural fishing. However, that was prior to the Department of Justice filing an appeal. Even the Governor is now saying to hold off until the active case is resolved. The task force doesn't want to do anything that would further delay or exacerbate the current issue.

Sensui asked how the longliners feel about the banks.

Lutu-Sanchez said there will be more information on the banks in the longline presentation. Aside from the regulatory measures, longliners make sure they set deep enough so it is not wise for them to go close to a bank. They stay far away from the banks. Lutu-Sanchez said her father owned alia as well. The decline of the alia fleet was before the 2009 tsunami. Longliners did not qualify for the disaster relief package. The relief was for recovery of the bottomfish fishery. There were many reasons for the decline of the alia fishermen, including declining fish catches and increasing costs. Currently, alia fishermen receive a fuel subsidy. They use outboard motors, and the subsidy will cover half the cost of fishing. Longlining is commercial fishery for albacore. A lot of times the catch is shared. Basically it is the economics of fishing.

Sensui asked about the suitability of the super alia for longlining. There is limited deck space to work on and operate and the twin hulls result in a loss of volume and carrying capacity.

Sesepasara said the alia fishery is a multi-species fishery that includes trolling, longlining and bottomfish fishing. When the longline catch went down, they quit longlining and went trolling or bottomfish fishing. The crews even went diving. There is an interest for alia to come

back to longlining. There are two licenses for longlining. There are six more applications for longlining licenses for boats under 50 feet long. Four of those are for alia.

Lutu-Sanchez asked Soliai to comment on the delivery of albacore to the cannery.

Soliai said only one alia is longline fishing. StarKist buys albacore from him.

Sensui asked about the percentage between what the longliners and the alia bring in.

Soliai said the comparison wouldn't be fair because longliners are much larger and there is only one alia fishing. The difference is significant.

Sesepasara said the alia goes fishing and returns with two albacore, which he stores in a freezer until he can make a delivery to the cannery. It may be a month or six weeks before there is enough for a delivery.

Hong said the canneries are looking into MSC certification, which takes a long time and incurs a high cost for a vessel to be certified. That contributed to the stimulus to decrease the closed area so that large and small vessels could grow. Now there is a wait for judicial determination of the legal issues.

Sensui asked how long the alia spend at sea.

Sesepasara said that they leave at 5 a.m. and return at 9 or 10 p.m.

Sensui asked how long the larger vessels stay at sea.

Lutu-Sanchez said the average trip is about 30 to 40 days depending on catch. The larger vessels have refrigeration and can store the catch on board versus that alia that store their catch on land and deliver when they have enough.

Soliai said the cannery does not favor alia or longliners but purchases from both.

Tosatto said there is no hold up due to litigation. The Council charge is to continue to manage the fishery. The Council still seeks input for its management measures, which include the requirement to optimize the fishery for the greatest benefit while considering the economic condition of the fishery. The task force is encouraged to continue to participate in the Council's discussions as compliance with the Council's mandate is implemented.

Hong said the task force continues to work with the Council to find common ground. The governor may take steps within his authority to proceed, but the task force can update him with additional options and methods by which to proceed. If there is anything new, the task force can work on a sound solution. The governor created the task force to gather additional data and information.

Lutu-Sanchez asked about the two top priorities or recommendations that the task force provided to the governor regarding the dilemma faced by the longline fleet and the two top recommendations given to the governor to revive the alia fleet.

Hong said that the data indicated that the fishers need more waters. However, the LVPA touches on the issue of sovereignty and the Deeds of Cession. The task force continues to work to develop recommendations for the longline fleet, but, without participation of the longliners, the task force did not come up with any recommendations. The task force continues to work on fair access because the boats are necessary for the local economy.

Sesepasara said the governor wants longliners to have representation on the task force. The longline association was asked for a representative, but the representative turned down the invitation. The task force still wants participation from the longliners.

Lutu-Sanchez said that as president of the longline association she looks forward to receiving the invitation to participate in the task force deliberations. She has not received an invitation yet.

Sensui asked Soliai about the source of albacore and its importance to production.

Soliai said the cannery's production is 85 percent skipjack tuna and about 10 or 12 percent albacore. The remainder is bigeye and yellowfin.

Sensui asked what place does albacore have in the cannery's product line

Soliai said that the albacore is a premium product.

## **2. Fisheries Development**

### **a. Update on Small State Business Credit Initiative Funding for Working Alia Vessels and Local Fishery Business Development Initiatives**

Tony Langkilde, American Samoa DOC fisheries officer, reported on the development of a fishery economics and business program that works with DMWR. He gave a history of the fisheries development in American Samoa beginning in the 1960s when the governor was appointed by the Department of the Interior. The first fishery development program in American Samoa was the dory program. Based on the Oregon dory, the boat could provide relatively safe access to the outer reef in relative safety. Dory programs were begun on many Pacific islands during this period. Most fell short of their goals of economic development in fisheries and sustainability of fisheries. There were many obstacles in developing this small boat fishery for small Pacific islands.

In the 1980s, the alia was developed in Western Samoa. The open deck, twin-hulled boat was designed primarily for bottomfishing and trolling. Powered by a 40 horsepower outboard motor, it had a limited carrying capacity. The design was adopted for use in American Samoa. The boats have been used for 30 to 40 years. Ten years ago, a lot of fishermen were lost on them. They are day boats with no accommodations for longer trips. They are used for short fishing trips near shore. They have a load carrying capacity of 500 pounds and carry no ice. Not being iced the fish would not meet cannery standards.

Gov. Moliga wants to develop local fisheries. The Super Alia or Alia Tele is key to the development of the local fishery. This proposal grew out of work by Ueta Faasili on contract to the Council for fishery development in American Samoa. The ASG liked the project and, two years ago, received a grant to design the boat. The vessel is a 38-footer with a 14-foot beam span. There are berths for four. This updates the traditional fishing platform, increases safety, extends the cruising range, increases the load carrying capacity and can provide a higher quality catch for the fishermen.

The Small State Business Credit Initiative (SSBCI) is the financing plan from the US Department of Treasury. There's \$3 million in the bank, and the funds will leverage 10 percent of the loan that the fishermen would like to borrow. An investor needs to be found to put in 90 percent.

Lutu-Sanchez asked if 10 percent of the total cost is provided from the SSBCI.

Langkilde said 10 percent guaranteed the SSBCI and 90 percent will be through an investor.

Sesepasara said he thought the funding would be 50/50.

Langkilde said no, it's not.

Sesepasara asked what has changed and what is the cost now. He said that at the beginning of the project it was \$200,000.

Langkilde said if we were to build this vessel up in the mainland it would cost between \$350,000 and \$400,000. The governor would like to have this vessel assembled and fabricated here at the local shipyard or by a private boat builder. The vessel price would be cut in half. The labor and freight costs will be cheaper. The components of the vessel will be in containers. The structured hull of the vessel will be pre-cut and then assembled here. So the cost will be half.

Soliai asked about the timeline for the super alia.

Langkilde said that they have applied for grant funding from NOAA and they will know if the funding is approved.

Soliai asked if fishermen have been identified who show interest in the Alia Tele.

Langkilde said that three fishermen have been identified.

Sesepasara said there's already interest in the super alia but the big question is the cost.

Lutu-Sanchez said the cost to build locally is \$200,000. The government can fund 10 percent, so the fisherman will have to come up with \$190,000. She asked if he knew the trip cost for the Alia Tele.

Langkilde said he did not have the details for that but they have a business plan for the super alia.

Soliai asked if the \$200,000 included the cost of the gear.

Langkilde said it is a turnkey vessel so it includes longline and bottomfish fishing gear.

Soliai asked how much of the cost of vessel goes into the cost of construction and how much into the cost of the gear.

Langkilde said he thinks the cost of building the boat will depend on the boat builder. The gear cost is around \$40,000.

Sensui said that the vessel is a catamaran. He asked if comparisons have been done between the cost of the catamaran and a monohull.

Langkilde said a monohull would be cheaper but catamarans have a cultural value to Polynesians and Samoans. They want to continue to use this traditional form.

### **3. Fisheries Disaster Relief**

This item was covered in a previous agenda item.

#### **E. Education and Outreach Initiatives**

Nate Ilaoa reported on educations and outreach initiatives in American Samoa. The college scholarship recipients are now employed in the territory. Valentine Vaeoso is working for the National Parks, and Kiana Kitiona works for the Coral Reef Advisory Group under Sesepasara.

Mac Aveina was contracted to conduct the high school fisheries summer course. During the three-week course, the students learned hands-on about fishing methods, visited various departments that manage the marine resources and received cardiopulmonary resuscitation and water safety training as well as first-aid certification.

Ten of the Territory's 11 high schools would be participating in the high school fisheries exhibit contest tonight at the Fishers Forum. The students created fisheries-focused exhibits that will be judged for content and display.

Sesepasara thanked the Council for the scholarship opportunities provided to the students from American Samoa. DMWR also had a two-week summer program for high school students.

#### **F. Advisory Group Report and Recommendations**

##### **1. Advisory Panel**

Ilaoa reported on the Advisory Panel (AP) recommendations for American Samoa from the panel's meeting on Sept. 21, 2017.

*Regarding data collection of commercial and non-commercial fishing on and around the banks, the AP recommended the Council request DMWR improve its data collection sampling to improve resolution and spatial coverage of those areas. The AP further recommended the*

Council engage DMWR to get a better understanding of the needs regarding data collection staff capacity and possible funding needs.

*Regarding the 2018 Marine Conservation Plan (MCP) drafting process, the AP recommended the Council request the ASG vet its draft plan with relevant stakeholders in the territory before submitting the document.*

*Regarding the longline dock extension project, the AP recommended the Council request ASG commit to identification of funds to be utilized for the construction of the longline dock extension or the Council will reprogram those funds.*

*Regarding the Samoa Tuna Processors (STP) small dock partially funded by Council, the American Samoa AP recommended the Council request TriMarine/STP allow the small boats to access the dock as it was built partially with federal funds.*

*Regarding the STP processing facility, the American Samoa AP recommended the Council request TriMarine provide a status on their operations and the opening of an alternate market other than StarKist for American Samoa fishermen.*

Ochavillo asked for clarification on the first recommendation.

Ilaoa said the discussion at the meeting was about getting a better handle from DMWR about what it needs for improving its data collection.

Lutu-Sanchez said AP members were concerned that DMWR had a couple of vacancies, which create a backlog of data and forwarding that data for analysis for management purposes.

## **2. Regional Ecosystem Advisory Committee**

Lutu-Sanchez reported on the recommendations from the Regional Ecosystem Advisory Committee (REAC).

*The REAC recommended that the Council requests that ASG consider which department should have permitting and enforcement authority for sand mining regulations and provide outreach and review the regulations to ensure that they are in line with other natural resource management programs.*

*The REAC recommended that the Council encourage ASG to build capacity to collaborate between local and federal government; local, regional and international non-governmental organizations; and communities in ongoing natural resource management and education/outreach efforts.*

## **3. Scientific and Statistical Committee**

Ochavillo reported that the SSC had no recommendations for American Samoa.

Soliai provided a report on cannery operations. The cannery is planning a five-week shutdown, beginning Saturday, Oct. 21 to Nov. 26. During this time, the facility will be upgraded and new equipment installed, as publicized in media reports.

Deliveries continue to be a challenge to the cannery. There was a one-week shutdown a few weeks ago because of limited inventory. High volatility to the cannery industry continues. It is hoped that improvements will occur towards the end of the year and into next year. The contract vessels continue to be the main suppliers to the cannery. Since the TriMarine closure of STP in 2016, a lot of those vessels have been redirected and are now fishing in other waters. Only one TriMarine vessel currently delivers and homeports in American Samoa. The majority have moved on to Mexico and Ecuador. The last one was flagged to the Solomon Islands. The only vessel homeported in American Samoa is the *CAPE ELIZABETH*. Nine out of the 10 TriMarine vessels are no longer regular StarKist suppliers. That affected supply. The procurement office has worked on finding other sources and other suppliers to fulfill the cannery's needs.

The MSC certification process is proceeding. Initial approvals have been granted. Once the vessels are MSC-certified, the fish will be at a higher premium because they're practicing more sustainable fishing practices. That's being done by the international nonprofit organization that oversees the MSC certifications. The process is in the final steps. Hopefully, final certification can be granted early next year if not at the end of the year. To provide the support for local longliners, StarKist has funded the cost to get the local longliners certified. One-hundred percent of the local longline catch of albacore is delivered to the cannery. Sustaining this fishery is important to ensure uninterrupted supply.

Lutu-Sanchez said the group that's being certified is the local longline fleet operating in American Samoa, and it anticipates great results. Some of the applicants have been required to do more than what their fisheries already require them to do. That speaks volumes on what the Council and NMFS do, in terms of conservation. She thanked Council staff and executive director for getting the data required for the application.

#### **G. Public Comment**

Frank Baron read a comment prepared by Larry DeRosa, an owner of five purse-seine vessels working out of American Samoa.

The United States tuna fleet is under siege by the Parties to the Nauru Agreement (PNA) and the WCPFC. We have gotten beaten and taken advantage by these groups, and we need the support and safety that only our Government can give us. The PNA Vessel Day Scheme is a hell of a scheme, indeed. They control the area of fishing and the cost of admission. We have no recourse, either pay through the nose or tie up our vessels. The only salvation is to allow the US flag tuna fleet to fish in the high seas and the US waters of the Pacific Remote Island Areas of Jarvis Island, Howland and Baker Islands and Kingman Reef, and the international waters of the high seas. The US island EEZs and the high seas are the only refuge from the domination of the PNA in the Western Pacific. It's the only place where we can fish without paying the highest fishing fees in the world.

The legislative push is currently for only a few vessels that were built in the US 30 or 40 years ago, there are about eight, and possibly a few more that were built also 30 or 40 years ago and they were stretched to 70 percent more capacity in a foreign shipyard. The majority of these vessels were sold out of US Registry many years ago and then brought back again without a thought to any hull endorsements until now.

The issue is that the entire US fleet is hurting. We all need the protection from our US Government against the PNA. All of the US fleet needs access to the prime fishing grounds closest to American Samoa. There is a ray of hope through the passing of legislation that may remove the senseless monuments, but what is needed beyond that is future legislation either attached to the Treaty, or through American Samoa becoming a small island developing state, or possibly a written proclamation signed by the Secretary of Commerce.

I don't propose to change the Jones Act because that will never happen, but there is a chance for something less that can be sufficient to save the fleet.

Any proposed legislation must be for all US Flag vessels. It can be done by writing the proposed new law in a way that all US flag vessels delivering to a US port in the Central and Western Pacific be allowed to fish in the Pacific Remote Island Areas and the high seas. I only say US ports in the Central and Western Pacific so that small vessel fleets on the West Coast don't feel we are infringing on them.

When the Magnuson Act was written 30 or 40 years ago, the remote island access areas were not even on their minds. It was written to protect the US coastal fisheries, not tuna halfway around the world.

I know it can be done if the right people correctly understand the issue.

Simply put, the entire US tuna fleet needs protection from foreign nations that ultimately want us to go broke and then buy our vessels for 10 cents on the dollar. They have a plan to do so, and have already implemented the plan. It is called the Vessel Day Scheme.

Please try to get all US flag vessels the protection of fishing in the high seas and our own waters and not depend on foreign EEZs. Thank you.

Simonds said the comment was a great statement, and PNA called for a 40-percent reduction in the Hawai'i longline quota.

Soliai asked Barron to thank DeRosa on behalf of the cannery for making the statement. StarKist understands the issues. When your boats are affected, it affects the ability of the cannery to sustain its operations, and the shutdowns affect the employees.

## **H. Council Discussion and Action**

***Regarding non-fishing impacts on fish habitat, the Council requested that ASG consider which department should have permitting and enforcement authority for sand mining regulations, provide outreach and review the regulations to ensure they are in line with other natural resource management programs.***

***Regarding non-fishing impacts on fish habitats, the Council encouraged ASG to build capacity to collaborate between the government and communities in ongoing natural resource management and education/outreach efforts.***

***Regarding the longline dock extension project, the Council recommended ASG commit to identification of funds to be utilized for the construction of the longline dock extension or the Council will consider reprogramming those funds.***

***Regarding the STP small dock, the Council directed staff to send a letter requesting TriMarine/STP allow American Samoa longline vessels to access the dock.***

***Regarding the STP processing facility, the Council directed staff to send a letter to TriMarine to provide a status update on its facility and operations in American Samoa.***

Gourley asked for a motion on the above recommendations.

*Moved by Lutu-Sanchez; seconded by Soliai.  
Motion passed.*

Gourley asked for clarification on the kind of access at the STP dock.

Lutu-Sanchez said the AP discussed federal funds allocated to build the small longline dock in the corner of the STP dock for the purpose of receiving local boats. It was hoped that some allowance would open up that area or give access to it so that boats can dock there when dock space is limited.

Sesepasara said the Council financed that dock and he thought the Council should ask for relief for the longliners to take the space.

***Regarding American Samoa fisheries data, the Council requested DMWR improve its data collection sampling to improve resolution and spatial coverage of those areas. The Council further recommended DMWR to provide its needs regarding data collection staff capacity and funding.***

***Regarding American Samoa fisheries data, the Council recommended that DMWR distinguish between foreign longline and domestic longline in the retail fish vendor data in future reports.***

***Regarding the American Samoa MCP, the Council noted that the MCP expires in mid-2018, and recommended that ASG conduct meetings with relevant stakeholders to develop its new MCP prior to submitting the document to the Council in early 2018.***

Moved by Lutu-Sanchez; seconded by Soliai.  
Motion passed.

Sesepasara said he preferred to discuss the staffing recommendation with his chief biologist, but agreed that it was okay to send a letter.

## **VIII. Pelagic and International Fisheries**

### **A. Hawai'i and American Samoa Longline Fisheries Reports**

Keith Bigelow, PIFSC, reported that, in the first six months in 2017, the American Samoa longline effort included 15 active vessels with six venturing outside the EEZ, which was a little less than the 2016 effort. One hundred trips were conducted, about 2.6 million longline hooks were deployed and the catch of the target species, albacore, numbered about 31,000 fish. Catch rates were low, about 11.6 albacore per 1,000 hooks in 2017 compared to 2016, but better than in 2014 and 2015. There had been increasing catch rates of yellowfin tuna caught in 2017 compared to 2016, about 14,000 yellowfin compared to 8,000 in 2016. This was due to higher catch per unit effort (CPUE), about five yellowfin per thousand hooks compared to a value of about 50 percent of that in 2016. Catches were similar between 2017 and 2016, with the exception of yellowfin tuna, because of higher catch rates. There were lower catch rates of blue shark and oilfish, but that was misleading because fishermen do not land blue shark, and they only land about 5 percent of the oilfish.

Bigelow said he was asked by the Council to provide statistics on the fishing effort and catch in what was previously the LVPAs. These were in effect from 2002 to 2016, and in 2017 large vessels were allowed the back into the previous LVPAs. So far, in 2017, there were 15 active vessels throughout, with three vessels active in Swains and nine vessels active in Tutuila. The albacore CPUE was similar in the LVPA around Tutuila but reduced in the LVPA around Swains.

Soliai requested clarification on the volume of fish in the presentation.

Bigelow said it was number of fish.

Duenas asked about vessels fishing outside of the US EEZ around American Samoa.

Bigelow said they were most likely fishing on the high seas, not having access to the Cook Islands.

Lutu-Sanchez asked if there were any obvious observations from January to March, versus March to June, which is when the LVPA area was closed again.

Bigelow said that the report aggregated six monthly reports. At the end of the year, they would produce quarterly summaries, which would be better placed to answer the question.

Bigelow presented the Hawai'i longline report for the first six months of 2017. There were 141 active vessels, one more than last year and represents the historical high for the Hawai'i longline fishery. There were two different sectors in Hawai'i: the deep-set sector

targeting bigeye tuna, and a shallow-set sector targeting swordfish. There were 140 vessels deep-set fishing, 15 vessels targeted both deep and shallow, and one vessel was exclusively fishing shallow. There were 825 longline trips, about 775 deep and 50 shallow. More than 10,000 sets were made in the first six months; about 9,500 were deep and about 760 were shallow. By comparison longline effort for American Samoa was about 2.6 million hooks in the first six months. Hawai‘i had about 10 times that volume, about 26 million hooks in that six-month period.

In the first six months of 2017, about 86 percent of the effort was on the high seas, compared to 14 percent in the US EEZ around Hawai‘i. The fishery was moving into the high seas with less effort in the MHI. Typically the effort moves from the Hawai‘i archipelago to the northeast toward the subtropical front to target bigeye tuna during the second and third quarter. In the fourth quarter the longline vessels typically come back to the MHI for close proximity to port and have the lucrative prices for the holiday season.

There were 113,000 bigeye caught in the first six months of 2017. Yellowfin landings were double in Hawai‘i compared to American Samoa. There was a historical decline in North Pacific albacore, which is a significant non-targeted, incidental catch for the Hawai‘i longliners.

Bigeye CPUE was relatively stable over time with 4.1 bigeye per thousand hooks in 2017. This CPUE was above average 2014 through 2016, which resulted in the attainment of the US quota earlier in the calendar year. But 2017 was typically lower than those big years.

The swordfish catch, landed mainly by the shallow-set sector, was relatively poor in 2013 but bounced back somewhat in 2017 with more effort returning to the sector.

In summary, the first six months of 2016 and 2017 were broadly similar, except more hooks are now deployed in the high seas compared to the EEZ. The catch of bigeye tuna is relatively similar. Catches were reduced for pomfret, mahimahi and ono and increased for yellowfin tuna due to high CPUE and for swordfish due to more shallow-set effort.

Goto said that the report for the first six months of the year did not include the now familiar closure period. He asked if a later report, probably in March 2018, include the impacts of the closure period.

Bigelow said, during the closure, dual permitted vessels and vessels <24 m could continue to fish in the eastern Pacific Ocean (EPO). There was no reduction in catches.

## **B. American Samoa Large Vessel Prohibited Area (Action Item)**

Kingma presented the American Samoa LVPA action including background information on the longline fishery and the LVPA, some of the options and consideration of American Samoa cultural fishing. At its 170<sup>th</sup> meeting held in June 2017, the Council recommended that the consideration of cultural fishing should take into account the following: a) fishing conducted by community residents of American Samoa in association non-commercial and commercial fishing activities involving any gear type employed; b) fishing may include the use of traditional fishing gear as well as developing and new technologies and materials; and c) cultural fishing may include other relevant factors identified through public scoping and stakeholder participation.

The timeline for this action extends nearly 15 years. The LVPA was established in 2002 and modified in 2015, followed in 2016 by regulations and then a court decision that vacated those regulations.

The longline fishery is regulated under federal regulations under the Council's Fishery Ecosystem Plan (FEP) for Pelagic Fisheries. The Council had instituted a limited entry program in 2005. Requirements included mandatory vessel monitoring systems for vessels over 50 feet, satellite-based near real-time tracking of those vessels, 20 percent observer coverage, daily logbooks, a suite of mitigation measures, and gear and vessel markings, as well as extensive USCG safety requirements. There was a requirement that the longline gear in this fishery be set at depths of nearly 400 meters at the deepest point. Eighty percent of the catch was albacore, followed by yellowfin and bigeye; skipjack and the other remaining species make up less than 5 percent of the catch.

The LVPA was established in 2002 with the objective to maintain economically viable catch rates in essentially the small and large vessel sectors, avoiding gear conflicts between these vessels and providing for sustained community participation. There were 40 alia vessels operating with around 25 large longline vessels. Two large vessels were grandfathered into the LVPA, but only one of those vessels has been operating since that time.

After 2002, the alia participation steadily decreased. By 2006, fewer than three vessels were operating; only one alia operates at present. In the large vessel fishery, vessel owners were generally making a decent profit, around \$170,000 a year, but then things changed rapidly, and 2009 vessel owners were only profiting around \$6,500 per year.

After 2009 the economic situation worsened. In 2013 and 2014, every longline set deployed and every hook deployed lost money. There were slight improvements in 2015 and 2016. However, pre-departure costs range from between \$40,000 to \$50,000. Trip revenue has to exceed costs, which did not occur most years. The fishery was also seasonal with the peak in the winter months in the South Pacific, from March through September. The longline fishery for albacore did not occur solely in American Samoa, but throughout the entire South Pacific. Prior to 2000, the average catches were around 40,000 metric tons (mt). This increased across the region to around 60,000 mt.

There was another increase starting in 2009 to 2013 by another 20,000 mt to around 80,000 mt. Most of that increase has been attributed to increasing vessel participation and entry by Chinese vessels. These vessels were heavily subsidized; including vessel construction, crew labor, fuel and fees for fishery access. These vessels fished both in the EEZs of neighboring Pacific Island countries and on the high seas in international waters.

The American Samoa fishery ramped up during phases of increasing catch, from the early 2000s to about 2006. There was another expansionary period up 2010, followed by a decrease in terms of landings of albacore in the fishery. Significant levels of effort extended in the western area of the South Pacific including the EEZs of Australia, Papua New Guinea, the Solomon Islands and French Polynesia. American Samoa is in the center of this range. It's in a strategically located position in terms of generally higher catch rates than its neighbors. There were also high levels of effort in the neighboring countries around American Samoa. All of these

countries supplied fish to the cannery in American Samoa. American Samoa canneries were essential and critical to the South Pacific albacore longline fisheries.

The economic outlook of the fishery region-wide is dismal. Profits in the fishery continue to decline, despite the healthy condition of the stock. How could the Council improve the economic efficiency of this fleet? Subsidies were not an option. In 2014, the Council received a petition from Tautai O Samoa Fishing Association to consider adjusting the LVPA boundaries. In response, the Council went through an extensive process from 2014 to 2015, including a series of public meetings in American Samoa. There was substantial public engagement in this process, both in support and opposition to modifying the LVPA. In 2015 the Council recommended modification to the regulations, allowing an exemption for American Samoa limited entry permit holders to fish outside of 12 nm around Swains and outside of 12 nm around Tutuila and Manu'a, with no fishing around Rose Atoll, a marine national monument. The Council also recommended annual monitoring of catch rates for both small and large vessels and vessel participation as well as local fishery development initiatives.

The purpose and need of the LVPA was to improve the efficiency of the American Samoa longline fleet in order to promote its economic viability. During the 15 years of the LVPA, there has been no evidence of any gear conflicts with the single vessel fishing inside the area and very little or no evidence that longline fishing results in catch competition with the alia fleet. The troll alia fleet was targeting yellowfin and skipjack and not albacore, which the large longline vessels target. Catch competition was, therefore, really not an issue. For example, increased yellowfin catches in the troll fleet is accompanied by a rise in catches in the longline fleet, which was typical for other areas of the region.

In 2016, fishing was the same or around average levels in terms of overall CPUE, with rates of around 12 albacore per thousand hooks. The fishery performance in the LVPA was better around Swains. This indicated that the longline fleet was able to capture the fish at much higher catch rates than the average when the fish were present around Swains Island. It was important for the fishery to be able to follow and access those fish. The same thing did not happen around Tutuila. In 2016, the catch rates of troll vessels increased while the large vessels were fishing within the LVPA area outside of 12 miles. This indicates that the large longline vessels were not directly competing with or having negative impacts to the troll fleet.

The Territory of American Samoa sued NMFS over the 2016 LVPA regulations. That decision became effective in March 2017. The court focused in on the MSA process, which requires the Council and NMFS to consider other applicable law when issuing or developing fishing regulations. The Territory's lawsuit alleged that NMFS had not properly considered the Deeds of Cession as other applicable law. The court found that the Deeds constitute other applicable law for the purposes of the MSA and require the United States to preserve and protect American Samoa cultural fishing practices.

At its 170th meeting, the Council directed staff to analyze the 2015 action in light of the court decision that required consideration to protect and preserve American Samoa cultural fishing and to prepare such analyses for consideration by the Council at this meeting. Council staff had developed seven alternatives as follows:

1. Status Quo: Maintain LVPA regulations which generally prohibit large vessels (>50 feet) from fishing within 50 nm around Tutuila, Manu'a Islands and Swains Island
2. 25-nm LVPA exemption area north of Tutuila and Manu'a Island but maintain 50-nm southern boundaries and 12 nm around Swains Island
3. LVPA exemption area seaward from 25 nm north of Tutuila and Manu'a Islands, within designated areas south of Tutuila and Manu'a, and seaward from 12 nm around Swains Island
4. 25 nm LVPA exemption area seaward of Tutuila, Manu'a and Swains Islands
5. 25 nm LVPA exemption area seaward of Tutuila and Manu'a Islands and seaward from 12 nm around Swains Island
6. LVPA exemption area seaward o 12 nm around Tutuila, Manu'a and Swains Islands (Council 2015 preferred)
7. Apply exemption throughout LVPA area

The Council examined the average distance of alia longline vessels when they were operating at much higher levels than today and much newer than today. In 1996 to 2005, the average distance was around 13 nm, with a maximum to 60 nm. In 2012 to 2015, the average distance fished was around 10 nm and ranged as far as 20 nm. This may indicate that vessel operators did not want to fish beyond 20 nm for safety at sea reasons due to the age of the vessels. In terms of troll catch, 48 percent is caught off the banks and around 52 percent is caught on the banks. East Bank is the most important, followed by South Bank at 10 percent.

The Council needs to consider impacts to cultural fishing, as well as how to protect and preserve cultural fishing. The Council developed questions about cultural fishing that ranged from the use of the gear, disposition of the catch, participation by indigenous American Samoans or residents, and vessels engaging in commercial as well as noncommercial activities. Council staff found only one definition in regulations, which was in New South Wales, Australia. It defined cultural fishing as noncommercial only and conducted by only indigenous or aboriginal Australians.

The SSC determined that cultural fishing was a new term. It found that cultural fishing could be defined to capture Samoan values as embodied in *fa'a Samoa* and Samoan practices, such as *tautua* service, especially to chiefs. It could also include the Samoan practice of broad collective sharing of resources within the *aiga* managed by the *matai* and also customary practices of sharing of labor, resources, income, and social and political support to strengthen the *aiga*, the village and the role of chiefs in perpetuating *fa'a Samoa*. The SSC also recognized that with regard to any definition of cultural fishing the type of gear used is less important than the cultural distribution of the catch and the participation of the fishers in the fishing community. The SSC said the definition should be developed in collaboration with the American Samoan Council members, the Office of Samoan Affairs and others, as well as the public.

The Council recommended the staff work on the cultural fishing issues, recognizing that Pacific island cultures are inextricably linked and that cultural fishing in American Samoa is grounded in cultural values embodied in *fa'a Samoa* and Samoan practices, such as *tautua*, which is service. The definition should take into account fishing conducted by community residents and not just be limited to indigenous Samoans and also in association with noncommercial and commercial fishing activities involving any gear type employed. Fishing may include the use of traditional fishing gear, as well as new technologies. Cultural fishing and other relevant factors should be identified through public scoping and stakeholder participation and in consultation with the government.

Cultural fishing can be considered in a wide spectrum, from very narrow to very broad. Factors that might be considered include who was fishing, how it was it being conducted, why, what and where. Was cultural fishing being conducted for subsistence and community use or was there some varied mixed use within the continuum? It may include commercial fishing or fishing products that were exported. What species were being taken for this cultural practice? Were only certain designated ceremonial species reserved for cultural events, or were all fish and all the catch, including any species? Where was cultural fishing conducted? Was it only in designated customary fishing grounds, or could it be conducted within the entire EEZ and could it extend to the high seas? Was cultural fishing only applied during fishing seasons that have been designated as customary and traditional or could it include a time frame that includes any time of day? In summary, at one end of the spectrum, was cultural fishing only for family food including customary exchange, for *tautua* service or cultural or ceremonial events, or, at the other end, could it be for fish that can be exported or sold elsewhere?

Kingma referred to a public meeting held on this issue on the previous evening and gave a brief summary of the comments. On the LVPA alternatives, there were comments against any exemption or modification to the LVPA. There were comments on the need to protect the banks and the trolling activities. There were supportive comments, with no examples of gear conflicts in the past. With regards to cultural fishing, comments received addressed both residents and indigenous American Samoans, the use of modern gear, commercial activities and distribution of fish for community use or for *tautua*, or service.

The Council will consider taking initial action at this meeting and identifying a preferred LVPA alternative and related recommendations on monitoring, such as catch rates, participation, consideration of public comment and consultation with the ASG.

Prior to this Council meeting and after the last Council meeting, the Council wrote to Gov. Moliga asking him to consult with the Council and its staff on the concepts surrounding cultural fishing. A response had just been received designating Sesepasara as the point of contact on consideration of cultural fishing with regards to consultation with the ASG.

Sesepasara said that he had drafted some material on his personal views on cultural fishing. He had passed these to the governor and was waiting for the governor and his legal counsel for a response. His comments were based on discussions he had with several people and his experiences as a young boy and fisherman. Sesepasara comments are reported here verbatim.

When I was in high school I spent time in Olosega with my uncle, who is a fisherman within the community of Olosega. I spent time fishing with my dad on a dugout canoe here in the harbor. So I have some fishing background here and also related to cultural fishing. So, as I said earlier, these are my comments based on what I have done a little bit of research on this, and I will probably follow up later with any comments from the governor based on what I have submitted to him.

So here is my personal comment on the definition for cultural fishing. To define the term traditional cultural fishing is not an easy task. We could look at several fishing activities to better explain the term. These activities would include the history of fishing, the fishing technique used, the use of the catches and the commercial fishing activities. The history of traditional cultural fishing includes the shore types of fishing activities and the offshore, the distant fishing activities. The shore-type activities include trapping of juvenile fish, gleaning on the reef for octopus and other reef animals and fishing at the drop-off reef using traditional fishing poles made of bamboo. This type of fishing is continuing today. You still see people gleaning on the reef flat, and they're still using the bamboo to fish off the reef.

The offshore fishing, or distant fishing, would involve a group of a fishing expedition. Now, I'm talking about traditional fishermen now. The type of fishing is continuing. The offshore fishing, which is subsistence fishing, would involve a group of fishing expedition. This would be a fishing trip that would be for two days or several days. The *Manu'a* fishermen—this information I got from my uncle, who is from *Manu'a*. The *Manu'a* fishermen used to fish as far as Swains Island and Rose Atoll; Swains Island is about 210 miles north of here, and Rose Atoll is about 90 miles from *Manu'a*, which is about 150 miles from here. These fishing trips would use a double-hulled canoe, called an *alia*, which is a version of the aluminum *alia* that we have now, that are owned—and these *alias* are owned by a village or a family. This is group expedition fishing when they fish distant waters.

The fishing technique, as mentioned by the two types of fishing is nearshore and offshore distant fishing. The traditional nearshore fishery used fishing gear that would include a bamboo fishing pole with fishing lures made out of sea shells and decorated with bird feathers. This type of fishing pole is used to fish the reefs and the reef drop. Gleaning fishing on the reef flat used a spear made of Samoan hardwood with introduction of new fishing gear; this technique has changed using an iron rod, using the fishing pole rod and reel, and all that.

Now, the use of the catches. Traditional fishing is mostly used for distribution to the extended families. Certain types of species are given first to the chief of the extended family. Part of the catch is given to the minister of the village. What is left of the catch is distributed to family members. This is the catch of individuals on the reef flats and the nearshore. The catches from the group fishing activity is distributed to each chief in the village. It is the duty of that chief to distribute the

catches to his extended family. There was no such thing as selling the catches for cash.

Commercial fishing: As stated above, the catch from fishing was never sold for profit. Samoan fish for family members and also shared with ministers in the villages. There was never cash involved, but sharing and trade was part of the Samoan traditional way, or the Fa'a Samoa. Commercial fishing came about in the 1970s when American Samoa received some development funds from Economic Development Agency at the time, and a total of 12 mono-hull fishing vessels, called dories, made of plywood and fiberglass and powered up by an inboard engine were built and given to some local fishermen. This was the start of commercial fishing back in the 1970s. This was quite a unique and quite a big step up, especially when the indigenous fishermen have very limited knowledge of using such a high-tech fishing boat.

Even as this was called commercial fishing, 80 percent of the catches were given to family distribution, and only 20 percent were sold to recover funds to prepare for the next trip. The profit from the commercial fishing at that time was never a priority. Sharing the catch was a priority. This traditional practice still remains with most of the indigenous fishermen now. To be honest, profit is something that is sometimes important to some fishermen. But sharing the catches with relatives and ministers still remains as an indigenous fishing practice.

As stated earlier, to define the term traditional cultural fishing is not easy. One must take into consideration all of the activities that happened earlier and the new methods now involved. The bottom line is that the indigenous cultural fishing is not really just for looking at a big profit but for food security for the community. This is something that I put together, like I said, based on my experience and as a Samoan indigenous individual who was involved in our traditional fishing activities. I will await the governor's response to what I submitted for him to look at. Thank you.

Lutu-Sanchez sought clarification on the production of local longline vessels over several years. She said that Kingma had tried to summarize how the fleet has been operating and their profits and losses. She asked if Kingma had found any information on why they continue to operate at unprofitable levels.

Kingma said several vessels have left the fishery in the last few years. In 2010, more than 25 vessels were operating. Five years later, there were 20. The remaining vessels that continue to operate in this fishery may have significant debts and loans to pay off. Many of the vessel owners have other businesses and are able to spread out their costs and survive by leveraging some of their other businesses. Three of the 15 operating this year are up for sale. One owner, who had three vessels, is actively marketing those vessels to potential buyers around the world. If those are sold, they will likely leave this fishery, as well.

Lutu-Sanchez asked if the government was subsidizing any of the operations.

Kingma responded that they were not.

Sesepasara asked about the trolling catch in 2016, specifically the increased catch.

Kingma said that there was no decline in catch rates, quite the opposite. An increase in the catch rates of troll vessels in 2016 was observed when large longline vessels were fishing closer to them.

Sesepasara said this may be due to better data being available than in the past.

Kingma said that creel surveys rates of error were dependent of the level of fleet sampling. Nonetheless, there was a spike in 2016 of yellowfin CPUE and catches.

Sesepasara said another factor affecting troll fishing was the subsidized gas, which means fishermen were fishing for a whole day and not just a couple of hours.

Kingma agreed that subsidies increase participation.

Lutu-Sanchez sought clarification about fishermen being unable to fish beyond 12 miles because the LVPA opened. Did they complain because they couldn't go fishing, for one reason or another?

Kingma said no complaints had been received about gear conflicts between a small and large vessel in the history of the LVPA.

Lutu-Sanchez asked about small alia vessels venturing beyond 12 miles from shore.

Kingma said there was no prohibition from a small vessel venturing beyond 12 miles.

Soliai asked if the small vessel fishing information was based on fishermen interviews.

Kingma said this was correct. The data is collected by DMWR's survey program, which has been ongoing for over 30 years. The process involves a surveyor intercepting a vessel when it comes back to port and an interview of where they fished, how many hours, how many pieces and the catch. That was the process to collect non-longline fishing activity in the territory. It was similar to Guam and the CNMI, where there were no required commercial fishing licenses or no other required logbook programs.

Soliai said that the LVPA issue had been very contentious within the last year. He was unsure of the reliability of the small vessel information, whereas the longline fishery is contributing more than half a million dollars to the economy on an annual basis. Soliai asked if the local community will be engaged in that process of a definition for cultural fishing.

Kingma replied affirmatively. The public meeting on the previous day was the start of this process. A range of comments had been received. The Council will continue with the consideration of cultural fishing and there will be further opportunities for the public to be engaged in this process, whether it's more hearings or comment as well as consultation with the ASG and other stakeholders.

Soliai sought clarification from Sesepasara on whether the governor's office will make a proposal on this particular subject, or was direction still being sought from them?

Sesepasara said his report on cultural fishing was on the governor's desk and the governor intends to put something together to send to the Council.

Simonds said that the cultural fishing issue had been discussed with the PIFSC and its social science staff. Between now and the next meeting they will develop a survey, which will provide input into the final action on this issue at the next Council meeting in March.

### **C. American Samoa Longline Permit Modifications (Action Item)**

Paul Dalzell, Council staff, presented the background on the proposed modification to the American Samoa longline permit program. The purpose and need addresses participation in the longline fishery and its continuity. Items to consider include recent levels of participation, fishery performance, cultural fishing practices, regulatory barriers that may unnecessarily restrict participation in the fishery and the program complexity. This program contains multiple levels of complexity concerned with vessel size and permit ownership. The permit program also includes costs, which may have long-term be disadvantages and reduce instead of enhance participation.

Council staff considered the original Council recommendations and added measures that were discussed at the 170th Council meeting. The Pelagic FMP Amendment 11 established the limited entry program. The objectives prevent local depletion, maintain sustained community participation in the fishery and ensure opportunities for participation by American Samoans. Other key features of the program aim to reduce gear conflicts and minimize fish bycatch. Dalzell said that, to some extent, the LVPA dealt with the objective of reducing gear conflicts. In 2005, NMFS approved Amendment 11, which was a pillar of this program, with four vessel size classes: less than or equal to 40 feet (Class A, exclusively alia), vessels 40-50 feet (Class B), 50 to 70 feet (Class C) and over 70 feet (Class D).

The limited entry program was developed by the Council in 2002 to address what had become a rapid growth of vessels into the fishery. Between 1994 and 2001, there was steady growth of the small alia. This peaked in 1999 following a rush to participate in the fishery. There was also a rapid increase in vessels greater than 50 feet, and some increase in that intermediate size class between 40 and 50 feet.

Qualification for a permit required a documented history prior to March 2002 in the fishery. Up to 130 individuals were identified in the Western Pacific Fisheries Information Network database that might meet those criteria, on top of which there was a requirement to be a US citizen or a national. In 2005, 60 permits were issued after the initial application: 22 Class A, 5 Class B, 12 Class C and 21 Class D.

The permit holder was required to register a vessel within 120 days after receipt of a permit. By contrast in Hawai'i, receipt of a permit does not necessitate attachment to a vessel. The permit can be used as a tradable asset. The American Samoa permit was valid for three years and could be transferred to other individuals with a documented history in the fishery. There was no requirement to be a US citizen or a national at that time in the program.

Class A permits were allowed to be upgraded over a four-year period, and six upgrades occurred. There was a minimum harvest requirement within three years: 1,000 pounds for Classes A and B and 5,000 pounds for Classes C and D. If a permit was relinquished back to NMFS, the permit solicitation process was conducted using a priority ranking system for the available permit, with first qualified applicants with the earliest Class A participation, and, similarly, the individual with the earliest participation in the fishery aboard Class B, C and then D vessels, in that order, weighting it towards the smaller vessels.

In 2017 there were two Class A permits, three Class B permits, 12 Class C permits and 27 Class D permits, for a total of 44 permits, with the full permit cap not being used. Of the 44 permits in 2017, 23 were registered to dual-permitted vessels, and most of the dual-permitted vessels were fishing out of Hawai'i and California. Dalzell showed the rapid increase and decrease in the alia vessels. Though not completely wiped out, few were left. No Class B vessels were left in the fishery. Class C and D vessels showed some decline due to the economic problems experienced by the fishery. This fishery was targeting cannery albacore, with some export to the mainland.

Dalzell presented the following summary of the proposed actions:

- a. Replace the four vessel classes with two, where Class A and B vessels would be considered "small" and Class C and D vessels would be considered "large."
- b. Restrict permit ownership to US citizens and US nationals only and eliminate the requirement to have documented history of participation to be eligible for owning a permit, but maintain the priority ranking system based on earliest documented history of fishing participation in vessel class size, if there is competition between two or more applicants for a permit.
- c. Require that permits can only be transferred to US citizens or US nationals, and eliminate the requirement for documented participation in American Samoa longline fishery to receive permit transfer.
- d. Reduce the "small" vessel class minimum harvest requirement to 500 pounds of pelagic management unit species (MUS) within a three-year period, but maintain the existing 5,000-pound harvest for the "large" vessel class.
- e. Require that the entire minimum harvest amounts for the respective vessel classes are to be landed in American Samoa within a three-year permit period, but don't require the minimum harvests to be caught within the US EEZ around American Samoa.
- f. Specify a fixed three-year permit period that is the same as the three-year period to make a minimum harvest requirement.
- g. Require that the minimum harvest period not restart in the event of a permit transfer and that, if the minimum harvest amount has not been caught at the time of transfer, the new permit owner would be required to meet the harvest requirement based on the following formula: the product of percentage of time left within the three-year permit period and the minimum harvest amount.

Dalzell said the Council had discussed items e to g at its 170th meeting. If the Council was satisfied with this package, it could take final action and then this document would be transmitted to NMFS for review and approval by the Secretary of Commerce.

Lutu-Sanchez asked about the permit transfer requirement and minimum landing.

Dalzell said, under the current system, a permit transfer reset the minimum landing requirement back to zero. Under the new measures, a landing requirement is prorated by time left on the permit and the landing requirement becomes the responsibility of the new permittee.

Onaga said that her office had already provided the Recusal Determinations to the Council members. GC had informed Soliai and Lutu-Sanchez that they were recused from voting on the final action for the permit modifications because Lutu-Sanchez exceeded a harvest of 10 percent under NOAA rules and was a cannery employee of the cannery and also exceeds the 10 percent for processing under the rules for recusal. However, they may participate in the discussions on the permit modifications. They may also disclose and discuss to the Council how they would have voted were they not recused, but they are not allowed to vote on this action.

#### **D. Considerations for the Annual Limits on Sea Turtle Interactions in the Hawai'i-Based Shallow-Set Longline Fishery (Action Item)**

Asuka Ishizaki, Council staff, reviewed whether the continuation of hard turtle caps in the shallow-set swordfish longline fishery is necessary to achieve the management objectives of the Pelagic FEP and options for annual limits on sea turtle interactions in this fishery. This was initial action. The Council could ask staff for further analyses, other options or other tasks.

The Hawai'i shallow-set longline fleet operates primarily north of the MHI to the US EEZ off California. It targets swordfish and fishes primarily shallower than the deep-set fishery targeting bigeye tuna. The hard caps include annual interaction limits for the loggerhead and leatherback turtles in the Hawai'i shallow-set fishery. If either limit were reached within a calendar year, the fishery would close and reopen on January 1. The limits were based on an incidental take statement under the BiOp, which was prepared under the ESA. The hard cap measure is under the Pelagic FEP. The Council had full control over this. It was not required under the ESA.

Over the past decade, the fishery effort and interactions with sea turtles had remained relatively stable. A pending re-initiation of the ESA Section 7 consultation for the shallow-set fishery is anticipated to change the Incidental Take Statement (ITS) for the loggerhead and leatherback turtles. The hard cap limits are tied to the ITS. When the ITS changed, an action was needed to make those numbers consistent.

The hard caps began with a Pelagic Regulatory Amendment 3 in 2004. Prior to 2004, this fishery had been closed for a three-year period following sea turtle-related litigation. Regulatory Amendment 3 was the method by which the fishery was reopened. The fishery was closed by a court order due to sea turtle interactions. A suite of measures were implemented under this regulatory amendment to reduce sea turtle interactions.

The main component of the amendment to the Pelagic FMP at the time required large circle hooks and mackerel type bait and NMFS-approved devices to dehook caught turtles. Two other measures that went into effect at the same time: a maximum effort limit of 2,120 shallow-sets per year administered through a Set Certification Program and the annual interaction limits of 17 loggerhead and 16 leatherback turtles, with a mechanism to close the fishery for the remainder of the calendar year. The 17 and 16 was set at a level equal to the annual number of turtles that were expected to be incidentally captured in the fishery, and the numbers were analyzed both in the amendment and the 2004 BiOp.

Following the amendment and the reopening of the fishery, these interactions with sea turtles were monitored at 100 percent observer coverage, which continues to this day. However, 100 percent observer coverage is not a requirement under this amendment or any BiOp.

The gear measures were the main part of this Amendment 3. The additional requirements, such as the effort limits and hard caps, were instituted to control fishing effort and sea turtle interactions while the gear measures were being tested. When a fishery exceeded the ITS under a BiOp, NMFS had to re-initiate that consultation and determine whether the action was likely to jeopardize the listed species. During that consultation period, the fishery does not have to close. That's the difference between what's required under ESA versus what the hard cap measure under the Pelagic FMP does. The hard caps provide additional assurance that the fishery's impacts remained at a fixed level that was analyzed in the BiOp by eliminating the possibility of going over the ITS that was specified under the BiOp.

Following 2004, with the gear measures in place, the sea turtle rates in this fishery were successfully reduced by 89 percent for all sea turtle species interactions, 90 percent for loggerhead turtle interactions and 85 percent for leatherback interactions. Several years later, the Council proceeded with an action to provide increased opportunities for the shallow-set fishery while continuing to avoid jeopardizing sea turtles. This was done in Amendment 18 for the Pelagic FMP by removing the effort limit of 2,000-plus sets and discontinuing the set certificate program that created those effort limits.

The Council had anticipated that this fishery could rebound to historical effort levels of about 5,500 sets. Based on that information, the Council also recommended higher hard cap limits of 46 loggerheads and 19 leatherbacks. In the process of going through the analysis for this amendment, NMFS completed a new BiOp that included the anticipated numbers of 46 loggerheads and 16 leatherbacks instead of 19. The Council later revised its recommendation consistent to those hard caps. The hard caps implemented under Amendment 18 were 46 loggerheads and 16 leatherbacks in January 2010.

Shortly thereafter, the rule was challenged in court. A January 2011 court order vacated the Amendment 18 regulations pertaining to loggerhead and leatherback hard caps and also reinstated the 2004 hard caps of 17 and 16. The court order also vacated a portion of the 2008 BiOp addressing the loggerheads and leatherbacks, so the agency had to redo the BiOp.

The new BiOp was completed in 2012 with new ITS numbers consistent with the hard caps. NMFS PIRO came to the Council for concurrence on those numbers to make sure that they were consistent with Amendment 18 and then implemented the revised hard caps of 34

loggerheads and 26 leatherbacks. The pending re-initiation of the consultation for this fishery provides an opportunity for the Council to examine the hard caps.

This fishery peaked in 1993 and stabilized between 1994 and 1999. During that period, the average number of sets was about 4,000. After the fishery reopened in 2004 with the sea turtle measures, it peaked in 2010 and then declined over time. The decline was due to diminished net returns driven by the swordfish market, CPUE decline, fuel prices and uncertainties associated with the hard cap closure.

There had been a slight reduction in effort since 2010 and also a reduction in the number of vessels participating in the shallow-set fishery. But overall, the decline is in the adjusted revenue more than in the catch. The fishery was not as economically profitable as the deep-set fishery. The swordfish stock remained healthy and was not harvested below biomass at maximum sustainable yield (MSY). It was expected that the fishery would not return to its 1990s historical peak levels was not expected but would continue to operate at a levels observed since 2004, even though there had been less effort in the last several years.

Prior to 2001, the deep- and shallow-longline fishery combined interacted with about 400 loggerhead and 100 leatherback turtles annually. There was a dramatic decline when both fisheries closed down. Since the fishery reopened in 2004, those turtle interaction levels remained relatively stable and did not rebound, which indicates the gear measures, the large circle hooks and the mackerel bait, are successful. The average annual interactions have been about 9.9 for loggerhead turtles over the last 12 years and about 7.8 leatherback turtles. Since 2004, there were two years where the hard caps were reached. The first time was with the loggerhead hard cap of 17 in 2006; the second time, the leatherback turtle hard cap of 16 was reached in 2011. In all of the observed turtle interactions, the animals were released alive following the handling procedures that maximized post-release survival.

What do the interactions mean in terms of population impacts? In the 2004 BiOp these numbers were analyzed in terms of adult female mortalities. The best indicator available was adult nesting trends at the nesting beaches. Fishery interactions are compared with the adult female numbers on nesting beaches. This involved adjusting the number of interactions to what would be an adult female equivalence by applying the post-hooking mortality rate, sex ratio and turtle size. When all these numbers were applied, the impacts to the loggerhead population was 0.1 animals per year, and that's in comparison to over 6,000 nesting turtles for the North Pacific loggerhead population from which all of the turtles that the fishery interacts with came from. Similarly, with the leatherback turtle, the numbers translate to about 1.0 female equivalent per year, compared to about 2,000 females in the Western Pacific population portion that interacts with this fishery. These were really small impact on these populations.

The swordfish being caught was supplying the US domestic market. When the Hawai'i fishery stopped fishing, the US domestic demand for swordfish did not decrease. There was an increase in imports from the areas like Central America and South America, which had much higher sea turtle interactions than the Hawai'i shallow-set fishery.

A 2009 study looking at those impacts and the amount of imports increased during that time for swordfish estimated an increase of almost 3,000 sea turtle interactions associated with

the swordfish consumed in the US during the 2001–2004 Hawai‘i swordfish fishery closure. Moreover, prior to the closure, the area north of Hawai‘i was dominated by the Hawai‘i fleet. Three years after the closure, the effort was replaced by foreign effort. So there was not only market replacement but also production displacement.

A study by NMFS showed that there were 800 to 1,800 fewer turtle interactions between 2005 and 2008 and that keeping the fishery open contributed to having less turtle interactions overall across the Pacific.

Ishizaki reviewed the following options for Council action: 1) maintain the status quo, 2) modify the limits but retain the fishery closure, and 3) remove the hard cap measure in its entirety.

The status quo or no action would mean that the hard cap measure would remain in place, no changes would be made. The hard cap would continue to be 34 and 26 until a new BiOp and new ITS came out with the upcoming BiOp and any future BiOps. Pros for this option included fisherman familiarity with the hard cap measures, no changes to the hard cap measure, and maintenance of a precautionary management measure that minimizes the potential for exceeding the ITS authorized in the BiOp. On the cons side, the gear mitigation measures have been a success so the hard cap measures are unnecessary; the spillover and transfer effects that could come from the fishery temporary closure would continue to remain; and any new BiOp with a new ITS for loggerhead and leatherbacks would have to include rule-making to make sure that those numbers stay consistent.

Option 2 is to modify the annual limits but retain the fishery closure procedure. There were several sub-options under this potential action. First would be to not specify annual limits but keep the framework in place in terms of that mechanism of closing the fishery and temporarily set the limits. The mechanism would remain in place in the event that there was a need in the future to return to the limits so it would be quick and easy to do. Were the ITS exceeded, NMFS would reinitiate consultation and go through that analysis and the fishery could continue to operate without a closure. In terms of pros and cons, this would temporarily remove any potential for early closure of the fishery upon reaching a hard cap, while at the same time maintaining the management framework that would allow the reinstatement of the annual limits if deemed necessary in the future. The second sub-option would be to go ahead and specify new annual limits and keep the fishery closure. So the difference between this and no action is that rather than waiting for the BiOp to be completed, the Council would go ahead and recommend new limits and drive that limit-setting procedure. In this case, everything but the numbers themselves would stay the same so fishermen would be familiar with those. However, because the hard caps are maintained, the fishery could potentially close and during that time there would be increased imports along with the spillover and transfer effects. The third sub-option is to change the annual limits on the hard cap limit to multi-year limits to take into account inter-annual variability. Changing the annual limits to multi-year limits would make the hard caps consistent with the BiOp. The pros include modification of the limits to be consistent with the multi-year ITSs authorized under the BiOp, and it would also take into account the inter-annual variability and the sea turtle interactions. This may also potentially reduce the frequency of fishery closure from reaching the hard cap since it takes into account that inter-annual variability. However, retention of the hard cap closure also maintains the spillover and transferred effects.

Option 3 would remove the hard cap measure and also the closure procedure. The fishery would default to the ESA requirements, which was re-initiation of the consultation. This is the only option that removes the potential for the spillover and transferred effects, but it would also remove any potential for the hard cap closure in the future.

Goto said the Hawai‘i longline fishery had endured a long and complex process to get to the present situation. The Hawaii Longline Association (HLA) supported no hard cap. These species are highly migratory, and the shutdown of the shallow-set fishery opens market incursion from fisheries that don’t have the same types of mitigation techniques as are used in the Hawai‘i fishery. As had been observed in the tuna fishery, closures open the possibility for other fisheries to enter into and take advantage of a market established by a domestic fishery. At the same time, there is no assistance to protected species by allowing increased effort by those other fisheries. Goto reiterated that HLA supports eliminating the hard caps and reinvigorating the shallow-set swordfish fishery.

Simonds sought information on the market penetration for other fisheries during the closure.

Goto had no information but knew that this happened. It included sourcing from South America into the domestic market. It was not necessarily the best quality and not from the most responsible fishery when dealing with protected species. It did have a noticeable effect on the domestic market as any foreign fishery coming into a domestic market would.

Duenas supported Goto’s comments.

Gourley sought clarification on sea turtle interactions with the fishery. Were the interactions with males or females?

Ishizaki said she did not have the numbers. The analysis included sex ratio. It was not skewed to one gender or the other.

Gourley asked about the interaction rate in Ishizaki’s presentation. Were the numbers raw data or had they been standardized against number of hooks used for that year?

Ishizaki said they were raw data given the 100 percent observer coverage.

Okano said that the State of Hawai‘i supports the hard cap. The State recognized that the take or the interactions has a potential to increase if the hard cap is met and the fishery closes. However, the State hoped that other fisheries in the future would follow the Hawai‘i fishery and have better mitigation measures to reduce the interactions of the sea turtles.

## **E. International Fisheries**

### **1. Inter-American Tropical Tuna Commission**

Tosatto reported on issues concerning the Inter-American Tropical Tuna Commission (IATTC) and EPO highly migratory species management. The IATTC meeting took place in July. As with the WCPFC, the principal discussion was on the tropical tuna measure. IATTC had a

series of meetings from 2016 trying to address tropical tunas and had a measure that took a while to be developed. This was finalized after three meetings.

There was a single meeting in 2017 to develop a measure for 2018, 2019 and 2020. The purse-seine measures in the IATTC are different than those in the WCPFC. They are geared toward a total closure for the purse-seine fishery for a 72-day period and all the vessels have to be in port. There is no fishing of any type, FAD or otherwise, for that 72-day period. There is also a limit on the number of FADs that could be active on a vessel: active means in the water and actively fishing or onboard the boat. For US-sized vessels, that number is 450, which is well in excess of what the US uses. Although the US did not necessarily approve of this number because it had no rational basis, it did not affect the fisheries operation so the US concurred.

Historically, the US bigeye catch level has been 500 mt annually for vessels over 24 meters. This quota was increased to 750 mt per year for the next three years, and there is a provision that allows the transfer of quota between those countries with quotas, i.e. the Asian nations and the United States.

## **2. Western and Central Pacific Fisheries Commission**

### **a. Science Committee Meeting**

Bigelow reported on the Science Committee meeting held in Rarotonga, Cook Islands. There were 29 Cooperating Nonmembers or Participating Territories in attendance. The US Delegation included nine participants. There were four themes: Data and Statistics, Stock Assessment, Management Issues and Ecosystem and Bycatch Mitigation. Bigelow said he would address two topics: how much fish is caught in the WCPFC in 2016 and the stock assessments.

Bigelow showed the trajectory of the catches in the WCPFC from 1960. Each color corresponded to a different fishery sector. Blue was the purse seine sector; yellow was other fisheries, which were typically fisheries of Philippines and Indonesia; red was the declining pole and line sector; and green was the longline sector. The total catch was the second highest on record at about 2.7 million mt. Purse seine was the largest component at about 1.85 million mt followed by longline at 231,000 mt and pole and line at about 200,000 mt. Bigelow showed the catches by species. About 1.8 million tons of skipjack were caught, and a record high of 650,000 mt of yellowfin. The bigeye tuna catch by the purse-seine fishery and longline fishery was 150,000 mt. The albacore was the lowest in a 10-year time series, at about 100,000 mt.

The ex-vessel value or the landed value of the fish was fairly poor in 2015, at less than \$5 billion. It improved in 2016 to about \$5.3 billion. The improvement was largely related to the purse-seine fishery worth about \$2.9 billion due to skipjack receiving a higher value in 2016. The longline fishery was worth about \$1.5 billion; pole and line, \$380 million; and the other fisheries, about \$570 million.

Skipjack was the prominent species in the purse-seine fishery with a worth of about \$2.7 billion, an increase of 19 percent compared to the preceding year. Yellowfin was worth about \$1.6 billion; it was the largest yellowfin catch in history. Bigeye landings were worth about \$700 million, and albacore was valued at about \$300 million. The longline catch was mostly yellowfin (90,000 mt), bigeye (64,000 mt, the lowest since 1996) and albacore.

The stock assessments for the WCPFC were conducted by the International Scientific Committee (ISC) for Tuna and Tuna-Like Species in the North Pacific Ocean and the Secretariat of the Pacific Community, the scientific services provider for the WCPFC. The stock status for North Pacific albacore, North Pacific blue shark and Southwest Pacific swordfish indicated no overfishing occurring nor overfished stock.

Bigelow said there had been a number of updates to the bigeye tuna assessment. There was a new growth function derived from a Commonwealth Scientific and Industrial Research Organization study and also consideration of alternative regional stock structure. About 72 different model runs were made on the bigeye data, which indicated a high probability that the stock was not overfished or subject to overfishing. However, there was a 23 percent probability that overfishing may occur. The stock has continuously declined for 60 years since the late 1950s, except for recent small increase with a long-term increase in fishing mortality for both juvenile and bigeye tuna.

The Commission at its December meeting could continue to consider measures to reduce fishing mortality from fisheries that take juveniles, with the goal to increase bigeye fishery yields and reduce any further impacts on the spawning potential for the stock in the tropical regions. Bigelow said that, as a precautionary approach, fishing mortality on bigeye tuna stock should probably not be increased from current levels to maintain current or increased spawning biomass until the Commission can agree on an appropriate target reference point.

Some future research needs included the preliminary growth model and analysis of larger fish, specifically between 130 and 180 centimeters. Bigelow said there was a need to give additional consideration to the regional structure used in the stock assessment model.

There was no alternative growth model for yellowfin tuna. The assessment suggested only a 4 percent probability that overfishing was occurring. This stock has been depleted for the last 50 years, and, unlike bigeye tuna, there were higher levels of depletion in the Western Pacific.

The Science Committee proposed a budget of \$1.9 million, which would be evaluated at the Finance and Administration Committee in December.

The stock assessments proposed for 2018 were South Pacific albacore, which was of large interest to American Samoa, and Southwest Pacific striped marlin. The ISC would conduct three stock assessments: Pacific bluefin tuna, shortfin mako shark and North Pacific swordfish.

#### **b. Intersessional Meeting on Tropical Tuna Measures**

Tosatto reported on the Intersessional Meeting on Tropical Tuna Measures hosted by the United States in Honolulu in August. The US had submitted input into what was then Revision 4 of the Chair Draft for the Tropical Tuna Measure. The intersessional meeting focused exclusively on the tropical tuna measure. There was a variety of other proposals in Revision 4, including the status quo measure that was in place for 2017.

The proposal from the United States would shift some of the provisions into a more balanced approach between the purse-seine and longline fisheries contributing to bigeye

mortality. There was not much change to targeting skipjack, although there would continue to be constraints to FAD fishing, which contributes to skipjack fishing success, but also contributes to bigeye overfishing.

The PNA put in several proposals, mostly supporting the current measure, but also items that would complicate the measure, including those the United States opposed such as further constraints on longline fishing and a Vessel Day Scheme for longline fishing. Discussion on those measures was robust.

The chair produced a document that included two provisions to which the members generally agreed, a couple of measures to which they could hopefully agree and a majority of measures to which the members were deeply divided. As an outcome of the meeting, the chair produced a Revision 5. Where there was no agreement, the chair put out a document that included Options A and B as points of departure from future discussions. Revision 5 will be the starting point for a one-day meeting ahead of the annual meeting, and then the annual meeting will probably spend a lot of time talking about the tropical tuna measure.

#### **c. Northern Committee Meeting**

Tosatto said the Northern Committee met for the first time outside of Japan. Since the WCPFC was formed Japan has chaired and hosted the Northern Committee meeting. It continues to be the chair. The meeting was held in Busan, Republic of Korea, at the end of August. The United States had two proposals for the meeting. Both were adopted with modifications.

As with last year's meeting, the Northern Committee met coincidental to a Joint WCPFC Northern Committee and IATTC Working Group meeting on bluefin tuna. This brought IATTC members, Mexico and the European Union to the negotiating table to achieve a broader consensus so that, as Northern Committee proceeds, those members and the United States and Japan would go back to IATTC and hopefully adopt a similar rebuilding measure. The Joint Working Group agreed on the principles for a rebuilding measure in both of the groups, and this was adopted by the Northern Committee and would be reviewed for adoption by the WCPFC Commission in December.

The other measure the US introduced to the Northern Committee was a proposal for a harvest strategy for North Pacific albacore. This proposal may be successfully adopted by the WCPFC.

#### **d. Technical and Compliance Committee Meeting**

Tosatto said that the United States participated in the TCC with some identified compliance issues. The United States was subject to a fair assessment with some provisions being found with respect to noncompliance, meaning the United States had exceeded its bigeye catch limit.

The Commission was also reviewing the compliance scheme as a whole, and that effort was ongoing. The compliance measure expired in 2017. Tosatto said that the Commission would likely roll over the current measure rather than have no measure before the review is completed.

Kingma added that, during discussion on the potential for either rolling over the existing compliance measure or not, Japan and China expressed that they would rather see no compliance monitoring measure pending the outcome of the review.

#### **e. Permanent Advisory Committee Issues**

Kingma said he would report on the upcoming Permanent Advisory Committee (PAC) meeting, which was occurring in the following week, October 24 and 25 in Honolulu. Simonds had an ex officio seat, and Rice had the Council's Advisory Panel seat. Kingma said the PAC makes recommendations to the US Commissioners, which include Rauch of NMFS and Goto, representing the Council. The other Commissioners included representatives from the purse-seine industry, the Pacific Council seat and an environmental non-governmental organization.

Kingma said the issues to be discussed included the longline bigeye catch limits. The current WCPFC tropical tuna measure is set to expire at the end of 2017. The countries with longline limits include Japan, Korea, Chinese Taipei, China, Indonesia and the United States. Japan's quota was the largest, over four times the US quota. This was followed by Korea, Chinese Taipei and then China. Indonesia had a flat level of quota and caught a fraction of this. In addition, Small Island Developing States or US Participating Territories had no limits.

Kingma referred to the recent bigeye stock assessment. The Scientific Committee advice was to maintain bigeye fishing mortality at the average of 2011, 2014 or below. Kingma explained what this meant in terms of purse-seine and longline bigeye catch. A significant amount of bigeye was caught by other fisheries of Indonesia, surface troll, artisanal fisheries in the Philippines and Vietnam, which amounted to about 20,000 mt in recent years, up from a previously estimated 10,000 mt. The Commission will be receiving a new stock assessment, and there will be some interest to potentially reduce or relieve some of the measures on purse seine and longline while still being consistent with conservation objectives.

Regarding South Pacific albacore, the Commission had been discussing the strengthening the measures for this fishery in response to worsening economic conditions. A one-day intersessional meeting was held on the margin of the TCC meeting to progress a conservation and management measure for South Pacific albacore. Two items were discussed. One was a target reference point, a biomass-level target that was part of a harvest strategy framework adopted by the Commission. Currently, the stock of albacore is 40 percent spawning biomass in comparison or in relation to spawning biomass in the absence of fishing, based on the latest stock assessment in 2013. There was a proposal to set this target reference point at 45 percent of spawning biomass in the absence of fishing; that would require approximately a 35 percent reduction in catch from 2013.

China had signaled at the inter-sessional meeting that it would not support the target reference point in 2017. However, China was more receptive to negotiating a new South Pacific albacore measure. The key components of this measure as proposed by the Forum Fisheries Agency were a) the adoption of a total catch harvest limit of South Pacific albacore, not to exceed a given as yet unidentified level; and b) the limit should be split into proportions between EEZs and the high seas. Those levels of proportions were not identified at this meeting. China seemed more receptive to negotiating this.

Simonds asked if the Scientific Committee recommendation for bigeye was for both the longliners and the purse seiners.

Kingma said it would combine all bigeye fishing mortality at those levels, the average levels between 2011 and 2014, and would be the total Western and Central Pacific Ocean (WCPO) fishing mortality levels.

Simonds said the US quota was pathetic compared to all of the rest of the countries. The US purse-seine bigeye catch should be lowered so that the US longline catch could be increased. Moreover, the stock assessment indicated that overfishing of bigeye was not occurring in the WCPO. During all these years the purse seiners had been allowed to continue to catch bigeye, which is the target species for the longliners. The Commission had not done much about it. Catch limits have been based on allocation and not on science. The Scientific Committee had made many recommendations over the years, and the Commission had not paid attention to them. In summary, she said, the United States should not be reticent about increasing its quota.

Lutu-Sanchez sought clarification on chartering agreements.

Kingma said that an additional provision in the draft albacore measure indicates that charter vessel catches, including those fishing on the high seas, would go to the chartering countries. China would be comfortable with chartering Pacific Island nation vessels on the high seas and attributing that catch to the chartering nation or member and the SIDS.

Goto said that it is often overlooked that longline fisheries target adult bigeye and yellowfin tuna. Large adult tunas had the most economically feasible returns. Those fish had already spawned and contributed to recruitment. He agreed with Simonds that it was imperative for the United States to seek the maximum amount for the US bigeye quota

Bigelow said bigeye fishing mortality should be maintained at or below the average fishing mortality level from 2011 to 2014. However, the Scientific Committee is not saying that it's the aggregate fishing mortality. The Scientific services provider to the WCPFC would shortly develop a matrix where longline and purse-seine catches could be varied to assist decision making in Manila.

#### **f. US Proposals for Western and Central Pacific Fisheries Commission**

Tosatto said that US proposals to WCPFC would include those presented to the Northern Committee and the fifth revision of the WCPFC chair's draft for tropical tunas. The only other proposal was a sea turtle bycatch proposal, similar to the proposal forwarded by the United States into the IATTC in 2017 but not adopted.

Simonds said that the turtle proposal should be tabled and the United States should concentrate on the tropical tuna measures.

### **3. North Pacific Fisheries Commission Meeting**

Tosatto said the Alaska Regional Office was the lead for the North Pacific Fisheries Commission meeting. PIRO staff also participated. This regional fishery management organization (RFMO) is not yet as fully developed as South Pacific RFMO. The North Pacific Fisheries Commission has some measures in place, but they don't affect our fisheries that much. The US implementing legislation includes a commissioner from the Council. Gourley had been selected as a potential Commissioner. This had not yet been confirmed by the State Department

### **4. South Pacific Regional Fisheries Management Organization**

The fisheries covered by South Pacific RFMO are non-tuna fisheries, including the jack mackerel off the South American Coast, groundfish such as orange roughy and alfonsin and also squid. The United States had no active fisheries in the region but in the past did fish for some of these species in the North Pacific and for squid in the South Pacific, which is the basis for US participation. Tosatto said he chairs the Observer Program Working Group for the Commission and had contributed to establishing the South Pacific RFMO's VMS program.

China and Chinese Taipei are fishing heavily on South Pacific squid, principally for Humboldt squid. No stock assessment is available. A good understanding of the impacts of the current level of fishing on squid stocks does not exist. Squid has a short lifespan, so the fishery aims to harvest them before they die from natural mortality. The US interest at present is to increase knowledge of fishing pressure on squid stocks in case management intervention is required.

## **F. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

The AP had the following recommendations on pelagic fishery issues.

*Regarding LVPA amendment*, the AP recommended the Council select option #6 LVPA exemption area seaward to 12 nm around all islands of American Samoa, with an annual review.

*Regarding the court ruling on the LVPA*, the AP recommended the Council request NMFS file an appeal to the court ruling.

*Regarding the American Samoa longline permitting system modification*, the AP endorsed Amendment 8 as it is proposed.

### **2. American Samoa Regional Ecosystem Advisory Committee**

The REAC had no pelagic and international fishery recommendations.

### **3. Scientific and Statistical Committee**

*Regarding American Samoa LVPA and longline permit modifications*, the SSC recommended that the Council consider alternatives 3, 4, 5, and 6 to address the large vessel economic situation while also preventing gear conflicts and supporting preservation of cultural fishing opportunities. The SSC recommended that adjustments to the log book and creel survey designs allow for more information to be collected such as sold and unsold proportions of the catch, noting that some of this information is being collected already in the creel survey. The SSC recommended that NMFS PIFSC socioeconomics program consider conducting surveys of American Samoa residents on the issue of cultural fishing as well as documenting fish flow from small and large vessels.

*Regarding annual limits on sea turtle interactions in the Hawai‘i-based shallow-set longline fishery*, the SSC recommended option 3 to remove the hard cap measure because the prior hard cap is arbitrary, not supported by biological data and may have resulted in transferred effects of increased overall turtle take in the Pacific.

#### **G. Pelagic and International Standing Committee Recommendations**

Goto said the committee deferred recommendations to the plenary.

#### **H. Public Hearing**

Carlos Sanchez said it was very difficult to survive in the albacore longline fishery because of the poor economic returns. He had sold property in Cost Rica in order to survive this bad period. He thanked StarKist for the advances given to the fishery, but this left them in debt. He said the longline fishermen had been asking the Task Force to tell the governor to allow them to fish. However, the Task Force chair had been misleading people saying that he had invited the longliners to participate. However, this was untrue and he had not. Sanchez said that nothing in fisheries was created by American Samoa. The docks, the canneries, purse seiners, even the roads and the hospital were all built by the United States. As such, the loss of the longline fishery was immaterial. He felt that the ASG position was a bluff. The longline fishery now wanted to fish in US waters that start beyond 3 miles of the Territory.

Rep. Alex Jennings, American Samoa Fono, said the LVPA issue was dividing the community. He hoped some middle ground could be found. He said the governor’s offer should be listened to and respected.

Rasela Feliciano, a longline owner, provided a written comment that was read by Lutu-Sanchez. She heard with much disappointment the continued misinformation and false assumptions regarding the Tautai Samoa Longline Fishing Association members’ proposal on the LVPA 50-mile zone. The reduction of the LVPA was a direct result of the Tautai Samoa Longline Fishing Association asking for relief during a period of economic difficulties, namely temporary access within the 50 miles to provide relief with fuel costs and accrued expenses. Feliciano said the 50-mile zone no longer served its intended purpose, with only one active alia fishing at present. She contested the argument about harm to cultural fishing and indigenous rights noting that she, herself, was Samoan as was Lutu-Sanchez and Krista Haleck, another longline operator. The ban from fishing within the LVPA was a denial of being to fish in waters

belonging to American Samoans. Moreover, indigenous rights, deeds and political status were never part of the longliner agenda. American Samoans owned 80 percent of the US flag large longline vessels operating within the US EEZ around American Samoa. The rest were owned by legal residents of American Samoa who have equally contributed to the economy. Feliciano said that this action was never about the alia vessels, the recreational fishing vessels and all our small local fishing entities. It was never about the longliners taking away from small fishing vessels or cultural fishing subsistence. The longliners' goal was to coexist with the small fishing vessels.

## I. Council Discussion and Action

***Regarding the American Samoa LVPA, the Council*** recognized the importance of fishing to the American Samoa economy, culture and food security and supported all forms of fishing associated with the Territory. The Council appreciated the public's participation, interest and comments on the LVPA action and acknowledged the description of cultural fishing provided by Council member Sesepasara. The Council continued to emphasize the difficult economic conditions facing the American Samoa longline fishery based on public comment and recent catch data, and the Council further noted that catch rates of albacore are projected to decline across the South Pacific region unless stronger international management measures are adopted. Taking into account the aforementioned issues, the Council **identified, as a preliminary preferred alternative, the following option that would provide an exemption for large vessels permitted under the American Samoa longline limited entry program to fish seaward of 12 nm around Tutuila, 12 nm around Manu'a, 12 nm around Swains and 2 nm around the offshore banks.** The Council further directed staff to prepare a regulatory amendment and associated documentation that analyzes a range of alternatives for final action at its March meeting.

*Moved by Goto; seconded by Sensui.*

*Motion passed* with all voting aye apart from Sesepasara who voted nay.

Sesepasara said he would vote no on this recommendation

Lutu-Sanchez said she wanted the Council to recognize the longline fishery's dire economic situation. She reiterated the importance of the recommendation and said it was an effort to address the dilemma of the local fishery and local fleets. However, access to the LVPA was not a guarantee of success. It was a desperation move to help the fishery stay alive. Moreover, defining cultural fishing was not a simple process but it had to be done because this was an urgent matter. She appreciated the Council taking initial action to ensure this was addressed. There had been no harm and no prohibitions against any of the other fishermen. The access to these additional waters would help the situation and hopefully final action would be taken at the March meeting.

Soliai said that the Council understands it has been a sensitive subject and created a rift between several parties. It was sad that this had happened. From the cannery perspective, supply is important. The continuous uninterrupted supply of light meat, which was skipjack, and white meat, which was albacore, had to be sustained in order for cannery operations to continue.

Sensui said he supported Soliai's comments.

***Regarding the monitoring of American Samoa fisheries, the Council recommended consideration of adjustments to the logbook and creel survey forms to allow for more information to be collected, such as sold and unsold proportions of the catch, noting that some of this information is being collected already in the creel survey.***

**The Council also recommended the American Samoa DMWR consider implementing a mandatory fisheries permit and reporting program that would serve to improve fisheries monitoring in the Territory.**

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

***Regarding cultural fishing, the Council recommended that the NMFS PIFSC socioeconomics program gather information on the issue of cultural fishing in American Samoa, which may include expert interviews and focus groups, as well as document fish flow from small and large vessels and complete this work by Jan. 30, 2018.***

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

***Regarding modifications to the American Samoa longline limited entry permit program, the Council took final action to recommend an amendment the Pelagic FEP to modify the permit program as follows:***

- a) **Replace the four vessel classes with two, where Class A and B vessels would be considered "small" and Class C and D vessels would be considered "large";**
- b) **Restrict permit ownership to US citizens and US nationals only and eliminate the requirement to have documented history of participation to be eligible for owning a permit, but maintain the priority ranking system based on earliest documented history of fishing participation in vessel class size, if there is competition between two or more applicants for a permit;**
- c) **Require that permits can only be transferred to US citizens or US nationals, and eliminate the requirement for documented participation in American Samoa longline fishery to receive permit transfer;**
- d) **Reduce the "small" vessel class minimum harvest requirement to 500 pounds of pelagic MUS within a three-year period, but maintain the existing 5,000 pounds harvest for the "large" vessel class;**
- e) **Require that the entire minimum harvest amounts for the respective vessel classes are to be landed in American Samoa within a three-year permit period but that the minimum harvests not be required to be caught within the US EEZ around American Samoa;**

- f) **Specify a fixed three-year permit period that is the same as the three-year period to make a minimum harvest requirement; and**
- g) **Require that the minimum harvest period not restart in the event of a permit transfer and that if the minimum harvest amount has not been caught at the time of transfer, the new permit owner would be required to meet the harvest requirement based on the following formula: the product of percentage of time left within the three-year permit period and the minimum harvest amount**

**Council directed staff to finalize and transmit the FEP amendment for Secretarial review, as appropriate. Further, the Council deemed that the regulations implementing the recommendations 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 are 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.**

*Moved by Goto; seconded by Sensui.*

*Motion passed* with Lutu-Sanchez and Soliai recusing and Tosatto abstaining.

Lutu-Sanchez said based on advice or instruction from General Counsel she would not be able to vote on this final action. She wanted to state for the record that the American Samoa longline limited entry program was the progeny of this Council and one that is considered a model program and was balanced in every way, including all of its complex provisions. She was proud to have been an architect of the fishery and was happy to see that the process could be simplified and more accessible for participation. Although unable to vote on this final action, Lutu-Sanchez said that she would have vote for it.

Soliai said that he too would have to recuse himself from this action, but was in favor of it like Lutu-Sanchez.

Simonds thanked Sesepasara who was head of DLNR at the time that they worked this very elaborate, comprehensive, difficult management regime, and they had both worked with the small boats and the large boats to develop this program. She said that they had hoped that the small boats would continue to fish, because there were 40 at the time. She believed the Council members were making the right decision.

There was some further discussion on the meaning of paragraph g and the permutations this could lead to in terms of transferring the volume of catch required to renew a permit. However, this did not lead to any objections to the final action.

***Regarding the annual catch limits on sea turtle interaction in the Hawai'i shallow-set longline fishery, the Council recommended option 3: Removal of the hard cap measure***

**consisting of annual limits for loggerhead and leatherback turtles and associated fishery closure procedure as the preliminary preferred alternative. The Council recognized that the gear measures implemented in 2004 have been successful in reducing sea turtle interactions in the fishery and that the hard cap measure is no longer necessary given that the fishery and turtle interactions are likely to remain relatively stable in the future and unlikely to rebound to the 1990s peak levels. The Council believed that the removal of the hard cap measure will reduce uncertainty in the fishery and eliminate the potential for spillover and transferred effects of increased overall impacts to sea turtles in the Pacific.**

**The Council directed staff to prepare a draft amendment to the Pelagic FEP including analysis of impacts and considering the analysis to be conducted for the shallow-set longline fishery ESA consultation.**

**The Council directed staff to conduct a meeting to review the alternatives with the shallow-set longline vessel operators.**

*Moved by Goto; seconded by Sensui.*

*Motion passed* with Okano voting nay.

***Regarding the Amendment 7 specification process, the Council directed staff to write a letter to Secretary Ross documenting that for the third year in a row NMFS PIRO has failed to authorize the US Territory longline bigeye limit specifications prior to the US longline limit being reached. The letter should note the impacts on vessel owners, crew and local seafood markets as a result of the shutdowns experienced from the lack of seamless transitions. The letter should also request that in order to prevent future unnecessary delays and impacts that NMFS develop procedure with clear deadlines to meet the necessary milestones in the annual specification process.***

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

Goto said that there were no longline boats at the auction that morning as a direct result of the transition from the closure to the reopening. This created a gap in operations and in fish supply to the Hawai'i market, which affected retail fish prices and opened the market for foreign imports. This uncertainty always created a sense of anxiety within the seafood community.

Tosatto said that the Council put in place an annual process on purpose to provide the level of review necessary on an annual basis against the environmental factors being considered. The level of analysis required to approve this decision was important, and this was dependent on the thoroughness of the analyses received from the Council.

***Regarding the WCPO US longline bigeye limit, the Council directed staff to write a letter to Secretary Ross recognizing that the WCPO bigeye is not subject to overfishing or considered overfished and requests that the US government work to obtain a US longline bigeye limit of 6,000 mt under the WCPFC tropical tuna measure. The Council further recommended that the US government acknowledge that any***

**proposed reductions in the US longline bigeye limit would prevent the US in joining consensus on a new tropical tuna measure.**

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

## **IX. Protected Species**

### **A. Updates on Endangered Species Act and Marine Mammal Protection Act Actions**

Randy McIntosh provided updates on ESA and MMPA issues, including recovery plans, critical habitat, response to listing petitions and rules.

#### **1. Turtles**

Regarding the North Pacific loggerhead turtle recovery plan and five-year status review, NMFS anticipated releasing the draft review for public comment in early 2018 and a draft recovery plan at the 38<sup>th</sup> International Sea Turtle Symposium in Japan in February 2018. NMFS was continuing to implement the Sea Turtle Recovery Program through implementation of priority activities in the recovery plans. Regarding green turtle critical habitat, NMFS had been tasked with higher priorities regarding sea turtle listings under the ESA and did not anticipate proposing critical habitat designations in the next year.

#### **2. Corals**

Regarding ESA-listed corals, NMFS was engaged in next steps associated with the list, including consideration of protective regulations pursuant to ESA Section 4(d), recovery planning and Section 7 consultations. NMFS anticipated publishing the coral critical habitat proposed rule in 2018. Areas within waters of American Samoa, Guam, CNMI and PRIA are under consideration for critical habitat designation.

#### **3. Other Actions**

Regarding the MHI insular false killer whale, NMFS completed the draft species status assessment and was developing a draft recovery plan and implementation strategy, which will be submitted for peer review in late 2017 prior to public comment. The recovery plan is being developed in-house rather than by a Recovery Team.

Regarding Hawaiian monk seals, NMFS focused on events, activities and outreach to support monk seal conservation and recovery through the Year of the Monk Seal initiative.

Regarding the MHI false killer whale critical habitat, NMFS anticipated publishing a proposed rule in early November to meet a stipulation under a court-approved settlement.

Regarding responses to ESA listing petitions, NMFS was drafting a final rule to list the oceanic whitetip shark, which is expected to publish in late December 2017. NMFS was also drafting a final rule to list the giant manta ray, which is expected to publish in January 2018. In

August 2017, NMFS announced a not-warranted 12-month finding to list the Pacific bluefin tuna. NMFS anticipated publishing a 12-month finding on a petition to list the chambered nautilus this fall. NMFS also published a positive 90-day finding on a petition to list several species of giant clams in June 2017.

The final humpback whale approach rule under the MMPA is in the NMFS Office of Protected Resources, pending further instruction. NMFS was conducting an economic evaluation to inform the final rule for the spinner dolphin approach rule published in August 2016.

Regarding the False Killer Whale Take Reduction Team, the Hawai‘i deep-set longline fishery had eight observed interactions with false killer whales in 2016 and six observed interactions to date in 2017. Of the six interactions in 2017, one occurred inside of the EEZ, but this interaction did not count toward the closure trigger as it resulted in a non-serious injury determination.

Goto said that the HLA is concerned about the definition of serious injury. While every attempt is made to release the animals alive, gear may still be attached under certain circumstances. He asked what constitutes a serious injury for false killer whales and how many of the false killer whales released alive are categorized as serious injury.

Tosatto said NMFS has a document that guides review of interactions. A series of scientists review the information from the observed interaction and make a determination based on the observed condition of the animal, gear remaining and apparent injuries. He said he did not have the numbers at hand. NMFS occasionally reviews the guidance document to ensure best available information is used. When there is a review, NMFS tries to keep the Council involved and updated on the progress.

Goto asked for more information on the serious injury determination review process.

Tosatto said the document is a national guideline and not one that is under his direct control. His understanding is that the guideline is considered for review. He said he will check on the status. Regarding the serious injury determination protocol for the region, Tosatto said he is not considering adjusting that process as it is guided by the national guidelines and best information possible.

Goto called upon Ishizaki to provide statistics on false killer whale injury determinations.

Ishizaki said approximately 90 percent of all observed interactions since 2013 when the Take Reduction Plan was implemented resulted in the animal released alive. The amount of gear remaining varies due to circumstances that are difficult to control during an interaction event. Of the 90 percent released alive, about 70 percent are categorized as serious injury. If any gear remains on the animal’s head region, the interaction will result in a serious injury determination given the current guidelines.

## **B. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

Guthertz reported that there were no AP recommendations regarding protected species.

### **2. American Samoa Regional Ecosystem Advisory Committee**

Lutu-Sanchez reported that the REAC had no protected species recommendations.

### **3. Scientific and Statistical Committee**

Ochavillo reported that there were no SSC recommendations regarding protected species.

## **C. Public Comment**

There were no public comments.

## **D. Council Discussion and Action**

***Regarding the False Killer Whale Take Reduction Plan, the Council requested NMFS to consult with the Council in the current serious injury determination guideline review process and requested NMFS to provide a presentation of the review at the March 2018 SSC and Council meeting.***

**The Council directed staff to work with industry representatives, PIRO and PIFSC to consider alternative approaches to minimize injuries on false killer whales released alive, including considerations for the serious injury determination guideline review, and provide a briefing to the SSC and Council at the March 2018 meetings in preparation for the April 2018 Take Reduction Team meeting.**

*Moved by Sensui; seconded by Sesepasara.  
Motion passed.*

## **X. Program Planning and Research**

### **A. Alternatives for Aquaculture Management (Action Item)**

Joshua DeMello, Council staff, presented the aquaculture management alternatives. In 2007, the Council adopted an Aquaculture Policy. In 2009, the Council revised the policy to include more considerations and guidelines for aquaculture. The Council took initial action to establish requirements for aquaculture. In 2010, through the amendment process, the Council recommended mandatory permit and reporting for aquaculture and added the development of criteria for limited entry and environmental monitoring. The FEP amendment required an environmental impact statement (EIS) that would include mandatory permit and reporting, limited entry and environmental monitoring criteria. The Draft EIS looked at three different alternatives that have nine different program components. The alternatives include no action, a base alternative that has less regulations and one that has more regulations.

Under the permitting program component, Alternative 1 is no action where no permit would be required. The Council still has the Special Coral Reef Ecosystem Fishing Permit for the potentially harvested coral reef taxa. Alternative 2 would establish federal permitting that is transferable. Alternative 3 would have separate siting and operating permits and the permits would not be transferrable.

Under the application requirements, operational requirements and restrictions program component, Alternative 1 is no action, keep the status quo where there is no application requirements and restrictions. Alternative 2 would establish requirements and restrictions. This would require an application with information on the operations plan, having a locating device and being compliant with federal regulations. Alternative 3 would require a siting permit and an operations permit. Both have applications, both would require proposals, but alternative 3 also includes a use-it-or-lose-it permit that stipulates that, if the permittee does not put the structure in the water within two years, he/she will lose the permit, and have three years to put the species in the operation. However, the permittee could request for an extension of up to one year.

Under the permit duration program component, Alternative 1 is no action: no permits hence no duration. Alternative 2 is where permits would be effective for 10, 15 or 20 years and renewable in five-year increments, which is similar to what the State of Hawai'i already has. Alternative 3 is where permits are effective for five years, renewable in five-year increments.

Under the allowable aquaculture systems program component, Alternative 1 is no restrictions placed on aquaculture systems. Alternative 2 is no specific prohibitions placed on aquaculture systems in the EEZ. Alternative 3 would allow only specific cages and net pens for aquaculture use.

Under the siting requirements and restrictions program component, Alternative 1 is no action where aquaculture could be sited anywhere. Alternative 2 would prohibit aquaculture where commercial fishing is prohibited. There would be no aquaculture in habitat areas of particular concern (HAPC), and monitoring is required at those aquaculture sites. Alternative 3 has those same requirements, but it would establish aquaculture zones where aquaculture can occur.

Under the allowable species program component, any species would be allowed under Alternative 1. Alternative 2 would allow only species listed in the FEP or naturally occurring in the archipelago. Alternative 3 would allow only species listed in the FEP or naturally occurring and previously cultured or likely to be successful.

Under the record-keeping and reporting requirements program component, Alternative 1, record keeping and reporting are not required. Alternative 2 would require record-keeping of production, escapes, protected species interactions, etc. Alternative 3 would require all of that, plus 24-hour electronic monitoring using electronic reporting methods and additional reporting requirements for disease, brood stock, water quality monitoring, etc.

Under the program capacity component, Alternative 1 is unlimited capacity. Alternative 2 is no limit to the number of permits. Alternative 3, limits entry based on criteria to be developed.

The Council should also consider the framework procedures that allow the Council to be more adaptive in its management and would create framework measures under Alternative 2. Alternative 3 would also allow framework measures, but under Alternative 2 the Council considers establishing an Aquaculture Advisory Panel. Alternative 3 would make an Aquaculture Advisory Panel mandatory.

Okano said the State of Hawai‘i prefers the use of native species and the young of wild caught as well as the occurrence of water quality monitoring. The State would like the Council, as this plan is being developed, to consider the Hawai‘i plan for consistency.

DeMello said it’s important that this action is not so restrictive it forces everyone into State waters.

## **B. Options for Designating Management Unit Species into Ecosystem Components (Action Item)**

Marlowe Sabater, Council staff, presented the options for reclassifying MUS as stocks in need of conservation and management and stocks that are ecosystem component. The Council developed an analytical framework that filters each of the species based on available catch, occurrence, maximum depth, revenue and biomass. The data are used as proxies for the five criteria described in revised National Standard 1 (NS1). This constitutes the “thorough analysis” requirement in order to include, retain or remove MUS from the fishery management plans (FMPs). A multivariate analysis determined the relationship between species from the five variables included in the analysis. The patterns of species association were presented through two- and three-dimensional plots. A permutational multivariate analysis of variance determined the fidelity of the groupings from the multidimensional scaling. The cutoff levels determined the number of species that are filtered out. Each filter removed species from the original list, and the multidimensional plots showed the points with decreasing density at every stage. A preliminary list of species was generated after all of the filters were applied at various cutoff levels. The Ecosystem Component Expert Working Group used the preliminary list during its deliberations. The working group added and removed species after considering sociocultural, economic, management and regulatory factors. The working group generated the final list of candidate species in need of conservation and management. The remaining species are candidates for ecosystem component species.

The Hawai‘i analysis was conducted by PIRO contractor HT Harvey and Associates. The analysis utilized several factors described in the NS1 guidelines and the Hawai‘i Division of Aquatic Resources (DAR) Fishery Reporting System catch data. Non-confidential catch reports for all of the MUS from 2004 to 2014 from DAR were summarized between the 0 and 2 nm inshore grids and the >2 nm grids to determine the inshore and offshore ratio of catch. It was assumed that the 0 to 2 nm catch constitute the State portion of the catch and catch beyond 2 nm constitutes the federal portion. The species were included if more than 20 percent were caught in federal waters. It was assumed that effective federal management was probably limited to fisheries where  $\geq 20$  percentage of landings were reported from federal waters; critically, effective management by other agencies is not guaranteed when federal landings are <20 percent of total landings. A list of 26 candidate species was generated and subjected to the Rapid Appraisal for Fisheries approach that ranked species after considering the ecological, economic,

fisheries and institutional factors. The prioritized list was then subjected to the Ecosystem Component Expert Working Group deliberation to come up with the final list of species for Council consideration.

The objectives of this amendment are twofold: first, to evaluate whether existing MUS in the Council's FEPs require continued conservation and management based on the revised 2016 NS guidelines (81 FR 71858, Oct. 18, 2016), and, second, to evaluate and present options as to whether those species that may not require conservation and management should be reclassified within an FEP, added to or removed from an existing FEP, or added to a new FEP. See 50 C.F.R. § 600.305.

The options presented to the Council followed a nested hierarchical logic framework. Option 1, no action, would retain all the MUS in the FEPs as in need of conservation and management. Option 2 would classify species based on factors described in the NS1 guidelines. Once the NS1 factors are applied, species could be classified as in need of conservation and management (sub-option 2.1) and as species not in need of conservation and management (sub-option 2.2). The final species reviewed by the Ecosystem Component Expert Working Group would be listed as in need of conservation and management. All the remaining species in the American Samoa, Mariana and Hawai'i FEPs would be considered not in need of conservation and management and could be classified as either ecosystem components (sub-option 2.2.1) or removed from the FEPs (sub-option 2.2.2).

Under option 1, the Council would manage all species in the FEPs as species in need of conservation and management. They would require MSY, optimum yield, status determination criteria, overfishing limit (OFL), annual catch limit (ACL), acceptable biological catch (ABC), accountability measure (AM) and essential fish habitat (EFH)—information that is not available for most species. Thousands of species in the FEPs would be monitored on a stock complex level. The pros and cons analysis under this option showed more cons. Specifying ACLs for thousands of species in the FEPs would continue regulatory burdens and difficulty in managing stocks by ACLs because most are in a data poor situation. The FEPs and Stock Assessment and Fishery Evaluation (SAFE) reports would not provide reliable information on the status of data poor stocks. The Council and NMFS would be overburdened managing 115 stock complexes under tactical management approaches that limit the implementation of ecosystem-based fishery management (e.g., using stock assessments to develop ACLs to manage the stocks by closing the fishery when the ACLs are reached). Pros include fishermen familiarity with the regulations as no new rules would be promulgated and no additional administrative burden as an amendment would not need to be developed to change the MUS list.

Under option 2, the Council would classify species based on factors described in NS1 for species that are in need of conservation and management and those that are not. Species that passed all the filters and the deliberation of the Ecosystem Component Expert Working Group would comprise the species in need of conservation and management. The number of species in need of conservation and management to comply with the revised NS1 guidelines would be reduced. The pros and cons analysis resulted in a significant number of pros. The number of species would be reduced to a manageable level, ensuring that the final list of species have available data as a byproduct of the multivariate analysis. Improvements could be made to the definition of stock complex (the current definition is taxonomic or all species caught by a

particular fishing method), and a manageable list of species subject to stock assessment could be created. These species would have fishery dependent and fishery independent information. The list of species that are under federal management influence would be clearly defined. A shorter list of species under federal conservation and management would allow for targeted research and better allocation of resources. Data collection improvement efforts could be refocused by articulating how each data source would determine if a species is in need of conservation and management. A cleaner path would be provided to develop effective reference points that are appropriate for the species being managed. The current reference points are CPUE-based proxies that cannot be implemented and monitored due to the quality of the data collection programs. The manpower and funding of the Council and NMFS would be focused on resources that are in need of conservation and management. The stock assessment prioritization process would be focused on a finite set of species making it more realistic and manageable. Traction of the assessment would increase by limiting the assessment to species in need of conservation and management in federal waters. More importantly, the administrative burden of specifying multi-year ACLs would be reduced. The currently harvested coral reef tax and potentially harvested coral reef taxa (PHCRT) categories for coral reef ecosystem MUS would also no longer apply thereby streamlining the species being managed. The number of cons is limited. Reducing the number of species that are in need of conservation and management is perceived as loss of management authority. However, the species that are not in need of conservation and management could still be retained in the FEP as ecosystem components as allowed by the NS1 guideline. The reduction of the number of species is also perceived as potential loss of funding justification. If the species were to be retained in the FEP as ecosystem component, monitoring would still continue and requested funding justified. If a species is in need of conservation and management, a data collection system would need to be developed to capture information to satisfy the monitoring requirement for these species. Adopting option 2 would automatically trigger classification of species into two categories: those needing conservation and management and those not needing conservation and management. Species not in need of conservation and management could be treated as ecosystem components and retained in the fishery or they could be removed from the FEPs. Designating some species as ecosystem components would reduce the number of species requiring specification as enumerated in the NS1 guidelines. The Council would still have management control using ecosystem-based fishery management (EBFM) approaches for species that are retained in the FEPs. This could improve management by developing ecosystem tools to support EBFM. The Council could continue to monitor the species and justify funding to sustain the data collection of ecosystem component species. This would also operationalize the initial treatment of some MUS as formal ecosystem components (e.g., PHCRT, non-NWHI crustaceans, territory precious corals, Pacific Remote Island Area MUS, deep-water shrimp). It would increase linkage of ecosystem science to management and complement the increased interest in integrating ecosystem science in fishery management. This would facilitate increased development of ecosystem indicators and ecosystem models for proactive fishery management. As for the cons, if the species were to be removed from the FEPs, the Council would relinquish management authority. All the regulations associated with the species would also be removed. The species would no longer be monitored. A thorough analysis of all 10 NS1 factors is required in order to remove species out of the FEPs. This thorough analysis has not been done. The Council can no longer justify funding to monitor and conduct research. Also an amendment is required to bring the species back into management either as in need of conservation and management or as an ecosystem component.

Sabater said the Council needs to select an option to classify the current MUS based on the NS1 guidelines.

Okano stated that State of Hawai‘i has no problem with the lists of precious coral species and Deep 7 species, which are co-managed with the federal government. However, the State has issues with the coral reef species. The cut-off used for the coral reef species is 20 percent of the total catch is caught in federal waters. That 20 percent is based on the catch beyond the 2-nm boundary of the reporting grids. State waters extend out to 3 nm and not 2 nm. The exact catch between federal and State cannot be determined because of the inconsistency between the reporting grids and the State waters. The State wants to point that the actual catch in State waters is probably higher and that 50 percent would be a fairer place to draw the line.

Gourley asked whether Council staff worked with the State of Hawai‘i representatives with regards to the analysis and the results.

Sabater said this was brought up during the Ecosystem Component Working Group meeting. He showed the slide that described the list of Hawai‘i species with the percent landing beyond 2 nm and the 26 species that made it to the 20 percent cutoff. The working group did filter out some of the species with a strike-through. They were removed in the final list. An increase to 50 percent would likely keep the Deep 7 intact and practically remove kahala, juvenile jacks, rainbow runner and ulua from the final list of species. Sabater also noted that the working group added some coral reef species back on the list using Marine Recreational Information Program data. Those species are not included in the list that was analyzed through the PIRO contractor.

## **C. Precious Corals Management Issues**

### **1. Refining Precious Coral Essential Fish Habitat**

Rebecca Walker, Council staff, provided an update on refining precious coral EFH. The Council directed staff to prepare an options paper at the June Council meeting this year. Staff worked with PIFSC to develop a draft paper with three components. The EFH definition includes a description of the characteristics of the preferred habitat of precious corals as well as a geographic extent, which is currently unavailable for both deep- and shallow-water precious corals. The fishery and EFH are divided into the deep- and shallow-water components. The deep-water corals include red, pink, gold and bamboo species while the shallow-water species include the black corals.

For the deep-water precious corals, the EFH descriptions are six known beds of precious corals throughout the Hawai‘i Archipelago. Staff has developed the habitat characteristics part of the EFH description. Gold corals have a unique description because they are parasitic. For the geographic extent, staff has created three options for the deeper-water corals, which will be finished in consultation with precious corals experts on the Council’s Plan Team to delineate the edges of the beds. For shallow-water EFH, staff has developed the habitat characteristics and will provide a geographic extent. Staff has not developed HAPC changes at this time. There is not enough new distribution information to develop EFH designations for the larval life stage in any management areas or the benthic phase in the territories. Staff plan to deliver an options paper at

the same time NMFS's habitat conservation delivers its recommendations for the Council's consideration.

## **2. Gold Coral Moratorium (Action Item)**

DeMello presented on the action item to consider renewal of the gold coral moratorium. Gold coral are harvested to craft into jewelry. Richard Grigg, PhD, discovered the resource in 1971. The growth rate of gold coral is extremely slow. The Council put in a gold coral moratorium in 2008 in order to allow further research to see whether recent research would validate Grigg's original aging estimate or demonstrate a different growth rate. Frank Parrish, PhD, determined that the colonies he tagged ranged between one to nine years showed no discernible growth. If gold coral grew 6.6 centimeters per year, one should be able to see growth. With this information, the Council put in a second moratorium in 2013 to reassess gold coral estimates.

The purpose of the current action is to provide the Council with the time to consider a long-term management strategy to ensure the sustainability of the gold coral fishery in the Western Pacific Region. The current moratorium is set to expire on June 30, 2018. No research has been done since the last moratorium extension.

DeMello presented three options and their pros and cons: let the moratorium expire, extend the moratorium an additional five years to June 30, 2023, and prohibit the take of gold coral. The no action option would open the fishery. Gold coral quotas are still on the books, but an ACL would need to be established before July 1, 2018. Under the extending the moratorium option, the Council could consider further possibilities without rushing into an ACL. However, a reassessment would still be needed as no research has occurred the last five years. The prohibiting harvest option would fully protect gold corals, but would hinder the fishery's ability to develop.

Current annual quotas in the FEPs include 0 kilogram (kg) at Makapu'u, Brooks and 180 Fathom Banks and 20 kg at Ke'ahole and Ka'ena Banks. The gold coral fishery is currently dormant. The primary precious coral jewelry manufacturer has not used gold coral in decades.

The State of Hawai'i regulations would still be in effect. It's unlawful to take, destroy, possess or sell any gold coral from State waters, except with a permit to take or possess gold coral for scientific or educational purposes, or to take or possess gold coral for commercial purposes.

Council staff took information from Brendan Roark, PhD, and Ellen Druffel, PhD, to recalculate some preliminary MSY estimates using the same model that Grigg used, the Gulland model, and natural mortality at those rates. The MSY changed from 313 kg at Makapu'u to 20.9 kg with a range of 20.9 to 8.6 kg. At current gold coral values, an MSY of 2.9 kg would range from \$2,000 to \$16,000 and an MSY of 8 kg would range from \$800 to \$6,000.

Okano asked how the gold coral from Hawai'i compares to those from other areas.

DeMello compared it to Tahitian pearls. The difference may not be visually detectable, but the product is marketed as superior.

Sesepasara asked the depth at which gold coral occur.

DeMello said at about 400 meters.

Soliai asked if gold coral had been identified in other management areas of the Council.

DeMello said they occur within discrete beds in the Hawai'i Archipelago.

#### **D. Territory Science Initiative Project Updates**

Sabater presented the updates to the Territory Science Initiative (TSI) projects in Guam, CNMI and American Samoa. The project aims to improve data from the Commercial Receipt Book Program by building the capacity of the fish retailers to identify fish and improve the data recording process. The Guam TSI project is ongoing with nine vendors consistently reporting to the program. The majority of the commercial landings are reef fish followed by pelagic fish (mostly skipjack). It's noteworthy to mention that the project recorded 6,297 pounds of imported fish. The total commercial landing reported in 2016 was 64,298 pounds whereas in 2017 (as of August 2017) is already 95,435 pounds. The TSI project in CNMI is ongoing. Nine vendors reported commercial fish sales to the TSI program in 2016 and 2017. Compared to Guam, the CNMI commercial fish sales are mostly pelagic fish, followed by reef fish and bottomfish. A total of 162,277 pounds of fish was sold in 2016. The project is working on fabricating a fish sorting table to support the vendors in logging the fish in the log books. The TSI project recorded slipper lobsters in the commercial receipt books, which are the source of data for monitoring the slipper lobster ACL. This resulted in an overage in catch for slipper lobster against its ACL. The TSI in American Samoa ended in February 2017. The DMWR assumed responsibility in collecting the data after enrolling more than 40 vendors and restaurants into the program on the island of Tutuila.

#### **E. Report on Coral Reef Regulation Review**

DeMello presented on the coral reef regulation review. In the 1980s, fishery management moved toward ecosystem-based management. The Council followed suite. In 1984, Jeff Polovina, PhD, created the ECOPATH model and used it for French Frigate Shoal. In 1986, NMFS started the EBFM approach. In the 1990s, the Council looked at the feasibility of creating a Coral Reef Ecosystem FMP. In 1996 the MSA was reauthorized and amended as the Sustainable Fisheries Act. Around 1998, the Council started developing the Coral Reef Ecosystem FMP. Since then, the Council has received funding from NMFS and then NOAA Coral Reef Conservation Program (CRCP) for projects to amend its FMPs.

The Coral Reef Ecosystem FMP was published in 2004. Those regulations have been on the books for 13 years. The Council received funding from CRCP to review the current FEP regulations for coral reef fisheries to determine whether they are still relevant and effective as well as stakeholder recommendations for improving, revising or adding regulations as deemed appropriate by the community. Suggested revisions or additions to the FEP will be captured in workshop reports and developed into a draft report of changes to the regulations and potential options for Council consideration in future meetings.

Staff held workshops in CNMI, Guam, Hawai‘i and American Samoa. Participants were asked the following questions: Do the existing regulations reflect the needs of the community? Are the current issues and needs being met by the existing rules? What type of management is wanted or needed in your island area?

Among the workshop results are the following:

1. Many of the participants mentioned that they wanted to know what is in the fishery. If there are no fishermen in federal waters, why do we have rules for these fisheries?
2. Participants wanted to look at the local regulations first to see what is needed. The federal regulations were not as strict as local regulations.
3. One issue was the lack of enforcement of the rules and regulations, despite community-based management.
4. For management needs, the groups noted the lack of data. They wanted more data. Research, like that on fish flow, was important to them. They added the need for having enforceable rules that are fair across the board.

The groups also talked about what type of changes could be made to the FEPs. Some groups looked at the PHCRT list and questioned the need to have a special coral reef ecosystem fishing permit just for the PHCRT when there are also ACLs and potentially ecosystem component designations.

Council staff will finish the report, work with the Council advisory groups, especially the Plan Team, on these issues and provide the Council information for their consideration.

#### **F. Social Science Planning Committee Strategic Plan and Priorities**

Mark Mitsuyasu, Council staff, presented the outcome of the Social Science Planning Committee (SSPC) strategic planning efforts. The SSPC meeting was held on the 26th and 27th at the Council office. The Administrative section of the Council agenda will take up the changes to the SSPC membership. The purpose of the meeting was to develop the Strategic Plan, which the Council recommended at its previous meeting, and develop the five-year research priorities that will feed into the annual SAFE report that’s developed in June.

The draft plan, which is in the Council briefing document, is comprised of the following sections: overview, vision statement and mission statement. The SSPC identified goals, objectives within each goal and activities under each objective. The draft Vision Statement is “abundant Western Pacific fisheries, thriving island cultures and healthy fishing communities are supported by effective management informed by timely and robust social science.” The draft mission statement is “The Western Pacific Fishery Management Council will increase social science capacity and elevate the integration of appropriate and diverse social science theories, methods and data throughout the Council decision-making process to sustain abundant fisheries, support thriving island cultures and empower healthy fishing communities.”

Seven goals are listed. Goal 1 is to increase recognition of the value and importance of social science for management and policy. The objective under this goal is to conduct education and outreach activities with managers, Council members, scientists, policymakers and other key stakeholders. Goal 2 is to enhance social science capacity in the Western Pacific Region. Two objectives under this goal are to get support within the Council staff for social science and to establish and strengthen partnerships with academics and researchers. Goal 3 is improve coordination among the agencies, both federal and island agencies. Goal 4 is to prioritize relevant social and economic research for management. Four objectives under this goal are to identify research needs and gaps, to annually assess those needs, to ensure place-based knowledge and perspective drive priorities whenever appropriate and to be responsive to emergent areas of research or data needs, such as conflict, disaster relief, etc. Goal 5 is completed high quality social science research carried out in a timely fashion. “Timely” was a key operator because a lot of times the Council does not get that analysis in time for decision-making. Goal 6 is improved integration of social science into management. Objectives are to ensure that the Council process is adequately informed by social science throughout all of its advisory groups and the Council meeting, itself, and, also, to integrate social science throughout the research and management lifecycle from planning implementation and evaluation. Goal 7 is empower communities through involvement in research and management. The objectives are to enhance communities to identify the research needs, concerns and objectives and to involve communities in research activities.

During the second part of the meeting, the SSPC spent a lot of time and energy to a draft strategic plan that the Council can carry forward into the next funding and program planning cycle. The SSPC also looked at the five-year research priorities. The committee is looking to meet again early next year, perhaps in February.

Sesepasara suggested touching base with the US Coral Reef Task Force with regards to the strategic plan since some of the objectives are similar with what the Task Force has.

Mitsuyasu said he will carry the message to the SSPC.

#### **G. Report on the Climate Change Training Workshop**

Sylvia Spalding, Council staff, reported on the train-the-trainers climate change workshop held in Hawai‘i on Sept. 28 involving Hawai‘i members of the Marine Planning and Climate Change Committee (MPCCC) and AP. Seema Balwani, given her experience in communicating complex scientific concepts, developed the workshop in coordination with Council staff. Comments will be used to fine tune the presentations for community workshops, if it is valuable to move forward with community workshops. The Council will hear a report on the workshops and recommendations at its March meeting. Spalding also displayed a fisheries and climate logo that was developed for community outreach at the recommendation of the MPCCC.

#### **H. Regional, National and International Outreach and Education**

Spalding said, since the last Council meeting, the Council published AP brochures updated with new members and a new format, a summer newsletter, an updated Hawai‘i speaker’s program brochure, FEP brochures and reprints of the cultural fishing monograph. Staff

worked with the other fishery management councils to develop a two-page briefing document for the MSA hearings to inform interested parties about the Council process.

The scholarship program supports three students at the University of Hawai‘i at Hilo and one at the University of Guam. The program is open to college juniors and seniors. All of the current students in the program are from the CNMI.

Staff developed a logo for the APs, which is a variation on the official Council logo. Staff helped organize the first annual climate science workshop, held at the Inouye Regional Center, to coordinate climate science and management.

Lutu-Sanchez thanked Simonds and staff for the education and outreach program. The Fisher Forum was a successful event. It is important that students gain exposure to fisheries and ocean management throughout their educational process.

Sesepasara said he knows a Hawai‘i Pacific University freshman who is interested in the scholarship. He said many high school students were interested in the program.

Spalding said the Hawai‘i Pacific University student is also eligible for the Council’s Fisheries Internship and Student Help program.

## **I. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

Judith Guthertz, AP chair, presented the AP recommendations.

*Regarding ecosystem component species designation*, the CNMI, Guam and Hawai‘i APs recommended the Council select Option 2 with a sub-option of designating species not in need of federal conservation and management as ecosystem component species. The Hawai‘i AP would also like the opportunity to prioritize those species at a future meeting

*Regarding gold coral management*, the Hawai‘i AP recommended the Council select Option 2, extending the gold coral moratorium, to provide the Council with more time to develop an appropriate ACL and management strategy.

*Regarding aquaculture management*, the CNMI and Guam AP recommended the Council select Alternative 2, as its preliminary preferred alternative as it is less restrictive to develop an aquaculture industry in the region, and the Hawaii AP recommended Alternative 2 for allowable systems, allowable species and framework measures and Alternative 3 for permitting, applications, permit duration, siting, record keeping and program capacity. The American Samoa AP had no recommendation.

### **2. Regional Ecosystem Advisory Committee**

Lutu-Sanchez gave the REAC recommendations.

*Regarding aquaculture management, the REAC recommended that the Council continue developing management regulations and engaging stakeholders on the aquaculture options to determine the best option for the American Samoa community and government.*

*Regarding precious coral management, the REAC recommended a conservative approach given the slow growth rate, low value of the fishery and potential ecosystem services offered by the gold coral community.*

### **3. Scientific and Statistical Committee**

Ochavillo presented the SSC recommendations regarding program planning.

*Regarding aquaculture management, the SSC recommended the following:*

- Permits be required for aquaculture operations with considerations given towards allowing transferability and potential bundling of siting operations and dealer permits.
- Aquaculture permit possess a use it or lose provision.
- Aquaculture permits cover a significant time period of at least five years and be renewable.
- No specific restriction be imposed on allowable aquaculture systems, but chosen systems be thoroughly documented in the permits to address breakage and navigational hazard concerns.
- Aquaculture zoning and monitoring be established with careful attention towards minimizing fishery conflicts and negative environmental impacts, especially in HAPCs.
- Aquaculture operations culture species be listed in the FEP or naturally occur in the archipelago, while noting that some existing aquaculture operations of exotic species are quite successful and safe, such that this species constraint might be revisited in the future.
- Aquaculture operations maintain thorough records of production, escapes, recaptures, protected species interactions, safety, gear conflicts, gear failure, disease, brood stock and water-quality monitoring.
- Aquaculture operation exist under frame-workable measures and an Aquaculture AP be established.

*Regarding designating MUS into ecosystem components, the SSC recommended adoption of Option 2 to classify species based on factors described in the NS1 guidelines, and further recommended removing sub-option 2.2.2 in order to retain species in the FEP. The SSC recommended adopting the specific species lists developed through the filtering process for continued inclusion as MUS.*

*Regarding the gold coral moratorium, the SSC recommended extending the moratorium. The extension would provide time for other management options, such as ACLs or a prohibition (permanent moratorium given the vulnerability of this species, to be considered and implemented by the Council). The SSC further recommended that, if any*

future commercial harvest is envisaged, further work on growth rates be undertaken as a priority to resolve the disparities among various growth rate estimates.

**J. Public Hearing**

There were no public comments with regards to program planning

**K. Council Discussion and Action**

***Regarding aquaculture management, the Council deferred action until the Council's 172nd meeting when the Draft Programmatic EIS and the accompanying analyses are available.***

Moved by Seseapasara; seconded by Sensui.

Motion passed.

Regarding options for designating MUS into ecosystem components, the Council selected Option 2.1 designating the species generated by the multivariate analysis based on the factors described in Section 600.305(c)(1) of the NS1 Revised Guidelines and the Ecosystem Component Working Group evaluation as in need of federal conservation and management. Further, the Council selected Option 2.2.1 designating the remaining MUS as ecosystem components that will be retained in the FEPs in order to achieve ecosystem management objectives.

The Council further directed staff to work with State of Hawai'i in finalizing the species list and developing an amendment to classify the MUS as in need of federal conservation and management and the remaining MUS as ecosystem component and present the draft amendment at the 173rd Council meeting, which is in June next year.

As part of this action, the Council requested NMFS to develop a dedicated monitoring program for the species listed as in need of conservation and management.

Moved by Goto; seconded by Sensui.

Motion passed.

Ochavillo sought clarification on the development of a dedicated monitoring program for the species listed as in need of conservation and management. DMWR has a dedicated creel survey program that captures some of the information for these species. He suggested adding a sentence to clarify this recommendation in relation to the existing creel surveys.

Sabater said Council staff would like to explore whether a dedicated data collection program can be developed for the finite list of species under federal conservation and management. Then the existing creel survey programs and existing data collection programs would be used for the ecosystem component part, which is what is used for the SAFE Report. He said, at this stage, staff would like to explore possible options to develop permit and reporting specific for those species that are in need of conservation and management.

Ochavillo recommended evaluating the current programs and how they address the listing and the feasibility of permitting to address the needs of those species in the list.

Sabater revised the language to direct staff to explore options for a dedicated monitoring program for the species listed as in need of conservation and management

Goto and Sensui agreed to the changes

Tosatto said to ensure Council staff works with the State of Hawai‘i to finalize the list. Where there is a difference of opinion, defer to the guidance of the MSA.

***Regarding the gold coral moratorium, the Council recommended a five-year extension to provide time for other management options, such as ACLs, ecosystem component designation, a prohibition, permanent moratorium, etc., to be developed and implemented.***

Moved by Seseparasara; seconded by Goto.  
Motion passed.

Regarding outreach and education, the Council directed staff to work with the Council’s Education Committee to develop a plan to ensure fisheries is incorporated in classroom lessons at the primary and secondary levels, as appropriate, throughout the Western Pacific Region.

Moved by Lutu-Sanchez; seconded by Sensui.  
Motion passed.

## **XI. Hawai‘i Archipelago and Pacific Remote Island Areas**

### **A. Moku Pepa**

Okano presented the island report. The State has continued to survey its Marine Life Conservation Districts, most often counting more fish within the MLCs. FAD projects continued, documenting the loss of the FADs and recovering/replacing those that are lost. Community-based subsistence fishing areas is being pushed; the most recent example is on the north shore of Moloka‘i. Community meetings resulted in a reduction in size of the Mo‘omomi Community-Based Subsistence Fishing Area, allowing commercial fishing for bottomfish and pelagic species, and removing the exemption of commercial take for ta‘ape and akule. The Hawai‘i Marine Recreational Fishing Survey program continues, but staff time was reduced due to the loss of funding. With respect to aquatic invasive species management, an algae on the windward side is considered invasive by some but fishermen say it creates habitat for some species such as o‘io.

The bottomfish fishery reached 74 percent of its ACL in fishing year 2016-2017. The 2017-2018 fishing year started and, as of September 2017, bottomfish fishermen have taken 147 trips and landed a little over 5 percent of the ACL. Landings have declined slightly in recent years. The fishery is seasonal, and demand affects the seasonality of bottomfishing in Hawai‘i. The highest bottomfish activity in 2016-2017 was centered on Penguin Bank and the west side of

the Kona coast. Most of the landings were ‘opakapaka, followed by onaga. The other species in the complex are considered bycatch as they are not the targeted species, but they are still marketed.

The Hawai‘i Supreme Court ruled on Sept. 6, 2017, that the aquarium fish permit program is subject to the requirement of the Hawai‘i Environmental Policy Act, and DLNR discontinued issuing permits until further guidance is received. The aquarium fishery has the highest inshore value and is of commercial importance to the State, although the reef fishery is probably of higher value to the community. The west side of Hawai‘i island is the primary driver of the fishery with some activity on O‘ahu and minor activity on Maui and Kaua‘i. A major jump in landings from Kaua‘i reflects the higher value of the fish that are harvested, such as the bandit angelfish. Catch and effort has been declining or holding steady, but the dollar per unit effort has increased in the fishery. The West Hawai‘i section of the aquarium trade targets yellow tang and kole. Yellow tang populations have increased in the years following the establishment of fishery management areas. Recruitment is cyclical for yellow tang in the area. Kole and the top 10 other species also show an increase in abundance. The ruling is challenging to DAR given the increases in abundance of species in the fishery.

Sesepasara asked if all of the catch for the aquarium fishery is in the wild.

Okano said yes.

Sesepasara asked if there is an industry for aquaculture of aquarium fish. He said that he remembered aquaculture for aquarium fish occurring on the Big Island in the 1980s.

Okano said the aquaculture researchers are able to grow tang to the adult stage, but it is not yet economically viable.

Sesepasara asked if there is an interest in ta‘ape since at one time there was too much.

Okano said Mo‘omomi wanted to stop the commercial take of all fish in the area because it would be hard to distinguish whether ta‘ape were the only species caught.

Ochavillo asked Okano to explain the Supreme Court decision.

Okano said the State cannot issue any new permits. The State does not know if it will perform the environmental assessment or if the aquarium industry should complete the assessment.

Goto said there is legitimate concern about the commercial permit given the court ruling on the aquarium permits. People may seek to apply what is going on in the aquarium fishery to the commercial longline fishery.

Okano said the concern is valid. The aquarium fishery does not provide food, but this might be the first domino. It is a challenge, and the State will have to determine what the court ruling means and entails for it or the industry to do.

Goto said it would be helpful to keep the industry and Council updated as this issue moved forward.

Sensui asked if the agency intends to file an appeal for that court decision.

Okano said he thinks the court will invite the industry to be involved in the next step.

Sensui asked how the catch of the aquarium harvest compares to the food fishery.

Okano said the weight of aquarium species is low compared to the numbers. The fishery is based on small fish but high numbers.

Sensui asked if the fishery is sustainable.

Okano said the data show the fishery is sustainable.

Sensui asked how the opposition to the aquarium industry is justified.

Okano said ethics. These people like to see fish on the reef and not in aquariums. DAR sees it as a sustainable fishery, and it will be a challenge to further regulate a sustainable fishery.

## **B. Legislative Report**

Okano said DAR is proposing an increase in fees and licensing at a boat level instead of fisherman level. The commercial marine license fee hasn't increased in a while. An increase is needed to provide funding for the program. The increase would be from \$50 to \$150.

## **C. Enforcement Issues**

There was no enforcement report.

## **D. Main Hawaiian Islands Deep 7 Bottomfish Fishery**

### **1. Report on Outcomes from the Bottomfish Commercial Fishery Data Workshops**

Bigelow reported on a series of bottomfish data workshops with fishery organizations and stakeholders held between September 2015 and November 2016. The goal was to identify and agree upon issues that affect data quality and an acceptable solution for data improvement for use in the 2017 benchmark stock assessment. Participants reviewed bottomfish data from the commercial reporting system and dealer reporting system datasets. They also reviewed different metrics, including catch, average fish weight and CPUE, and developed data-filtering procedures to improve the estimation accuracy. PIFSC will share the draft report by March 2018, and plans to revisit these data filtering procedures only if new data comes to light.

Simonds congratulated PIFSC on all of the work that has been done. She said Council staff met with the governor to discuss removal of the Bottomfish Restricted Fishing Areas

(BRFAs). They agreed to develop a report and meet with the governor again in November. She asked for DAR's reflection on the discussion with governor.

Okano said that in the meeting DAR determined that it wanted to look more at the data and get a better understanding of the effects of the BRFAs.

Sensui said the bottomfish research is a good example of cooperative research. A lot of the fishermen who were involved are highly skilled and experienced and went out to collect data regardless of weather conditions.

## **2. Report on the Relative Abundance Estimation from the 2016 Bottomfish Fishery-Independent Survey**

Howell presented on the fishery-independent bottomfish surveys conducted by PIFSC. The project, conducted in the Maui Nui region from 2011 to 2015, looked at gear efficiency and pilot sampling to determine the appropriate operational survey design. The survey reviewed four gears including research fishing, Seabed AUV, EK60 active acoustics and drop camera and optical stereo-video camera systems. The methods used to deploy each of the gears were presented, including calibration that provides a gear correction factor that allows a comparison between research fishing and actual fishing. The results of the initial survey in 2016 included 540 samples from the research area, including 455 research fishing samples and 85 drop-camera samples, with some overlaps between the two gears. The results varied in 2016, but overall PIFSC felt pretty good about what was recovered from the fishery-independent survey. For 2017, the survey is continuing with 425 random samples (325 research fishing and 100 camera drops). Because the camera units are heavy and expensive, PIFSC is trying to do more with the camera technology to improve the field of view and decide whether or not to bait the camera. PIFSC is working on a repeatable camera system with a lower cost as well as the effects of soak time on the samples and analysis time needed to identify fish and size classes.

Okano said that this information may shed some light on the BRFA issues even though it isn't designed to determine the effectiveness of the BRFAs. He asked if the data could be analyzed in a way that could at least shed some light on that subject.

Howell said, while the survey wasn't designed with the BRFAs in mind, the information is being analyzed to see if it could be help.

## **E. Fishing Year 2018 Annual Catch Limit Specification for the Main Hawaiian Islands Coral Reef Fish (Action Item)**

Sabater presented on the options for the ACL specifications for 27 MHI coral reef fish species. He provided an overview of the timeline leading to the current multiyear specification to start in 2018. The Center for Independent Experts reviewed the assessment method in September 2015 and released its reports in December 2015. A WPSAR panel reviewed the draft stock assessments in September 2016 and released its reports in November 2016. The SSC and the Council received the final assessments at their 125<sup>th</sup> and 169<sup>th</sup> meetings, respectively. The SSC at its meeting formed a subgroup tasked to review and evaluate the 27 species assessments individually. The evaluation was conducted from April to September 2017. The P-star, or risk of

overfishing, working group met in September 2017 to evaluate the scientific uncertainties in the assessment and estimate the P\* level, which is the basis for the ABC.

Sabater provided the Council with five ACL specification options for these 27 species.

Option 1 would not specify ACLs and AMs and is not consistent with the MSA requirements for ACLs or with NS1 and NS2 guidelines.

Option 2 would roll-over the existing 2016 ACLs as the current ACLs are good until 2018. This would retain the family level ACLs. This option would be viable since the harvest limit reference points are within the range of values in the assessment. However, since new information was incorporated by reference and not used directly, this option may not comply with NS2 unless the ACL is lower than the projected ACL from the new assessment.

Option 3 would specify the ACLs at the species level set equal to the SSC recommended ABCs. This option would comply with MSA, NS1, NS2 and the Hawai'i FEP. However, it would increase the ACLs by 35 for Hawai'i (for a total of 60) and add regulatory burden. There would also be repercussions for AMs where species level catch cannot be monitored since the data collection system does not have the species level resolution. Species would also need to be removed from the complex, and the OFL recalculated for the remaining species in the complex.

Option 4 would specify ACLs on a family level using the assessed species as indicator for the complex and equal to the SSC recommended ABCs. This option would comply with MSA, NS1, NS2 and the Hawai'i FEP. The number of species requiring ACLs would not increase since the assessed species would represent the whole complex. The Council and NMFS would retain the ability to monitor the catch against the ACLs. OFLs would not need to be recalculated for the remaining species in the complex.

Option 5 would specify the ACLs either on a species or family level and would be reduced from the SSC recommended ABC using the existing social, economic, ecological and management information. This option would comply with MSA, NS1, NS2 and the Hawai'i FEP and would be more precautionary accounting for management-related uncertainties. This option would apply a 5 percent buffer from the ABC on the species or family level; however, at the species level, a catch monitoring problem would still persist.

The SSC conducted its deliberation based on the recommendation of the subgroup that evaluated the 27 individual species assessments. The subgroup deemed information was adequate for species-level management for *Lutjanus kasmira* (ta'ape), *L. fulvus* (toao), *Aprion virescens* (uku) and *Parupeneus porphyreus* (kumu). It recommended pulling these species from their respective stock complexes and to recalculate the OFLs for the remaining species.

The subgroup deemed seven species may have adequate information for species level management: *Acanthurus dussumieri* (palani), *Naso lituratus* (umaumalei), *P. insularis* (munu), *P. cyclostomus* (moano), *Scarus dubius* (lauia), *Chlorurus spilurus* (uhu) and *Cephalopholis argus* (roi). However, in its plenary discussion, the SSC reclassified these seven species as not adequate for species level management. An index score of less than 0.5 from the subgroup analysis does not warrant a species level management measure because it was not a unanimous score from the reviewers.

The information available for the other 16 species was deemed inadequate for species level management use. These species will be grouped into the family level grouping. The SSC recommended that assessed species be used as indicators for the family complex.

Sabater provided the recommended ABCs and the estimated ACLs under each option. The SSC recommended ABCs on each of the species and family groups, providing rationale for selecting either the catch data or survey data and noting which single species make up an entire complex. The Council was then presented with options for ACL specification based on the SSC recommendations. Sabater noted that additional work would need to be done to recalculate OFLs for those family groups that had species pulled out of the complex.

Tosatto said that species that may not have an ACL needs rationale that includes what is known about the status of the stock and some confidence that no overfishing is occurring and the stock is not overfished.

Sabater said the assessment showed the species are not overfished and in an overfishing condition.

Gourley said *C. argus* was listed for setting an ACL even though it is introduced and ciguatoxic. He asked if the MSA requires us to manage an introduced fish.

Sabater said the Council is required to specify an ACL for MUS in the FEP, despite it being introduced.

Gourley asked if it is worthwhile revisiting the MUS list in the FEP.

Sabater said the ecosystem component action before the Council looks at this issue and may provide a solution.

Duenas asked what species that was.

Sabater said it was a peacock grouper.

Duenas asked if ta'ape was introduced.

Sabater said ta'ape, toau and roi were all introduced to Hawai'i.

Sensui said he would like to recommend setting a minimum catch limit of 100 for ta'ape.

Marlowe said the SSC set the highest ABC to encourage catch of the introduced species.

## **F. Education and Outreach Initiatives**

Spalding presented on the Council's outreach and education efforts in Hawai'i. Council staff participated in the Hawai'i Conservation Conference in July. It had a focus on the Promise to Pae'Āina, which included commitments that different organizations in Hawai'i, including the Council, had made during the Hōkūle'a worldwide voyage. The Council helped spread the word

to interested parties about a round table on the NOAA Seafood Import Monitoring Program held on Sept. 7. The Seafood Import Monitoring Program is for importation of species particularly vulnerable to IUU fishing or seafood fraud, which includes mahimahi, grouper, red snapper, sharks and tuna among others. The Council continued to co-sponsor the *Go Fish* radio show with Mike Buck in Hawai‘i and is working with the Oceania Marine Educators Association on planning the 2020 National Marine Educators Association conference in Honolulu.

**G. Advisory Group Report and Recommendations**

**1. Advisory Panel**

Gary Beals, Hawai‘i AP chair, presented the Hawai‘i AP recommendations.

*Regarding Hawai‘i fisheries, the Hawai‘i AP recommended the Council support the use of “depleted” as a replacement for overfishing in potential changes to the MSA.*

*Regarding Hawai‘i fisheries, the Hawai‘i AP recommended the Council support additional fish flow type of studies to determine the movement of fish within and outside of Hawai‘i.*

*Regarding Hawai‘i fisheries, the Hawai‘i AP reiterated its recommendation that the Council work with the State of Hawai‘i to remove the BRFA’s.*

**2. Scientific and Statistical Committee**

Ochavillo provided the SSC report and recommendations.

*Regarding the ABC specification for the MHI coral reef fishes for fishing year 2018 to 2020, the SSC recommended specifying species-level ABCs for *Aprion virescens*, *Lutjanus fulvus*, *L. kasmira* and *Parupeneus porphyreus*. The SSC recommended using the C30 from the Underwater Visual Surveys (UVS) as recommended in the assessment document. The SSC noted that the ABC for *A. virescens* from the UVS C30 is conservative due to the limited depth at which the surveys were conducted. The SSC chose the ABC for *P. porphyreus* from the catch C30 because it was more conservative due to the stock status. The ABCs for these species are as follows:*

Species	P* level	ABCs (lbs)
<i>Lutjanus kasmira</i> (ta‘ape)*	42	464,950
<i>L. fulvus</i> (toao)*	36	64,595
<i>Aprion virescens</i> (uku)	42	127,205
<i>Parupeneus porphyreus</i> (kumu)**	39	2,243

[\* introduced species] [\*\* indicates <Spawning Potential Ratio (SPR)30]

*Regarding the ABC specification for the MHI coral reef fishes for fishing year 2018 to 2020, the SSC recommended the other 20 species listed in the table below be used as biological indicators to represent the MUS within the existing taxonomic families. For Acanthuridae, the SSC recommended using the C30 from the UVS as recommended in*

the assessment document. However, since *Naso hexacanthus* has no UVS derived ABC, the ABC was derived from the catch-C30. For Mullidae, the SSC recommended using the C30 from the UVS as recommended in the assessment document. However, since *Mulloidichthys pfluegeri* has no UVS derived ABC, the ABC was derived from the catch-C30.

The ABCs for the indicator species are as follows:

Family	Indicator species	P* level	ABCs (lbs)
Acanthuridae	<i>Acanthurus dussumieri</i> (palani) <i>Naso lituratus</i> (umaumalei)** <i>N. brevirostris</i> (kala lolo)** <i>N. unicornis</i> (kala)** <i>A. blochii</i> (pualu)** <i>N. hexacanthus</i> (kala lolo)**	24-40	496,085
Carangidae	<i>Caranx melampygus</i> (omilu) <i>Carangoides orthogrammus</i> (ulua) <i>Caranx ignobilis</i> (ulua aukea)**	27-32	21,178
Mullidae	<i>Parupeneus insularis</i> (munu) <i>P. cyclostomus</i> (moano)*** <i>Mulloidichthys vanicolensis</i> (weke'ula) <i>M. flavolineatus</i> (weke'a) <i>M. pfluegeri</i> (weke nono)	34-44	158,740
Scaridae	<i>Scarus dubius</i> (lauia) <i>Chlorurus spilurus</i> (uhu)** <i>S. psittacus</i> (uhu) <i>C. perspicillatus</i> (uhu uliuli) <i>S. rubroviolaceus</i> (uhu ele'ele)** <i>Calotomus carolinus</i> (ponuhunuhu)**	31-39	380,050

[\*\* indicates <SPR30]

For *Cephalopholis argus* (roi), also an introduced species, the SSC recommended an ABC of 238,758 pounds (at P\*=41 percent), based on C30 from the UVS as recommended in the assessment.

For *Monotaxis grandoculis* (mu), the SSC recommended utilizing the current ABC of 36,600 pounds because insufficient scientific information exists to specify a new ABC for this species. This ABC is equivalent to <10-percent risk of overfishing in the new assessment.

For *Myripristis berndti* (u'u), the SSC did not recommend an ABC. No reliable catch data exist to verify the validity of the mean length estimates from the UVS. Some of the life history parameters were from a different species from a different geographic location. The stepwise approach was not applied. The population estimates were severely biased downward. This species is also a candidate for ecosystem components.

For the remaining coral reef ecosystem MUS in the Hawai‘i FEP not covered by the stock assessment, the SSC recommended retaining the current ABCs based on the Biomass-Augmented Catch (BAC)-MSY approach.

The ABCs for these complexes are as follows:

Species Complex	Current ABCs (lbs)
<i>Selar crumenophthalmus</i> (akule)	1,025,000
<i>Decapterus macarellus</i> (opelu)	459,800
Carcharhinidae (reef sharks)	9,800
CR-crustaceans	35,400
Kyphosidae (rudders)	108,600
Labridae (wrasse)	211,000
Mollusk	38,200
Mugilidae	20,100
All Coral Reef Ecosystem MUS combined	496,500

For the remaining species in the Lutjanidae and non-Deep 7 complex, the SSC recommended NMFS to calculate the OFLs based on the BAC-MSY approach in order to complete the ABC specifications for the Hawai‘i FEP

## H. Public Hearing

There were no public comments.

## I. Council Discussion and Action

***Regarding the ACL specification for the MHI coral reef fishes for fishing year 2018 to 2020, the Council selected option 1 (no ACL and AM) for *Myripristis berndti*. No reliable catch data exist to verify the validity of the mean length estimates from the UVS. Some of the life history parameters were from a different species from a different geographic location. The stepwise approach was not applied. The population estimates were severely biased downward. This species is also a candidate for ecosystem components. There is no ability to monitor the catch of this species because the State of Hawai‘i fisher reporting system has no species code for this species. This species was also shown to be caught 77 percent from shore (Williams and Ma 2013). The stock assessment showed that this species is above the 30-percent SPR (0.59) and, therefore, is not experiencing overfishing and not overfished.***

*Moved by Soliai; seconded by Sensui.*  
*Motion passed.*

***Regarding the ACL specification for the MHI coral reef fishes for fishing year 2018 to 2020, the Council selected option 2 (roll over the current ACL) for *Monotaxis grandoculis*.***

This sets the ACL at 35,500 pounds equivalent to a <10-percent risk of overfishing using the new assessment as reference.

Species	OFL <sub>current</sub>	ABC <sub>current</sub>	P* level	ACL <sub>current</sub>	P* <sub>equivalent</sub>
<i>Monotaxis grandoculis</i>	39,000	36,600	30%	35,500	<10%

Regarding the AM, in the event that the three-year catch exceeds the ACL, the following year ACL will be decreased by the amount of the overage.

Moved by Soliai; seconded by Sensui.

Motion passed. Tosatto abstained.

Regarding the ACL specification for the MHI coral reef fishes for fishing year 2018 to 2020, the Council selected option 3 (specify ACLs equal to ABCs at species-level based on the new assessment) for the following species:

Species	OFL (lbs)	P* level	ABCs (lbs)	ACLs (lbs)
<i>Lutjanus kasmira</i> (taape)*	486,120	42%	464,950	464,950
<i>L. fulvus</i> (toao)*	73,410	36%	64,595	64,595
<i>Aprion virescens</i> (uku)	132,280	42%	127,205	127,205
<i>Parupeneus porphyreus</i> (kumu)**	2,579	39%	2,243	2,243
<i>Cephalopholis argus</i> (roi)*	244,490	41%	238,758	238,758

The Council used the C30 from the UVS as recommended in the assessment document. For *Aprion virescens*, the Council noted that the ACL from the UVS C30 is conservative due to the limited depth at which the surveys were conducted. For *Parupeneus porphyreus*, the Council used the ACL from the C30 from catch because it was more conservative due to the stock status

The Council set the ACL equal to ABC because the recent three-year average catches of *L. kasmira*, *L. fulvus* and *C. argus* are significantly below the selected ACLs. The Council noted these three species and *P. porphyreus* are candidates for ecosystem component designation. Regarding the AM for these species, in the event that the three-year catch exceed the ACL, the following year ACL will be decreased by the amount of the overage.

Regarding the AM for *A. virescens*, the Council requested the State of Hawai‘i to provide a monthly report on landings from the fisher reporting system and directed the Plan Team to develop a near-real-time monitoring for this species. Should the ACL be projected to be reached, the fishery in federal waters would be closed. The Council encouraged State of Hawai‘i to develop a parallel rulemaking to close the State waters as well.

Sensui asked if the invasive species (ta‘ape, toao and roi) will be monitored for ACLs.

Sabater said an individual species code makes it is possible to monitor on a species level.

Sensui said that it will require manpower to monitor them.

Sabater agreed and said the Plan Team monitors the catches relative to the ACLs.

Sensui said he would object only because monitoring invasive species that they are trying to get rid of would take resources away from something that really should be monitored.

Okano asked if the SPR values came from the Nadon study.

Sabater replied in the affirmative.

Moved by Goto; seconded by Soliai.

Motion passed. Tosatto and Okano abstained.

**Regarding the ACL specification for the MHI coral reef fishes for fishing year 2018 to 2020, the Council selected option 4 (specify ACL equal to ABC at the family level using the assessed species as indicators) for the following species:**

Family	Indicator species	OFL	P*	ABCs	ACL
	<i>Acanthurus dussumieri</i> (palani)	546,440	24-40	496,085	496,085
	<i>Naso lituratus</i> (umaumalei)**			498,019	498,019
	<i>Naso brevirostris</i> (kala lolo)**				
	<i>N. unicornis</i> (kala)**				
	<i>Acanthurus blochii</i> (pualu)**				
	<i>N. hexacanthus</i> (kala lolo)**				
Carangidae	<i>Caranx melampygus</i> (omilu)	830,260	27-32	550,268	550,268
	<i>Carangoides orthogrammus</i> (ulua)				
	<i>Caranx ignobilis</i> (ulua aukea)**				
Mullidae	<i>Parupeneus insularis</i> (munu)	194,210	34-44	158,740	158,740
	<i>P. cyclostomus</i> (moano)**				
	<i>Mulloidichthys vanicolensis</i> (weke'ula)				
	<i>M. flavolineatus</i> (weke'a)				
	<i>M. pfluegeri</i> (weke nono)				
Scaridae	<i>Scarus dubius</i> (lauia)	417,400	31-39	380,050	380,050
	<i>Chlorurus spilurus</i> (uhu)**				
	<i>S. psittacus</i> (uhu)				
	<i>C. perspicillatus</i> (uhu uliuli)				
	<i>S. rubroviolaceus</i> (uhu ele'ele)**				
	<i>Calotomus carolinus</i> (ponuhunuhu)**				

**For Acanthuridae, the Council used the C30 from the UVS as recommended in the assessment document. However, since *Naso hexacanthus* has no UVS derived ABC, the ABC was derived from the catch-C30. For Mullidae, the Council recommended using the C30 from the UVS as recommended in the assessment document. However, since *Mulloidichthys pfluegeri* has no UVS derived ABC, the ABC was derived from the catch-C30.**

The Council set the ACL equal to ABC because the recent three-year average catches for these species complexes are significantly lower than the selected ACLs except for the Carangidae complex. The Council noted that all of these species/complexes are candidates for ecosystem components. Regarding the AMs, in the event that the three-year catch exceed the ACL, the following year ACL would be decreased by the amount of the overage.

*Moved by Soliai; seconded by Sensui.  
Motion passed. Tosatto abstained.*

**Regarding the ACL specification for the MHI coral reef fishes for fishing year 2018 to 2020 for the remaining coral reef ecosystem MUS in the Hawai'i FEP not covered by the stock assessment, the Council recommended retaining the current ACLs based on the BAC-MSY approach. The ACLs for these complexes are as follows:**

Species Complex	OFL (lbs)	P* level (%)	ABCs (lbs)	P* level (%)	ACL (lbs)
<i>Selar crumenophthalmus</i> (akule)	1,138,000	35	1,025,000	30	988,000
<i>Decapterus macarellus</i> (opelu)	531,200	35	459,800	30	438,000
Carcharhinidae (reef sharks)	12,500	35	9,800	30	9,310
CR-crustaceans	42,800	30	35,400	25	26,637
Kyphosidae (rudders)	119,600	35	108,600	30	105,000
Labridae (wrasse)	227,400	35	211,000	30	205,000
Mollusk	49,500	30	38,200	25	31,163
Mugilidae	24,500	30	20,100	25	19,200
All CREMUS combined	535,600	35	496,500	30	485,000

**Regarding the AM, in the event that the three-year catch exceed the ACL, the following year ACL would be decreased by the amount of the overage.**

The Council directed Council staff to finalize and transmit the FEP amendment for Secretarial review, as appropriate. Further, the Council deemed that the regulations implementing the recommendations 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 are 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.**

Moved by Soliai; seconded by Sensui.

Motion passed. Tosatto abstained.

**Regarding the ACL specifications for the remaining species in the Lutjanidae and non-Deep 7 complex, the Council recommended NMFS to calculate the OFLs based on the BAC-MSY approach in order to complete the ABC specifications for the Hawai'i FEP**

Moved by Soliai; seconded by Sensui.

Motion passed.

**Regarding ACL specifications, the Council directed staff and recommended NMFS to focus its efforts in finalizing the ecosystem components amendment to address the operational issues associated with specifying ACLs for data poor stocks.**

Moved by Soliai; seconded by Sensui.

Motion passed.

## **XII. Public Comment on Non-Agenda Items**

There was no public comment on non-agenda items.

## **XIII. Mariana Archipelago**

### **A. Guam**

#### **1. Isla Informe**

Duenas said there were many fishing activities in August, including the annual fishing derby and youth spearfishing derby. The weather has been calm the past few months, encouraging good fishing for bottomfish.

Sablan said the Guam MCP was transmitted to NMFS in July 2017 and approved in August. He thanked the Council for the fishing platform funding.

Simonds asked what the schedule is for improvements at the fishing cooperative.

Duenas said realistically it will take a year to 14 months to finish the construction, but the project is moving forward.

Soliai asked how much the fishing platform cost to date.

Sablan said Phase I cost \$549,370; Phase II was \$200,000; and the third phase is \$250,000.

Soliai asked if the cost covered the seawall and rock wall or only the pier.

Sablan said the riprap was the property of the Army Corps of Engineers but the cantilevered structure is new.

Soliai said that it sounds like half of the project cost comes from the transfers and that it is money well spent.

Sablan said it is Americans with Disabilities Act compliant.

Duenas said the photo shows the community using the dock and disabled persons joining their families.

Sablan said the photo was taken during an atulai run.

Okano asked if there were hours when the dock is closed.

Sablan said it is always open and management is multi-jurisdictional.

Duenas said it's well-lit at night.

Brent Tibbatts, Division of Aquatic and Wildlife Resources (DAWR), presented the Guam island report. This past quarter, 16 scheduled participation and creel surveys for the shore-based survey were completed, but no aerial surveys were completed because the contract was not issued until eight days before the end of the year. In the shore-based survey, yellowline goatfish, atulai, juvenile jack, bigeye jack and bluespine unicornfish were the top five species landed in the last quarter. Hook and line fishing has the highest number of participants and gears counted in the last quarter, followed by throw net and gillnet. In the boat-based survey, one third of trollers and one quarter of bottomfish fishermen who responded to surveyors reported shark interactions. Three spear fishermen reported interactions with sharks, which is concerning.

As for enforcement report, four arrests were made for MPA violations and six individuals were arrested for other violations. DAWR receives at least one request annually from Asian countries inquiring about commercial harvest of sea cucumbers for export, though no export of marine invertebrates is allowed. This quarter, customs in Hawai'i seized 31 bottles of sea cucumbers shipped from Guam to Hawai'i, consistent with the preparation method used by citizens from the Federated State of Micronesia. Guam is considering changing its catch limits on sea cucumbers until a thorough stock assessment is available.

Guam's Bureau of Statistics and Plans is setting up a system to document fish imports coming to Guam. DAWR staff is helping with fish identification. With respect to boating access, Talafofo Bay is the preferred site for an east side boat ramp. DAWR held two kids fishing derbies this year; and every year, high school classes compete to win the rights to name a nearby geologic feature. This year, three species of snail fish were also put to a naming contest.

DAWR issued at least 20 permits to fish for culturally important species in the MPAs. Rabbitfish catch was moderate this year, but it was a good year for juvenile jacks, wahoo and atulai. The full complement of FADs is online. DAWR seriously suspects that submarines transiting from Apra Harbor to the south are clipping the FADs which have the shortest life span. There have been no marine mammal strandings so far this year. The Navy Task Force removed a

boat from the reef flat in Pago Bay, three sunken sailboats from Apra Harbor and one vehicle from the water at Merizo Pier and will operate in Guam and Saipan over the next few months.

Guam EPA and DAWR staff deployed 52 chemical sensors in September, which will collect information for one month and then be analyzed for contamination. DAWR will monitor coral bleaching over the next several months and will monitor the recovery of coral heads that were replanted following displacement by a French navy vessel.

Gourley asked the status of the S-K grant for monitoring imports with respect to CNMI.

Tibbatts said the Bureau of Statistics and Plans is developing a database and buying monitoring equipment.

Sablan confirmed that monitoring imports to CNMI is part of the grant scope of work, and more updates would come.

Sesepasara asked if DAWR and the Coral Reef Task Force had a working relationship.

Tibbatts said DAWR provides logistical and manpower assistance, as well as field trips, when the Task Force visits.

Sesepasara said DMWR has a close relationship with the Task Force.

Okano asked if juvenile goatfish was reported in numbers of fish or weight.

Tibbatts said it was weight. It has been a good year for juvenile jacks and goatfish.

Okano asked what constitutes one shark interaction.

Tibbatts said if the fishermen lost gear or a fish to a shark, it is recorded as an interaction.

Okano asked how many sea cucumbers were in each bottle.

Tibbatts said he guessed it was one sea cucumber per bottle.

Duenas asked what DAWR is considering for a sea cucumber harvest limit.

Tibbatts said the consensus from DAWR is a subsistence take of five per person per day is more reasonable than 100 per person per day, which encourages commercial activity. A moratorium would be a more conservative approach given the assessment results, which showed that areas of Guam are heavily fished while others are relatively untouched.

Duenas said there was a bust in 2015 on many thousands of cucumber.

Tibbatts said the bust was for 11,000 sea cucumbers in 2009. The sea cucumbers were gutted and smoked for export to the Asian market in contrast to cooked or pickled for the Micronesian market.

## **2. Legislative Report**

This item was covered in a previous agenda item.

## **3. Enforcement Issues**

This item was covered in a previous agenda item.

## **4. Community Activities and Issues**

### **a. Report on Indigenous Fishing Rights Initiatives**

Charles Ka'ai'ai, Council staff, said staff traveled to the Marianas in September and held meetings with the Malesso and Yigo mayor's offices.

### **b. Report on Malesso Community-Based Management Plan**

Ka'ai'ai reported that the Malesso Community-Based Fishery Management Plan (CBFMP) had an objective to include Cocos Lagoon within Guam's Recreational Use Management Plan. The mayor is currently interested in accessing Achang Reef Flat.

### **c. Report on Yigo Community-Based Management Plan**

Ka'ai'ai said the Yigo mayor is reviewing the draft CBFMP for its community.

Ka'ai'ai said the Northern Islands has a new mayor. He may ask for another workshop sometime in the future but asked that the Council continue developing the draft plan.

## **5. Education and Outreach Initiatives**

Felix Reyes, Guam AP chair, reported on Guam education and outreach. In August the AP met in the DAWR conference room with the DAWR chief, a biologist and a representative from Sea Grant. Several fishing tournaments were held this quarter.

Duenas said 87 boats, a record high, competed in the Guam Fisherman's Cooperative tournament.

Reyes said Navy representatives met with the AP during the Mariana Islands Training and Testing (MITT) scoping period. They agreed to keep the fishermen community up to date with respect to changes in training and testing activities. Conflict between shore and net fishermen is a major issue, but the AP was hopeful that it would be resolved with further collaboration before the end of the season. The AP is developing collection units for fishing equipment for all of the marinas to encourage proper waste management. The AP also took legislators and the media to Ritidian to spread awareness that the new firing range will affect access to Rota Bank. The AP was pleased that all FADs have been deployed and assisted in the deployment of several FADs. The AP was also active this quarter assisting a French meteorological crew with deployment of three weather blimps, hosting a fishing expo, attending

several events and finishing the Guam AP brochure and testimony on the monument review and MITT.

## **B. Commonwealth of the Northern Mariana Islands**

### **1. Arongol Falú/Asunton i Tano**

Jack Ogumoro, the Council's CNMI island coordinator, reported that the Division of Fish and Wildlife (DFW) has recruited fishermen for their fish tagging program and committed to working with PIFSC to analyze life history samples taken in the Northern Islands in 2014. The division has hired a survey biologist, a former Council scholarship recipient, and a new MPA program manager. DFW will likely deploy FADs in January. DFW has also updated their Food Fishes in the Marianas posters and are recruiting for a turtle program outreach specialist.

### **2. Legislative Report**

Ogumoro reported that House Bill 20-037 is still in the Senate because DLNR requested that the fishery management measures be put in as regulation and not law. Public Law 1789 still has not been implemented.

### **3. Enforcement Issues**

Ogumoro reported that the ESA, MSA and MMPA are enforcement priorities. Enforcement officers conducted dockside and vessel patrols as well as education and outreach activities to implement these mandates.

### **4. Community Activities and Issues**

Ogumoro said the CNMI governor and senate supported the monument review process via a letter and resolution. The Navy met with Saipan fishermen during the MITT scoping period. Fishermen recommended that the military consider using one of the Northern Islands in the monument as target practice because it is too far for fishermen to use for fishing but the military is exempt from the monument prohibitions. Ogumoro reported that the boat trailer parking lot program is completed, though the government would like to extend the facilities.

#### **a. Report on Northern Islands Community-Based Management Plan**

This was covered in a previous agenda item.

### **5. Education and Outreach Initiative**

Ogumoro reported that the new calendar will be pocket-sized and useful as an educational tool. He said all of the populated islands are now holding fishing tournaments.

Gourley reported that the biosampling program on Saipan has measured over 208,000 reef fish since data collection began in 2009. Micronesian Environmental Services received funding to process 13,400 gonad and otolith samples collected from 21 species of reef fish that

dominate the commercial fishery. The funding lasts for two years, and the project is in partnership with PIFSC scientists.

Okano asked what the target fish are for the tagging project.

Ogumoro said five species of fish in the lagoon.

Okano asked if he biosampling takes place in Tinian and Rota as well as Saipan.

Gourley said the focus is solely on commercial fish landed in Saipan, but the fish come from Rota, Tinian, Pagan, Farallon de Medinilla, Goat Island, Sarigan and Saipan. Fish from other islands come in especially during calm weather.

Soliai asked if the North Korean missile threat had affected the Mariana fisheries.

Gourley said there has been no effect as far as he knows.

Duenas said it is affecting the Japanese tourism market but not fisheries.

Simonds asked if the tourists are afraid to travel to Guam.

Duenas said big summer field trips have been cancelled.

Simonds said the travel agents probably cancelled their summer plans.

Sablan said a Japanese baseball team cancelled its training. Tourism is down 4 percent.

Duenas said the South Korean tourists are unaffected.

## **C. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

Richard Farrell, CNMI AP chair, presented the AP recommendations.

*Regarding CNMI bottomfish, the CNMI AP recommended the Council consider removing the federal bottomfish permit if and when the commercial license is implemented by the CNMI to avoid possible redundancy.*

*Regarding data collection, the CNMI AP recommended the Council request NMFS PIFSC to publish reports on the biosampling data collected in the CNMI to allow the CNMI DFW to use it for management purposes.*

*Regarding CNMI fisheries, the CNMI AP recommended the Council request the CNMI DFW to provide reports on the current status and future plans of the Smiling Cove Marina, Tinian Marina and the Rota West Marina to the AP.*

*Regarding Guam fisheries, the Guam AP recommended the Council request the Guam Department of Agriculture consider a moratorium on sea cucumber harvest while it is*

working on revising its sea cucumber management measures to provide additional safeguards on the stock. Further, the AP recommended the Council suggest the governor of Guam place a moratorium on sea cucumber harvest until the revised management measures are put into place.

Gourley asked what the CNMI AP wants included in a report on biosampling data.

Farrell said the AP was interested in using the data for management purposes, particularly to determine the appropriateness of the pending fish size restrictions law.

Gourley said DFW used the data to develop some of the size restrictions.

Simonds asked Roberto to respond.

Roberto said the AP is interested in how the data may inform the size restriction issue.

Gourley said DFW has the data which was used to generate the legislation.

Roberto said DFW would provide the information to the AP.

Farrell thanked Roberto.

Gourley asked if the AP wants DFW to provide the justification for the size restrictions.

Farrell said the AP was confused about how the proposed size limits were determined.

Gourley said DFW has a report on this issue.

Simonds asked Roberto to report back to the Council on this issue.

## **2. Scientific and Statistical Committee**

Ochavillo reported that there were no SSC recommendations.

### **D. Public Comment**

There were no public comments.

### **E. Council Discussion and Action**

***Regarding CNMI fisheries, the Council requested CNMI DFW provide a report to the Council on the current status and future plans of the Smiling Cove, Tinian and Rota West marinas.***

***Regarding CNMI fisheries, the Council recommended CNMI DFW provide a report to the Council on the data used to justify the potential regulations for minimum size requirements for commercial sale in the CNMI.***

**Regarding Guam fisheries, the Council requested the government of Guam consider a moratorium on sea cucumber harvest while working on revising its sea cucumber management measures to provide additional safeguards on the stock.**

Moved by Duenas; seconded by Roberto.  
Motion passed.

Gourley suggested that the Council use “minimum size requirements for commercial sale in the CNMI” in recommendation two.

#### **XIV. Administrative Matters**

##### **A. Financial Reports**

Simonds said the staffers in charge of the different grants are available to answer questions from the Council. Several coral and turtle grants will be ending this year, and the status of each project is listed in the reports. Simonds referred questions on the Sustainable Fisheries Fund grants to Kingma. She said the governor of the CNMI requested changes to those funds related to Garapan. The governor will communicate further with DFW.

##### **B. Administrative Reports**

Simonds said the 2016 audit has been completed and the Council continues to receive the best rating of an unmodified opinion. It was recommended that the Council improve monitoring, tracking and reporting and use an accrual system instead of cash basis. Simonds also reported that the lease for the Council office is up in March of next year with Waipano Corporation and reviewed the proposal for the next five-year term. Council staff queried other agencies for comparison of the current lease and the proposed five-year increase. Simonds consulted with other real estate businesses and concluded that this is the lowest offer available.

##### **C. Council Family Changes**

Simonds asked Mitsuyasu to report on Council family changes. Mitsuyasu reported that Allen Snow would be added to the American Samoa AP as Aveina has moved to the mainland. The Hawai‘i AP would like to have Tate Marks replaced by Guillermo Kualii. Jack Torres would join the CNMI AP. Both Aufai Areta and Alfredo De Torres would be added to the Education Committee, and Michelle McGregor to the SSPC.

##### **1. Education Committee**

Spalding reported that the American Samoa Community College, Northern Marianas Community College and USFWS representatives in the Education Committee have moved on. The Council asked for recommendations from the new presidents of the community colleges, who forwarded the curriculum vitae of two people who hold the same position as the former Education Committee member from their island areas. The UFWS representative was the Sports Fish Restoration Grant individual on the committee. That division has relocated from Honolulu to the mainland. There is no current program under UFWS that could financially support the

scholarship program that the committee was instrumental in developing; therefore, the Council may not fill that USFWS position on the Education Committee at this time.

#### **D. Meetings and Workshops**

Simonds reported on the schedule of upcoming meetings including the PAC, Council training and workshops sponsored by the Council and NMFS. The Council is preparing for the WCPFPC meeting in Manila and the National SSC meeting during January and is considering participating in the International Sea Turtle Symposium next year. Simonds mentioned NOAA is looking for Marine Fisheries Advisory Committee nominations through Nov. 27 and members can nominate themselves. Simonds said the Senate Commerce Committee is holding an MSA hearing on Oct. 24 and SSC member Ray Hilborn has been asked to testify. Hilborn is circulating his statement on ACLs in data poor fisheries to the SSC members for input before the hearing.

#### **E. Other Business**

Simonds first item of other business was regarding the Billfish Act exemption. She said the Council should write a letter to the NMFS Administrator to reiterate why the Billfish Act exemption should continue for the Hawai'i fisheries.

The second item of other business is about recusal. Instructions that NOAA GC follow on determining recusals were developed several years ago before industry representatives from American Samoa were on the Council. The Council would like to ask the NMFS Administrator to review this policy. Simonds requested an update from Rauch or Tosatto.

Tosatto said that Rauch will provide an update but he believes the agency is currently considering how to revise the policy. He noted that there is not a permanent GC in place.

Rauch provided background on the 2007 modified MSA provision that affected individuals should not vote on a Council decision that would have a significant and predictable effect on that individual's financial interest. A decision shall be considered to have significant and predictable effect on a financial interest if there is a close causal link between the decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interest of other participants in the same gear type or sector of the fishery. Rauch said that there is a degree of policy flexibility in interpreting some of those terms but the agency defined expected and substantially disproportionate benefit to be greater than 10 percent interest in the total harvest, processing or vessel ownership whether or not the individual is an actual owner or an employee. Rauch also stated that when a series of companies is involved in shared ownership, interpretation is complex. Chris Oliver is concerned with the ways the provision has been interpreted and asked the agency to review it. The agency is expected to give a report to Oliver in November that would indicate whether or not the agency would change regulations, implementing policies or guides or if there is another way to proceed.

Simonds said the Council would discuss Soliai and Lutu-Sanchez's situation in the letter. She asked Gourley to report on the Legislative Committee.

Gourley stated the Committee met and discussed the Hoffman, Young and billfish bills. The Committee will meet on Oct. 24. It has one last review on the Young bill and plans to

finalize the Committee’s comments in the next week or two for the February Council Coordination Committee (CCC) meeting.

Simonds said there has been a request for the CCC to provide comments on the legislation. She said the Council wasn’t able to vote on swordfish because it wasn’t noticed in the Federal Register. She asked the Council to agree to a teleconference on Nov. 15. [The teleconference was cancelled.] Simonds asked the Council to agree to send a letter to the NMFS administrator to make a pitch for increasing the Council’s budget. The Council has three staffers on soft money, including DeMello and the three coordinators. Vacancies include an economist, a social scientist and information technology position. The Council receives add-ons from headquarters such as ACL implementation and Council peer review. Also PIRO and PIFSC have supported the high school summer course and education scholarships in all of the jurisdictions as well as the international fisheries. She thanked NMFS for the add-ons but stated that it has been years since the Councils asked for an increase in the base budget. She suggested that the Humpback Whale Sanctuary funds go to the State of Hawai‘i and NMFS with some trickling down to the Council.

**F. Executive and Budget Standing Committee Recommendations**

Gourley said the standing committee met on the morning of Oct. 16 in the conference room at Sadie’s by the Sea, and issues have been discussed during the plenary. Council members may look at minutes of that meeting in their binder at their convenience.

**G. Public Comment**

There was no public comment.

**H. Council Discussion and Action**

*Regarding Council family changes, the Council recommended the following:*

1. **Remove Aveina on the American Samoa AP and replace him with Snow.**
2. **Remove Marks from the Hawai‘i AP and replace him with Kualii.**
3. **Add Joaquin “Jack” Torres to the CNMI AP as an alternate member.**
4. **Add the USFWS to the American Samoa REAC and the US Army Corps of Engineers to the American Samoa, CNMI, Guam and Hawai‘i REACs.**
5. **Add Areta And De Torres to the Education Committee.**
6. **Add McGregor and remove David Loomis to the SSPC.**

**Summary of Advisory Group Changes**

<b>Advisory Group</b>	<b>Add</b>	<b>Remove</b>
AS Advisory Panel	Allen Snow	Mac Aveina
Hawai‘i Advisory Panel	Gil Kualii	Tate Marks
CNMI Advisory Panel	Joaquin “Jack” Torres (alternate)	
Education Committee	Aufai Areta	
	Alfredo De Torres	
Social Science Planning Committee	Michelle McGregor	
American Samoa REAC	USFWS	
American Samoa, CNMI, Guam and Hawai‘i REACs	US Army Corps	

Moved by Duenas; seconded by Soliai.  
Motion passed.

**Regarding the annual audit, the Council recommended endorsing the 2016 annual audit as completed by the independent auditor.**

Moved by Lutu-Sanchez; seconded by Soliai.  
Motion passed.

**Regarding recusal of Council members on Council decisions, the Council directed staff to send a letter to the NOAA/NMFS Assistant Administrator requesting that NMFS reconsider the following policy regarding recusal of Council members on Council decisions:**

*“NOAA GC Regional Sections should attribute to a Council member all harvesting, processing, and marketing activity of, and all vessels owned by, a company that is wholly or partially owned by the Council member. NOAA GC Regional Sections should attribute to a Council member all harvesting, processing, and marketing activity of, and all vessels owned by, a company that employs the Council member.”*

**This policy can be found in the NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 01-116-01, Procedures for Review of Fishery Management Council Financial Disclosures and Recusal Determinations at Section 3.1.2.1 (Draft, Sept. 25, 2014), as well as the letter from NOAA GC Lois Schiffer to Simon Kinneen (April 8, 2015).**

**The Council believed that this attribution policy does not achieve the purpose of Section 302(j) of the MSA, which prohibits appointed Council members from voting on Council decisions that would have a significant and predictable effect on the Council member's financial interests. Rather, this attribution policy results in the mandatory recusal of Council members on decisions that often have little to no impact, much less a “significant and predictable impact,” on the Council member’s financial interests. The Council requested that NMFS reconsider this position.**

Moved by Lutu-Sanchez; seconded by Sensui.  
Motion passed.

**Regarding the American Samoa longline swordfish trip limit, the Council recommended the American Samoa longline swordfish trip limit amendment action be addressed through a teleconference Council meeting to be held on Nov. 15, 2017, at 2 p.m. Hawaii Standard Time and 1 p.m. Samoa Standard Time and Nov. 16, 2017, at 10 a.m. Chamorro Standard Time.**

Moved by Lutu-Sanchez; seconded by Sensui.  
Motion passed.

**Regarding use of port and dock facilities, the Council directed staff to send a letter to Department of the Interior regarding use of port and dock facilities, paid for by the**

**Sport Fish Restoration Program, to support both recreational and commercial fishing vessels given the multipurpose nature of the vessels and fishing activities occurring in the Western Pacific Region.**

Moved by Lutu-Sanchez; seconded by Soliai.

Motion passed.

**Regarding the Council's base level funding, the Council directed staff to send a letter to NMFS detailing the need to increase the Council's base level funding to fully support administrative and programmatic staffing needs.**

Moved by Lutu-Sanchez; seconded by Soliai.

Motion passed.

**Regarding the proposed amendments to the Billfish Conservation Act, the Council directed staff to send a letter to the Assistant Administrator for Fisheries, Chris Oliver, requesting that NMFS support the Council's position maintaining the ability of fishermen in the Western Pacific Region to continue to send marlin and other billfish to the US mainland, contrary to the language included in the proposed amendments to the Billfish Conservation Act that would prohibit billfish commerce with the mainland.**

**Pacific marlins should not be bundled in with overfished Atlantic marlin and billfish as all but one stock in the Pacific (Northwest Central Pacific striped marlin) are not overfished.**

Moved by Lutu-Sanchez; seconded by Sensui.

Motion passed.

## **XV. Election of Officers**

Goto, Executive Committee chair, reported the following recommendation.

**Regarding Council officers, the Council elected the following officers for 2018: Ebisui, chair; Soliai, vice chair American Samoa; Gourley, vice chair CNMI; Duenas, vice chair Guam; and Sensui, vice chair Hawai'i.**

Moved by Sesepasara; seconded by Goto.

Motion passed.

## **XVI. Other Business**

Sesepasara announced that Duenas, Okano, Beals, Reyes, Farrell and Disque would be participating in the fishing tournament tomorrow. DMWR will host an event at its compound after the fishing tournament.

Soliai extended appreciation on behalf of the American Samoa Council members for coming to their islands. He said the Council's presence is always welcome. He wished everyone well.

Goto reported that he initiated a project with the help of NMFS to recruit displaced American Samoa cannery workers to work for the United Fishing Agency in Honolulu as experienced fish off-loaders. He continued his recruitment process during the week and noted that Fa'afo'i Palepua from STP as well as Soliai have been helpful in this process.

Sensui thanked the Council's Samoan hosts for their graciousness and said he was honored to participate in the awa ceremony.

Gourley thanked everyone for their patience with him as chair.

The 171<sup>st</sup> Council meeting adjourned.

## **APPENDIX: List of Acronyms**

ABC	acceptable biological catch
ACL	annual catch limit
AM	accountability measure
AP	Advisory Panel
ASG	American Samoa Government
BAC	Biomass-Augmented Catch
BiOp	biological opinion
BRFA	Bottomfish Restricted Fishing Area
CBFMP	community-based fishery management plan
CCC	Council Coordination Committee
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 (CNMI)	CNMI Department of Lands and Natural Resources
DLNR (Hawai‘i)	Department of Land and Natural Resources
DMWR	Department of Marine and Wildlife Resources (American Samoa)
DOC	Department of Commerce
EBFM	ecosystem-based fishery management
EEZ	exclusive economic zone
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
EPO	eastern Pacific Ocean
ESA	Endangered Species Act
FAD	fish aggregating device
FEP	Fishery Ecosystem Plan
FMP	Fishery Management Plan
GC	General Counsel

HAPC	habitat area of particular concern
HLA	Hawai'i Longline Association
IATTC	Inter-American Tropical Tuna Commission
ISC	International <i>Scientific Committee (ISC)</i> for Tuna and Tuna-like Species in the North Pacific Ocean
ITS	Incidental Take Statement
IUU	illegal, unreported and unregulated
JEA	Joint Enforcement Agreement
kg	kilogram
LVPA	Large Vessel Prohibited Area
MCP	Marine Conservation Plan
MHI	main Hawaiian Islands
MITT	Mariana Islands Training and Testing
MLCD	Marine Life Conservation Districts
MMPA	Marine Mammal Protection Act
MPA	marine protected area
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSC	Marine Stewardship Certification
MSY	maximum sustainable yield
mt	metric ton
MTMAC	Marianas Trench Monument Advisory Committee
MPCCC	Marine Planning and Climate Change Committee
MUS	management unit species
nm	nautical mile
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOS	National Ocean Service
NS	National Standard
NWHI	Northwestern Hawaiian Islands
OFL	overfishing limit
OLE	Office of Law Enforcement
PAC	Permanent Advisory Committee
PHCRT	potentially harvested coral reef taxa
PIFSC	Pacific Islands Fisheries Science Center

PIR	Pacific Islands Region
PIRO	Pacific Islands Regional Office
PNA	Parties to the Nauru Agreement
P-star	risk of overfishing
REAC	Regional Ecosystem Advisory Committee
RFMO	regional fishery management organization
SAFE	Stock Assessment and Fishery Evaluation
SFD	Sustainable Fisheries Division
S-K	Saltonstall-Kennedy
SSPC	Social Science Planning Committee
SPR	spawning potential ratio
SSBCI	Small State Business Credit Initiative
SSC	Scientific and Statistical Committee
STP	Samoa Tuna Processors
TCC	Technical and compliance Committee
TSI	Territory Science Initiative
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
WPSAR	Western Pacific Stock Assessment Review