



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**MINUTES OF THE  
174<sup>th</sup> MEETING OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**October 23-24, 2018  
Fiesta Resort and Spa  
Garapan, Commonwealth of the Northern Mariana Islands**

**October 26-27, 2018  
Hilton Guam Resort and Spa  
Tumon, Guam**

Approved by Council:

A handwritten signature in blue ink, appearing to read "Archie Soliai", is written over a horizontal line.

Taotasi Archie Soliai, 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:

- John Gourley, Acting Chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Michael Duenas, vice chair (Guam)
- Christinna Lutu-Sanchez, vice chair (American Samoa)
- Dean Sensui, vice chair (Hawai‘i)
- Michael Goto (at-large) (Hawai‘i)
- Edwin Watamura (Hawai‘i)

### **DESIGNATED OFFICIALS**

- Ryan Okano, Hawai‘i Department of Land and Natural Resources (DLNR Hawai‘i) (designee for Suzanne Case)
- Raymond Roberto, CNMI Department of Lands and Natural Resources (CNMI DLNR)
- Matt Sablan, Guam Department of Agriculture (DOAg)
- Henry Seseapasara, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Mike Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)

### **NON-VOTING**

- Michael Brakke, US Department of State
- Lt. Cmdr. Adam Disque, US Coast Guard (USCG) (designee for Rear Adm. Vincent Atkins)
- Brian Peck, US Fish and Wildlife Service (USFWS)

Also in attendance were Council Executive Director Kitty Simonds; NOAA Office of General Counsel Kristen Johns; NOAA Deputy Assistant Administrator for Regulatory Programs Sam Rauch, CNMI Gov. Ralph DeLeon Guerrero Torres, and CNMI Senate President Arnold Palacios. Council member Taotasi Archie Soliai, American Samoa, and Scientific and Statistical Committee (SSC) chair Jim Lynch were absent. Gourley and Roberto were absent for the Guam portion of the meeting due to Super Typhoon Yutu.

Gourley opened the 174th meeting of the Council and welcomed Council members and the public. Council members and staff introduced themselves.

CNMI Gov. Ralph DLG Torres gave opening remarks. He welcomed the Council to CNMI and thanked the members for providing opportunities for the CNMI people to voice their concerns and witness firsthand the Council process. He asked the Council to support fisheries development in the CNMI and assist the fish handling. He said the CNMI economy is growing as

is the demand for local fresh fish. He introduced Northern Islands Mayor Ben Santos and Congresswoman Alice Igitol from Precinct 4.

Simonds presented a \$250,000 check to CNMI DLNR Secretary Anthony Benavente for the 2017 bigeye fishing agreement between CNMI and the Hawaii Longline Association (HLA). She said it would be used to implement the bottomfish training and fishing demonstration project. She noted that the bottomfish resources in the CNMI are healthy and she looked forward to implementation of the project.

Benavente received the check and said the funds present an opportunity to promote the CNMI fisheries and sustain the resources.

Palacios welcomed the Council members and thanked the Council for bringing the meeting to CNMI. He said the Council is a productive organization that is able to work with federal partners, island governments and island fishermen through different challenges. He said the Council and the federal government had supported island territories in developing and managing fisheries, including the territory arrangements with HLA. The CNMI had received a substantial funding for conservation measures and fisheries development because of a partnership with the Council, the Commonwealth and the two territories. The funding received will improve the livelihood of the fishing communities in the CNMI.

Torres thanked Council staff for accompanying the Governor to look for potential vessels in Hawai'i. He also thanked Tosatto and the longliners for their support. He said the government is not only looking at training the fishermen in the classroom and on the water but also procuring ice machines to support the fishermen.

## **II. Oath of Office – Michael Duenas, Michael Goto, Edwin Watamura**

Tosatto led Duenas, Goto and Watamura for their Oath of Office.

## **III. Approval of the 174th Agenda**

Gourley asked for a motion to approve the 174<sup>th</sup> meeting agenda.

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

## **IV. Approval of the 173rd Meeting Minutes**

Gourley asked for a motion to approve the 173rd meeting minutes.

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

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

Simonds reported on Council activities and events that occurred from the last meeting in June and issues that need to be addressed. She reported that former Council Chairs Edwin Ebisui

Jr. and Bill Paty III, and Bob Fram, the co-founder of Garden of Valley Isle Seafood in Hawai‘i had all passed away. Simonds started a remembrance about Ebusui, which Council members joined. Advisory Panel (AP) representatives Judy Guthertz and McGrew Rice provided their personal remembrances as well. A segment of the Hawaii Bottomfish Heritage Project video that featured Ebusui and his son Ed Ebusui III was played.

## **VI. Agency Reports**

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

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

Tosatto provided the NMFS PIRO report. He said his written report had a variety of domestic and international fishery and protected resources actions. He said Rauch would join the Council meeting later in the week. Tosatto reported that the final specification for the Territorial bigeye limits was filed with the Federal Register on Oct. 23, 2018; therefore, arrangements can be made ahead of the international quota being reached. This allows for a smooth continuation of the Hawaii longline fishery using the Territory specification and allocation.

Gourley asked about any status change of the Monument management plans. He noted the lack of activity of the Marianas Trench Monument Advisory Council (MTMAC).

Tosatto said they are still working on the Marianas management plan, including regulations to implement that plan as a proposal. Any action would be on hold, awaiting the Administration’s decision regarding the monument work done by Commerce and the Interior as directed by the President. Tosatto agreed the MTMAC is in an inactive state; memberships likely have expired, and the entire body would need to reconvene.

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

Mike Seki, Pacific Islands Fisheries Science Center (PIFSC) director, reported on research ship time and planned cruises, recent protected species efforts, publications authored by PIFSC personnel and other notable activities covered in the written report.

The field season for 2017-2018 had concluded, and the ships have returned. In June, the *R/V Oscar Sette* completed the Marianas Life History Expedition, a good collaboration among PIFSC and local agencies to collect information used in biosampling programs. PIFSC also completed the Cetacean Assessment Survey for the Marianas.

A marine debris cleanup up in the Northwestern Hawaiian Islands (NWHI) was conducted, supported from funds from a grounding event. Tens of thousands of pounds of debris were removed from the NWHI and Midway, and much of it was brought back to Honolulu.

Hi‘ialakai completed the American Samoa Corals Resource Assessment (ASRAMP) Cruise, which is conducted every three years. Repairs delayed the ship being available and tied up personnel, particularly divers who work on both projects. The ship also collected all field camps along the NWHI, except for French Frigate Shoals. The ship later went back into repairs.

PIFSC started the annual Main Hawaiian Islands (MHI) Bottomfish Fishery Independent Survey in September 2018. This large commitment on the part of PIFSC has two parts. One is directed independent fishery, where contracted fishers sample up to 99 grids. The second is sampling random selection of MHI statistical areas, deploying cameras and getting independent estimates of abundance that feed bottomfish assessments. As of the meeting, the *Sette* had not deployed this component of the survey.

Seki led the US Delegation to the International Science Committee for Tuna and Tuna-like Species in the North Pacific (ISC). This is a collaborative effort with the governments of Japan, Korea, Taiwan, Canada and the United States. Stock assessments for North Pacific shortfin mako, North Pacific swordfish and Pacific bluefin tuna were presented this year at the ISC.

The analysis of the base case model for the shortfin mako shark showed that the stock is likely not in an overfished condition relative to maximum sustainable yield (MSY) and that overfishing is likely not occurring relative to MSY-based abundance and fishery intensity reference points. An assessment of North Pacific swordfish was also presented. The swordfish stock produced an annual yield of about 10.2 tons per year since 2012, or about two-thirds of MSY. There is no evidence of excess fishing mortality above  $F_{MSY}$  or substantial depletion of spawning potential. Overall, the swordfish stock is not likely overfished and is not likely experiencing overfishing relative to MSY-based or 20 percent of unfished spawning biomass-based reference points.

No biomass-based limit or target reference points have been adopted to evaluate the status of Pacific bluefin tuna. The stock is overfished relative to the potential biomass-based reference points evaluated, and that is spawning stock biomass and 20 percent of **SSB**. No fishing intensity-based limit or target reference points have been adopted to evaluate overfishing for bluefin tuna. However, the bluefin tuna stock is subject to overfishing relative to most of the potential fishing intensity-based reference points evaluated. Bluefin will continue to challenge the Western and Central Pacific Fisheries Commission (WCPFC) and the Northern Committee as the stock continues to experience overfishing.

The Western Pacific Fisheries Information Network (WPacFIN), a 30-year data stream, underwent some changes since the June 2018 Council meeting. The many drivers for the change included, among others, how data are collected and how they are delivered. The restructuring process includes updating the data entry application systems in Guam to a new software enterprise from the old Visual Fox Pro. Seki said WPacFIN supported the Hawai'i Division of Aquatic Resources (DAR) with its planning and implementation of their new Online Dealer Reporting System. A new website should be coming online soon. He said that recreational fisheries are a priority moving forward. Huongguang Ma is the lead and will hold a workshop in January 2019 for improving creel survey methods to get a better handle on recreational and noncommercial fishery monitoring. Inquiries should be directed to Stephanie Dukes or Beth Lumsden. Seki described the complexities of data systems and applications handled by WPacFin. PIFSC will be encouraging users to request data using its online data request system called JIRA.

Seki reported on the activities of the Hawaiian monk seal and sea turtle research. Unmanned aerial systems were used to count populations of monk seals and individual seals at

Moku Manamana, Nihoa and some of the rocky pinnacles that are difficult to access. Other activities included data collection to assess the population of seal and to investigate what kind of disturbance aerial systems have on the animals. Two seals were not in good health and were taken to Ke Kai Ola monk seal hospital with help of the USCG.

This year PIFSC went to the Marianas to collaborate with local agencies on green and hawksbill turtle research and get on the water to do counts, biological sampling and tagging. Numerous green and hawksbill turtles were tagged with some recaptures. Research on North Pacific endangered hawksbills found a few males had many available females for mating. Seki noted the concern that a skewed sex ratio is an increasing challenge as temperatures increase due to climate change.

Seki also reported on economics of the Hawai'i and American Samoa longline fisheries. The Hawaii longline fishery has some increases in economic efficiency, whereas the American Samoa longline fishery has more variability. Seki mentioned variability in small-boat fisheries in American Samoa, CNMI and Guam without specifics.

PIFSC hosted the Second Annual Climate Science Workshop in 2018, inviting PIRO and Council staff. Recommendations emerged on where to invest time and resources to tackle climate issues with respect to fisheries. PIFSC staff will analyze that information. By March PIFSC will report on where the Region's Climate Science activities will go in the next year or so.

Seki reported that the Hawai'i Kona Crab Assessment was completed. The assessment went through a Western Pacific Stock Assessment Review (WPSAR) successfully in September. It was deemed that the stock is not overfished and that overfishing is not occurring.

The PIFSC 2019-2023 Science Plan was provided to Council staff and the Regional Office for review. The final plan will be available in the next few days and be provided to the Council for dissemination. Seki noted that the Pacific Islands Region made 15 years in October 2018.

Chris Boggs retired from PIFSC after 33 years at the Honolulu Labs. Bigeye tracking has been handed over to Keith Bigelow. The recruitment for Boggs' position is underway. In the interim, the position of the Fisheries Research and Monitoring Division lead will be assumed by heads of programs within the division Annie Yau (through December), Keith Bigelow (January-March) and Lumsden (April-June).

Sensui asked whether quieter alternatives to the hexacopter were explored.

Seki said he did not know as he is not familiar with the technical details. He said the Marianas Cetacean Surveys are using passive acoustics buoys, which are quieter and less invasive. He said he will consult with Charles Littnan on the matter.

Watamura asked about the bigeye tuna longline catch in 2018 being less than 2015 and 2016. He asked if that were due to reduced fishing opportunities such as monument or Southern Exclusion Zone (SEZ) closure under the false killer whale Take Reduction Plan. He wondered

whether more fish are eastward rather than westward due to more available effective fishing areas and more fish are being delivered to San Diego as opposed to Honolulu.

Seki, in response, noted oceanographic shifts as seen by work from Jeff Polovina and Phoebe Woodward-Jeffcoats examining shifts of fishing from areas of the southwest of the MHI to the northeast. Preliminary analyses suggested it was oceanographic driven. Fleet dynamics had not been investigated. Seki mentioned efforts by the University of Florida scientists who are examining the impacts of oceanographic considerations on protected resources. Seki also said false killer whales are a priority for the marine mammal programs. He said that he directs staff to go down the Ecosystem-based Fishery Management (EBFM) approach and that catch and climate are drivers making a difference.

Sesepasara asked about the status of the report from cruises in American Samoa and if a new bank was discovered.

Seki has not seen the report yet but said the Coral Program is pretty good about releasing reports. He said he is trying to make the cruises and surveys efficient. He alluded to more restructuring and making data streams more effective.

Watumura asked why trailing gear on false killer whales is considered a serious interaction for an animal so large and if there is scientific evidence to support that distinction.

Seki said serious injury determination is not done by PIFSC but is done in conjunction with PIRO. He said he is aware that the issue frequently comes up, but PIFSC does not consider it a priority to take it upon itself unless they are specifically asked.

**a. Ecosystem Based Fishery Management Regional Implementation Plan**

Seki provided a report on the EBFM Implementation Plan, completed in May and submitted in early June. It went out to public comment on June 15, and PIFSC made sure it was distributed to Council staff and members. Public comment ended September 30. It currently is under revision to incorporate comments submitted, after which the plan will be provided to Seki, Tosatto and the Council Executive Committee. Eventually, it will go to NMFS Headquarters, then Headquarters Office and ultimately to the NMFS Leadership Council.

Simonds mentioned that advisory bodies did not give much feedback and had a hard time figuring out how to respond to a plan of this nature. Simonds noted it was rushed.

Seki said, if individuals feel strongly about some components, some discussion should occur.

**b. Large Marine Ecosystem Initiative**

Seki described an initiative called Defining Large Marine Ecosystems (LMEs) as a component of the PIFSC EBFM Implementation Plan. There was an effort to define the Marianas as a designated LME. The goals of defining LMEs were to improve governance of

human ecological concerns, better integrate scientific advice into management, better understand the effects of climate change and changing ecological conditions, and better coordination with the Council. There are 77 LMEs all over the world since Ken Sherman developed the idea in the 1990s, characterized by distinct ecological components. The designations are very East Coast-centric. The Western and Central Pacific constituted one LME, which is known to be untrue. The Hawai'i and Mariana Archipelagos should be considered unique LMEs. Seki also mentioned the subtropical gyres, such as the South Pacific gyre or the equatorial region, were considered unique ecosystems in the past. At least six or seven candidate LMEs should be considered, starting with the Marianas, which has its own physical oceanography, productivity, fisheries and unique topography. Seki also mentioned socioeconomic components are to be used in definitions. Evan Howell will be involved and Megan Moews-Asher will be leading guiding the effort.

Gourley mentioned there is a comment from the SSC on the matter.

Marlowe Sabater, Council staff, said the SSC discussed the matter at its recent meeting in Hilo and expounded on the importance of clearly defining performance metrics and objectives with more structured engagement of stakeholders. The SSC emphasized involving fishermen in that discussion. It also wanted to have a better understanding of the legal constraints, the development of the process and the different benchmarks.

Simonds asked if other groups (other than Council), stakeholders, nongovernmental organizations (NGOs) or agencies would feed into the plan.

Seki said a lot of the approach will be similar to the Climate Science Strategy and EBFM Plan. PIFSC will work closely with PIRO and the Council to develop a first draft. Other stakeholders can be aggregated as it rolls out.

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

Johns reported for the NOAA Office of General Counsel, Pacific Islands Section. The active litigation out of the region is the Territory of American Samoa versus NMFS. The Territory sued NMFS in 2016 challenging a rule that allowed certain longline vessels to fish in portions of the American Samoa Large Vessel Prohibited Area (LVPA). In March of 2017 a federal court ruled in favor of the Territory and held that the Instruments of Cession, by which American Samoa ceded its land and waters to the United States, constitutes other applicable law under the Magnuson-Stevens Act (MSA) and as such NMFS was required to consider whether its rule protects and preserves American Samoa cultural fishing practices. In October of 2017, NMFS noticed its appeal of this decision. Since then, the parties have been engaged in mediation with a court-appointed mediator. Mediation discussions have not resulted in a settlement, and the court has set a briefing schedule in the Ninth Circuit. The NMFS opening brief is due Nov. 16, 2018.

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

Brakke provided the US State Department report.

The South Pacific Tuna Treaty provides fishing access for US purse-seine vessels to the waters of Pacific Islands Countries and promotes broader cooperation with the Region. Marking a key step in the ratification process, the President transmitted his amendments on Aug. 28, 2018, to the US Senate for advice and consent. This step in the ratification process is especially noteworthy because the Tuna Treaty is the first treaty package of any kind to be approved by this President for transmission to the Senate. Interior Secretary Zinke, who led the US Delegation at the Pacific Islands Forum held in Nauru, mentioned this milestone in his remarks at the Forum Dialogue Partners meeting.

The UN Food and Agriculture Organization Committee on Fisheries (COFI) convened July 9 through 13, 2018. The meeting this year was chaired by Bill Gibbons-Fly, Acting Deputy Assistant Secretary (Acting) for Oceans and Fisheries at the US Department of State and former member of this Council representing that Department. The COFI Report has not been released. A COFI summary report from Bill Twiet, the vice chair of the North Pacific Council, is available.

Biodiversity beyond National Jurisdiction (BBNJ) refers to the process for considering the development of an international, legally binding instrument under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Among the potential elements that could be covered by a BBNJ instrument are issues related to marine protected areas (MPA) and area-based management tools on the high seas, environmental impact assessments, marine genetic resources and more general provisions related to capacity building and technology transfer among countries.

The notable change since the previous year's report is the transition from the two-year Preparatory Committee phase of the process to what's known as an Inter-Governmental Conference (IGC), which is charged with developing the text of a potentially legally binding instrument on BBNJ. This IGC was established by a UN resolution and will meet for four sessions over the next two years. A lot of work remains to be done to reach an agreement on the text of a BBNJ instrument.

Simonds said the Council will be monitoring the BBNJ development, noting that at least several years will pass before a draft of recommended closures is presented. She also noted the large amount of areas closed to US fishermen that already exist in the US exclusive economic zone (EEZ) waters.

Lutu-Sanchez recalled amendments to the South Pacific Tuna Treaty were being discussed a few years ago and there was an inquiry of possibly including the longline fishery. She said the purse seine fleet is not the only US fleet in the region.

Gourley, commenting on the potential high seas closures, said it seems the BBNJ mechanism may have already made its mind up on what it wants to do before investigation or due diligence. He said he hoped the UN can look at this from an unbiased perspective.

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

Peck provided the USFWS report and discussed staff changes, including the departure of five staff members in Honolulu and Guam within several months, including top leadership. Barry

Stieglitz, the former Pacific Islands Refuge Manager, retired. Susan White, the Marine National Monument Superintendent, took a different job. Matt Brown of the NWHI took a different job. Steve Barklay moved to Midway, and Larissa Ford in Guam/Marianas retired. Kim Trust out of Portland offices is acting as Refuge Manager in Honolulu. USFWS has not permanently filled any of these positions.

Gourley asked if Susan White is still head of the Monument Section.

Peck confirmed and noted that the position is fused with the Refuge Supervisor, with Kim Trust leading through December.

## **E. Enforcement**

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

Disque provided the USCG report. The USCG continues to support reoccurring Forum Fisheries Agency (FFA) enforcement and WCPFC compliance. The report summarizes six surface patrols and two aviation patrols that took place. *USCG Sequoia*, based in Guam, conducted two patrols pursuant to the WCPFC high seas boarding and inspection authority. They found an unusually high noncompliance rate per boarding, including 16 violations on 15 boardings in one patrol and 15 violations on 12 boardings in the second patrol. These patrols were in an area deemed to need more attention. The USCG has increased its boarding and patrol training.

*USCG Cutter Alex Haley*, a larger cutter for the region that is based in Kodiak, Alaska, patrolled in support of District 14 objectives as part of its North Pacific guard patrol. The cutter left Japan and, en route to Honolulu, patrolled the high seas for the WCPFC and the Papahānaumokuākea Marine National Monument and also spent six days inside the MHI. This is the first medium endurance cutter deployed in District 14 since 2015.

Disque noted some personnel changes and movement from operations to leadership. USCG boarding personnel have been working with US Naval ships as a means to increase their enforcement presence without using all cutter resources. Starting at the very top, this summer Adm. Karl Schultz became the new commandant, relieving Adm. Zukunft. Pacific Area Commander is now Adm. Linda Fagen, who relieved Adm. Charlie Ray. The District Commander is also new, with Rear Adm. Kevin Lunday relieving Adm. Penoyer.

Duenas inquired if violations were in regards to fishing operations or safety.

Disque said that they do not do safety inspections or violations, with exception of egregiously dangerous issues. All violations concerned WCPFC conservation and management measures.

Lutu-Sanchez asked if the USCG has considered scheduling of its assets for the upcoming hurricane season in American Samoa and whether that has been transmitted to the local USCG Marine Safety Detachment Office for planning purposes in the event of natural disasters.

Lt. Cmdr. Disque said that Adm. Lunday was in American Samoa meeting with the American Samoa governor, discussing those concerns. The Marine Safety Detachment in American Samoa works for Sector Honolulu and has a direct line to the Sector Commander for Search and Rescue Problems. The USCG is increasing its presence in American Samoa. The 154-foot USCG patrol boat *Oliver Berry* has been deployed in the region.

Duenas asked for more information regarding the Indonesian man found on a fish aggregating device (FAD) in the US EEZ waters around Guam. How far away was he from Guam and what was the USCG's involvement in that rescue?

Disque was familiar with the rescue but could not provide details at the moment. He indicated he would look for more information to provide to Duenas.

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

Bill Pickering provided the NOAA Office of Law Enforcement (OLE) report. There were 192 cases mostly regarding protected resources, fishery management and some sanctuary cases. Three cases were specifically covered in the report. In one case, OLE charged a longline vessel that was fishing up in the NWHI monument area. Pickering said that they have offered to allow vessel owners and managers to oversee their own boats with the vessel monitoring system (VMS) to avoid violations, free of charge. So far, most of the vessel owners in the HLA are signed up. Terry Boone, who works with OLE, will be available to assist.

Pickering made a tribute to Ed Ebisui and said that Ebisui was an asset to OLE, providing guidance on handling situations on the North Shore.

Pickering mentioned the 2019 Joint Enforcement Agreements (JEAs) have all been signed. The OLE staff is visiting JEA partners in Saipan. Some JEA funds for 2018 were returned to the US government. Pickering said they are working to have those funds fully spent in future years.

Lutu-Sanchez said it is great the Hawai'i longline operators have the electronic reporting system available. She said a combined VMS and electronic reporting system would be ideal to minimize the amount of equipment on the bridge.

Pickering said that Bigelow and Boone will need to work together to determine what the cheapest, most effective means would be to combine those two services.

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

Duane Smith provided the report for the NOAA Office of General Counsel, Enforcement Section. Penalty schedules are in the agency report, including summary schedules and the enforcement cases that have had Administrative Law Judge opinions. Four cases are under consideration for a civil penalty. Six Pacific Islands Region cases were under prosecution, including cases involving purse-seiner FAD and marine mammal sets. One case involved fishing in the EEZ off of Hawai'i for deep-water shrimp without a permit. The office resolved eight cases since the last report, including a smattering of marine mammal cases, two spinner dolphin

cases off of Wai‘anae on the island of O‘ahu. The office dismissed a marine mammal take case out of the Big Island, which had been going on for a while. The office settled a couple of cases for FAD sets and marine mammal sets, as well as the case that Pickering referenced for fishing in the closed area around the NWHI. Lastly, the office had a case of observer harassment that was defaulted.

At the WCPFC Technical and Compliance Committee (TCC) meeting, six US flagged vessels were nominated by New Zealand for the Illegal, Unreported and Unregulated (IUU) list. Those vessels did not proceed to being listed. Smith said that the IUU nomination was a reminder that the Hawai‘i longline vessels operate in an international arena with international repercussions. US vessels cannot have crew fishing recreationally while in other national EEZ waters even if the vessel is not on a commercial fishing trip. There were incidents in which longline vessels were picking up crew and were recreationally or subsistence fishing when they transitted through Tokelau’s EEZ. That issue is still contentious in Tokelau.

Goto said he will do his part to relay the concerns from OLE and General Counsel Enforcement Section as he understands the repercussions. He asked if Billfish Conservation Act issues were enforced by Smith’s office.

Smith affirmed.

Goto said they want to make sure that when Enforcement is ready to act, that the fishery is ready to comply fully. He asked when that would happen.

Smith said that the Billfish Conservation Act was signed into law by the President and does not require any implementing regulations, so his office is ready to enforce the law. If there was a violation brought to the office’s attention, those agents or officers would investigate and then decide what to do at that point.

Lutu-Sanchez reiterated the importance of PIRO staff reminding the owners of existing laws and regulations. No owner wants to intentionally break any laws, and it can be difficult to follow the large number of rules and deadlines.

Smith reminded the Council members that it is not necessarily PIRO staff’s job to make sure fishermen renew their permits or other requirements on time. Although reminders may be sent from PIRO staff, it should be considered a courtesy. He said fishermen who rely on that courtesy do so at their own risk.

Seseparasa inquired about shipping billfish from American Samoa to Hawai‘i and the legality of such shipment of product.

Tosatto confirmed such a transaction within the Region, meaning between the Territories and Hawai‘i, shipment of billfish is legal.

Johns noted that NOAA has prepared a question and answer sheet on pertaining to the Billfish Conservation Act, which is available in the briefing book.

## **F. Public Comment**

Public comment cards were filled by Diego Blanco and Mike Fleming, but the speakers were not present during the public comment period.

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

**Regarding PIFSC efforts in defining LMEs in the Marianas, the Council requested PIFSC to develop a more structured stakeholder engagement to include fishermen and other interested parties. The Council also recommended PIFSC to include the stakeholders in the development of the goals, objective and performance metrics.**

*Moved by Duenas; seconded by Seseparasasa.  
Motion passed.*

## **VII. Mariana Archipelago-CNMI**

### **A. Arongol Falú**

Jack Ogumoro, Council CNMI Island Coordinator, provided the CNMI Island Report. A fish tagging project is ongoing utilizing Floy t-bar tags. The CNMI Division of Fish and Wildlife (DFW) has tagged 450 mafuti (emperors). DFW continues to advertise on the radio asking fishermen to return the tags found on caught fish. DFW also continues to conduct life history on groupers in collaboration with PIFSC and its fishery data collection on shore- and boat-based fisheries and commercial sales receipts. A new data manager was hired to run the DFW Data Section Unit. The FAD program has completed the deployment of three FADs in Rota and two around Saipan and will be deploying six more around Saipan and Tinian before September 2019. DFW is also working with fishing associations to establish recreational fishing activities, as well as publishing a research paper in the Pacific Science Journal. The Aquatic Education Outreach Section is providing outreach and educational activities to the schools in the CNMI and distributing flyers and brochures about what the section's activities at DFW public functions, government functions and the Marianas Trench Fishing and Seafood Festival.

### **B. Legislative Report**

Ogumoro reported that the Legislature passed House Bill 20-079, introduced by Rep. Angel Demapan, to protect coral reefs through the recovery of monetary damages resulting from vessel grounding, anchoring and destructive fishing practices and prohibiting non-permitted takes of threatened species. The bill was transmitted to Gov. Torres in September 2018. If the bill becomes law, a fund would be created for damages and restoration purposes. This bill was previously amended in the Senate to designate management of the funds to the DFW and not the Bureau of Environmental and Coastal Quality as originally proposed by the House.

### **C. Enforcement Issues**

Ogumoro reported that enforcement officers have inspected 30 commercial and 10 recreational vessels. They observed 60 dolphin schools, monitored sea turtles and MPAs around

Saipan, and provided education and outreach at hotels and schools benefiting nine managers and 135 students. Other activities included responding to an illegal fishing incident involving one of the sanctuaries, discussing the mandatory bottomfish permit with 36 fishermen and discussing poaching and shark finning to about 40 local fishermen.

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

Ogumoro reported on a court case about the military buildup in which the Department of Defense and the Navy were sued by several environmental groups. The District Court Judge Roma Villagomez ruled in favor of the Department of Defense and the Navy. The plaintiffs were concerned that the military did not follow the National Environmental Policy Act (NEPA) requirements and instead came up with two environmental impact statements (EIS) instead of one, which made it difficult for people to follow what was happening.

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

Ogumoro reported on the completion of a combined Chamorro and Refaluwasch lunar calendar, which features cultural significance and traditional harvesting practices of certain species. The high school summer course was held in June with 16 students.

#### **F. Marine Conservation Plan Projects**

Ogumoro presented an update on the CNMI Marine Conservation Plan (MCP) and its associated projects. The Garapan Fishing Base parking lot was completed earlier this year, and a proposed ice machine will be located in a public market next to the parking lot. Northern Marianas College's Cooperative Research Service Extension is conducting rabbitfish aquaculture research to determine the best feed for rabbitfish. The researchers are finding that the current feed does not help the larvae to grow and mature. Another project is the Bottomfish Data Collection Education and Outreach. This is a continuing program designed to teach fishermen how to bottom fish. The Micronesian Islands Nature Alliance Tasi Watch Program is almost a duplicate of the Makai Watch in Hawaii 'I; park rangers educate the public to not throw trash or leave their trash at public parks or picnic areas because their trash would end up in the water and may harm turtles. Preserving traditional fishing practices on the island of Rota is a program that teaches children how to carve canoes, as well as use traditional fishing practices. The Garapan Fishing Base Improvement was initiated; an environmental review and engineering plan were developed to improve the Garapan Fishing Base by providing a dock facility. This plan entails shoreline revetment, floating docks, maintenance dredging, aids to navigation, solar parking lot, lights and a vending ice machine. CNMI was also awarded \$250,000 to provide bottomfish training and fishing demonstration to benefit its fishermen.

Okano asked how far along the Fishing Base Improvement Plan was.

Ogumoro said it is slowly moving and DLNR is discussing how to go about overcoming some issues, including funding. He said the funding is short of what the contractor proposed.

Roberto added that they had to scale down the scope of work because the A&E was going to cost so much. They decided to break it up into smaller projects and to proceed a section at a

time as funds are received. Priorities include revamping the shoreline area because some of the areas are starting to erode, protecting the parking lot and expanding the ramp. He said they should get something going by February 2019 and start construction during summer 2019.

Duenas said it is nice that funding is going a long way and getting a lot accomplished in CNMI.

Okano said climate change and sea level rise implications need to be considered in the plans for the fishing base.

Ogumoro said local and federal requirements will be considered and the CNMI Department of Public Works, which is familiar with the federal requirements, is working on it. Funding also requires the NEPA process and other federal requirements are met.

### **G. SPC Fisheries Development Adviser**

William Sokimi, fisheries development officer at the Pacific Community (SPC), provided a presentation on coastal fisheries in the Pacific. The current context of fisheries in the Pacific—with the impacts of climate change, growing populations and an increasing focus on resource conservation and management—is not conducive to fisheries development. However, there is a major need for coastal fisheries to maintain security and livelihoods through sustainable marine-based alternatives. The positive aspect about the SPC program is it comes from communities that approach the SPC and together they develop initiatives, marine-based opportunities and fisheries management. Of particular significance to the SPC are the Pacific Region's disadvantaged groups, the unemployed, disabled fishermen and remote communities. SPC is also looking to provide opportunities in small-scale coastal fisheries at the high school level to address the lack of job opportunities.

Another growing opportunity is tourism and sports fishing. Linking tourism as an alternative for fisheries provides diversification for small-scale fishers in that they can merge it into their operations. If the weather doesn't permit fishermen to fish, they would have the ability to use the same craft for eco-based tourism, and sports fishing allows for continued economic opportunity. Improved utilization of fisheries resources through fish preservation and value-adding, low-tech methods that extend shelf-life and increase returns, has been popular for youth and women. This is increasingly becoming an add-on to the training of sustainable fishing methods for food and income.

FADs are an important part of fisheries development in the region and one of the main components around which SPC activities are based. They are proving to be one of the few successful initiatives in small-scale fisheries development. SPC looks at offshore and nearshore FADs but not at industrial-anchored or industrial drifting FADs. Fishermen are making FADs their priority yet ministries do not allocate specific funds to have those FADs in the water. The fishing communities keep raising this issue, and the ministries are starting to pay more attention to FADs. One of the lessons learned was that effective institutionalized national programs are seen as the way forward to facilitate small-scale tuna fishing development. Appropriate midwater FAD fishing methods training to follow deployments and community engagement is essential, as the FAD programs would not work without the community engagement. Government should

assume greater responsibility and afford higher priority, funds and staff to artisanal FAD programs. An overreliance on SPC and donor support is reducing ownership and investment by Fisheries Departments. Slowly, some islands that already have fishermen associations may at least try to contribute or support the fisheries and have the Fisheries Departments take care of the deployments. Other areas wait for SPC training in hopes that the SPC will put out more FADs, but the SPC is slowly pulling them away from that reliance. FAD programs are very effective where there are fishermen associations because the group of fishermen goes out and the communities get engaged in the importance of FADs. SPC provides FAD program planning and evaluation, may assist in funding, provides technical assistance and trains local technicians and fishermen.

One of the issues experienced is staff turnover, a major problem for capacity building. The Fisheries Departments are not retaining their technical staff resulting in the need for continuous training by the SPC. The problem is low pay and staff ambition of moving up from the lower technician position. Some Fisheries Departments have moved away from the need for SPC training as they are now doing it themselves and utilizing SPC in the planning stages.

Fisheries diversification is a current focus in the region. Fishing methods for tuna and pelagic fish are taught, but SPC is also engaging in small pelagic species for bait and food security. Species like diamondback and neon flying squid are being targeted, starting off with having the product and marketing it locally. There is also training for night fishing for flying fish. Both species are now on the plate at home. Including these species as part of their fishing activities will help some of the deep-water snapper industries around the region that have not controlled their fishery from the beginning and need to slow down. As the potential to export expands through expanded flights with bigger planes, islands are looking to utilize their fisheries, such as deep-water snapper. The SPC helps them do that but at the same time tries to instill good management plans.

Small-boat safety training is also a part of the SPC training program. Everyone must participate in the training before going on the boat so everyone uses safe fishing practices onboard and is on the same page in case of emergencies. There is a small-fishing operations course that encompasses safety, fishing methods, gear construction onshore and actual fishing. The course takes about one to two weeks, depending on the number of people.

Sensui asked if the flying fish fishery utilizes lights and scoop nets.

Sokimi answered yes, it is based on the old concept involving lights, coconut fronds going in front of the canoe and a scoop net. A lot of Pacific Islanders moved away from that method because it was too tedious with a fire burning and scooping one fish at a time. Those fishermen went into using gillnets. In some places, like Fiji, gillnets are banned altogether, with no exemptions for different fishing methods. This method, utilizing new technology like lights on the helmet, is safer and can be a one-boat, two-man operation.

Duenas asked if the flying fish is used as a food fish or sold for bait.

Sokimi said in most of the islands it is food fish, but there are some that use it for bait.

Duenas also asked for an explanation on how the diamondback squid is caught.

Sokimi said trials in New Caledonia, the Cook Islands, French Polynesia, Fiji and Tonga have shown success with low effort. A handline or electric reel that is used for bottomfish fishing can be used for squid fishing. Only the depth (about 1,000 meters) needs to be known. It is convenient and can be done during the day.

Sesepasara asked if these techniques would be discussed at the SPC meeting for fishery leaders in the Pacific Islands.

Sokimi said it will be addressed briefly.

Okano wondered what a management plan for deep-water snapper would look like, asking if it is spatial or seasonal and if it had catch limits.

Sokimi said it encompasses all of it. They try to look at everything, even distance away from the main fishing centers, how far off to go and how much time should be spent in the area. One of the main points they had to teach in Tonga was the setting of a deck. It is amazing to have a total allowable catch of 80 tons for Tonga now, considering the uncontrolled beginning and duration they have been fishing without any management plan. After a lot of complaints, the fishermen themselves proposed 80 tons so they can activate the diversification and alternative fishing methods plan. With other areas, total allowable catch is much higher if they have not experienced or approached an overfished state.

Roberto said flying fish are caught with a spotlight and a scoop net on the Island of Rota, where the fish is considered a delicacy. He said that SPC started its FAD Program about 30 years and all of the FADs out there were started from SPC. SPC also assisted them with the vertical longline training that was done 10 to 15 years ago. Roberto said SPC has also allowed them to send some of their staff and fishermen to participate in the captain's course, where for several months they learned longlining and other methods. He thanked SPC for that and hoped the SPC could do something in the future to develop fisheries in the CNMI.

Sokimi said SPC is still provides training and is in a better position with all the lessons learned to deliver better strategies. However, last year was the last of the skipper's training. There is a meeting scheduled to discuss the future of starting that up again and in what format the SPC will engage.

#### **H. Specification of CNMI Bottomfish Management Unit Species Annual Catch Limits for Fishing Year 2019 (Final Action)**

Sabater presented the alternatives for specifying annual catch limits (ACLs) for the CNMI bottomfish management unit species (MUS) complex for fishing year 2019. He revisited the previous specifications, described the best scientific information available and provided the most recent fishery statistics associated with catch, effort and participation. He also described the current data collection system and the limitations to achieving near real-time reporting. He presented the Council with two alternatives to consider: the no action alternative and the alternative to re-specify the previously recommended ACLs. The latter would result in an ACL

for the CNMI bottomfish at 228,000 pounds. There is a new benchmark stock assessment that will be reviewed in 2019 in preparation for the specification in 2020-2022.

Sabater presented the impact analysis for each alternative. The only new information for CNMI bottomfish fishery was on bycatch from the Council's annual report and the ongoing reconsultation for the listing of the oceanic whitetip shark, giant manta ray and the insular false killer whale critical habitat.

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

### **1. Advisory Panel**

McGrew Rice, AP overall vice-chair, presented the AP report and recommendations.

*Regarding CNMI fishery issues*, the Mariana Fishery Ecosystem Plan (FEP) AP recommended the Council assist the CNMI AP with facilitating a meeting with the military liaison and CNMI government to communicate their concerns regarding the community's issue with pre-positioning ships (MOU for fees, threatening local boaters, anchor damage, potential moorings, etc.).

Duenas noted seeing the pre-positioning ships when flying into the Saipan airport and asked Roberto to explain their purpose.

Roberto said the US military contracts the ships to store equipment and supplies. There are usually six ships. CNMI asked about the concerns awhile back, but the military said that it did not have to pay anything because the boats are anchored in federal waters. Now that the CNMI has some of its submerged lands back, Roberto said, the US should pay for their use. The DLNR is in communication with the admiral on Guam, who knows about the situation. Roberto was not sure of the status. He said he can follow up with the military liaison person in the governor's office.

*Regarding CNMI fishery issues*, the Mariana FEP AP recommended the Council support summer fishery internships in the CNMI.

*Regarding CNMI fishery issues*, the Mariana FEP AP recommended the Council provide assistance to the CNMI AP in developing projects for Rota's harbors and marine improvements, Tinian marina entrance lighting and Sugar Dock dredging to include in the CNMI MCP.

Roberto mentioned that the Tinian lighting is referring to the range light, which is under USCG jurisdiction. He said the CNMI DLNR is not allowed to touch the lights.

Rice said the AP also mentioned some of the lighting in the harbors themselves.

Roberto said if it is just lighting, then they could put street lights.

Simonds asked if this is the responsibility of the CNMI or the federal government.

Roberto said it depends where in the port. The Commonwealth Ports Authority (CPA) owns a portion of it, and the lights in the marina belong to DFW. If there is no memorandum of understanding (MOU), then it still belongs to CPA. He said he would find out and see if they can address it. If it is just street lights around the marina, they could work on it. If it is the range light, then that would be under USCG.

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

Gourley reported on the CNMI Regional Ecosystem Advisory Committee (REAC) meeting, which was attended by 16 members of the REAC and the public. Council staff presented on the mandatory permit and reporting, Marianas small-boat economic survey, Council projects including the improvement of the commercial reporting system, outcomes of the noncommercial spear fishing project, aquaculture and the Council's five-year program and priorities. Discussions centered on trying to get the military to become more involved in the REAC and to provide answers about its plans in various areas of the marine environment. The CNMI REAC made the following recommendations:

*Regarding the CNMI*, the CNMI REAC recommended that the definition of CNMI waters specific for the purpose of this mandatory permit and reporting regulations include waters beyond 3 nautical miles in order to accommodate a more complete reporting of catch.

*Regarding the CNMI*, the CNMI REAC agreed that the Mariana FEP AP recommendation that the Council invite a military liaison to attend future advisory body meetings and continue to explore options for undertaking independent assessments of military-associated marine impacts.

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

Okano presented the SSC report and recommendations pertaining to the CNMI agenda items.

*Regarding Item 7.H, specification of CNMI Bottomfish MUS ACLs for fishing year 2019*, the SSC selected Option 2, which would re-specify previously recommended acceptable biological catches (ABCs). The SSC recommended the ABC for Territory bottomfish complex for CNMI fishing year 2019 with an ABC of 228,000 pounds.

The SSC noted the general underutilization for these stocks and how best to incorporate this into ACL specification for fisheries with little to no fishing effort. The SSC also noted that under-reporting continues to be an issue for most of these stocks. The last shrimp assessment was in 1988, and there is a clear need to update this MSY.

### **J. Public Hearing**

There were no public comments.

## **K. Council Discussion and Action**

*Regarding ACLs for the CNMI bottomfish species complex, the Council recommended NMFS set the ACL at 228,000 pounds for fishing year 2019. The Council noted that the next benchmark assessment is scheduled for review in February 2019 and will provide new information to set the ACLs for fishing year 2020 to 2022. The accountability measure is an overage adjustment to the ACL in the following fishing year. The adjustment will be the amount of the overage based on the three-year recent catch.*

**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 Duenas; seconded by Sensui.*

*Motion passed.*

*Regarding CNMI fishery issues, the Council directed staff to assist the CNMI AP with facilitating a meeting with the military liaison and CNMI government to communicate their concerns regarding the community's issues with pre-positioning ships (e.g., MOU for fees, threatening local boaters, damage to habitat from anchors, potential moorings, displacement of fishermen, etc.).*

*Moved by Roberto; seconded by Duenas.*

*Motion passed.*

*Regarding CNMI fishery issues, the Council directed staff to 1) look into finding support for summer fishery internships for college students in fishery-related agencies of the CNMI government; and 2) to provide assistance to the CNMI AP in developing projects for Rota's harbors and marina improvements, Tinian's marinas and Sugar Dock dredging and facilitating inclusion in the next revision of the CNMI MCP. Further, the Council directed staff to request USCG to work with Tinian to repair its harbor range/entrance lights.*

*Moved by Sensui; seconded by Roberto.*

*Motion passed.*

## **VIII. Protected Species**

### **A. Report of the Seabird Bycatch Mitigation Workshop**

Asuka Ishizaki, Council staff, reported on the Workshop to Review Seabird Bycatch Mitigation Measures for the Hawai‘i Pelagic Longline Fisheries, held Sept. 18-19, 2018, in Honolulu. The workshop met in response to a Council directive from the 173<sup>rd</sup> meeting in June 2018. Ishizaki provided an overview of the seabird measures for the Hawai‘i longline fishery and interaction trends over time. Following a significant reduction in interactions with the introduction of seabird measures, interactions have gradually increased in the past decade and interaction numbers have been since 2015. A Council workshop convened in November 2017 showed that oceanographic factors and wind patterns may be affecting black-footed albatross distribution and resulting in higher number of birds around the vessels, leading to higher interactions. Other sources of higher interactions may include fleet dynamics, captain effects and changes in albatross behavior.

The objectives of the workshop in September 2018 were to review current seabird measures used in the Hawai‘i longline fishery as well as alternative measures, identify and prioritize what other measures may warrant testing in the Hawai‘i longline fishery and identify potential areas of improvements to seabird measures for the fishery. The workshop was attended by 25 industry participants, managers and researchers and was structured around facilitated discussions.

Workshop participants reviewed 35 mitigation measures. High priority measures identified through facilitated discussion were captain and crew training, side setting, bird curtain, tori lines (streamer lines), towed buoy and branchline weighting design. Moderate priority items were night setting and offal management, which were considered applicable primarily for the shallow-set longline fishery. Most of the high and moderate priority measures are currently in place, indicating that the existing measures are effective or could be further improved. Tori lines were tested in the fishery in 1999 but were not included in the seabird measures due to entanglement and safety concerns. However, tori lines have since been tested and used in a number of other fisheries in the United States and abroad. Workshop discussions revealed that some Hawai‘i longline fishermen are voluntarily using tori-line-type deterrent. Workshop participants recognized that additional trials and development of minimum standards would be useful for the Hawai‘i longline fishery. They also discussed applicability of each high priority measure to shallow-set and deep-set fisheries, given the differing operational characteristics.

Two measures currently required in the fishery, blue-dyed bait and mainline shooter, were deprioritized. Blue-dyed bait was originally tested on squid bait and is considered to be less effective on fish bait, the latter of which is currently used for both the shallow-set and deep-set fisheries. Analysis of observer data also indicate that blue-dyed bait is less effective than side-setting in the Hawai‘i longline fishery, and blue-dyed bait trials conducted elsewhere show mixed results. Mainline shooter is conventionally used in the deep-set longline fishery but does not affect the sink rate of the branchline and, therefore, is not serving as a seabird mitigation measure. Other low priority measures included gear-based measures such as artificial bait and Hookpods, as well as non-gear management measures such as fleet communication, transferrable caps on interactions, and temporal and spatial management.

Workshop participants also discussed potential modifications to the deep- and shallow-set longline fishery requirements, as well as associated research and development needs for each fishery. Potential modifications to the deep-set fishery included addition of tori line as an optional measure and removal of blue-dyed bait. Potential modifications to shallow-set fishery included removal of side-set option and consideration for additional measures during the haul. Workshop participants discussed ways to improve training and outreach opportunities to the fleet.

Goto noted that many foreign vessels operate in the same areas as the Hawai‘i longline fleet but do not have the same level of seabird mitigation measures as implemented in the Hawai‘i fleet.

Watamura asked if the weights are on the mainline or just the branchlines.

Ishizaki said weights are only on branchlines.

Simonds said the information missing from supporting bird conservation is information from the international arena. She asked what information is available.

Ishizaki said that the discussion on the international component was a part of the November 2017 workshop when participants attended from Japan; the information gap was recognized at that workshop. Japanese participants at the November 2017 workshop indicated that information collection on seabird bycatch in their longline fisheries has started, and more information will become available in the next several years, providing an opportunity to improve North Pacific-wide bycatch estimates. Ishizaki also noted that Japan is working with New Zealand under BirdLife funding to improve the seabird bycatch estimate in the southern hemisphere, and a similar effort for the North Pacific is likely to start in the next several years.

Lutu-Sanchez asked about the idea of utilizing a report card for captains that was included in the outreach discussions.

Ishizaki said that a report card has not been implemented yet, but an analysis done in preparation for the workshop showed a wide range in the number of interactions each captain has and some captains have much higher interactions than others. The analysis required data clean-up of captain names in the observer database to allow evaluation of captain effects. The workshop discussion recognized that captains may not be aware that they are at the higher end of the range and that providing information back to captains may raise awareness. The report card idea comes from a report on electricity usage in which one’s usage is compared to that of the average use in the neighborhood to encourage behavioral change based on peer pressure.

Pickering said that OLE reviews observer data and investigates when vessels are not complying with required seabird mitigation measures. The OLE has access to the observer data and the name of the captain who did not comply with requirements.

Simonds said that the issue with the observer data was the consistency of captain names in the database. The analysis done by Council staff was a different exercise than what OLE does with the observer data.

Ishizaki said there is variability in seabird interaction rates even when vessels are following all seabird requirements; the captain effect is not an issue of compliance. Some mitigation measures require additional behavioral aspects to affect the effectiveness of the measure. For example, when vessels use side-setting as their mitigation measure, they are required to configure the vessel to deploy the line from at least 1 meter from the stern; if the bait is thrown toward the stern, side-setting is less effective.

## **B. Status of the False Killer Whale Take Reduction Team Recommendations**

Ann Garrett, PIRO, provided a status of the False Killer Whale Take Reduction Team (FKWTRT) recommendations. In 2018, interactions with five false killer whales and one blackfish were observed outside of the EEZ and interactions with four false killer whales that resulted in serious injuries were observed inside the EEZ. The serious injuries inside the EEZ triggered the closure of the SEZ in July through the end of December. Prior to the SEZ closure, NMFS convened the FKWTRT in April, the report of which was provided to the Council at its 173<sup>rd</sup> meeting in June 2018. Following the April meeting, FKWTRT convened four times by teleconference in June, July, August and October.

FKWTRT continues to move forward on recommendations but has not yet presented NMFS with consensus recommendations on how to improve the Take Reduction Plan. FKWTRT has considered a number of potential measures to reduce mortality and serious injury, including gear modifications for weaker hooks and stronger branchlines, modifications to the SEZ in response to gear modifications, improvements to gear handling and training, and potential use of electronic monitoring (EM). Garrett said that EM has been a large focus at the last two teleconferences and that NMFS has encouraged the FKWTRT to focus on the purpose and goal of the Take Reduction Plan and specifically on gathering information on false killer whale handling through EM. There has been a lot of discussion and concerns about how NMFS might implement a recommendation regarding EM with respect to statutory authority, timing and funding. NMFS is looking to have another meeting of the FKWTRT before the end of the year so the team can provide consensus recommendations to NMFS before the end of the calendar year.

Goto said that the industry is consolidating knowledge and interaction with longline vessel crew as a result of the foreign crew issue and now has the ability to provide translated documents to the crew. If training materials are going to be produced for false killer whale issues, the industry has a foundation from which to provide assistance to that process.

Garrett said she does not have a consensus recommendation from the FKWTRT at this time but appreciates all assistance and feedback.

Sensui called upon Ishizaki to provide additional details on the FKWTRT discussions.

Ishizaki said that the Council has a seat on the FKWTRT, which is filled by staff. Regarding the recommendations currently under discussion, the Council intends to support modifications for stronger branchlines from the current 2.0 mm to 2.3 mm, as long as sufficient time is provided for sourcing and changing over to the new branchlines. The Council is also supportive of discussions to temporarily suspend or remove the SEZ given that the SEZ does not provide a conservation benefit to false killer whales. Regarding EM, the Council has maintained

the position that additional development is needed to apply EM for protected species handling given that development to date has focused on catch accounting and that funding and timing of additional development is uncertain. Some members of the FKWTRT would like to see a firm implementation timeline as part of the recommendation to NMFS, but staff has maintained that the Council is not able to agree on a timeline at this stage.

Simonds called upon Bigelow to explain the process and status of implementing EM.

Bigelow said that EM is currently in the pre-implementation phase, with funded cameras on 17 vessels to test catch and bycatch accounting on those vessels. The report of this phase should be completed by early next year and provided to PIRO Sustainable Fisheries Division for its consideration of using EM to supplement human observers. The determination of whether it will take five or 10 years to implement does not lie with him, but rather at another part of the agency. In 2019, EM video for protected species will be reviewed, and cost-effectiveness of looking at retained catch will also be considered. Bigelow noted several other considerations, including uncertainty in whether the user pays for EM and the issue of data retention.

Simonds asked who owns and can access the data and whether fishermen can access data that comes from them. She said she learned at the Council Coordination Committee meeting that the government would be paying for EM if it is something that the government requests for protected species.

Tosatto said a NMFS policy is in development regarding who pays for EM. NMFS would generally pay the administrative cost in almost all cases, but the sampling cost comes from who is requiring EM. Tosatto said he thinks a consensus recommendation to implement EM under the Marine Mammal Protection Act (MMPA) would come along with the industry's acceptance of the sampling cost. He reminded the Council that a consensus recommendation of the FKWTRT must contribute to the end goal of reducing mortality and serious injury approaching zero. If EM helps to demonstrate that the fishery is approaching zero mortality and serious injury, it would have value. However, if it is not contributing to that goal, then it would have lesser value.

Watamura asked how a hook with trailing line qualifies as a serious injury interaction and how a determination is made as to whether a false killer whale interaction was with an insular or pelagic population.

Garrett said an animal that is left with a hook and trailing gear is generally considered falling within the category of a serious injury; that determination comes from best scientific information for other cetaceans and an NMFS policy developed with a number of veterinarians. The assignment to insular or pelagic false killer whales is largely based on the location of the interaction and the population's distribution; a proration method is used to attribute interactions to insular stocks. However, Garrett said, the Hawai'i longline fishery is not having interactions with the insular stock and the FKWTRT does recognize that the insular stock is not the problem but rather it is the pelagic stock.

Lutu-Sanchez asked about the composition of the FKWTRT and the percentage represented by members of the industry.

Garret said she did not have the breakdown with her, but said there is around four or five that represent the fishery out of the 20-some members. Another four or six members represent academia and another four or so from environmental groups.

Lutu-Sanchez said, in the previous presentation regarding seabird mitigation measures, the industry was well represented and was willing to come up with ideas and recommendations. In the case of the FKWTRT, where there is a closure, it would make sense to get more input from industry because they are the ones who will have to pay for the modifications.

Garrett said that some of the actions considered, such as the gear modifications, have been readily accepted by most of the industry and all others at the table, but the issue receiving the most attention is EM.

Tosatto said that the reason for having an FKWTRT is because the fishery was not managed in a way that prevented interactions to be below potential biological removal (PBR). He said the Council had a shot to take MSA-based measures to reduce marine mammal interactions; however, since the false killer whale issue is now addressed through MMPA, there are equal seats at the table from marine mammal science and marine mammal conservation.

Simonds said that the Council did try to do its job under the MSA and had a marine mammal committee composed of many of the researchers and scientists who are currently on the FKWTRT. At the time NMFS said that it did not have funding to address false killer whale issues. In the end, NMFS decided to implement the regulations under the MMPA when it could have been done through MSA.

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

Garrett provided updates on Endangered Species Act (ESA) and MMPA actions.

NMFS issued a final rule in July 2018 designating critical habitat for the ESA-listed insular false killer whale population. Critical habitat includes waters around the MHI from 45 meters to 3,200 meters in depth and a total area of about 45,000 square kilometers of marine habitat. The essential feature under the critical habitat is an island-associated marine habitat that includes prey of sufficient quantity, quality and availability; waters free of pollutants; and habitat free of anthropogenic noise. Critical habitat only affects federal actions and makes them subject to ESA Section 7 consultation.

NMFS is also in the process of considering critical habitat designations for several distinct population segments of humpback whales, green turtles and corals. A proposed rule for humpback whale critical habitat should be available by the end of 2018. There are no firm timelines for green turtle and coral critical habitat designations.

NMFS published a positive 90-day finding in September 2018 for cauliflower coral, for which NMFS received a petition to list under the ESA. NMFS is initiating a status review for this species.

In September, NMFS issued a final rule to list chambered nautilus under the ESA. This species has an estimated life span of about 20 years and a low fecundity rate. Primary threats are targeted market-driven harvest for international trade of their shells and habitat degradation throughout their range. NMFS is requesting more information to evaluate whether critical habitat should be designated because there is currently insufficient information.

Garrett also provided the status of recently listed species, including oceanic whitetip shark, scalloped hammerhead shark and giant manta ray. The petition for giant clams is still under status review, which may be completed prior to the next Council meeting. NMFS has initiated a five-year status review for corals, which is expected to be completed in September 2019.

Updates on ESA recovery plans were also provided. NMFS is expected to issue a draft insular false killer whale recovery plan and species status assessment later in 2018. NMFS is also working on recovery plans for humpback whales and the North Pacific loggerhead turtles.

PIRO's Sea Turtle Recovery Plan activities have included reducing boat strikes to green turtles and a Fishing Around Sea Turtles program.

The Hawaiian monk seal population is stable or growing at about 1,400 animals, based on the range-wide abundance estimates issued in 2017.

Tosatto asked Garrett to clarify that the petition for cauliflower coral was specifically for Hawai'i, but the status review will be focusing on the full range.

Garrett said that is correct. NMFS decided that the species needed to be reviewed range-wide rather than what the petitioner requested.

Gourley asked if climate change and ocean acidification were identified as reasons for the listing.

Garrett said the recent action was a 90-day finding. She confirmed that those threats are part of the reason petitioners are requesting the listing.

Gourley asked how giant clam listings might affect aquaculture facilities that culture those species, given that culturing giant clams is well established in the Western Pacific and there are species of giant clams in Saipan that are released from aquaculture clams in Palau.

Garret said that no activity would be closed because a species is listed. There would be some dialogue with the industry to determine what is necessary to ensure the survival and recovery of the species. There has been a lot of assertions of aquaculture, but NMFS has not found a lot of data on any major aquaculture facilities so continues to request more information. This is one reason NMFS is having difficulty completing the giant clam status review.

Gourley said he thinks that some aquarium businesses are ongoing in the Marshall Islands and that Palau was a large player in the early 1990s. Simon Ellis has been working on giant clams on Pohnpei and Robert Reimers has a large clam farm in the Marshall Islands.

Gourley said he hoped NMFS looks at the information closely to ensure businesses are not blocked out of opportunities.

Garrett said the giant clam would be an identical issue to West Coast listing of salmon, where there are large aquaculture facilities and the species is produced to be eaten. NMFS has continued to work with the salmon industry to ensure that they support the species recovery.

Simonds said that in the past when fisheries development was a large part of the work in the Territories and former Trust Territories, funds supported helicopter drops of giant clams to propagate them.

Sensui asked Garrett to confirm that the cauliflower coral is the most common coral species in Hawai'i.

Garrett said that is what she has been told, although she is not the coral expert. It is a common species.

Sensui said it would not make much sense to list cauliflower coral and not other corals that are not as common.

Gourley said that climate change and ocean acidification were a big part of the attempt to list a large number of corals several years ago, and those factors could be used to list everything in the ocean.

Simonds asked if NMFS has enough staff to deal with a large number of listings. She said that the Regional Administrator should be careful about what he suggests should be listed.

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

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

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

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

Rice reported that there were no REAC recommendations regarding protected species.

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

Okano presented the SSC report. Regarding the seabird workshop, the SSC recognized that the workshop provided a comprehensive review of seabird mitigation measures. The SSC noted the importance of addressing cultural sensitivities in implementing seabird bycatch mitigation outreach and training for captains and crew. The SSC did not have any formal recommendations regarding protected species.

#### **E. Public Comment**

There were no public comments.

## **F. Council Discussion and Action**

*Regarding seabird bycatch mitigation in the Hawai'i longline fishery, the Council*

- 1. Recommended that NMFS, in coordination with the Council and the Hawai'i longline fishery participants, enhance outreach and training efforts to ensure proper application of existing seabird mitigation measure requirements on Hawai'i longline vessels, with strategies including, but not limited to**
  - a. Including information on updated seabird interaction data in the Protected Species Workshop for vessel owners and operators to raise awareness of higher interaction rates in recent years and to emphasize the importance of utilizing seabird mitigation measures where required;**
  - b. Expanding training and outreach to longline vessel crew members in their native languages; and**
  - c. Implementing strategic outreach targeting vessel owners and captains with above-average interaction rates to identify potential causes of higher interactions and providing assistance to reduce interactions.**
- 2. Recommended that NMFS provide support for research and development for alternative measures with potential to replace blue-dyed bait, with high priority placed on identifying suitable designs for tori lines to inform development of minimum standards applicable to the Hawai'i longline fishery;**
- 3. Directed staff to work with NMFS and industry to encourage submission of Experimental Fishing Permit applications for testing alternative measures without the use of blue-dyed bait to allow comparison of measure effectiveness with and without blue-dyed bait; and**
- 4. Directed staff to prepare a discussion paper for the March 2019 Council meeting to evaluate the effect of potential removal of blue-dyed bait without additional replacement measures on seabird interaction rates.**

Goto said that the makeup of the vessels is complex, with some captains going from vessel to vessel, so that may add to the complexity of conducting outreach efforts targeting specific vessels. A wording change was made to clarify that strategic outreach target vessel owners rather than vessels.

Sensui asked if language needs to be added regarding information confidentiality.

Ishizaki said that confidentiality would have to be considered regardless, which is where the coordination with the Council and longline fishery participants comes into play.

Tosatto agreed not to make a wording change regarding confidentiality. He said item 1.c does create an issue given that the recommendation targets NMFS. He said he will do what he can and will not object to the recommendation, but strategic outreach would have to be done

carefully given confidentiality issues. He said that NMFS working with industry to encourage submission of a permit when NMFS would be making a decision on whether to approve the permit would have to be done carefully, but he agreed it is something NMFS should pursue.

Moved by Sensui; seconded by Duenas.  
Motion passed.

**Regarding ESA listings, the Council directed staff to send a letter to NMFS expressing concern about ESA listing petitions that use climate change or ocean acidification as the primary reason to justify the listing of threatened and endangered species.**

Okano said he struggles with this recommendation because it emphasizes the impacts of climate change and being from the islands, he thinks the effect of climate change is real.

Moved by Duenas; seconded by Sensui.  
Motion passed with Okano abstaining.

## **IX. Pelagic and International Fisheries**

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

Bigelow provided the Hawai'i and American Samoa longline fisheries reports that include 2018 data through June. Out of 164 permits available in the Hawai'i fishery, about 140 were active during the first six months, which is typical for the last couple of years. Of the two sectors, the deep-set fishery targeting bigeye and the shallow-set targeting swordfish, most are participating in the deep-set fishery.

There were record levels of deep-set semi-annual trips (878 trips), number of sets (10,711 sets) and number of hooks deployed (29 million hooks). Shallow-set saw a record low of 398 sets due to the closure of the fishery earlier in the year. Normally, most of the deep-set effort is in the high seas, but this year around 30 percent of the effort was in the US EEZ. Bigeye catch per unit effort (CPUE) in deep-set fishery has been stable, if not lower than in recent years, but high for yellowfin this year. Swordfish CPUE in the shallow-set fishery has been stable. Spearfish, which is typically the most caught billfish, continued to show stable catch rates. Striped marlin CPUE increased, which is encouraging because the stock is overfished and experiencing overfishing. Increased nominal CPUE may correspond to a better stock condition.

Goto said it has been a slow year for bigeye as compared to recent years, with more effort east and higher yellowfin catches. Lower bigeye catches could be an anomaly in the cycle, and a large number of bigeye landings could come in the future.

Watamura asked if there was a breakdown on the billfish numbers.

Bigelow said he does not have the billfish numbers, but spearfish is typically highest in terms of numbers and blue marlin is stable throughout the years.

Tosatto asked if the increase in striped marlin catch rates was due to more effort north of the MHI versus fishing south. He also asked where the increase in the US EEZ effort took place.

Bigelow said PIFSC provides effort maps for the March Council meeting showing annual statistics and doesn't have maps for semi-annual data. There were five million more hooks in the US EEZ in the first six months, and less effort on the high seas, with bigeye CPUE lower in the EEZ, so there is some unexplained fishing behavior.

Simonds said that some fishermen anecdotely reported that bigeye have not been found in the usual places so they have to follow the fish. They said that it is unfortunate that they could not go into the EEZ around Hawai'i. There are no regulations for the expanded monument, but fishermen are staying out as one can tell from the enforcement reports. Regarding NMFS' fact sheet on the new Billfish Conservation Act, Simonds said that one question that is unresolved at least for the fishermen is not being able to sell to foreign countries. She asked, if local markets lack the capacity to sell value-added products normally sold in other markets and billfish is not retained for this reason, would it be considered regulatory discard.

Bigelow deferred to Goto to answer the question.

Goto said that marlin product has slowly depreciated since the Billfish Conservation Act amendment was announced and **they are confident that the majority of the product will be consumed by the local market.** However, the main market for billfish was the East Coast and it is unfortunate that there is no longer the opportunity to supply the US mainland market for billfish. Five species encompass the billfish market: blue marlin, striped marlin, spearfish, sailfish and black marlin. For a long time, both US mainland and foreign markets were open. **If there is a lot of billfish supply, there is going to a crash in the local market.**

Watamura asked about the increased yellowfin catch and if more fishing inside the US EEZ resulted in higher yellowfin catch.

Bigelow said he did not have that information and would provide an answer at the March Council meeting. He said yellowfin are typically more abundant in the Hawaiian Archipelago and to the south. Regarding billfish, approximately 22,000 marlin were caught and only 400 individuals discarded so there is little bycatch, but it will be interesting to see in subsequent years if the percent released increases.

Watamura asked if it is true that yellowfin and bigeye hang out in different strata of water.

Bigelow said it is well documented that yellowfin typically occupy the mixed layer, where bigeye tends to be in the area of the thermocline, mid thermocline or even deeper in the thermocline. Sets typically shallower than a bigeye set have higher catch rates of yellowfin.

Goto asked Bigelow to provide the American Samoa longline fishery statistics.

Bigelow provided the 2018 semi-annual data for the American Samoa longline fishery. The number of vessels declined from 15 in 2017 to 12 in 2018. Most of the fishing effort is constrained to the EEZ around American Samoa, with some small amounts of effort in international waters or neighboring Cook Islands (fewer than three vessels). The number of trips is also lower than 2017 although the number of sets per trip is slightly higher in 2018. The lowest

number of hooks will likely be recorded in 2018 as well as lowest number of albacore with only 23,000 caught in 2018. Albacore CPUE is seasonal with the highest catch rates in the austral winter. In 2017, albacore CPUE was about 11.7 albacore per thousand hooks, which has increased in 2018 to about 12.1 albacore per thousand hooks.

Yellowfin catch in 2017 was a record year. The 2018 yellowfin catch is lower than 2017 but still higher than the historical average. Yellowfin CPUE has been higher in the Hawai'i longline fishery as well so there is probably something going on in the regional dynamics.

Lutu-Sanchez said that Bigelow's presentation makes it evident where the American Samoa longline fleet is heading. She asked Tosatto to provide the status of the Council's LVPA recommendation noting that although the CPUE for albacore increased slightly, there is still a need to access more fishing grounds to make up for various costs, such as fuel and supplies.

Tosatto said the LVPA rule package is with NMFS for clearance and NMFS is working its way toward final decision-making. The proposed rule will be published, and there will be a public comment period. NMFS will take those public comments and work toward a final rule. It is hard to say timing-wise, but these things will work their way through, and that is separate and notwithstanding ongoing litigation.

Lutu-Sanchez asked at what point would the Council or NMFS raise a red flag when these types of dramatic decreases are observed and whether or not an emergency switch can be turned on to rescue this fishery and prevent its extinction. She asked if anything else that can be done aside from going through the regular rule-making processes and waiting so long. This is done for protected species, and there are discussions about helping address the seafood deficit in the nation. She asked if anything else can be done to slow down the decline or help it from continuing to go downwards.

Tosatto said the question is loaded. There are probably many things that the industry, the Territory Government and the Council, in addition to NMFS, might do, but all of those have processes they need to follow. Regarding the LVPA action, the ongoing court decision needs to be taken into account, which is to thoroughly consider the impact of decision-making on cultural fishing in the Territory and that takes time. To take emergency action, timely action or a separate action in addition to or separate from the LVPA, the Council can consider a range of things that it might do to address the declining fishery. Accessing zones outside of current fishing areas are those options where the LVPA is looking to expand fishing grounds within the American Samoa EEZ; there are other potential opportunities such as seeking access to the foreign zones next door. However, Tosatto said that nothing comes to mind as a silver bullet at this time.

Lutu-Sanchez asked Rauch if there has been any movement in the ability to fish within the Rose Atoll Marine National Monument.

Rauch said the President is still undergoing a review of the various monuments, including the particular restrictions that may apply in the monuments. The Department of Commerce provided recommendations to the President before the end of last year, but so far, the President has not made any decisions.

Bigelow said three vessels are inactive this year compared to last year (one vessel sank, one vessel was sold and now is an albacore troller, and the inactivity for the third vessel is unknown). He asked what happens to those permits, noting that the rebound potential of the fleet is impacted if those permits go to Hawai‘i-based vessels operating under dual permits.

Tosatto said he did not have the immediate answer and the circumstance of each permit would need to be examined in the context of regulations and how those become available.

Simonds said the Rose Atoll Monument was overlaid onto the Council’s longline prohibited area. She asked what would happen to the Council’s closure regulations if the monument regulations regarding fishing are taken away.

Tosatto said the LVPA action shrinks the LVPA to a zone. Research is needed to determine what the LVPA action does to the regulations underneath the monument area. An action would still be needed to undo the pre-existing LVPA area; the removal of the prohibition for commercial fishing in the monument would not remove underlying LVPA prohibitions.

## **B. Hawai‘i Shallow-Set Longline Fishery**

### **1. Status of the Hawai‘i Shallow-Set Longline Endangered Species Act Consultation**

Garrett provided an update on the consultation for the Hawai‘i shallow-set longline fishery. NMFS recently asked for an extension on this consultation and expects to complete the consultation at the end of February.

Garret presented the “approach to the assessment” document for the Biological Opinion (BiOp), which is an interim product that informs NMFS on how it will conduct the consultation. Section 7(a)(2) of the ESA requires action agencies to ensure that the actions that they authorize, fund or carry out are not likely to jeopardize the continued existence of listed species or to destroy or adversely modify their critical habitat. **To jeopardize means to engage in an action that would reasonably be expected to directly or indirectly to reduce appreciably the likelihood of both survival and recovery of those listed species, and, if found that an action would destroy or likely adversely modify critical habitat, it would engage in a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species.**

She noted that around 8 percent of the BiOps issued by NMFS are opinions signed as jeopardy or adverse modifications of critical habitat, and about twice as many are delivered to an action agency on the onset of when first identified that there might be a problem. What happens often is that an agency will work with NMFS to modify the action and adopt changes to the action so that they remove that jeopardy. Ultimately, the BiOp that is signed is not a jeopardy opinion. Receiving a jeopardy opinion is not the end of the world. It does mean that there would be modifications to the action, but it does not mean that an action will not move forward.

The approach to the consultation is designed to present and explain how the parts of the opinion will work together to support NMFS’ conclusion. The approach includes an assessment model that involves exposure, response and ultimately the risk to the listed species and its critical

habitat that the action poses. Shown are the key pieces of evidence to be used in evaluating the effects of the action, how NMFS will search for, analyze and weigh evidence that is available. NMFS will do its best to state assumptions that may be necessary to overcome limitations and the evidence that's available, as well as some of the uncertainties that remain.

The first step in the analysis is to identify the action area and deconstruct the action, looking at all of the various phases and components of the action and identifying the area at which the direct and indirect effects may occur. From there, it can be ascertained what listed species should be evaluated and what may be affected. For the shallow-set fishery, the stressors that have been identified at a very gross scale include interactions with and including the capture of nontarget species, such as the listed species or their prey; derelict gear or the loss of gear and the potential of marine debris when it's lost; introduction of oily discharges from the operation of vessels and other wastes; and vessel emissions. The Action Area for the shallow-set fishery includes areas from the coast of Hawai'i to the coast of California. As a result, 40 threatened and endangered species are in the analysis and nine areas of designated critical habitat are in this consultation.

The next step is to look at the status of those listed resource, first at the global status of the listed species and then at how the various threats in the action area are affecting their health and longevity. Ultimately those two different status assessments are adjusted for the effects of the action and later summarized again in the opinion. It is best to consider the overall approach to a consultation as being similar to a meta-analysis, or a systematic review. The intent is to gather all available information and to make sure that the best available information is used to make a final decision.

For the shallow-set fishery, of the 40 species within the action area, about eight species are taken in the fishery based on information from the observer program. NMFS is developing causal loop diagrams for each of those species. The intent of the causal loop diagram is to help provide an illustration of all of the different meta-analyses, looking at what the state of the species is and ultimately to use that as a foundation through the analysis. The causal loop diagram is informed by literature review applied in a weight of evidence approach. Also used is the bayesian states-space model that PIFSC did for the loggerhead and leatherback turtles.

Climate change is an important part of the evaluation, for example, how climate change has affected the status of the listed species and their designated critical habitat. Also examined is how climate change is interacting in the environmental baseline and can influence the species. Climate change is considered in the exposure analyses and the response analyses because those parts of the opinion show how the changes in the species distribution can be affected as a result of climate change, as well as how species respond.

The environmental baseline section of the BiOp looks closely at the action area and the various threats within the action area. Within that smaller subset, the demographic health of the individuals is looked at, including the relationship of those individuals to the populations and ultimately the globally listed species or the species as it was listed. The condition of the designated critical habitat and the role that earlier versions of the proposed actions or similar actions play in the status and trend of the species are also examined.

Exposure, which is the meat of the effects analysis, is how the listed species will be exposed to the action, including how many individuals of what populations and of what life stage. What is analyzed is the intensity of their exposure, when the exposure will likely occur, for how long, and the severity and frequency. Exposure lays the foundation for the response analysis.

Response analyses are designed to identify the possible range of responses given exposure, as well as the probability of the different responses as a result of how the action is affecting those listed species. The response analyses are connected to the risk analyses by identifying what the fitness consequences of the responses would be to those individuals, the mechanism by which a response could affect fitness, whether it would likely affect fitness, and the direction of the change in fitness components, positive or negative, and how that ultimately influences the species.

Garrett showed a conceptual model for the mechanisms for fitness consequence, which included exposure and proximate responses and then intermediate responses that the animal or its habitat would likely have, which is then ultimately transposed in the fitness consequences. This takes into account annual reproductive success or lifetime reproductive success and measuring the change in the longevity or the change of their reproductive success over time.

For the shallow-set fishery, in the conceptual diagram, a fishing interaction is identified with a sea turtle, either entangled or it may deplete bait and is hooked. Or there may be potential effects on the community ecology, thus changes in the predator or prey that are important to the sea turtle. The proximate response may be mortality, tissue damage, release without damage or harm or altered behavior.

Next are the intermediate consequences, such as the harm caused by tissue damage or if released with long-term injury that ultimately affects their fitness, survival or reproduction. Each step is walked through mechanisms of fitness consequences based on the literature that is available. Fitness consequences refer to changes in an individual's longevity, their age-to-age or stage-to-stage survival, changes in their reproductive success or both. The analysis looks for changes at the stage or first reproduction, age or stage of last reproduction, expected longevity, expected reproductive output and expected future reproductive output.

The evaluation transposes these effects to assess the risk to the individual. Determinants of individual performance are such things as the state of their health when they are engaged in an interaction. Individual responses to risk are translated from the individual to the population, looking at how many individuals are hooked and if their reproductive output is affected, then the effect on the population that they comprise, the effect on the population abundance and the population trend or variance in trend over time.

The analysis takes into account the spatial structure of the population and population level effect and the effect on the number of populations that compose the species, as well as their occurrence, connectivity and a number of other indicators. Ultimately, the intent of the evaluation is to determine if the proposed action is likely to jeopardize the continued existence of the listed species. To jeopardize means to engage in an action that would reasonably be expected directly or indirectly to appreciably reduce the likelihood of survival. In practice, what this

means is that NMFS is looking at whether the action demonstrably increases a species' probability of becoming extinct in the wild or demonstrably decreases the species' probability of recovery. Formal consultations are designed to ensure that actions are not likely to result in either of these outcomes. Similarly, in evaluating the destruction or adverse modification of critical habitat standard, NMFS considers whether the action would reduce the designated area's ability to support the species at abundances or densities that would be considered conserved.

Watamura asked for clarification on the stressors associated with the fishery.

Garret said, for false killer whales, one of the literature and observations, indicates a lot of depredation, meaning a potentially beneficial effect to the false killer whale as they are getting a free, easy meal, as well as a negative effect from that risky behavior. NMFS would evaluate what is known about the potential for those types of interactions, and it would be informed by the literature if available and observations made by the Observer Program.

Watamura asked if fishermen removing prey species from the ecosystem would be considered a stressor to species like the false killer whale.

Garret answered that it could be.

Simonds commented on the timing of the BiOp, noting that PIRO Protected Resources Division (PRD) determined last June that there was going to be full consultation on this fishery and, absent the court decision, PIRO was going to begin working on this last year. Council and Sustainable Fisheries Division (SFD) also stepped in to help draft different sections. She asked what big changes there were that made this BiOp more difficult to develop.

Garret said PRD had to adjust the estimated timeline because, after digging into the literature to set up the framework, it stepped back and re-evaluated what was needed. Also, because of the fishery's litigious history, PRD wanted to make sure to do the best job it could.

Simonds clarified that she was asking about the beginning of the consultation a year and half ago. She asked if it was a matter of having to re-review what was done in the last BiOp that made it difficult to develop the BiOp leading up to the jeopardy analysis section.

Tosatto said NMFS began the consultation in April, six months ago. It is not an excuse, but, any time there is a complex multi-species consultation, a variety of things that has to be worked through, for example the listing of two new species, although the new species are not necessarily problematic for this fishery. Nonetheless, it is hard to know how long a consultation may take until one begins down that path; only then can one begin to get at what that timeline looks like going forward.

Simonds noted that NMFS is saying that the consultation didn't actually formally happen until April of this year, even though it was agreed last June that there was going to be a full consultation. PRD did not start working on things until the formal consultation happened.

Garret said what started last year was the development of the biological evaluation (BE); it takes months for the action agency, in this case SFD, to get through that process. PRD did not

receive the BE until April. It was later in that process when PRD added a number of the West Coast species.

Simonds questioned that it was the BE that took a long time to be developed and approved.

Tosatto stated that yes, it is important to get an adequate BE to ensure that there is sufficient information before initiating consultation. PRD holds SFD accountable, just like is done for the Army Corp of Engineers and the Department of Defense to make sure that an adequate BE is in place to begin the consultation.

Simonds said she understands about the the BE because Council staff helped to draft it.

Gourley said he is often involved in Section 7 Consultations as a third party representing the federal action agency, but mostly with USFWS. The USFWS consultation process is day and night as compared to NMFS, yet both agencies are working under the same act, and there is a Section 7 Consultation guidance document. He asked if the guidance document is used and if that guides the process. He said it seems there should be some sort of standardization, hopefully leaning more toward USFWS in Section 7 Consultations, because that way the federal action agency, as well as the general public, would know better what to expect.

Garret said there is a standard process. While both agencies are governed by the same regulations and while there are differences informed in part by litigation histories, there are joint training modules where NMFS and USFWS train together. In fact, in the Pacific Islands, Section 7 Consultation training with USFWS was recently held. While individual assessments tend to vary, there is a standard process and NMFS and USFWS are much aligned.

Rauch said the USFWS and NMFS operate under shared ESA regulations and both have proposed a number of changes to those Section 7 regulations. The proposed changes were out for public comment over the summer; both agencies are working on the final set of changes. If there is a final rule, it is likely that the joint guidance, which is almost 20 years old, may need to be changed.

## **2. Managing Loggerhead and Leatherback Sea Turtle Interactions in the Hawai‘i-based Shallow-Set Longline Fishery (Final Action)**

Ishizaki presented the action item but noted that, given the circumstance with the delayed draft BiOp, final action would be not taken by the Council at the 174th meeting. The shallow-set fishery will reopen on January 1, 2019, with a loggerhead hard cap of 17, a reduction from the previous limit of 34 interactions. The lower cap is based on the 2004 BiOp, which is part of the settlement agreement that was reached in May. Because the Ninth Circuit Court decision upheld the leatherback portion of the BiOp from 2012, the leatherback limit will remain at 26. Thus, the fishery will continue to operate under the loggerhead limit of 17 and leatherback limit of 26 until the Council action can be implemented, or alternatively, if the fishery reaches that 17 limit next year, it will temporarily close again.

The action taken at the 173rd meeting in June involving new hard caps of 37 loggerheads and 21 leatherbacks and a five-loggerhead trip limit was technically a final action. If there are no other changes by the Council, the action can go through the rule-making process.

At the time of the June Council meeting, the draft BiOp was expected to be available on October 1. The Council planned to review its June recommendation if the new BiOp resulted in a jeopardy decision or otherwise resulted in a different Incidental Take Statement for North Pacific loggerhead and leatherback limits. The draft BiOp was not made available to the Council at its 174th meeting in October.

Last week the SSC was presented with PRD's approach to the assessment, similar to what the Council heard from Garrett. The SSC also received a presentation from PIFSC on the loggerhead and leatherback population model. PIFSC responded to a request from PRD to provide a quantitative model that estimates population growth rates for the loggerhead and leatherback populations, as well as population projections estimating mean time and probability of each population reaching thresholds of 50 percent, 25 percent and 12.5 percent reduction of current abundance. The model relies on available loggerhead and leatherback nesting beach trend data.

For the loggerhead turtle population, PIFSC used three index beaches in Japan, which represent about 52 percent of the total loggerhead turtle nesting population in Japan. For the leatherback population, PIFSC included two main index beaches for the Western Pacific leatherback population, which represent about 85 percent of the Western Pacific leatherback population. Leatherbacks nest in Indonesia, Papua New Guinea, Solomon Islands and the adjacent areas. The loggerhead nesting population on the three beaches has gradually increased, whereas the leatherback turtle nesting beach trend has overall been declining. However, there has been an uptick over the last several years for leatherbacks.

The loggerhead estimated population growth rate as a result of the modeling exercise show a mean increase of 2.4 percent over time, but with a confidence interval ranging between 10.8 percent decline and a 15.6 percent increase. Western Pacific leatherback sea turtles show an 5.3 percent decline in estimated population, with a confidence interval ranging from 16.4 percent decline to a 5.9 percent increase.

As part of the request from PIRO, PIFSC also looked at the probability of the population reaching abundance thresholds within a 100-year projection period and the time in years to reach that threshold. For loggerheads, the probability of the population falling below the thresholds is low. For leatherbacks, the probability of the population falling below the thresholds is high based on the long-term projection. Increments of time looked at ranged from five to 100 years. The probability of reaching those abundance thresholds was lower for the shorter time periods and higher for the longer the time period.

The SSC found that the PIFSC model does not quantitatively evaluate the effect of management action on the population. The modeling exercise was a projection of the population in its status, but it does not include the amount of the interactions and the impacts that are expected from the shallow-set fishery and what that means in terms of the change in the projections. PIFSC did not do that because that was not the request from PIRO. The SSC also

noted that the models do not utilize past take data to explain the dynamics of the population. Historical take data could show how much of the population trend is influenced by longline interactions across the Pacific. It was acknowledged that, while such additions could be quantitatively possible, a scenario-based approach would have to be used because of the uncertainty of most of the historical take, outside of the Hawai'i longline data. The SSC also noted that the long-term decline rate for the leatherback turtle shown through the population modeling is really a factor of the exponential growth model approach, which looks at the long term rather than different parts of that trend over time.

The SSC had limited time to review the approach to the assessment document as it was made available to them only the morning of the second day of the SSC meeting. The SSC noted that the projections in the population model did not consider the future management scenarios or quantitatively evaluate impacts. The SSC acknowledged that, even if those things could be done in a quantitative approach, it was unlikely to be completed before the BiOp completion. The SSC also noted that the linkage of the population model and the take levels is not firmly established and raised concern on how that would be considered as part of the BiOp analysis. Lastly, the SSC found that the review of the analysis plan as a stand-alone document without the resulting analysis was unproductive, similar to reading a research paper without the results section. The SSC noted that the abundance of overly general language in the plan leaves it open to subjective interpretation, which could become problematic. Because the SSC had a difficult time interpreting the analysis approach, the SSC said it preferred that the SSC working group reconvene when the draft BiOp becomes available.

Ishizaki described timing associated with the draft BiOp and Council action, noting that the draft BiOp will likely become available prior to the March meeting and the final BiOp will likely be completed before the following meeting. If the Council waited until the March Council meeting, it may not have an opportunity to see the BiOp in draft form. Therefore, an option could be to schedule an interim Council meeting as soon as a draft BiOp is available so the Council could revisit its June recommendation to ensure its consistency with the draft BiOp analysis.

Sensui asked who produces the draft BiOp.

Ishizaki said the BiOp is drafted by PIRO PRD.

Tosatto said there is no step in the process for the SSC to review the BiOp. The SSC review was a courtesy NMFS extended to the Council as part of a policy decision. It is not a required step under the ESA.

Sensui asked if there is a schedule available in order to determine if a Council meeting is needed before the March meeting.

Tosatto said there no agreement with the Applicant on the timing so there is no information to share.

### C. Electronic Monitoring/Electronic Reporting in Hawai'i Longline Fishery

Bigelow presented on EM in the Hawai'i longline fishery. PIFSC received funding to install 18 camera systems, which involves two cameras per vessel, one looking at the deck and one looking over the rail for incoming fish. One vessel sank, and one system was recently removed, so 16 active camera systems are currently installed. The contractor is Saltwater, an Alaska-based company.

When a vessel with the EM system comes into port, the data is encrypted on a hard drive, which is retrieved by PIFSC at the dock. All of the vessels mostly land at Pier 38, which makes retrieval of the hard drives relatively easy. PIFSC has one human reviewer for EM data, Matthew Carnes. The objective of the pre-implementation program is catch accountability. For deep-set trips with at-sea observers, PIFSC looks at the observer estimates compared to the EM estimates for both catch and bycatch. The project is currently looking at the deep-set fishery. In the near future PIFSC will also look at the shallow-set fishery.

At total of 255 trips, which represents about 11 percent coverage for the deep-set fishery, has been deployed since the start in the later part of 2017. This generates a lot of data, with about 500 gigabytes or half a terabyte per trip. PIFSC so far has 94 terabytes of data. NOAA Fisheries is debating what that data distribution or retention schedule is. This is important to work out. PIFSC has had funding for the last two years and was informed of additional funding for FY19. It is an evolving process, and there is a need to reposition cameras. For most species, there is no significant difference between the EM and the observer data for retained or kept catch. Sharks are underestimated by the EM data because the fishers typically cut off the branchline when they come to the railing, leaving the sharks out of the field of view from the cameras. Based on the results, there is a 79 percent bias in the blue sharks. Similarly, lancetfish are removed from the line before being boarded and are also out of view of the cameras, so there is a bias in the EM data. However, Bigelow said this is not a concern because in the future, if there is an extrapolation for the deep-set fishery from the at-sea observer coverage to a full 100 percent, a statistician could extrapolate the at-sea observer coverage for the sharks and the lancetfish and use the EM data to supplement other species.

Next steps include a technical report and PIFSC adding another reviewer in 2019 to look at protected species interactions instead of the catch and bycatch accountability. After PISFC illustrates the efficacy of this program, other parts of the agency will determine what rules are needed to supplement at-sea observer coverage using EM. PIRO and the Council may have to redefine roles of EM and observers, identify data ownership, evaluate cost recovery and develop data retention protocols.

Tosatto asked if the camera systems are placed on vessels when an observer is assigned or if the EM coverage with onboard observers is done in addition to the regular 20 percent coverage.

Bigelow said the camera systems remain on the vessels and PIFSC is only analyzing trips that have concurrent observers and cameras. Sharks and lancetfish are not matching the observer data, but everything else is decently quantified. EM systems also recorded 12 out of the 13 interactions for protected species, although only seabirds and turtles were involved.

Sensui asked how and where the 94 terabytes of video data is stored. He also asked if the data will be permanently archived or if it will be deleted after a certain period.

Bigelow said that PIFSC has available approximately 800 terabytes of active storage. After one year at active storage, the data goes on to tapes because the analysis will be finished and ideally never have to be looked at again. It is government-owned tape, and the data disposition schedule still needs to be figured out.

Simonds asked, if the Council wanted to regulate EM, how long it would take to do the regulations. She asked Rauch to explain what has happened in other fisheries that require EM.

Rauch said a number of fisheries now require cameras under regulations, as well as other electronic reporting mechanisms. Usually the fisheries operate under a Council-approved Exempted Fishing Permit for a year or two to work out the kinks while the Council proposes a longer-term regulatory system. One could go quicker, but the Councils usually believe it is wise to operate as a trial matter before taking final action and before the regulations go into place.

Bigelow presented the status of Electronic Reporting (ER) in the Hawai'i longline fishery. In 2007, the Council amended its FEPs to allow fishermen to submit electronic reports, but fishermen were not provided any tools to electronically report at the time. In 2014, a large project involving the Council, PIRO Observer Program, OLE and PIFSC developed a variety of ER mechanisms. Improvements have been made in recent years, with funding from the NOAA Fisheries Improvement Systems Program, on Android tablets equipped with software that can transmit their catch and effort data through a satellite-based system.

Each year PIFSC receives 23,000 logsheets that have to be keypunched and managed. The advantage of the software is built-in quality control mechanisms to help fishermen input accurate data. Other benefits to industry include the relatively easy use and saving of time of ER compared to filling out paper forms. The data are secure and encrypted from the Android tablet to when the data arrives at PIFSC and unencrypted. Additional benefits are quota tracking. Last year 170 metric tons (mt) of fish out of the US Western and Central Pacific Ocean (WCPO) longline bigeye quota were left in the water because of the existing system used to track the quota and time to process the data. A benefit of ER is it is real-time instead of waiting for logsheet to be processed. Also, the VMS unit that populates the position and time on the tablet improves the accuracy of the location.

The Android tablet is blue-toothed into the VMS unit. Data are sent via Iridium to the contractor, then pulled via a secure FTP to PIFSC and unencrypted thereafter. The software has been modified per feedback from users including having a function whereby fishermen can track the cumulative total catch on-board.

Difficulties have been encountered with finding captains to volunteer to test the systems as well as industry training. Vietnamese Americans represent the largest percentage in the Hawai'i longline fleet, so translation is necessary. There are also user guides, a quick-access two-page user guide and also a longer ten-page user guide. PIFSC will be translating those into Korean and Vietnamese to assist those trainings. Training is one-on-one because group trainings

do not work well. PIFSC requests that the fishermen use both paper and the ER tablet on at least one trip to validate the data.

Bigelow said the cost includes an annual subscription of \$600 per vessel, which covers the software and any necessary software updates. Transmission costs are about \$540 per vessel per year, so the per vessel total is currently about \$1,140. This does not include replacement tablets.

Goto said that he understands the need for one-on-one training as English is a second language for a lot of the captains in the Hawai'i longline fleet. Having a liaison who can speak their language is crucial to the success of this project. The benefits of ER are evident to the industry.

Bigelow said PIFSC has some flexibility from joint institute relationships to hire Vietnamese-American individuals to support the initiative. Only four Korean-American vessels remain in the fleet, so the need is with the Vietnamese component.

Watamura asked if paper logbooks were in English only.

Bigelow confirmed that paper logbooks are printed in English only; however, in American Samoa they use Samoan fish names. Any form used by the federal government has to go through Office of Management and Budget (OMB) review, so a form change is rather laborious.

Watamura asked if the electronic version closely mimics the paper logbook and wondered why it is difficult for fishermen to make the transition.

Bigelow said that the electronic software does mimic the paper logsheet, using the same format and species lists.

Sensui asked how durable the tablets are in terms of water and impact resistance.

Bigelow said the tablets are pretty rugged but not waterproof.

Sensui asked about the frequency of replacements to date.

Bigelow said 10 operators have been using the tablets. PIFSC has 100 more tablets in storage and plans to purchase 60 more.

Lutu-Sanchez asked if captains are allowed to make amendments to their submissions. She said many captains write on different pieces of paper and then transfer the information to the log sheet.

Bigelow said they have developed the software at this stage to not allow users to go back into the data. If the captains make a mistake, they are instructed to write it down and talk to PIFSC at the dock and PIFSC will correct it. The capability of going back increases the complexity of the software. The intent is for captains to proceed uniformly through the forms and populate them one-by-one. Captains do have the ability to review past submissions but cannot correct them on the tablet after submission.

#### **D. Mandatory Electronic Reporting for Hawai'i Longline Fishery (Initial Action)**

Eric Kingma, Council staff, presented the initial action for mandatory electronic logbook reporting in the Hawai'i longline fishery. The Council was asked to consider primarily preferred options of 1) no action and 2) move toward mandatory ER.

Existing regulations at 50 CFR 665.14, which require mandatory logbook reporting for FEP-managed fisheries, were reviewed. The regulations state that the operator or fishing vessel subject to permitting requirements must maintain onboard the vessel an accurate and complete record of catch, effort and other data on paper report forms provided by the Regional Administrator or electronically as specified and approved by the Regional Administrator. Under the current regulations, if everything were together with regard to the Hawai'i longline ER system and all of the implementation issues were completed and addressed, Tosatto as the Regional Administrator could require mandatory ER based on the formulation of this regulation. The Pelagic FEP does not need to be amended, and a set of regulations is not needed to implement ER. However, some additional regulations may be needed to make it a well-rounded program.

There are pros and cons with the no action option. On the pro side, fishermen have a high level of familiarity with existing paper logbooks. On the con side, the paper logbook system causes delays in logbook data availability to both managers and scientists. It takes about three weeks or so after a vessel has returned to port for the trip data to be available after quality control and keypunching. Delays in data availability make it harder to monitor catch quotas.

Option 2 improves data accuracy and efficiency through automated data input such as haul time, set time, location of set and haul, and permit vessel number. Potentially for fishermen, electronic logbook software integrated with software applications could improve fishing efficiency. Electronic logbooks vastly improve efficiency for PIFSC as keypunching is no longer necessary. On the cons side, captains will have to learn how to use the tablets and the software. To get the most efficiency out of the tablet, it is best that the captain utilize the tablet as the vessel is setting and hauling so those automated positions are input directly instead of writing it down and entering the data at a later time. This could require a change in operating behavior. Another potential con for the industry is the cost of around \$1,200 per year if borne on industry participants. PIFSC has funding that will go through mid-FY2020. Additionally there are costs for PIFSC to administer the program. A range of implementation issues, which are identified in the options paper, also still needs to be addressed.

Kingma concluded by reiterating that Council consideration is for initial action and that implementation issues will be addressed before Council will consider final action.

Sensui asked if the tablets are ready for prime time or if a second beta test on a wider basis is needed.

Kingma said currently they are not ready for prime time as several issues need to be addressed, but such issues could be overcome within six months.

Bigelow said the earliest implementation preferred by PIFSC is January 2020. Training for 130 fishermen needs to occur for them to do one trip with paper and tablets. PIFSC also needs time to develop software to fast-track bigeye catches within the ER data stream.

Simonds asked Bigelow about the training team, recalling Russell Ito mentioning at the SSC meeting that captain training has been difficult. She asked if there is someone assisting with translation.

Bigelow acknowledged that getting the information to the Vietnamese and Korean sectors was a recommendation of the SSC. Since then PIFSC found translators for the Korean aspects and is searching for Vietnamese assistance.

Lutu-Sanchez asked where the captains on the 10 vessels testing the tablet currently fall in the technology capable spectrum.

Bigelow said it has been voluntary to date and participants include both tech-savvy and not-so-tech-savvy, but more of them are on the tech-savvy end.

Lutu-Sanchez asked if there were plans to combine the VMS tablet with the ER tablet as well as email capabilities.

Bigelow said he was unaware of the VMS tablet.

Kingma said tablets are associated with some VMS units and those units have been supplied to the American Samoa longline fishery. The VMS units currently used have associated tablets that are provided by the VMS vendor with additional capabilities like e-mail and weather loaded. The use of the other additional applications is an extra cost borne on the operator. In 2014, those same units were procured in part of a larger project involving NOAA OLE, PIFSC, PIRO and the Council aimed at developing ER for the Hawai'i longline fleet. PIFSC has since gone in another direction and procured additional tablets with a new vendor developing the software package.

Watamura asked if the industry bore the cost in other regions.

Rauch said around 10 years ago, the VMS Fund, separately allocated by Congress, was a recurring fund. That fund does not exist anymore. When some of these programs were set up, they were able to tap into that allocation and have the government pay at least the initial equipment costs. However, now NMFS no longer pays for those fisheries' annual data subscription cost. That fund does not exist anymore, so there is no set fund to cover costs for many of the fisheries coming online. Rauch said that Congress occasionally will give NMFS money for EM. Two years ago, it gave \$5 million for EM. If the Council were to require the government to pay for it, NMFS would reject that because it is unfunded. Congress has provided money for initial equipment cost but not annual upkeep and maintenance costs, but it has not been consistent.

Tosatto referred to the presentation and next steps and noted that, like paper forms, electronic forms need to be approved by OMB. The regulations currently say "as specified,"

which means NMFS must specify the loof of the format. To make any of those decisions, appropriate NEPA analysis would be needed as well as working out all the issues.

Okano asked if there are language issues with the paper forms.

Bigelow said the operators can figure it out. Many are longstanding in the industry, and the forms have not changed. Regarding Tosatto's comment, Bigelow noted that in 2009 an accreditation scheme was established. Any software developed for ER goes through this scheme, so that is a piece that can be validated and accredited in the region.

Lutu-Sanchez said the VMS tablets used in the American Samoa fishery are used for email and when radio is not working. An e-mail option on the ER tablets sounds like an important capability. She said these regulations will eventually trickle down to American Samoa, but it would be more efficient if there were only one tablet capable of multiple functions.

Bigelow said the current initiative is for the Hawai'i-based fishery because of the bigeye tuna quota management, where as there is no quota management thus far in American Samoa. PIFSC is hesitant right now to allow captains the ability to do different functions on the ER tablet. Right now, PIFSC is going with the ER software only on the Android tablet.

## **E. International Fisheries**

### **1. International Science Committee**

Mark Fitchett, Council staff, provided an overview of the ISC meeting held July 11-16, 2018, in Yeosu, Korea. Three stock assessments were conducted in 2018 by the ISC: Pacific bluefin tuna update, Western and Central North Pacific swordfish, and North Pacific shortfin mako. The ISC also considered stock status and conservation information for North Pacific striped marlin, Pacific blue marlin, albacore, blue shark, and Eastern Pacific Ocean (EPO) swordfish. The stocks are not subject to overfishing or overfished, with the exception of Pacific bluefin and striped marlin.

Goto said that he believes the US has been below the WCPFC striped marlin catch limit but asked how far below.

Bigelow said the Hawai'i longline fishery has not come within 75 tons of the quota, which is around 400 tons.

Tosatto clarified that, while there is an obligation not to exceed the limit, it is not a regulatory limit because there is no expectation to exceed it or the need to regulate down from it, and the limit has not been implemented through regulation.

Sensui noted improved recruitment for Pacific bluefin and asked how that is determined.

Fitchett said the Bluefin Working Group uses CPUE from Japanese troll fisheries as a proxy for recruitment and stock productivity because it is known that all the bluefin caught in the troll fishery are age zero fish. The Japanese troll fishery CPUE has been a historically reliable

index for recruitment, but there is some uncertainty in the last few years. This uncertainty making the troll CPUE higher may be due to external factors.

Brakke said one issue that came up at the ISC meeting relates to formalization of the ISC. The State Department, NOAA and the Science Centers want to discuss this as there is not a lot of formal underpinning of ISC. Formalization of ISC would potentially help facilitate more participation and involvement in ISC by some of the Asian members and also address some of the resource issues that ISC has had over the years.

Kingma said that the Council requested that Fitchett be on the US Delegation to ISC for this meeting and was told by the NMFS that the US Delegation is reserved only for federal employees. The Council wrote to Assistant Administrator for Fisheries Chris Oliver asking him to investigate the ability for Council staff to be on the US Delegation to the ISC and to make a determination given the Council's special status of having a mandate to regulate and manage fisheries under its purview. Oliver responded that NMFS was looking into it, and he noted the special status of Council and Council staff.

Brakke said he was talking about a slightly different and more fundamental issue of how ISC operates, what underpins ISC and whether either a more formal binding agreement or more inclusive MOU underlying ISC is needed to clarify some of its operations. How delegations participate may be one important consideration. The State Department would be happy to participate in any conversations with NOAA or others in terms of how delegations to these meetings are constituted.

Watamura asked how stock status is determined for a highly regulated stock like the Pacific bluefin tuna for which there is limited fishing effort. He also asked about close kin genetic analysis.

Fitchett said that close-kin analysis is a genetic tool using next-generation techniques in order to estimate how many individuals are in a population. This is based on how many sampled individuals are sibling pairs and how many are related via mutual parental individuals. Estimation is also based on knowing how many individuals have been sampled and CPUE. Regarding the first question about data used to determine stock status, Fitchett said that more than Japanese troll data is used in the stock assessment to represent recruitment. This includes catch and CPUE from the adult stock to independently estimate spawning stock for the adult population

## **2. 93rd Inter-American Tropical Tuna Commission**

Kingma reported on the 93rd meeting of the Inter-American Tropical Tuna Commission held in August 2018 in La Jolla, Calif. The meeting resulted in adoption of a bluefin management measure to meet the long-term rebuilding goals; adoption of technical definitions of FAD designs; adoption of a resolution about implementing non-entangling FADs by January 1, 2019 and encouragement to use biodegradable materials; adoption of a resolution to increase protections for at-sea observers; and agreement on a large-scale regional tuna tagging project focusing on skipjack and other tunas. Funding was also approved for an external review of the bigeye tuna stock assessment.

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

#### **a. Electronic Monitoring Working Group**

Kingma reported on the WCPFC Electronic Reporting and Monitoring Working Group meeting held in August 2018 in Busan. WCPFC does not require ER and EM, but several countries including the United States are conducting such activities. The meeting objective was to consider how ER/EM technologies can benefit the work of WCPFC. Terms of reference for the working group were established in 2014. WCPFC has adopted standards for ER for operational-level catch and observer data and will likely soon adopt standards for transshipment notification for longline vessels. WCPFC is also considering a process on how these standards are updated and maintained.

The meeting failed to achieve consensus around the potential objective of a WCPFC EM Program. Several in the room, including the large block of Parties of the Nauru Agreement (PNA) members, in no way wanted language in the objective such that EM could replace human observers and could not agree to allow the language to say that EM could supplement or complement human observer programs. They are likely looking at it with a lens towards potential loss of employment for the residents of their countries, as well as having concerns about some fleets not meeting the minimum longline observer coverage level of 5 percent.

The WCPFC will continue to develop EM standards as well as a phased approach toward developing a conservation and management measure to include such an objective and providing clarity around some of the principles and key activities for a WCPFC EM program. WCPFC will go slowly in this regard while members are rapidly advancing EM/ER in their fisheries.

#### **b. Scientific Committee**

Fitchett provided an overview of the 14th Regular Session of the Science Committee (SC) for the WCPFC, held in August 2018 in Busan. He gave statistics on total catch and catch by species. Two areas of investigation regarding the 2017 bigeye assessment were described: 1) bigeye growth curve with additional otoliths from large fish, and 2) sensitivity to sub-regional structure. With regard to bigeye growth, additional information since SC13 yielded minimal change in estimated growth parameters. SC14 found that the old bigeye growth (used in the 2014 assessment) is not representative of the best scientific information available. By removing results using the old growth model, bigeye stock status becomes considerably more optimistic (no overfishing or overfished). However, SC14 noted that questions remain regarding the updated new growth model and acknowledged that further study is warranted related to the new growth model, in particular as to the cause of the difference of growth between EPO and WCPO. An inter-laboratory ageing workshop is planned for late 2018 to review ageing approaches in the WCPO and EPO and to resolve differences, if they exist.

The SC recommended several areas of bigeye research including the appropriateness of the status quo of delineating two bigeye tuna stocks at 150°W, which is questionable due to substantial mixing of bigeye between WCPO and EPO stocks around this area, and the different growth estimates used in the WCPO and EPO stock assessments.

With regard to spatial structure of bigeye stock assessment, the sensitivity analysis suggested that moving spatial boundaries of the stock assessment, especially between regions 2 and 4, does have a noticeable impact on stock status. For this reason, both the old and new spatial regions were retained in the uncertainty evaluation grid used to estimate stock status. These spatial boundaries used in the bigeye assessment will be an area of further scrutiny.

Fitchett concluded by reporting on new stock assessments for South Pacific albacore and North Pacific swordfish, both of which suggest these stocks are not subject to overfishing or in an overfished condition.

Sensui asked about bigeye stock structure and if tissue samples being collected by SPC are correlated to GPS locations.

Fitchett replied in the affirmative.

Sensui asked if any satellite tagging is occurring.

Fitchett said that the Inter-American Tropical Tuna Commission and private universities have been involved in satellite tagging, but now there is a push to tag more bigeye with satellite tags within the Line Islands, Central Pacific and the MHI.

Watanabe asked for the status on determining if the Hawai'i bigeye stock is separate or part of larger Pacific-wide stock.

Fitchett said existing hypotheses are based on the sizes of bigeye and also tagging showing some mixing among fish that were tagged in the Central Pacific and those in the EPO. A geneticist in Australia is doing some research using next generation genetic methods to look at spatial fragmentation of individuals and identify unique biologically reproducing entities. The SPC defines a stock as individuals within the area that are reproducing with one another.

Lutu-Sanchez asked whether China's catch of 45 percent of the total South Pacific albacore catch included vessels under charter agreements.

Fitchett said he would consult with others in the room and come back with an answer.

### **c. Northern Committee**

Tosatto reported on the Northern Committee meeting, held in September 2018 in Japan. The Northern Committee focuses on three northern stocks. Nineteen different fisheries in the Pacific Ocean target bluefin tuna, including a couple in the Eastern Tropical Pacific, which in total take up to 15,000 tons.

A significant fishery for bluefin tuna operates mostly in the Sea of Japan and East China Sea where there is a purse-seine fishery. Another purse-seine fishery operates off the Pacific side of Japan. Mexico and the United States have a series of fisheries in the Eastern Tropical Pacific. The Northern Committee considered a rebuilding plan. Even though recruitment looked positive, most members, including the United States, were not willing to proceed with proposals by Japan

and Korean to increase catches. Many members wanted more time to see that recruitment rebuilding takes place before adjusting control in that fishery.

North Pacific albacore is in a good stock status. It is caught in the US EEZ off the West Coast and on the high seas by a troll fishery; it is not caught much in the WCPO. A Management Strategy Evaluation, which may be the first of its kind done within the WCPFC, is progressing.

North Pacific swordfish stock is in good stock status, with no overfishing and not subject to overfishing. The US proposed a harvest strategy for North Pacific swordfish. The Northern Committee did not adopt it. The debate was mostly around the basis of the limit reference point. The United States prefers a fishing mortality limit reference point, and many members, including Japan and the Pacific Islands States, preferred a biomass-based reference point.

The US also provided a discussion paper on a rebuilding plan for North Pacific striped marlin, which is subject to overfishing and is overfished. The reason for providing the plan was mostly to get a potential rebuilding target and timeline into the discussion as that stock is undergoing a new baseline stock assessment this coming year.

Tosatto said the United States has offered to host the 2019 meeting of the Northern Committee either in the US Pacific Islands Region or on the US West Coast.

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

Kingma provided a report of the 14th Regular Session of the TCC, which was held September 26 to October 2, 2018, in Majuro, Marshall Islands. As is in recent years, the bulk of the TCC meeting was on the compliance monitoring scheme. TCC conducted the eighth annual review of compliance. The process involved the Secretariat reviewing the obligations of members and whatever information they submitted to be consistent with those obligations.

NGOs and members of the public who are not on member delegations are not allowed in the room during the compliance review. A new compliance measure is under development. WCPFC will not have a compliance monitoring scheme if it is not adopted in December. There are some sticking points among the members developing the next compliance measure, including PNA members wanting to eliminate the flag state investigation portion of the measure, which is a big issue for the United States, which would like to see that provision maintained.

The TCC also considered the provisional IUU vessel lists. Several US vessels on the provisional or initial IUU list were nominated by New Zealand because these vessels were not on the WCPFC record of fishing vessel lists. The vessels were based on the US West Coast and trolling in the South Pacific for albacore. New Zealand detected them fishing in the Convention Area. The United States worked at TCC to successfully remove those vessels from the provisional IUU list.

The TCC considered other issues including several required reports on Commission VMS, Regional Observer Program, transshipment, high seas boarding and inspection, Record of Fishing Vessels, Port States Measures and E-reporting standards.

**e. US Western and Central Pacific Fishery Commission  
Permanent Advisory Committee**

Kingma presented recommendations of the US WCPFC Permanent Advisory Committee (PAC), which met October 11-12, 2018, in Honolulu, focusing on the WCPFC tropical tuna measure. PAC members represent US purse-seine, Hawai‘i, American Samoa, US West Coast troll and tuna processor interests as well representatives of the US Participating Territories and environmental NGOs. The PAC provides advice and recommendations to the US Government and US Commissioners to the WCPFC.

Several provisions of the tropical tuna measure are due to expire and need renegotiation, including purse-seine FAD management, the seasonal FAD closure and associated exemptions, and the two-month high seas FAD closure and associated exemptions. Measures will likely also be proposed on the issue of non-entangling and biodegradable FADs, as well as the limit of appropriate number of FADs deployed. Although not an expiring provision, purse-seine effort control on the high seas is an ongoing issue. The United States has the highest high seas effort limit, which is measured in number of days, followed by EU, Korea, New Zealand, Japan, Taiwan and China. Purse-seine vessels flagged to Small Island Developing States (SIDS) are exempted from high seas effort limits. Paragraph 29 was only in effect for one year, and Paragraph 29 applies only to the United States, authorizing 100 days of the US EEZ limit to be transferred to its High Seas limit to alleviate economic hardship of American Samoa, with respect to its canneries. The PAC recommendation on this issue was that the majority of the PAC agreed that, if the US purse-seine fleet is limited on the number of high seas fishing days, the amount should be the number of fishing days allocated to the US fleet prior to the 2013 WCPFC Tropical Tuna Measure, which was 2,588 fishing days.

With regard to longline bigeye limits, paragraph 39 of the measure (which sets out a table of countries that have bigeye longline catch limits) was only agreed to in 2018. Paragraph 40 also says WCPFC is to review bigeye tuna catch limits for longline fisheries based on any stock assessments and related information, recommendations of the SC, and members’ plans to increase the level of monitoring and control of longline vessels fishing in the Convention Area.

Kingma reviewed the existing longline bigeye limits that apply to Japan, Korea, Taiwan, China, Indonesia and the United States. SIDS and Participating Territories are not provided limits. Indonesia was provided its 2016 catch limit of more than 5,000 mt, even though it reported a longline catch of 8 mt in 2016. Japan has underutilized its quota for the entire history of longline bigeye quotas in WCPFC. From 2014 through 2017 the annual bigeye landing into Hawai‘i has exceeded 5,000 mt with more than 6,000 mt landed into Hawai‘i from the WCPO in 2016. When added to the EPO catch, more than 8,000 mt of bigeye has been landed annually into Hawai‘i over the last three years.

The majority of the PAC recommended that the United States should obtain a higher limit and that limit should be around 6,000 mt. A bigeye quota of this level is consistent with WCPFC conservation and management objectives. It was noted that the Hawai‘i longline observer coverage levels far exceed the minimum 5 percent and Hawai‘i longline vessels do not transship.

Kingma concluded with the PAC recommendation for South Pacific albacore that the US should generally support the adoption of a South Pacific albacore target reference point and that PIFSC evaluate potential longline CPUE-based target reference points and provide that information to the US Territory and US Delegation in advance of the meeting.

Simonds asked if SIDS purse-seine fleets have reported their high seas days.

Kingma said the fishing days are being reported and used in assessments including purse-seine FAD effort, which is a proxy for bigeye catch.

#### **4. North Pacific Fisheries Commission**

Gourley provided an overview of the Fourth Meeting of the North Pacific Fisheries Commission (NPFC), which occurred in Tokyo, July 3-5, 2018. He participated as an alternate US Commissioner representing the Council. Dan Hall represented the North Pacific Council, and Richard Lincoln represented the Pacific Council. Stocks managed under this commission include the North Pacific armorhead, splendid alfonsino, oreo, mirror dory, sablefish, Pacific saury, chub mackerel, spotted mackerel, Japanese sardine, neon flying squid and Japanese flying squid. The NPFC is a relatively small commission, comprised of eight members: Canada, China, Japan, the Republic of Korea, Russia, Chinese Taipei, the United States and Vanuatu. The EU wants to join, but its application was found to be insufficient. The EU will be resubmitting its application for consideration at the next Commission meeting.

The US Delegation is trying to figure out its direction as there are no US fisheries currently operating and targeting those managed stocks within the commission area. The US Delegation expressed some interest having the Council chairs designate a Fishery Commissioner, whether a Council member or not, so there is consistency in the Commission. Fish commissioners could be active on committees and working groups.

Results of the NPFC meeting included adoption of adaptive management process for the North Pacific armorhead and mesh size limits for the armorhead and splendid alfonsino to protect young fish and ensure recruitment. The mesh size limits, however, are unenforceable. The United States submitted a proposal for a moratorium on fishing for the North Pacific armorhead, which basically went nowhere.

Brakke noted that, with regards to participation by commissioners, the implementing legislation says for the three Councils' chairperson or designee. The way forward being proposed would be consistent with the statute. Whoever is a Commissioner is ultimately the decision of the President regardless of what the legislation says. However, the scope of the implementing legislation for NPFC could address concerns about it being a sitting Council member.

Gourley said the learning curve is rather high and the objective would be to allow somebody in that spot who could continue to do a good job offering advice.

Tosatto said the seamount groundfish, which is under a moratorium, is a resource managed by the Council. A moratorium is in place to rebuild these stocks. There is a need to ensure that the seamount groundfish fisheries don't overexploit the pelagic armorhead or

alfonsin, which are within the US EEZ, both around the Hawaiian and Aleutian Islands Archipelagos. The resource is of interest to the United States, even if US vessels are not exploiting them because they are currently overfished.

Watamura said that splendid alfonsino is one of the best tasting fish. He wondered if it's the same fish caught in Hawai'i.

Goto said that the alfonsin caught in Hawai'i and Japan are called *kinmendai* and are really good.

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

### **1. Advisory Panel**

Rice presented the AP recommendations pertaining to pelagic agenda items.

*Regarding mandatory ER*, the Hawai'i AP recommended that the Council consider having a backup system should it mandate the use of ER.

*Regarding the American Samoa longline fleet*, the American Samoa AP recommended that the Council research ways to provide assistance to the longline fleet.

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

Goto said the REAC had no pelagic and international fisheries recommendation.

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

Okano presented the SSC report and recommendations.

*Regarding the management of loggerheads and leatherback turtles in reference to the SSC Working Group input on the BiOp Analysis Plan*, the SSC recommended that the Working Group reconvene when the Draft BiOp is available to review the full analysis.

Okano reported on the SSC Working Group's finding on its review of the Analysis Plan. The working group was concerned that the population model projections do not consider future management scenarios, for example, comparing different limit scenarios or under industry effort to reduce interactions or quantitatively evaluate the impacts of the take on the loggerhead or leatherback populations. However, the working group noted that such effort would not likely be possible within the timeframe available to complete the consultation. Additionally, the recently completed PIFSC population assessment of Western Pacific leatherback and North Pacific loggerhead turtles was recognized as an important product that could be easily leveraged to provide scientific advice on take levels in the context of future population impacts, so it remains unclear why this linkage was not firmly established in the Analysis Plan. Further, the working group found that reviewing the Analysis Plan as a stand-alone document without the resulting analysis was unproductive. The working group was concerned that the overly general language in the document could prove to be problematic due to subjective interpretations. The SSC should be provided with an opportunity to review the Draft BiOp when it becomes available.

*Regarding mandatory EM for the Hawai‘i longline fishery*, the SSC supported the Council taking initial action to require mandatory ER in the Hawai‘i longline fishery. The SSC recommended that the Council support continued development of ER in the Hawai‘i longline fishery to address several implementation issues.

Okano said the SSC recognized the benefits of ER as it can reduce time delays in logbook data availability, improve data accuracy, increase reporting efficiency for captains and eliminate the need to keypunch logbook data. The SSC also recognized implementation issues exist and need to be reconciled, including data transmission failure, recurring software and operating system updates, specific training and support for non-English speaking captains, cost allocation, including potential industry payments, and compliance monitoring.

Regarding the US WCPFC PAC, the SSC noted that an increase of the US longline bigeye catch limit would be consistent with the SC14 management advice to not increase fishing mortality above 2011-2014 levels only if the overall longline bigeye catch level remained within an overall total of just under 89,000 mt, purse-seine effort remained within expected levels under that scenario and recent recruitment levels, which are more positive than the long-term average, continue.

#### **G. Standing Committee Recommendations**

Goto reported that the standing committee deferred recommendations to the full Council.

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

Tony Beeching, WCPFC assistant science manager, said, in regards to a question provided earlier by Lutu-Sanchez on the Chinese catch of South Pacific albacore, there are cases of massive catches in island countries that otherwise one wouldn't normally expect from a relatively small country, and those are the Chinese chartered vessels fishing under that flag.

Lutu-Sanchez said that she wanted to understand more about the catch of the South Pacific albacore and how much of that is attributed to which country. She asked what percentage of that total catch is attributed to the United States and whether it's longline or jigging.

Fitchett replied that, regarding her second question, US catches in 2017 were around 1,400 mt out of around 70,000 mt that was caught in total.

Lutu-Sanchez asked about the breakdown between US longline and jigging.

Bigelow said the 2017 US longline catch of South Pacific albacore was 1,381 mt and albacore troll was 556 mt.

Lutu-Sanchez said her questions were based on the report that Fitchett provided on the South Pacific albacore assessment showing that the stock is healthy and not overfished but that the American Samoa fleet is declining. She asked Tosatto what NMFS does in similar situations where fleets in other parts of the nation have declined or diminished or gone into extinction because of conditions not attributed to the stock assessment or the health of the fishery.

Tosatto said NMFS is part of the solution but, in a Council-managed fishery, by statute NMFS defers management of the fishery to the Council. A variety of issues can lead to dire straits, such as foreign competition. Sometimes it's resource-related or statutory-related, etc. Terms like rationalization are used when it is potentially a domestic-only problem to say how the fleet outgrew itself or the economics have changed. In very few cases, only when there is a documented commercial fishery failure, NMFS has a statutory ability to compensate and help the industry overcome some of the drivers. There is no silver bullet for this circumstance where there is no commercial fishery stock failure. International stocks are internationally managed, part of a bigger problem that the US is seeking to solve. There are firm US policies against subsidization of fisheries. Chinese subsidizing its fleet is a significant contribution to why it's able to exploit the stock or this fishery in a different way. There is no silver bullet, and NMFS alone does not hold the solution.

Simonds recalled that different options were discussed in the past, including emergency action.

Lutu-Sanchez asked if there is an example from other parts of the nation. She said she assumed that the Administration is interested in not losing an existing fleet, while it's also pouring millions of dollars into developing other options to address the deficit, such as agriculture.

Tosatto said fishery rationalization is an option and generally means that some participants are in some way compensated. Sometimes this is a Congressionally appropriated with a US Treasury buyout. It could also be along the lines of how the NWHI lobster fishery continued whereby the stock got stressed and there was not the ability to have an unlimited number of fishermen, so a small number of fishermen fished on behalf of all of the fishermen who were holding permits. The others did not go fishing, yet they still in some way benefited from the sale of that fish that was captured by others.

Rauch said that across the country, NMFS has limited tools available to solve larger international or economic issues. Some of the fishery management tools can be used to make a smaller fishery more profitable. Disasters or buyouts depend on Congress, which has a larger ability to compensate the rest of the fleet to do that. There are plenty of instances of fleets that existed 10 years ago that do not exist today because Congress does not step in and save every one of them. Another model is we let certain fleets go. This is not advocated, but fishery management tools are not driving the decline in the case of American Samoa.

Lutu-Sanchez said she appreciated the explanations but requested that NMFS continue efforts to figure out what is happening. The Council has tried to provide some relief, not a silver bullet, by providing more access through the amendment to the LVPA. Collectively, there is a need to try to make every effort to ensure that this fishery survives.

## **I. Council Discussion and Action**

*Regarding the management of loggerhead and leatherback turtles in the Hawai'i shallow-set longline fishery, the Council:*

1. **Directed staff to reconvene SSC Working Group when the draft BiOp is available to provide review of the draft BiOp;**
2. **Directed staff to provide comments to NMFS on the Approach to the Assessment, incorporating SSC Working Group input and Council discussions;**
3. **Recommended convening an interim Council meeting, if needed, to review the draft BiOp and consider any revisions to the June 2018 recommendations based on the BiOp; and**
4. **Reconsider a specification of leatherback individual trip limits if necessary after review of the draft BiOp.**

*Moved by Goto; seconded by Duenas.*

*Motion passed.*

*Regarding ER, the Council recommended, as initial action, to require mandatory ER in the Hawai'i longline fishery, and requested NMFS PIFSC to continue to develop ER in the Hawai'i longline fishery and to work with Hawai'i longline participants, Council staff and PIRO to address several implementation issues and report back to the Council at its March 2019 meeting.*

*Moved by Goto; seconded by Duenas*

*Motion passed.*

*Regarding US longline bigeye quota, the Council endorsed the majority PAC recommendation for the US to obtain a longline bigeye quota of 6,000 mt at the upcoming WCPFC meeting in December and directed staff to communicate this recommendation to Secretary Ross.*

Tosatto said he would abstain from this recommendation so as not to prejudice the US position in the international negotiation.

*Moved by Goto; seconded by Duenas; Tosatto abstained.*

*Motion passed.*

*Regarding South Pacific albacore, the Council endorsed the PAC recommendation that the US position generally be in support of adoption of a South Pacific albacore target reference point and also requested NMFS PIFSC evaluate potential longline CPUE-based Target Reference Points (TRP) with regards to American Samoa longline fleet and US troll fleet economic performance taking into account recent CPUE levels and variability in fuel costs and fish price and to provide that information to the Council in advance of WCPFC15.*

*Moved by Goto; seconded by Duenas*

*Motion passed.*

*Regarding the recent amendments to the Billfish Conservation Act of 2012, the Council **directed staff to develop a list of questions and issues associated with compliance with the amendments to the Billfish Conservation Act of 2012 and send to NMFS for response.***

Tosatto said the conclusion is pretty clear from a plain reading of the statute, particularly the two words that were added “and retained.” NMFS answered this question several times in the frequently asked questions, including the direct question of whether one can export, the answer of which is no, because it must be retained within the region and the foreign market is not within Hawai‘i or the Territories. However, Tosatto said, he did not object to the Council requesting the response in writing.

Simonds said there are foreign markets in the Territories.

Tosatto said that there are foreign persons eating it, which is retained in the Territories. Any transportation outside of the region, as result of the two words added “and retained”, would make that inconsistent with the statute.

Simonds said there are casinos in Saipan and a lot of markets owned by foreigners. It is not necessarily leaving the Territories, but it is being sold to foreign markets.

Kingma asked whether billfish must be retained from foreign vessels that are transshipping billfish in Guam.

Tosatto said the statute allows billfish landed by foreign vessels in the insular areas to be exported to markets outside the US or retained within the region. There was a flaw in drafting since there are no foreign vessels landing in Hawai‘I; the words Hawai‘i and insular areas are bad drafting. Foreign-caught fish can leave the country. US-caught fish cannot.

Lutu-Sanchez said she supported the recommendation and asked how it is interpreted for American Samoa, which has its own customs laws.

Tosatto said this law would be subject to both Federal and State or Territory restrictions where they are legitimately put in place. The best example here would be if the Territory prohibits leakage from those foreign vessels, then no, it could not enter domestic commerce because it would be inconsistent with Territory law. In the past there were issues with leakage competing with US-caught fish. If a Territory is interested and able to prohibit that, it certainly could, consistent with its ability to do so.

Goto asked if NOAA OLE has the ability track billfish in the market that is leaked to a foreign entity.

Smith said he did not know and there would be questions of jurisdiction. Furthermore, he would need to look more closely at how it is written, whether or not it penalizes the purchaser, or if it only penalizes the person who is selling it.

Goto asked, if a Hawai‘i longliner landed a blue marlin and a local distributor illegally shipped it to Shanghai, whether NMFS has the ability to prosecute the end user in China.

Pickering said they could let the Chinese government know about that if we had a proof of a line from A to B to C to D and then it would be up to the Host Country to take action.

Tosatto said their ability to take action would be consistent with their law, not ours. The US version would be something like the Lacey Act. Receiving an illegally taken fish from someone else into the United States is a Lacey Act violation.

Peck said Lacey Act is a two-step action and it would require Chinese law to say it is illegal to import illegally caught fish.

Sesepasara asked if there was a restriction on value-added product made of billfish from American Samoa exporting to Hawai‘i.

Tosatto said it would be allowed as long as it stays in the region.

Sesepasara asked what about to a foreign country.

Tosatto said no.

Kingma asked if it is allowed for foreign-landed billfish in American Samoa to be value added and sent to Hawai‘i.

Tosatto replied that a lawyer could provide a definitive answer, but valued added would be legal as long as it stays within the region.

Kingma said without regulations there is gray area.

Tosatto said NMFS has provided a fact sheet on its interpretation of the law.

Simonds said foreigners in the Territories own shops, stores and casinos and, if they buy billfish, they will sell it to somebody else. Simonds asked if traceability would be required.

Gourley asked if staff reworded the recommendation for the Council to compile a list of questions to be provided NMFS and request a written answer.

Goto and Duenas approved amending their motion.

Moved by Goto; seconded by Duenas.

Motion passed.

*Regarding PIFSC reports to the Council on Hawai‘i longline fisheries, the Council **requested NMFS PIFSC to provide fishing density maps for semi-annual and annual reports to the Council.***

Moved by Goto; seconded by Duenas.  
Motion passed.

**Regarding the American Samoa longline fleet, the Council directed staff to work with NMFS to explore options to assist the American Samoa longline fleet given the declining trend in vessel participation and difficult economic conditions.**

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

## **X. American Samoa Archipelago**

### **A. Motu Lipoti**

Sesepasara reported on his department's fisheries-related activities since the 173<sup>rd</sup> Council meeting. He shared the department's catch data from its creel survey collection efforts with *alia* and recreational fishing boats and shore-based fishermen from the second quarter of 2018 (April through June). A total of 5,505 pounds was landed by *alia* fishing boats, with a total pelagic catch of more than 7,000 pounds. Of that total catch, *samani* (*Elegatis bipinnulata*) was the most frequently caught in the past quarter (overall weight of total catch). He shared information provided by the Pago Pago Game Fishing Association for sports fishing catch. He commended the association for its diligence in submitting the catch data. The department's data collection efforts also include the commercial vendor receipt collection from participating stores and restaurants, which is a project the Council assisted DMWR in initiating with the hiring of a contractor in 2014. In that same quarter, DMWR reported over 9,500 pounds of fish sold by local participating seafood vendors.

Sesepasara also provided an update on the department's new location in the Fagatogo Square Building. The agency was forced to relocate for the foreseeable future as the local Department of Health condemned the building due to black mold presence from damage to the building during Cyclone Gita in February 2018. DMWR will be housed in the Fagatogo Square Building until funds are procured to complete repairs and renovations to the DMWR building. That the process has been delayed due to a pending settlement between the insurance company and the government, and the inability of the government to procure Federal Emergency Management Agency funding to complete the repair work. He anticipated DMWR being at its temporary location for at least a year and a half.

Sesepasara reported that the department's MPA Program staff recently completed training from the Pacific Islands MPA Community. That training focused on updating community management plans and village community participation enhancement. Trainers from Palau visited American Samoa and worked with his staff to conduct the training. Eleven villages participate in the department's MPA Program. Participants shared successful community engagement methods in Palau. DMWR plans to take what they learned out to the villages with community training efforts being planned for 2019.

DMWR's Fisheries Division staff is continuing its efforts with a pilot project supported by the Council in cooperation with PIFSC's Life History Program. Sesepasara shared details

about the species covered under that program. He said his staff is working with Independent Samoa's Ministry of Agriculture and Fisheries to collect genetic samples from those species in the pilot project to look at differences and similarities between the two neighboring island's species.

DMWR's Fisheries Division also continued its FAD Program tasks in the last quarter, deploying B FAD off the south coast of Tutuila, and assembling a new FAD to replace C FAD. Those two FADs were lost during Cyclone Gita this past February. Sesepasara said he is meeting with the fishermen based in Manu'a to allow them an opportunity to make suggestions on a location for one or two FADs near Ofu, Olosega and Ta'u Islands.

Sesepasara said DMWR is continuing to complete projects funded with the Disaster Relief Fund received for damages and losses to the *alia* fishery during the 2009 tsunami. DMWR has worked closely with the community, the Council of Chiefs and various associations for various restoration projects.

DMWR was a coordinating agency for the 40<sup>th</sup> US Coral Reef Task Force (USCRTF) meeting held in American Samoa in August 2018. Sixty off-island representatives attended the meeting. Several issues were discussed regarding American Samoa's coral reefs. In the main working group meetings, the members focused on identifying additional information needed to develop local restoration plans for coral reefs. Sesepasara also reported on the efforts to create a new watershed coordinator position within DMWR and potential funding sources to pay for that staff position. DMWR also worked with the delegation from off-island on disaster response to address grounded vessels in the territory. Additionally, climate change was a discussion topic with the focus being on wetland areas such as the Leone Pala.

Sesepasara reported that *alia* repair work for Ofu- and Olosega-based fishing boats has begun. A local boat builder, Maselino Ioane, has been hired by DMWR and will travel to Ofu to conduct repairs on-site. Six boats are being repaired on Ofu and Olosega; the repairs are scheduled to be completed by the end of October. When those repairs are completed, Ioane will travel to Ta'u Island to repair another six alia there. Sesepasara commended the fishermen in Manu'a for their willingness to submit catch data to his department.

## **B. Fono Report**

Nate Ilaoa, Council staff, provided the report on American Samoa Fono activities since the June Council meeting. The Governor of American Samoa submitted a supplemental budget in July for the Fono's review. It included a spending plan for the \$2.6 million settlement paid by StarKist. The legislature approved the Governor's supplemental budget in August without changes. The spending plan allocated \$1.5 million to be set aside for the construction of the longline or multi-purpose longline dock extension to the Malaloa Marina Dock, which will be a 450-by-40 foot extension to the existing dock. The supplemental budget also included \$400,000 for the American Samoa Shipyard Services Authority's environmental compliance tasks; \$500,000 for environmental projects related to water and air quality and technical consulting for harbor cleanup efforts; and \$120,000 for pesticide testing equipment and a scrap metal bailer for the local government.

Ilaoa also reported on the upcoming elections for the local House of Representatives and the Territory's delegate to the US Congress. He also informed the Council that a referendum was on the ballot next month for a veto override.

Sesepasara added that the funds from the StarKist settlement totaled \$2.3 million and that there were stipulations given by the US Environmental Protection Agency (EPA) Region 9 office about the use of those funds. Gov. Lolo Moliga revised the list of projects that EPA had provided, including those funds to be set aside for the longline dock extension, which required negotiations with EPA as well as approval from the Fono.

### **C. Enforcement Issues**

Ilaoa reported on federal enforcement actions as provided by the NOAA OLE. He noted that DMWR's Motu Lipoti provided by Sesepasara contained the enforcement activities for the local government. Ilaoa listed six dockside enforcement activities by OLE staff based in American Samoa since the previous Council meeting. These actions can be viewed on the NOAA OLE website.

Sesepasara added that DMWR was in the process of strengthening its enforcement unit with the help of NOAA OLE under the JEA program, and DMWR had recently hired two additional enforcement officers.

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

Ilaoa reported on the various activities and issues in the American Samoa fisheries since the June Council meeting. He shared details of the visit of US Secretary of the Interior Ryan Zinke to American Samoa in September. Zinke visited the StarKist plant where he was welcomed by more than 600 members of the company's workforce. Many of the employees held signs urging the US government to open the marine national monuments in the Pacific to fishing.

Ilaoa shared Gov. Moliga's comments to the USCRTF about the obstacles that StarKist is facing, specifically regarding the pending approval for the extension of its Clean Water Act permit that authorizes the company to discharge from the plant and uncertainty of the cannery's tax credit exemption, which lapsed in 2017. The governor said compliance and regulatory issues have obstructed the cannery's ability to remain viable, especially at a time when some boats are fearful of delivering to the territory. Moliga also announced to the USCRTF that he had formed a group to draft a proposal to EPA's Region 9 office addressing those issues.

Ilaoa also reported that the governor had formed another group that would investigate potential impacts the territory would face with the minimum wage increase implemented in September 2018. He noted that the territory's GDP had declined since the closure of the Chicken of the Sea plant in American Samoa in 2009. Ilaoa said StarKist has voiced its support for the US proposed 25 percent duty on products from China, which include Chinese-origin tuna and tuna products. The company stated in a release that the duty would be an effective way to put pressure on China for trade balance.

Ilaoa provided an update on the report provided to Council in September regarding the contractor hired by the American Samoa Port Administration to design the plans for the Malaloa dock extension for the longline boats. A biological evaluation report was submitted to the Army Corp of Engineers and an evaluation was conducted by DMWR. The design phase was funded by the Council to assist the longline fleet and the local government with a severe lack of dock space in the harbor. Those funds were provided to the Port Administration with the agreement that the American Samoa government would then identify the funding source for construction (the local government has decided to utilize \$1.5 million from the settlement with StarKist for that project). The contractor has recommended that the construction be a steel-sheet pile bulkhead jetty, which has an estimated cost of \$3.7 million, including \$341,000 for dredging of the landward basin of the project area.

Ilaoa also reported that two captains from the Port Administration received training in Honolulu at the Hawaii Maritime License Center and were in the process of training others in American Samoa. The Port Administration recently held its first Captain's Certification Course with eight enrolled. It is an eight-week course to receive certification as a master for ships up to 200 tons. The two trainers were also certified to provide six-pack certification. The course was open to the public, although none attended.

Ilaoa gave an update on the *alia* fishery development project on Aunu'u Island. In 2015 the Aunu'u village residents requested assistance from the Council to develop their *alia* fishery. In response, the Council worked with the village leaders and the local government to provide flake ice for those fishermen. The Council reached a preliminary agreement with the Village of Aunu'u, the DMWR, the Department of Public Works and the Department of Health on a memorandum of understanding to install an ice flaker, water filtration system and a storage bin in the Public Works building next to the boat ramp. The ice machine was delivered last week to American Samoa and is scheduled for installation next month.

Ilaoa concluded his report with an update on the newly established Island Fisheries Inc. The company has been negotiating a lease agreement with the DMWR for the use of the Fagatogo Fish Market. The company plans to export fresh fish from American Samoa to US markets. The Fagatogo Fish Market was funded by the Council as part of a larger development initiative for the small boat fishery of American Samoa. The market was constructed in 2009 and renovated in 2014 to include refrigerated glass display cases, floor drainage, a table saw for large fish and a prep area with stainless steel counters and a large wash-down sink. Island Fisheries will utilize the fish market as its staging location for boxing fish before transport to the airport for the weekly Friday cargo flights. The company plans to purchase fresh pelagic and bottomfish species from *alia*, longline and recreational boats and envisions the venture as an economic opportunity for all fishermen in American Samoa to sell their catch for a fair price on a regular basis. Island Fisheries is also planning to assist local fishermen improve the quality of their catch to maximize market prices. The company has contacted the Hawaii Seafood Council to assist in planning Hazard Analysis Critical Control Point (HACCP) certification courses for the fishermen who will be selling fish to the company. Challenges for the business include limited flights to the territory, scheduling deliveries with fishermen with only limited cargo flights available, and setting market prices. Many *alia* boats do not have holds for adequate cold storage while at sea. The company representative said the availability of flake ice is essential to ensure

the fishermen provide high quality fish. Currently no flake ice machine exists in Pago Pago Harbor, but DMWR is in the process of obtaining the necessary permits to install the flake ice machine it purchased with the Disaster Relief Funds obtained following the 2009 tsunami.

Lutu-Sanchez clarified that the American Samoa longline vessels had not made any commitments to provide fresh fish for export.

Sesepasara also noted that the lease agreement paperwork was with the Attorney General's Office for review, and he anticipated approval later that month.

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

Ilaoa reported on the 2018 American Samoa Fisheries and Marine Resources High School Course, which took place in late July and early August. Twelve students attended the course, which was a combination of classroom lessons and hands-on learning. Students learned about the various fisheries in American Samoa and received hands-on lessons on fishing methods and the gear that are utilized by each of those fisheries. Instructor Joseph Fa'aita taught the students how to tie knots and various lure and bait rigs and how to use a rod and reel and throw net. Students also learned trolling while on a fishing trip with Pago Pago Marine Charters. On the trip, they caught sailfish (catch and release), dogtooth tuna, wahoo and masimasi. They also learned about the efforts of the local and federal governments and community members to manage those fisheries and the ocean resources. Students also learned about traditional fishing and navigation methods. Soliai introduced the students to the local tuna industry and its importance to the local economy.

Sesepasara said he received a request from local senior citizens through the Territorial Aging Office for a shore-based fishing derby for the elderly. They also wanted to learn to use rod and reels to go fishing. He expressed concern about the safety for the elderly but said it would be explored.

#### **F. Marine Conservation Plan Projects**

Ilaoa reported that the American Samoa MCP with its included projects list has been transmitted to and approved by the NMFS.

#### **G. Specification of American Samoa Bottomfish Management Unit Species Annual Catch Limits for Fishing Year 2019 (Final Action)**

Sabater presented on the alternatives for the Council to consider in its deliberations in specifying ACLs for the American Samoa bottomfish MUS complex for fishing year 2019. He revisited the previous specifications, described the best scientific information available and provided the most recent fishery statistics associated with catch, effort and participation, as well as the current data collection system and the limitations to achieving near real time reporting. He presented two alternatives for the Council to consider: 1) no action and 2) re-specify the previously recommend ACLs, which would result in an American Samoa bottomfish ACL of 106,000 pounds. It was noted that a new benchmark stock assessment will be reviewed in 2019 in preparation for the specification in 2020-2022.

Sabater also presented the impact analysis for each alternative. The only new information for American Samoa bottomfish fishery is on bycatch from the Annual Stock Assessment and Fishery Evaluation (SAFE) Report. Also, the reconsultation is ongoing for the listing of the oceanic white tip shark and giant manta ray and designation of the insular false killer whale critical habitat.

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

### **1. Advisory Panel**

There were no recommendations from the American Samoa AP.

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

Okano conveyed the SSC specified the ABC for the Territory Bottomfish Complex of American Samoa as 106,000 pounds.

## **I. Public Hearing**

No public comments were made on the American Samoa Archipelago portion of the meeting.

## **J. Council Discussion and Action**

*Regarding the ACLs for the American Samoa bottomfish species complex, the Council recommended that NMFS set the ACL at 106,000 pounds for Fishing Year 2019. The Council noted that the next benchmark assessment is scheduled for review in February 2019 and that will provide new information to set the ACLs for Fishing Year 2020 to 2022. The Accountability Measure is an overage adjustment to the ACL in the following fishing year. The adjustment will be the amount of the overage based on the three-year recent catch.*

**Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act. In doing so, the Council directs 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 authorizes the Executive Director and the Chairman 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 Chairman 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 Sesepasara; seconded by Lutu-Sanchez; Tosatto abstained.  
Motion passed.*

*Regarding outreach and education, the Council directed staff to work with the American Samoa AP to develop a plan for outreach and education, preferably in cooperation with DMWR, to educate communities on various fisheries and fisheries-related issues.*

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

## **XI. Public Comment on Non-agenda Items**

There were no public comments on non-agenda items.

## **XII. Mariana Archipelago-Guam**

### **A. Isla Informe**

Sabalan introduced the Division of Aquatic and Wildlife Resources (DAWR) staff who presented the island report, including the DAWR Chief Tino Aguon and Assistant Chief Jay Gutierrez. Gutierrez provided a report on the fishing platform, noting that the total length is 227 feet and thanking the Council, NMFS and HLA for support.

Tom Flores, DAWR, reported on the collection of offshore and inshore data and Guam's marine preserves. Each month, four creel conversation surveys, four participation surveys and two aerial surveys are conducted. Some biologists in DAWR are concerned that a lot more gillnet and spearfishing gear was being used in the inshore areas and less parrotfish were seen in the surveys. The top five species for shore-based fisheries included mackerel scad, juvenile rabbitfish, juvenile jacks and juvenile rabbitfish. Most of the methods encountered during the survey along the shore were hook and line and thrownet.

For boat-based surveys, DAWR conducted eight creel surveys and four participant surveys each month. Bottomfish and trolling were by far the most abundant gear types encountered. The surveys indicated that shark interactions in the troll and bottomfish fisheries were noted in almost a third of the interviews. Seasonal fishing for juvenile rabbitfish, goatfish, mackerel scad and bigeye scad were harvested in large numbers over the past four months.

DAWR has an education component called FISHBOWL, which is similar to the TV show "Jeopardy" for kids but focused on marine biology. DAWR staff members are the moderators and come up with the questions. The program has been conducted since 2000. The winning team gets to name an underwater geological feature in the Marinas Trench area.

When marine mammals are stranded on Guam, DAWR responds to collect biological data and samples. Four vessel groundings occurred during the reporting period with two boats grounded in Sasa Bay, one on Western Shoals and one in Agat Marina.

Guam has been in a bleaching watch for the past couple of years. However, because of all the storms that happened near Guam, the ocean is circulating a lot more and it is anticipated that Guam will be off the bleaching watch and in a no stress condition by November. As a result of

Typhoon Manghut in September, vessels grounded and a commercial outfit had their roof blown away, which subsequently landed on corals. DAWR removed the roof and epoxied some of the corals back together.

CJ Cayanan, DAWR, provided a report on sea turtles. DAWR responded to four sea turtle strandings and incidences in 2018. The cases included a vessel strike, a turtle with plastic in its gut, a dead turtle and an olive ridley turtle that was found on a washed-up raft on the East coast of Guam. The raft was a FAD with a satellite transponder. Customs and Homeland Security were notified, and the transponder was given to the USCG. DAWR also worked closely with NOAA to conduct in-water research in Guam and has captured and satellite-tagged 14 sea turtles.

Nathaniel Martin, DAWR, provided updates on the local agency's Kids Fishing Derby and the status of the Talofofu Boat Ramp. This was the 27<sup>th</sup> year of the Kids Fishing Derby, with two derbies held annually. The first was on June 16 with 23 kids competing and 17 kids catching a total of 39 fish. The second derby had 50 kids competing with 21 catching a total of 53 fish. The derbies emphasized fishing safety, conservation, casting, knot tying and sustainable fishing.

DAWR hopes to put a boat ramp on the East side of Guam at Talofofu Bay as this is the most accessible area and on Government of Guam property. DAWR is in the process of getting an MOU together with the Guam Department of Parks and Recreation, and Guam Economic Development Authority (GEDA) is expected to complete a study this month. The cost of the study is \$260,000 and is funded by GEDA through a grant from the US Department of the Interior. DAWR will work with GEDA to build the boat ramp at an estimated cost of \$3.4 million.

Aguon noted that DAWR also does construction projects for recreational fishing and has been helping the Port Authority with construction at Agana Boat Basin and Agat Marina. DAWR funding is provided through Sportsfish Restoration grants so there cannot be a commercial aspect to the structures. DAWR also has a boating infrastructure grant that has been used for transient boat moorings in Harbor Refuge at Apra Harbor. Projects can take almost a year because of the requirement for an MOU and working with Public Works and its procurement process. Merizo Pier and boat ramp is 25 years old and use over that time has resulted in some hairline cracks requiring damage and structural assessments by DAWR. The facility is owned by the Merizo Mayor's Office, but repair work is funded by DAWR.

Jamie Bass, DAWR, presented on the FAD and Shallow-Water Mooring System (SWMS) Programs. There are usually 14 FADs around Guam, but four are currently offline. Aerial surveys are the most efficient way to get a good inventory and can be completed in about two hours. The recent aerial survey showed that only one system at Nine Mile may be questionable. Facpi 2, which was on station for six years, came offline some time before Typhoon Mangkhut and then came into the lagoon with the typhoon. The second offline buoy was the Ledge Buoy. DAWR also maintains 34 SWMS; currently about 21 of 34 sites are out and the intent is to redeploy an additional 10 within the next 30 days. The US Navy also has SWMS and plans to deploy at 18 sites on Navy property.

Sensui asked if the coral damage was noticed during the aerial survey of the FADs.

Martin said the damage was not noticed. He added that the damage was due to inclement weather and DAWR is working with a vendor to remove the FAD from the reef.

Duenas said that, in Council members discussions about issues in their different island areas, FADs always come up and each island area has its own issues. For Guam, it always seems to be funding and he realizes that the procurement process sometimes does not cooperate. However, he wanted to keep encouraging DAWR to explore other avenues of trying to deploy the FADs, as fishermen appreciate them. In a lot of cases, it can save on fuel as fishermen do not have to travel further and in rougher waters and it maximizes fishing efficiency. He said the shallow-water moorings are also important as they save the coral by reducing the amount of anchoring by various users including fishermen, commercial companies and dolphin watchers. He encouraged DAWR to explore different avenues of funding and streamlining the process.

Bass said funding is not a problem for the most part because they get approved for what they ask for. He said the main challenge is the lack of competition when it comes to vendors vying for these jobs. When it comes to the deployments, only one vendor always puts in a bid, so they can basically ask whatever they want. DAWR kicked around the idea of buying a deployment vessel, which would remove the procurement issue. They also discussed partnering with the CNMI to share costs and use one vessel that could double as a research vessel. He said that because the price went up this year again, after budgeting, they could not put in for the deployments.

Sensui asked about the depths at which the FADs are deployed.

Bass said they use different systems in order to have flexibility. It includes a 500-fathom and 1,000-fathom system.

Sensui asked how the fishing platform is holding up in the weather.

Sablan said it is made for saltwater, heavy winds and rising water levels. The recent typhoon did not cause any damages and the platform held up well.

Duenas asked if DAWR has been seeing and capturing more turtles.

Cayanan responded that she has personally seen more in the waters but could not give exact numbers, but it also depends on the number and locations of sites where they conduct the observations and captures.

Duenas asked about the whale stranding and asked if there was any feedback on the samples sent off island for testing as to what was the cause of the stranding.

Flores said the samples are mostly sent out for genetics so they would not know what the cause of the stranding is from those samples. Whenever a whale strands up on the island, they are able to identify the species, but they do not receive back from the genetic samples data.

Duenas asked if the cause of death is unknown.

Flores said the cause of death is hard to determine, especially with larger whales because, by the time they come in, they are rotted and shark-eaten.

Sensui asked if the creel survey has ever compared the amount that has been taken by SCUBA spear as opposed to snorkel spear, particularly on an individual basis, and which method might be responsible for a greater take.

Flores said SCUBA is not an important component in the data as it was 10 to 15 years ago. They did break it down by method and looked at the species caught between each, which showed that SCUBA spear during its peak targeted Napoleon wrasse in Guam but it appeared to be a boom and bust. He was not sure that SCUBA could be held responsible for greater take without further analysis.

Sensui noted the controversy in Hawaii has a lot of finger-pointing. He said the number of SCUBA spear fishermen is relatively low compared to snorkel spear and that SCUBA does not allow for using the gear as often as snorkel spear.

Flores said that even though SCUBA may stay down for relatively short periods, there can be larger groups that go out more often, but he would have to look at the data.

## **B. Legislative Report**

Lt. Mark Aguon said enforcement officers are working with the Guam Legislature to decriminalize Title 5, which would remove misdemeanor arrests and replace it with citations.

## **C. Enforcement Issues**

M. Aguon reported that enforcement officers have completed more than 600 man hours of patrol and education. The violations in the Piti Bomb Hole Preserves included 135 fish taken illegally using the snorkel spear method. Increased compliance and reports from the public about issues related to illegal fishing is not just for the marine preserves but island-wide. Enforcement officers are working closely with NOAA OLE as they are supporting Guam's program and efforts. Donations from NOAA include eight patrol vehicles and one utility terrain vehicle.

A Reserve Program is being implemented with the Bureau of Statistics and Plans (BSP) in which 10 officers will have the core duty of MPA enforcement. The goal is to educate the public and get compliance to avoid arrests. Aguon said law enforcement is not about arresting people but about getting the education to the public. Another project with BSP is to develop an action plan to garner support for more officers. Enforcement is currently operating with five officers, due to military deployment and activations from the Guam Police Department to assist in policing efforts.

Working with the Guam Community College, they are developing the first Guam-only Marine and Terrestrial Enforcement Academy. The Academy will allow Guam-based students to get into the field of law enforcement for natural resources. Partnering with Sea Grant allows for providing much needed communication and training. Enforcement is working to repair and

maintain its vessels in order to conduct patrols outside the reef and will be working with the USCG in the evening hours to combat this problem.

Guthertz asked about the status of the sea cucumbers in Guam.

M. Aguon replied that not many people on Guam are consuming sea cucumber and pointed to the Compact Impact for the increasing consumption on the island. He said they have been working to change the 100 pieces per person per day regulation as it only encourages harvest and commercial collection.

T. Aguon added that the Guam Administrative Rules and Regulations need to be changed. The change in governmental policy resulted in harvests that were larger than experienced previously. He said the plan is to make administrative changes.

M. Aguon said they have been meeting recently with the legislature and hope to have it done soon.

Duenas said the Council heard a report earlier from OLE about the JEA and he wanted to hear how that funding helps Guam and how they have leveraged that funding.

M. Aguon said that the way it works is that the support comes in forms of reimbursement or purchasing much needed equipment. They were able to purchase a vehicle and jet skis, fix their vessel and get reimbursed for their work. As a line agency, they get their funding through the General Fund; any work performed under this program can get reimbursed back to the Government of Guam. He said it is a win for the people and for the fisheries. He also said that Guam is the only place with two agreements because they also work with Guam Customs.

Lutu-Sanchez said it is refreshing to hear that there is more emphasis on compliance and helping the community to be in compliance instead of fining or arresting them.

Sensui said that in Hawai‘i, there was a similar problem where an alarming number of sea cucumbers were legally harvested. Some members of the public made enforcement and DAR aware, and the agencies learned that one individual was gathering these things in mass and shipping them out. So they spoke to him and got him to stop. They put in a temporary ban on harvesting sea cucumbers, reviewed that whole issue and reset some of the harvest limits. He said it is important to have the public be aware so they can monitor their resources and notify the appropriate enforcement agencies and also to have an enforcement agency respond in a timely manner.

M. Aguon agreed. Based on community reports, they can then adjust their schedules.

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

Duenas said the Guam Marianas International Fishing Derby was held on August 25 and 26 with just over 60 boats. This is a smaller number of boats than usual because it was rescheduled due to a storm in the area. It was still a really good turnout for the Guam Marianas International Fishing Derby. The Marianas Underwater Federation Spear Fishing Challenge was

on August 11 and the Merizo Spear Fishing Derby was October 14. All derbies had good turnouts.

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

There was no education and outreach report.

#### **F. Marine Conservation Plan**

Sablan noted that there was not much change on the Guam MCP. The MCP was adopted and approved in 2017, but changes can be made at any time.

Duenas said the MCP has helped fund the fishing platform as it was identified as a project.

#### **G. Guam Marine Resource Import Database**

Sabater presented an overview of the Guam Marine Resource Import Database. Guam BSP did the project in partnership with Guam Office of Technology, Guam Customs and Quarantine Agency and DOAg. The project was funded by the Saltonstall-Kennedy Grant Program. The goal is to establish a monitoring system for marine life products coming into Guam through maritime shipping and air cargo. Sabater described the database development process, types of information being collected, the data collection process, and the roles and responsibilities of each partner agency. He showed the data fields in the data entry portal and some of the summary reports. The presentation ended with a summary of the next steps.

Simonds asked if the database included the longline transshipments.

Sabater said the transshipment data is inputted through the WPacFIN system.

#### **H. Fishing Community Perceptions on Marine Preserve Siting Process**

Chris Hawkins, on behalf of Dr. David Loomis and Mary Allen at East Carolina University, provided a presentation on a project that looked at the fishing community's perceptions on the Marine Preserve siting process on Guam. The project stems from the Council's Five-Year Research Priorities. The project was developed based on what scientists and managers consistently hear from fishermen, which is their anger and mistrust of the government when it comes to MPAs. There is often not a lot of money or time invested in trying to gather quantifiable data around attitudes and perspectives about how fishermen feel impacted by the process of siting, designing and designating MPAs in the Western Pacific, and specifically Guam.

The Western Pacific contains the largest amount of federally restricted ocean area, and that has grown substantially in the last several years with monument designation and other types of marine protected or marine conservation areas. A lot of those areas are where indigenous communities had historical access and rights but have now been restricted. Many community members have indicated that they have been impacted, sometimes substantially so, by these

restrictions. The point of the study was to understand the fishermen response or perspective in a more quantifiable way.

Anecdotally, fishermen have indicated that they have not been very well consulted by managers, indicating their perceived unhappiness with the process of making MPAs or making rules and regulations. A related issue is the displacement of fishermen. Fishermen will need to adjust to moving their fishing effort to other locations, and these displacement issues can lead to issues of safety and other transferred effects.

When fishermen or other groups of resource users perceive a decision to be unfair, the result often leads to a lot of fishermen who will not follow the rules. They do not accept the legitimacy of the process so they do not accept the legitimacy of the decision that arose from that process.

There are other undesirable consequences in terms of safety. In Guam, a study by the National Institute of Occupational Safety and Health looked at some of the safety areas around the marine preserves that have been designated. It found that the increase in drowning over the years was potentially related to the amount of area that is now in MPA status.

The alternative is to design a process that is seen by most people as being a fair. The fishing community would come to the table and follow the rules and regulations. There would be less need for enforcement and for education and outreach and removed a lot of the burden from management.

This project tried to get some numbers around the concepts and issues that are often times provided anecdotally. The objectives were to evaluate the perceptions fishermen have about the fairness and procedural justice associated with establishing and citing MPAs; evaluate certain transferred effects due to the MPAs; and evaluate issues of fishermen safety due to siting of MPAs.

Procedural justice is a well-known concept in justice literature and social sciences. There are a number of rules that can be applied to a decision-making process that if you follow those rules, you are much more likely to have a fair process than not. Some of the transferred effects are around economics. If a fishermen has been fishing in a particular area close to his or her home for a long time but now has to trailer his boat an additional 10 miles, there will be time lost, a need for more gasoline and more wear-and-tear on the vehicle. There are other effects in terms of safety if fishermen are not used to fishing in that particular area.

The study on Guam worked with the fishermen. Since there is no list of fishermen, it was difficult to get a representative sample. The work was contracted to contact fishermen onsite and ask them for their contact information. Mail and internet surveys resulted in 215 fishing community members with 99 surveys received back for a 50-percent response rate. The main take-away was that fishermen indicated that the process used is somewhat unfair. The sense of unfairness is broad and consistent, suggesting that fishermen sense that there's a lack of respect or standing or that their voice might not matter to managers.

In terms of transferred effects and safety, the results are quite similar to those for procedural justice. In other words, they're modest and consistent. The study found that from one respondent to another, there was a lot of similarity in response. So there is a need to keep an eye on unfavorable consequences to fishermen in terms of safety and economic transferred effects.

Watamura asked if the sample in the study was large enough.

Hawkins said, from his experience, the amount of responses would be enough to have some real confidence in the data, although it may not be as representative as it could have been.

Sensui asked that if the study discovered that there is a significant negative impact to the fishing community at large, which would that justify a modification of the MPAs.

Hawkins said in his mind it would justify a modification to how the agencies go about ensuring fishermen input into the entirety of the process. However, it is hard to design a process from scratch to re-establish an already-established MPA. The results are more instructive for the future than they are of trying to relegate the past in terms of particular MPAs.

Sensui said, being a Council member, he receives feedback directly from fishermen about certain things. When it comes to areas that are being closed or access being modified, he receives some harsh feedback. Sometimes that feedback is based on erroneous information. So one of the challenges is to get out to the public exactly what it is and try to correct some of these misconceptions about what is being done to manage certain areas.

T. Aguon added that the Guam MPAs are not completely no-take MPAs and some are opened up for seasonal runs of manahak. In his experience with local fishermen, some have come to the agency to say keep the MPAs closed. There are social concerns from the fishermen, but they also appreciate keeping the MPAs as a resource protection. The MPAs are also economically important because tourists can see some fish, and it is appreciated.

Duenas said that a Pacific Judiciary Conference was held last year where there was a report from the Center for Ocean Solutions at Stanford University that did something very similar. That study went through all of the islands in the Pacific, from the Federated States of Micronesia to Vanuatu. A lot of their findings are very similar, that these closed areas affect the locals who are the poorest more because they cannot travel to another place. It also affected women and displaces or affects more members of the village that are closest to the MPA.

Hawkins said this was a fairly comprehensive survey and are questions that get at some of that and that perhaps opportunities exist to dig deeper into some of the issues in the survey.

Sablan added that the advantage of the MPA is it serves like a breeding ground with overspill, not necessarily just in the boundaries of the MPA.

Hawkins said that this study is not trying to show that particular MPAs are not effective or particular MPAs are not necessary. It's trying to show that in some cases the fishermen might say, "If you had consulted us more, you could have more spillover because we could have told

you that there was an area that's even better to try to protect because there's a spawning aggregation over there, but you didn't talk to us."

Sablan said that from the beginning, during the public hearing, more input and response from the public and the fishermen would be good.

Watamura asked if there was a specific question focusing on the preference between closing an area and actively managing the area.

Hawkins said there was not.

Watamura said fishermen he has talked to would rather see an actively managed area because it leads to more science and more examination and research of the area.

Hawkins said that the focus of the study was around the decision-making process around closing an area rather than what the options are.

Sensui said that, as a Council, they are obligated to ensure a sustainable resource, but that also means access to that resource. An MPA is just one of the tools available.

Simonds said a National MPA Committee notice went out from NMFS to ask for applicants for the committee. She wondered if this would be a good time to convey the Council's thinking and thoughts on MPAs to the committee and to NMFS.

Sensui asked if Hawkins ever gets responses that some of the fishermen believe that the decision has been already made and that even though they provide input they are not really being considered.

Hawkins replied all the time and the survey has a couple of questions that speaks to that.

#### **I. Guam Bottomfish MUS Specification of Annual Catch Limits for Fishing Year 2019 (Final Action)**

Sabater presented on the alternatives for the Council to consider in its deliberations in specifying ACLs for the Guam bottomfish MUS complex for fishing year 2019. Staff revisited the previous specifications and described the best scientific information available. Sabater provided the most recent fishery statistics associated with catch, effort and participation, and described the current data collection system and the limitations to achieving near real time reporting. He presented two alternatives for the Council's decision. First is the no action alternative. Second is to re-specify the previously recommended ACLs. This would result in an ACL for the Guam bottomfish at 66,000 pounds. He noted that a new benchmark stock assessment will be reviewed in 2019 in preparation for the specification in 2020-2022.

Sabater also presented the impact analysis for each alternative. There was only new information for Guam bottomfish fishery on bycatch from the Annual SAFE Report and reconsultation is ongoing for the listing of the oceanic white tip shark and giant manta ray and the designation of insular false killer whale critical habitat.

## **J. Guam Ocean Fishery Management Council Update**

Sablan presented an update on the Guam Ocean Fishery Management Council noting the group has been idle and they have been trying to set up meetings.

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

### **1. Advisory Panel**

Felix Reyes, Guam AP chair, presented the AP report and recommendations.

*Regarding Guam fishery issues*, the Mariana FEP AP recommended the Council assist the Guam AP in revisiting the gear conflict issues (SCUBA spearfishing, gillnets, etc.) and provide the AP with ideas for solving conflicts between fishermen and the community.

Okano asked Reyes to elaborate on the types of gear conflicts occurring on Guam.

Reyes provided an example at the Agana Channel. When the atulai run happens, there are some restrictions on the method of catching the atulai and there have been incidents where folks use gillnets that are not allowed, and consequently the fish get damaged and may not be very marketable. Those fishermen also cover the school when it comes in and create a conflict with fishermen who catch one fish at a time with rod and reel. In the past, they had a seine net that surrounded the school alive, and if the atulai do not move around and feed, then they start to die off. They tried to address that issue with a gathering at the site where all of these things were happening, but there has yet to be complete resolution on the issue. Overlap in jurisdiction and responsibilities hampers enforcement, so conflicts are still occurring.

Sensui said Hawai'i has the same fishery. One commercial fisherman, who uses a gillnet to catch akule, experienced an incident out along the Wai'anae Coast of O'ahu, where there was a pretty good-sized akule but it was too far for the shoreline fishermen. What this commercial fisherman did and what the shoreline guys did not see was that he dropped his net so it could cut the school in half and force part of it toward shore. But when the shoreline fishermen saw the gillnet fisherman dropping the net, they became angry and did not realize what he was trying to do for them. So in that case, it is a nice cooperative relationship between shoreline and commercial, although unfortunately the shoreline fishermen did not perceive it that way.

Reyes said that akule or the atulai comes in through several harbors in Guam and just a few folks, in particular, would harvest atulai only in one area where they could go to other areas where there are no conflicts. Other folks fish those other areas with nets without any conflicts.

Watamura said that fishery management oftentimes focuses on how much is being extracted by the larger-scale fishermen. But the 50 pole-and-line fishermen standing on the shoreline catching one at a time actually extract the same amount, if not more of the school.

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

There was no report from the REAC.

### 3. Scientific & Statistical Committee

SSC member Frank Camacho presented the SSC recommendations pertaining to the Guam agenda items.

*Regarding the specification of ACLs for the Guam bottomfish MUS for fishing year 2019, the SSC recommended or selected Option 2 for Guam, which would re-specify previously recommended ABCs, an ABC of 66,000 pounds.*

#### K. Public Hearing

There were no public comments.

#### L. Council Discussion and Action

*Regarding ACLs for the Guam bottomfish species complex, the Council recommended that NMFS set the ACL at 66,000 pounds for fishing year 2019. The Council noted that the next benchmark assessment is scheduled for review in February 2019 that will provide new information to set the ACLs for fishing year 2020 to 2022. The accountability measure is an overage adjustment to the ACL in the following fishing year. The adjustment will be the amount of the overage based on the three year recent catch.*

**Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In doing so, the Council directs 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 authorizes the Executive Director and the Chairman 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 Chairman 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.*

*Regarding Guam fishery issues, the Council directed staff to assist the Guam AP in revisiting the gear conflict issues (SCUBA spearfishing, gillnets, etc.) and provide the AP with ideas for solving conflicts between fishermen and the community.*

Sensui noted that Council staff had additional data to go over and he wanted to put on the record that it would nice to see the results of those surveys regarding conflicts and perceived conflicts.

Moved by Goto; seconded by Sensui.  
Motion passed.

*Regarding Guam fishery issues, the Council directed staff to communicate with MPA Federal Advisory Committee regarding the findings of the Fishing Community Perceptions on Marine Preserve Siting Process report, including procedural justice, transferred effects, safety, etc. Further the Council directed staff to provide the final report to the local fishery agencies for use in their management objectives.*

Moved by Goto; seconded by Sensui  
Motion passed.

### **XIII. Program Planning and Research**

#### **A. Update on Aquaculture Management Program**

Mark Mitsuyasu, Council staff, presented the status of the Aquaculture Management Program. Council staff worked on the draft amendment but is still waiting on the publication of the Draft Programmatic Environmental Impact Statement (PEIS). The plan was to comment on the PEIS prior to the Council taking final action on the amendment. Mitsuyasu also reported on national aquaculture issues, including the aquaculture Wicker Bill that is being considered in which NMFS is considered for taking the lead in aquaculture and potential implications of the lawsuit in the Gulf region regarding the NMFS' authority over aquaculture.

Tosatto provided an update on the PEIS and covered the Senate and House aquaculture bills. He said NMFS is committed to publishing the PEIS and collected comments on the document prior to the October Council meeting. NMFS still has not cleared the Draft PEIS. The PEIS is flexible and focuses on analyzing the impacts of the action. They are still able to move forward with the actions regardless on whether the authority is given to NMFS or not. The legislation and the lawsuit are not the reason for the delays. He did not provide a timeline but said they are working quickly to clear the PEIS at the same time being aware on the national issues.

Tosatto then described the Senate and House bills. The Senate Wicker Bill sets up a framework for an individual authorization for the management of aquaculture by NMFS, calling aquaculture as aquaculture instead of calling it fishing. The House has a similarly named bill and contains similar provisions, but Tosatto did not go into the details of comparing the two bills.

Rauch said Congress has until the end of the year to pass the House and the Senate versions and then whatever combined version comes out of that. He said not a lot of legislative days are left in the calendar year and expressed his skepticism that the bills would pass. If they do not pass, both the House and the Senate would have to re-introduce them next year and the process restarts.

Johns commented on the Eastern District of Louisiana Federal Court decision that came out in early October 2018. That court held that the MSA's inclusion of harvest in the term fishing does not mean aquaculture. It means the traditional harvesting of wild fish. So in holding that,

the court ruled that NOAA does not have authority to manage and regulate aquaculture under the MSA. That decision is limited to the case in controversy in that Federal District Court, which is outside of the Ninth Circuit. NMFS is still evaluating whether to appeal that decision. Meanwhile, in the Ninth Circuit, NMFS still have a Ninth Circuit opinion holding that at least one aquaculture project is within NOAA's authority to regulate under the MSA.

## **B. Refining Precious Coral Essential Fish Habitat (Initial Action)**

Sabater presented on the options for refining the precious coral Essential Fish Habitats (EFH) for Council's initial action. Council staff provided the background information on the Precious Coral Fishery Management Plan and the associated regulations, including spatial management, gear restriction, quotas, and minimum size, associated with this fishery. Staff also covered the MSA requirement for EFH and the actions taken by the Council to define EFH for precious corals. Staff presented the current EFH locations and the scientific information used to refine the EFH.

Sabater presented three actions for Council consideration: first is updating the geographic extent of the deep water precious coral EFH; second is updating the geographic extent of the shallow water precious coral EFH; and third is updating the EFH narrative information in the Hawaii FEP. Action three is required if the Council decides to take the no action option for Action 1 and 2.

For Action 1, there were four options considered. First is no action; second is to refine the Deepwater Precious Coral EFH using depth range to change the EFH to hard substrate from the 200-meter isobath to 600-meter isobaths; third is to redefine the existing beds as EFH; and fourth is to refine the existing beds and also to include new beds based on new information available.

For Action 2, there were two options: first is no action and second is to update the habitat characteristics and geographic extent.

For Action 3, there were two options: first is no action and second is to update the FEP with the new information.

Staff reported the Plan Team and the SSC supported Option 4 for Action 1 and Option 2 for Action 2.

Okano asked whether Action 1 Option 3 would be considered to be not based on the best available science.

Sabater confirmed that it is not best available because it did not incorporate the information from the submersible dives.

Watamura cautioned that the precious coral EFH may be in areas known as bottomfishing grounds. By establishing an EFH, it could potentially affect fishing, fishing regulations or put limitations on the bottomfish fishery. He expressed concerned because the Makapu'u ledge area is a prime bottomfishing ground and is currently a Bottomfish Restricted

Fishing Areas (BRFA). He said one reason the previous DLNR chair refused to open the Makapu‘u BRFA is the presence of precious coral in the area.

Okano also expressed the same concern as Watamura.

Tosatto reminded the Council members that the EFH designation is about protecting the habitat needed for MUS to thrive. The fishery actions done by the Council has to be evaluated against the impact to the habitat. He said the best available information should be used as much as possible.

**C. Discussion Paper on the Applicability of the National Standard 1 Carryover Provisions to the Western Pacific Fisheries**

Sabater presented the discussion paper on the applicability of the National Standard 1 (NS1) Carryover Provisions to the remaining fisheries in federal waters in the Western Pacific. The final rule regarding NS1, 3 and 7 issued in October 2016 included a provision that allows carryover of the unused portion of the previous year’s catch. This allows managers to increase the ACL the following year. The rule also included provisions on evaluating the carryover against the condition of the stock or whether the stock is in a rebuilding status. This agenda item was taken up to determine whether carryover provisions would warrant further exploration resulting in an amendment to the FEP to incorporate in the ACL management framework. Staff covered some examples from other regional fishery management councils, the conditions by which this provision can be applied specifically for the MHI Deep 7 bottomfish fishery, the current state of fishery data collection and the limitations in monitoring and management in applying such provision.

Watamura provided additional background on what was discussed at the P\* and SEEM working groups. He described the boom years in the mid-1980s to the early-1990s where the catch was high. In the current management regime, no mechanism exists that would allow the fishery to maximize the catch to take advantage of the extreme boom years should it happen again.

**D. Terms of Reference for the Benchmark Territory Bottomfish Management Unit Species Stock Assessment Review**

Sabater presented on the Terms of Reference (TOR) for the Territory Bottomfish MUS Benchmark Stock Assessment Review under the WPSAR framework scheduled for February 11 to 15, 2019. The TOR lays out the scope of the peer-review and the requirements from the reviewers. Staff described each of the TOR. Sabater also presented some of the comments from the SSC regarding the TOR. The Council was asked to approve the TOR and endorse the SSC recommended WPSAR Chair.

Camacho reported that the SSC appointed Dr. Steve Martell as the WPSAR Chair.

## **E. Regional, National and International Outreach & Education**

Sylvia Spalding, Council staff, reported on the activities related to education and outreach at the regional, national and international level. She reported on the outcome of the Council's inquiry whether climate change vulnerability studies had been conducted for the harbors in the region. Gov. Ige responded that Hawai'i will consider climate change impacts in their planning. Spalding reported on the different publications like the 2017 Annual SAFE report summaries, lunar calendars and the Council's summer 2018 newsletter. She described Council participation in the NOAA Climate Collaboration Workshop, the Communication Committee Meeting and the National NOAA Fisheries Institute Conference. She also reported on the US State Department International Visitors Leadership Program. She also noted that, during a visit to NOAA Headquarters in DC, staff talked to counterparts about increasing fishery-related materials in the NOAA Fish News rather than protected species.

Simonds said the whole idea about education and outreach was to work together on developing stories coming from the Pacific Islands so more weight is given to fisheries and not just protected species.

Tosatto interjected that for NOAA Fish News, opinion pieces that are jointly developed will primarily be a PIRO or PIFSC piece. Having a joint piece with the Council is something that needs to be explored. He reckoned that Fish News page is not the platform for Council opinion pieces, and there are other venues for those. There are other topics that the Council and NMFS can work together on.

Simonds said her understanding is that NOAA Fish News is exclusively for NMFS, but the Council can also provide information.

Spalding reported on the continued work on changing the wrong information in the Status of the Fisheries 2017 Report. The Council produced a press release on the Billfish Conservation Act Amendment. She also reported on the redesign of the Council website and the usual communications on the radio and print media.

Regarding the education aspect, she presented on the International Marine Educators Network Conference in Taiwan. It was clear that there was a lack of getting marine education in the classrooms compared to other subject matters Pacific wide. Taiwan may be an exception. She also also reported on the US Pacific Territories Fishery Capacity Building Scholarship.

Tosatto reported on the Leadership Class in PIRO that included Pua Kamaka who found a partner in Kamehameha Schools who both developed a curriculum and a series of modules that teachers can adopt and spread through the Kamehameha Schools system. The curriculum is focused on Marine Education, but there are modules on international negotiation, marine conflict and coral reef. Tosatto will ask Kamaka to share the information and mentioned that there is a potential to partner with Kamehameha Schools regarding this matter.

Tosatto also reported that there is a policy guidance document on tribal consultations. The region is outside of this framework because there is no recognized tribe in this region. NMFS is working on developing a policy document on the correct way to incorporate Traditional

Ecological Knowledge in decision-making. The policy document has gone through its first draft. Tosatto will engage Heather Sagar at NMFS Policy and ask her to think about how that might work its way out into the Council, perhaps through the CCC, to get some guidance. Tosatto mentioned that this document is for NMFS and National Ocean Service to avoid making basic mistakes going forward.

Spalding said the USFWS developed something similar.

Watumura supported the idea to push fisheries and marine education into classrooms. He was concerned about the false notions in the younger generation that the ocean is overfished and the fishermen are to blame.

Spalding added the MPA is not the only tool.

Sensui asked if she reached out to Hawai'i Department of Education for its curriculum at the grade school level.

Spalding said teachers workshops were held with the *Honolulu Advertiser* Newspaper in Education program, which ran for three years, in which DOE resource administrators were invited. It has been a while since the Council last worked with Hawai'i Department of Education.

Tosatto added that NMFS supports the Hawaii Science Academy's Science Fair. NMFS provides access to teachers on NOAA data. NMFS conducts a workshop ahead of time so they know what the NOAA data about. If a student uses NOAA data in a project, NMFS selects from winners of those that use NOAA data who receive cash prizes. NMFS is working to implement something similar to the Territory science fairs. Tosatto said most students use climate and oceanographic data rather than fisheries data.

Sesepasara expressed support for the curriculum for students and also suggested to conduct a workshop for teachers.

Okano suggested exploring the charter schools as they tend to be more flexible on what they teach.

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

### **1. Advisory Panel**

Rice presented the AP recommendations regarding Program Planning.

*Regarding precious corals EFH options*, the Hawai'i AP recommended the Council update the FEP with new information but does not recommend any changes to the existing EFH.

*Regarding ACL specifications*, the Mariana FEP AP recommended the Council select Option 2, re-specify ACLs for Territory BMUS complex.

*Regarding aquaculture*, the Mariana FEP AP recommended the Council look at the regulatory regime in place to see how offshore aquaculture can be developed, determining the best

sites for aquaculture and obtaining funding to assist local interests to develop aquaculture in the Marianas.

*Regarding marine national monuments*, the Mariana FEP AP, recommended the Council communicate to the Administration that the fishing prohibitions be removed for the Mariana Trench Marine National Monument and allow only Guam- and CNMI-registered vessels to fish.

*Regarding climate change*, the Mariana FEP AP recommended the Council include in its research priorities the impacts to pelagic fisheries and coral reef ecosystems due to climate and ecosystem changes.

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

Duenas reported that there were no recommendations from the Guam and CNMI REACs.

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

Camacho provided the SSC report and recommendations regarding Program Planning.

*Regarding the WPSAR TOR*, the SSC recommended the WPSAR Coordinating Committee revisit this TOR and be more explicit in the language pertaining to the review of ensemble modeling should this be available in the future. The SSC also endorsed the TOR for the Territory Bottomfish Benchmark Assessment and recommended Dr. Steve Martell as the WPSAR chair.

*Regarding the refinement of the precious coral EFH*, the SSC recommended Option 4 and Option 2 for the deep water and shallow water precious corals, respectively, as these options maximize the incorporation of new data.

## **4. Fishery Data Collection and Research Committee**

Sabater reported on the outcomes of the Fishery Data Collection and Research Committee (FDCRC) meeting held in Saipan on October 22, 2018. Member agencies provided a round robin report on their agency's effort to improve fishery data collection in each area, and the FDCRC made the following recommendations:

*Regarding fishery data collection improvement on Guam*, the FDCRC recommended the Council request the DAWR to coordinate with the Attorney General and the Legislature in order to initiate the Guam Administrative Regulation Process to establish the fishery mandatory license and reporting. Further the Council encouraged the Government of Guam to expedite the appointment of the members of the Guam Ocean Fishery Management Council. Further, the FDCRC recommended the Council request the Government of Guam to reduce the paperwork requirements for the community and the public to serve in the Guam Ocean Fishery Management Council.

*Regarding fishery data collection improvements in American Samoa*, the FDCRC requested the Council to encourage request the DMWR to update the fishery regulation to include

mandatory licensing for fish dealers and mandatory reporting for commercial fishermen. Further, the Council requested DMWR to finalize the review of the Draft Memorandum of Agreement for Data Sharing that was provided to DMWR from the 2017 FDCRC meeting.

*Regarding ER*, the FDCRC recommended the Council request the Territory and State Fishery management agencies to explore ER to improve the collection of fishery data for the bottomfish fisheries.

#### **G. Public Hearing**

Robert Vasquez requested more information regarding the Guam Ocean Fishery Management Council, fisheries in general and about the Western Pacific Fishery Management Council. He also mentioned that he is forming the Fishing and Boating Association of Guam whose goal is to educate fishermen. He questioned the accuracy of the ACL and the data being reported by the fishermen. He asked why the GOFMC was not formed after being established by the legislature since 2015.

Simonds encouraged Vasquez to work with Sablan because DOAg is responsible for the GOFMC.

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

*Regarding fishery data collection improvement*, the Council **requested the Guam DAWR to coordinate with the Attorney General and the legislature in order to initiate the Guam Administrative Regulation process establishing the fishery mandatory license and reporting**

Simonds commented that Council staff has been working with Sablan's staff on this and they are in agreement that DAWR should get an opinion from the Attorney General on what the Fisheries Act legislation says. In addition they are working on double-checking with the legislature about the act that was passed.

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

*Regarding fishery data collection improvement*, the Council **encouraged the Government of Guam to expedite the appointment of the members of the Guam Ocean Fishery Management Council. Further the Council requested that the Government of Guam reduce the paperwork requirements for the community and the public to serve in the Guam Ocean Fishery Management Council**

Simonds commented this act was passed in 2015 and the government did do some education and outreach and sent out a request for people to apply for membership but the government was not successful in getting many people to apply. The staff inquired to people about the problem because everybody wanted to have this Fishery Council. This Council is going to be able to develop fishery regulations. The response the staff received was that the form is

onerous and difficult for people to fill out. Staff suggested that the Council would help the government to review that form and perhaps make some changes. This would be done after the elections.

Moved by Goto; seconded by Sensui.

Motion passed.

*Regarding fishery data collection improvement, the Council requested the American Samoa DMWR to update the fishery regulation to include a mandatory licensing for the fish dealers and mandatory reporting for the commercial fishermen. Further, the Council requests DMWR to finalize the review of the draft Memorandum of Agreement for Data Sharing that was provided to DMWR from the 2017 FDCRC meeting*

Moved by Goto; seconded by Sensui.

Motion passed.

*Regarding fishery data collection improvement, the Council requested the territory and state fishery management agencies to explore ER to improve the collection of fishery data for the bottomfish fisheries*

Sesepasara sought clarification on ER and asked who would be providing the equipment.

Sabater said Council staff will be working with DMWR on the best option. The Council is developing the application for a tablet to be applied to the Mariana bottomfish fisheries once the mandatory license and reporting regulation is put in place. The Council and DMWR can explore what is the best for American Samoa.

Moved by Goto; seconded by Sensui.

Motion passed.

*Regarding precious coral EFH options, the Council directed staff to prepare an amendment to the Hawai'i FEP to revise the Precious Coral EFH and prepare the document for Final Action at the Council's March 2019 meeting. Further, the Council selected the following preliminary preferred options for the staff to further analyze. Action 1 will be Option 4, to revise existing beds and designate new beds as EFH. Action 2 will be Option 2, updating geographic extent and habitat characteristics. Action 3 will be Option 1, to update the FEPs*

Tosatto said he votes in support of moving forward since this is an initial action. However, in moving forward, the Council should take a good hard look at making sure all of, at least in Action 1, the alternatives are encompassing that the Council should be able to make a good decision.

Sensui echoed Watamura's concern from earlier discussion that the EFH definition should not have significant or adverse effects on bottomfishing.

Okano also expressed the same concern.

Watamura reiterated his reservation for the record in voting yes.

Moved by Goto; seconded by Sensui.

Motion passed.

**Regarding aquaculture, the Council directed staff to look at the current regulatory regime in place in federal waters to determine the needs for developing offshore aquaculture, determining the best sites for aquaculture and obtaining funding to assist local interests to develop aquaculture in the Western Pacific Region.**

Moved by Goto; seconded by Sensui.

Motion passed.

**Regarding the marine national monuments, the Council directed staff to communicate to the Administration that the fishing prohibitions be removed for the Mariana Trench Marine National Monument and allow only Guam- and CNMI-registered vessels to fish.**

Lutu-Sanchez asked if American Samoa can be included in the removal of the fishing prohibition. She said there may be some complication in the American Samoa where it could be interpreted as another layer to the LVPA.

Tosatto cautioned that a broad restriction like this might be counter to the NSs. He further stated that in putting the Marianas Trench noncommercial fishing there were pieces of that focus on recognizing the culturally appropriate actions and there were limitations placed on residency. He noted that this is only a communication type of recommendation and not a recommendation that would change the FEPs, but indicated he would offer a stronger caution if it becomes a plan related action.

No amendments were made to the motion.

Moved by Goto; seconded by Sensui.

Motion passed.

**Regarding climate change, the Council directed staff to work with the Plan Team to include in its research priorities impacts to pelagic fisheries and coral reef ecosystems due to climate and ecosystem changes.**

Moved by Goto; seconded by Sensui.

Motion passed.

**Regarding the TOR for the Territory bottomfish WPSAR, the Council 1) endorsed the TOR and appointed Dr. Steve Martell as the WPSAR chair.; and 2) recommended the WPSAR Coordinating Committee revisit this TOR and be more explicit in the language pertaining to the review of model ensemble should this be available in the future**

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

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

##### **A. Moku Pepa**

Watamura reported that there is a push by the National Saltwater Recreational Fishing to collect noncommercial recreational data with meetings in early 2019 and to fill the large black hole of data in the noncommercial, recreational sector. Subsequently, a member of the Waialua Boat Club has also come up with a fishing app that includes a feature to report catch. Watamura said bottom fishermen still want to get all of the BRFA's open. The State has asked for a list of which BRFA's they would like to see opened first. However fishermen want to see them opened all at the same time because opening only some would result in disadvantageous to some fishermen, affecting their catch, cost of fishing and safety. Watamura also reported on an effort to have fish recognized as food through the state legislature.

Sensui reported that the Fish and Dive Expo is currently happening with more than 5,000 people expected to attend. To provide needed education at the expo, the Pacific Islands Fisheries Group set up a children's activity focusing on plastics and plastic pollution in the ocean. The Waialua Boat Club held the Fishing to Feed Hawaii's Hungry tournament. The boat fishing tournament brought in close to 1,200 pounds of fish, which was donated to the Lanakila Meals on Wheels Program that feeds the elderly. The fish are all processed through Garden and Valley Isle Seafoods. In previous years, the fish that was caught, all high-quality pelagic, was provided to the Institute for Human Services to feed the homeless people. The tournament shows how generous fishermen can be in sharing their catch.

Okano provided the State of Hawai‘i, DAR Island Report. Like the Mariana archipelago, Hawai‘i has experienced some detrimental effects from natural disasters. This year one of the more recent Marine Life Conservation District (MLCD), Waiopae on the east side of Hawai‘i Island, was lost to lava. Waiopae is a series of large tidepools designated as an MLCD, and one of the rare areas on this coastline with shallow, protected habitat. The high freshwater input also made the area a prime juvenile fishery habitat. The Pohoiki boat ramp still remains, but it cannot be used due to lava covering both sides of the ramp and the volcanic sand that was created from the lava entering the water and forming a sandbar in front of the boat ramp. Fishermen from Puna now have to drive to Hilo to launch their boat.

During May 2018 one FAD was reported missing and six FADs were replaced. In June, three FADs were reported missing, four FADs were replaced and one FAD site was approved for relocation. During July and August, there was minimal activity, but there are also plans to include an attempted recovery of off-station FADs. Regarding the Deep 7 bottomfish, fishing year 2017-2018 ending on August 31, 2018, had an ACL of 306,000 pounds. As of August 21, there were 343 licensed fishermen that made 2,143 trips and caught 223,000 pounds, which is about 75 percent of the ACL. Fishing year 2018-2019 for Deep 7 bottomfish began September 1, 2018, with a new ACL of 492,000 pounds.

DAR is considering opening some of the BRFA's and trying to persuade DLNR's Chair to open all of them at once, but it is unlikely that all BRFA's will be opened. As a result, DAR is trying to prioritize which BRFA's will be opened and has been soliciting opinions from numerous stakeholders, and thanked the Council for holding a meeting, bringing in fishermen from all over the State to help with this effort. The Hawai'i Marine Recreational Fishing Survey (HMRFS) surveys were conducted from May through August 2018 resulting in 957 angler intercepts from both shoreline and boat surveys on the islands of Kaua'i, Maui, O'ahu, Moloka'i and Hawai'i. Due to funding, HMRFS staff is at three-quarter time which is more than the half-time status they had previously.

In July 2018 after a full review of two final Environmental Assessments (EAs) by the Pet Industry Joint Advisory Council (PIJAC), DLNR determined that the collection of marine life around Hawaii Island and Oahu pursuant to commercial marine license (CML) aquarium permits may have a significant impact on the environment and that preparation of an EIS is required. Currently, former aquarium permit holders nor the PIJAC have indicated whether an EIS will be prepared. The level of commercial aquarium harvest has dropped off since November 2017.

DLNR DAR established an Administrative Rule in January 2018 to require primary dealers to submit the Dealer Purchase Report on a weekly basis rather than monthly. Beginning on July 1, 2018, 250 primary dealers across the state were notified to comply with this weekly report period. DLNR DAR will eventually enforce this report requirement using the Civil Resource Violation System when online dealer reports system is implemented, which is planned for July 2019.

Currently, DAR is considering the feasibility of a noncommercial marine fishing registry permit license system in Hawai'i. DAR is considering the establishment of a fee-based noncommercial marine fishing license system in Hawaii to get a better understanding of Hawaii's noncommercial fishery. DAR currently manages Hawaii fisheries based on CML data and some estimates indicate that the noncommercial take may be 10 times greater than the commercial take. DAR is managing fisheries on only a small piece of information, and wants to get a better understanding of what is happening. This idea is based on a 2016 independent study group report that explored the feasibility of establishing a noncommercial marine registry, permit, or license system in Hawai'i. That same study group is in the process of conducting stakeholder outreach to share the group's research and findings and gather feedback from the public.

Watumura added that a study group was formed by the Council and Conservation International and conducted a series of meetings over the span of two and half years with extensive research. There was a lot of examination and discovery, and even conference calls with other states that had these systems already in place to get input. A detailed report was published and can be found on the DLNR website. After the report, the study group decided they wanted to function as a semi-advisory group to DAR and conducted a series of meetings with the fishing community and to get some feedback from them. Their original plan was to get feedback to one specific preferred alternative, which was the fee-based license, but that approach created friction with the fishing community. The study group aborted the originally planned meetings, and start up new meetings in December to present the fishing community with what the study group actually came up with. It is the study group's hope that DAR will continue that process and continue to educate and conduct outreach with the fishing community.

Watamura said that fishermen groups have had periodic meetings with Division of Boating and Ocean Recreation to receive updates on infrastructure. They have made some progress, but there is much that needs to be done. He said he was privy to the fact that the Sport Fish Restoration Fund made a sizable contribution to the State, and fishermen are always trying to find out where that money is going. He asked if Okano had access to that information that gives a detailed breakdown of how that money is being spent.

Okano said he did not know exactly and that there is other staff that could probably answer the question better. He said that a lot of the money is going to nearshore biological monitoring, some of it is going to the FADs, and some of it is going to the trout on Kauai.

Rice asked if DAR could provide the Council an accounting of the Sportfish Restoration Funding by March to show how that money is used. He said that part of the money is supposed to be for infrastructure, so it would be nice if some of that money could be used for that. He also said that putting structure under the FADs is something that they did in the beginning and it worked well. He noted that Kampachi Farms is putting their barge and their pens three miles off of Keauhou, so there will be one really good FAD for a while. He requested that the State FAD Program try some different things to add structure.

Okano replied that he has asked the questions about structure in the past and the answer he receives from the FAD program is that structure underneath the FAD shortens the lifespan of the FAD by increasing drag. He was also told that scientifically, there has not been proof that putting structure under the FAD makes it more productive.

Rice disagreed.

Watamura commented on the aquarium fishery and said that the aquarium fishers paid about \$100,000 to complete the EA which was deemed insufficient. The EIS will likely cost at least double. He expressed the concern of one aquarium fisher saying that even if DLNR approves an EIS, Earthjustice will likely try to get an injunction to stop the fishery. He said the aquarium fishermen have a feeling of futility, and are almost ready to give up. He said that DLNR was able to support the fact that there has been a lot of scientific studies on the aquarium fishery and that it is sustainable, so it is a shame that an NGO can come in with a lawsuit and put an end to an industry.

Okano said that at the State level, the aquarium fishery in Kona was one of the best-managed fisheries. He said the aquarium fishery continues in Hawaii today and only the small nets cannot be used. He said people are using the regular cross-net to catch large yellow tangs, and it is backfiring because instead of taking juveniles, which provide little input into the population, they are taking the breeders.

Sensui said that what was really disturbing was that an EA was required after that lawsuit, and when the industry provided the EA, the DLNR Chair decided to move the goal post to an EIS. It is basically driving people out of a sustainable business.

Okano said that culturally, the bottomfish fishery is much more important than the aquarium fishery, but from a commercial standpoint, the amount of money that the aquarium fishery was bringing in is greater than the bottomfish fishery.

Simonds asked Okano how successful they think they will be with the legislature on permitting and reporting. She said that while there are a number of people supporting this, it never went anywhere. In fact, no fishery bill passed the state legislature this past session.

Okano said that they are trying to be strategic about how they go about getting support.

Simonds expressed her concern that the legislature might not be supporting this.

## **B. Legislative Report**

Okano reported that the Hawaii Legislature will initiate early next year but could not say what actions the DLNR would take part in or promote.

## **C. Enforcement Issues**

Okano reported that Chief Farrell of the DLNR Enforcement resigned, which was a heavy hit to the agency.

## **D. Report on Removal of Bottomfish Restricted Fishing Areas**

This item was discussed and reported out through the Executive and Budget Standing Committee.

## **E. Specification of Annual Catch Limits (Final Action)**

- 1. Precious corals and deep water shrimp for Fishing Year 2019 to 2021**
- 2. Non-deep 7 bottomfish for Fishing Year 2019 to 2021**
- 3. Kona crab for Fishing Year 2019**

Sabater presented the alternatives for the Council to consider in their deliberations in specifying ACLs for the non-deep 7 bottomfish, precious corals and deep water shrimp for fishing year 2019 to 2021 and for Kona crab for fishing year 2019. The presentation was formatted to take the four management unit species complexes together since the alternatives are similar.

Regarding the specifications for the four MUS complexes, Sabater revisited the previous specifications for all four complexes and the best scientific information available. Sabater provided the most recent fishery statistics associated with catch, effort and participation, and described the current data collection system and the limitations to achieving near real time reporting.

Sabater presented two alternatives for each of the four MUS complexes. First is the no action alternative. Second is to re-specify the previously recommended ACLs. This would result in an ACL for the non-deep 7 bottomfish at 127,205 lb, Kona crab at 3,500 lb, deep water shrimp at 250,773 lb, and precious corals as listed below:

- Auau channel - black coral - 5,512 lb
- Makapuu bed - pink coral - 2,205 lb
- Makapuu bed - bamboo coral - 551 lb
- 180 fathom bank - pink coral - 489 lb
- 180 fathom bank - bamboo coral - 123 lb
- Brooks bank - pink coral - 979 lb
- Brooks bank - bamboo coral - 245 lb
- Kaena point bed - pink coral - 148 lb
- Kaena point bed - bamboo coral - 37 lb
- Keahole bed - pink coral - 148 lb
- Keahole bed - bamboo coral - 37 lb
- Precious coral in MHI exploratory area - 2,205 lb

Sabater also presented the impact analysis of the alternatives for each fishery. There was only new information for the EFH description for the crustaceans and the precious coral fishery. The non-deep 7 bottomfish fishery is currently undergoing reconsultation for the listing of the oceanic white tip shark and giant manta ray and the insular false killer whale critical habitat.

Watamura provided some background on the uku fishery. There was not much attention paid to uku until the Total Allowable Catch (TAC) was put in place for the deep-7 bottomfish and the bottom fishermen reached the TAC and the fishery was shut down. Those bottomfish fishermen switched over to catching uku, and they realized they can catch a lot of uku. It gained more popularity in those years following the TAC with more emphasis on catching uku. He said that it is a seasonal fishery at this point, with summer being the peak season due to larger numbers of uku and ideal weather conditions. He also noted that during that same period of time, fishermen are fishing for ahi, so there would be less effort on the uku fishery in good ahi years. He said that if the weather is nice, fishermen would rather go uku fishing than chasing ahi.

Goto concurred with Watamura and said he experienced the same thing with the growth in the uku market or the popularity in the fishery and the market, itself. He said he was recusing himself from voting on the non-deep-7 bottomfish stock complex under advisement from NOAA General Counsel due to his position as a vendor of this particular product.

Okano said the overage is concerning because there may be a strong noncommercial component in the bottomfish fishery. He said that uku is also taken and highly targeted by some spear fishermen and also occasionally caught from shoreline.

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

Spalding presented on the Hawaii Outreach and Education activities since the last Council meeting. She noted that the Council continues to sponsor the Go Fish radio show with

Mike Buck on KHNR AM 690 with POP Fishing and Marine. The Council provides speakers that go on air every week to talk about different issues that are pertinent to the Council. The Council also contributes a monthly column to Hawaii Fishing News and a quarterly column to Lawaia Magazine. She also said that she had a meet-and-greet with the reporters and editor of Pacific Business News to see how the Council could get more coverage in Pacific Business News. One of the reporters was interested in data, so staff is working to get her to cover the 2017 Annual Report. She reported that outreach on the Council was conducted to the over 50 participants and community members at the Waimanalo Boat Ramp Papio Tournament in conjunction with Council contractors conducting life history sampling.

The Council completed the Hawaii lunar calendars. The Council partners with different organizations every year and for 2019 partnered with the YWCA Oahu, the first year with a woman's organization. They used Hina, which is the Hawaiian deity for the moon, and a female, in their residency where they help women transform out of prison and back into society. The Council has gotten a lot of requests for the 15-month calendar, which will be provided to all of the women in Hawaii prisons. She said this year there are also videos that are associated with each of the months. In the electronic version, users can click and go to the video where the story is being told and DVDs of those are going to be used in the prisons as well.

She said the Hawaii summer course was held once again with Moanalua High School. There were 17 students who participated and received a Department of Education Science credit for doing so. Some other things that the Council has done is provided educational materials to the Hawaii Environmental Education Alliance Conference, which had 40 teachers at a workshop on Coconut Island in July, and up to 200 teachers who participated in a symposium at the Convention Center following the workshop. The Council is also working with the Oceania Marine Educators Association in the planning for the 2020 National Marine Educators Association Conference that will be held in Honolulu.

Simonds commented that she was happy that the Council was able to partner with the YWCA to have a woman's calendar after 20 years of men calendars. She said working with those women who were previously incarcerated and how they are building their confidence to get out back into the mainstream life is the goal. The stories are wonderful, and Hina was the mother of Maui and Molokai, as well, but they're interesting stories.

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

### **1. Advisory Panel**

Gary Beals, Hawai'i AP chair, presented the AP report and recommendations.

*Regarding the Hawaii Annual catch Limits*, the Hawai'i AP recommended the Council select the status quo alternatives, as there is no new information that would necessitate a change in ACLs.

*Regarding Hawaii Fishery Issues*, the Hawai'i AP recommended the Council request the State of Hawaii develop a plan on how it will be re-instituting the Hawaii aquarium fishery.

## 2. Scientific & Statistical Committee

Camacho presented the SSC report and recommendations.

*Regarding the specification of Annual Catch Limits for the precious corals, deep-water shrimp, and Non-deep seven bottomfish for fishing year 2019 to 2021, and Kona crab for fishing year 2019, the SSC selected Option 2 for the Hawaii stocks, which would re-specify previously recommended ABCs.*

The SSC noted the general under-utilization for those stocks and also discussed how best to incorporate this into ACL specification for those fisheries with little to no fishing effort. The SSC also discussed the potential for under-reporting.

### H. Public Hearing

There were no public comments.

### I. Council Discussion and Action

*Regarding Annual Catch Limits for the main Hawaiian island non-deep 7 bottomfish, deep-water shrimp, Kona crab and precious corals, the Council recommended NMFS set the ACLs at:*

<b>MUS/MUS Complex</b>	<b>Fishing Year(s)</b>	<b>ACL (lb.)</b>
MHI non-deep 7 bottomfish ( <i>Aprion virescens</i> )	2019-2021	127,205
MHI Kona Crab	2019	3,500
MHI Deepwater Shrimp	2019-2021	250,773
MHI Precious Corals		
Auau channel - black coral	2019-2021	5,512
Makapuu bed - pink coral	2019-2021	2,205
Makapuu bed - bamboo coral	2019-2021	551
180 fathom bank - pink coral	2019-2021	489
180 fathom bank - bamboo coral	2019-2021	123
Brooks bank - pink coral	2019-2021	979
Brooks bank - bamboo coral	2019-2021	245
Kaena point bed - pink coral	2019-2021	148
Kaena point bed - bamboo coral	2019-2021	37
Keahole bed - pink coral	2019-2021	148
Keahole bed - bamboo coral	2019-2021	37
Precious coral in MHI exploratory area	2019-2021	2,205

**The Council noted that the next benchmark assessment for Kona crab is scheduled for release in March 2019 that will provide new information to set the ACLs for fishing year 2020 to 2022. The accountability measure is an overage adjustment to the ACL in the following fishing year. The adjustment will be the amount of the overage based on the three year recent catch.**

**Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In doing so, the Council directs 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 authorizes the Executive Director and the Chairman 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 Chairman 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.**

Tosatto said he will be abstaining from the vote for two reasons, one, because it is a final action that will come to the Agency for decision, but also, because of the new information that they have on the actual catch of uku, he will need to look hard at this recommendation to make sure it is approvable. If it is not, he will provide advice to the Council.

Watamura reiterated the concerns about the uku ACL, and the fact that it did go over this past year. He added that speaking to fishermen, there was not a large amount of uku fishing effort and inquired about the overage.

Sabater said that the accountability measure on the fishery is on the three-year average catch. He noted that PIFSC is also working on a CPUE-based stock assessment because the current numbers are based on a coral reef length-based mean length spawning potential ratio stock assessment, and the CPUE-based stock assessment may generate a different level. Until then, this is the best available science available.

Okano asked if the ACL is based on the Nadon study.

Sabater replied that there are two sets of data used in generating the ACL number. The first one is estimate of total catch, combining HMRFS estimates and the Fishery Reporting System. The other one is from the underwater visual census survey. The SSC chose to use the visual survey information because the HMRFS data is not very informative and creates a lot of uncertainty. If the Council were to use the catch data from the Nadon approach, there would be a need to extrapolate what the commercial component of that catch is because it uses the Fishery Reporting System as a tool to monitor the catch, which is a subset of what that total catch would be.

*Moved by Sensui; seconded by Watamura  
Motion passed with Goto recusing and Tosatto abstaining.*

**Regarding Hawaii Fishery Issues, the Council requested the State of Hawaii provide the Council with its plan on how it will be reinstating the Hawaii aquarium fishery.**

Okano said he will abstain because it is a request to the State of Hawaii. He added that the aquarium fishery in Hawaii still exists so the wording of the recommendation does not make sense to him.

Moved by Sensui; seconded by Lutu-Sanchez  
Motion passed with Okano abstaining.

**Regarding Hawaii Fishery Issues, the Council requested the State of Hawaii provide a report on the Wildlife and Sportfish Restoration projects and an accounting of the WSFR funds used for each project. Specifically, the Council would like to determine the proportion of the funds used for infrastructure to improve the non-commercial fisheries in Hawaii.**

Moved by Watamura; seconded by Goto  
Motion passed with Okano abstaining.

## **XV. Administrative Matters**

### **A. Council Member and Staff Annual Training On Standards of Conduct**

Johns provided the council member training on Standards of Conduct. Johns stated training is provided so Council members are aware of the federal ethic laws that do not apply and that they are subject to most of the criminal laws regarding bribery, conflict-of-interest and lobbying. If a Council Members fill out the financial interest disclosure form properly and adheres to the standard of conduct they will not be subject to federal penalties. Johns covered financial interest and disclosure of financial interest, the rule being that affected individuals must disclose any financial interest in harvesting, processing, lobbying, advocacy or marketing that is being, or will be, undertaken within any fishery over which the Council has jurisdiction. Affected individuals, those nominated by a Governor of a state or Territory and appointed by the Secretary of Commerce to serve as a voting member must also disclose the financial interest not only of his or herself, but also of his or her spouse, minor child, a partner or any organization in which the individual is serving as an officer, director, partner or employee. SSC members are also treated as affected individuals. Johns additionally covered topics on voting restrictions, recusals, lobbying, and political campaigning.

Sensui asked for clarification on one of the hypothetical questions regarding a request from NMFS for funds to pay for equipment that goes to the purse seiners in the Pacific Remote Island Areas (PRIAs) and why that individual can vote.

Johns stated that asking NMFS to appropriate funds is not a council decision and that council decision, as defined by the regulations is approval of an FEP or FEP amendment, including any proposed regulations, a request for an amendment to regulations implementing the FEP or a finding that an emergency exists.

Simonds commented on Soliai being asked to recuse himself being an employee of an entity whether or not he has an interest and if that can be changed.

Johns stated it is a current NOAA GC policy decision and that the GC Recusal Working Group has discussed the merits of the policy and have decided not to change it. Additionally NMFS is working on revising the recusal regulations at 50 CFR 600.235 and a proposed rule should be published in the new future as it is currently being reviewed by other federal agencies. Once the proposed rule is published, there will be an opportunity to provide comments.

Sensui asked if the Council can send a letter to the executive branch asking for or requesting a certain action.

Johns replied yes, as long as the action is not award as a grant.

## **B. Financial Reports**

Simonds reviewed the financial reports and noted the funding add-ons from NMFS. Without this money the Council cannot operate and the Councils have not received increases in their budgets over the years. NMFS has supported the Council with ACL Implementation, Council Peer Review, MSA Fisheries Management, and the Education Community Scholarships and Fellowships that the PIFSC and PIRO support. The Council hopes to continue to do this. Simonds also discussed the commitment to finding funds with Oliver and the million dollars earlier in the year that was to be divided up by the eight Councils. The Council will be sending the Regional Administrator a list of projects and asking for support on a number of items.

## **C. Administrative Reports**

The Council hired Fitchett as the Pelagic Fisheries Ecosystem Scientist. Fitchett participated and led stock assessments of Atlantic billfish for the International Commission for the Conservation of Atlantic Tunas and was awarded a Sea Grant Marine Population Dynamics Fellowship and completed his postdoctoral research at the University of Miami Billfish Research Program. He is from North Carolina and has a PhD and MSc in Marine Biology and Fisheries and a BS in Zoology and Marine Resources. While previously working at PIFSC, he worked with Council contractors to lead the 2018 benchmark assessment of the MHI Kona crab fishery.

Simonds stated the audit was completed in September and the Council received the usual unmodified opinion and the audit is available on the Department of Commerce website.

## **D. Funding Requests**

Simonds stated at the previous meeting in June, Oliver talked about the PIFSC not having a Pelagics Research Program. In the early years there was a Senator who provided funds for a Pelagics Fisheries Research Program at the University of Hawaii. This helped the Honolulu Laboratory scientist to access funds. Simonds stated after that program ended and absent a real Pelagic Fisheries Program, Council staff developed a program based on previous workshops held in the international arena and at home about what is necessary.

The other top program priority is the Shark Depredation and Population Program for the Marianas. NMFS did a survey with a large vessel and did not come up with any conclusions. The project needs to be done by a regular fishing boat as enormously large boats do not go fishing for

pelagics every day. Simonds stated that Seki has agreed to work on this, and there have been meetings with staff and DMWR in Saipan and PIFSC staff on developing a design for this project. Simonds said she hopes to see some funding to be able to bring the project next year as there has never been a survey of sharks in the Marianas.

Other requests include the FDCRC. The Council has received funds from PIFSC for different projects on this. Additional requested funds under Protected Species include seabird bycatch mitigation, a turtle avoidance pilot program and a workshop for the Pacific green turtle populations. The Council is also looking for aquaculture funds for an Aquaculture Coordinator, and to develop assessments for the entire Pacific Regional. Lastly there is a request for funds for the FEP Living Document Assessment Project. The Council is working to revamp all these FEPs to include climate change and to look at some of the regulations like EFH that are loosely done in the document. A letter is going to the Regional Administrator and the Council will work with Headquarters on getting these funds.

## **E. Council Family Changes**

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

Josh DeMello, Council staff, stated this is the last year of the AP's term and that the next term will be 2019-2022. The Council received 50 applications for 24 positions within the AP. Council members from each island area provided their selections which were presented to the Executive Committee at the Standing Committee in the Saipan. The Executive Committee has since provided their recommendations which will be included in the Council Recommendations.

### **2. Advisory Group Changes**

There were no advisory group changes.

## **F. Meetings and Workshops**

Simonds reviewed the meeting list and upcoming meetings. The Council member training in Silver Spring will be November 15-16 which Watamura will be participating in. Simonds asked Rice when he was last trained and would check if he needs to participate in training. Simonds asked if there are any meetings on the list members are interested in participating to send her an email.

## **G. Standing Committee Recommendations**

Duenas reported on the Executive and Budget Standing Committee Meeting held on Monday October 22, stating most of what was covered was heard during the Administrative Matters section here. Council staff also gave the committee an overview of the legislative bills ending soon, an overview of the BRFA's, North Pacific and South Pacific Regional Fisheries Management Organizations (RFMOs) and nonfishing impacts on EFH. Recommendations were deferred for full Council action.

**H. Public Comment**

There was no public comment.

**I. Council Discussion and Action**

*Regarding Administrative Matters, the Council appointed the following persons to the Advisory Panel for the 2019-2022 term:*

<b>Island Area</b>	<b>AP Members</b>	<b>Alternates</b>
<b>American Samoa</b>	Krista Corry Will Sword Dustin Snow Brian Thompson Sam Meleisea Carlos Sanchez	Edgar Feliciano Nonu Tuisamoa Joseph Faaita
<b>CNMI</b>	Richard Farrell Perry Mesngon Cecilio Raiukiulipiy Mike Fleming Jun Yamagishi Raymond Teregeyo	Ray Tebuteb Juan Diego Blanco Floyd Masga
<b>Guam</b>	James Borja Ken Borja Jason Miller Matthew Orot Felix Reyes Judith Amesbury	Tatiana Talavera Jason Biggs Albert Yanger
<b>Hawaii</b>	Ed Ebisui III Khang Dang Clay Tam Gil Kualii Nathan Abe Carrie Johnston	Matt Yamamoto Michael Lee Shyla Moon

*Moved by Goto; seconded by Watamura.  
Motion passed.*

*Regarding the Malaloa longline dock extension project, the Council directed staff to write to Governor Lolo Moliga noting that \$250,000 is available in the Sustainable Fisheries Fund and inquire if the American Samoa government has secured funding and necessary permits for the construction of the dock.*

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

*Regarding development of the Council's 2020-2024 Program Plan and budget, the Council directed staff to include funding to support Council participation in the two new international commissions (North Pacific and South Pacific RFMOs), similar to that provided for the WCPFC.*

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

*Regarding planning for the CCC national workshop on habitat, the Council directed staff to convene a regional workshop of experts to discuss habitat related issues, including non-fishing impacts on EFH and HAPC, prior to the convening of the national CCC workshop.*

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

*Regarding the Council's proposal to request additional funding from NMFS, the Council directed staff to send a letter to the NMFS Regional Administrator conveying the Council's funding priorities to address critical data, monitoring, research and management gaps over the next three years.*

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

*Regarding Administrative Matters, the Council directed staff to evaluate options for improving conservation and management of the Hawaii bottomfish fishery, including an assessment of data collection, consistency of federal and state regulatory measures and harvest controls, and monitoring and enforcement mechanisms.*

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

*Regarding the Okeanos Marianas, the Council directed staff to write a letter to the Okeanos-Foundations for the Sea in New Jersey and cc the Governors of Guam and the CNMI noting that the Council commends the development of the Okeanos Marianas vessel as a traditional method for addressing climate change impacts and encourages the Foundation to keep the vessel in the CNMI and transferring its ownership to the local Okeanos Marianas organization in Saipan. The Council sailed on the vessel in Saipan the weekend before Super Typhoon Yutu devastated the island, closing ports and airports, and leaving the island without electricity. Typhoons are expected to increase in intensity in the future due to climate change, and the Okeanos Marianas provides interisland passenger and cargo transport that can land on beaches and does not depend on conventional fuel.*

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

*Regarding Administrative Matters, the Council* **directed staff to utilize a rotational sequence for future allocations of US Participating Territory specified fishing agreements.**

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

*Regarding Administrative Matters, the Council* **appointed the following Council members as its officers for 2019:**

- a. Archie Soliai, Chairman**
- b. Christina Lutu, vice-Chair, American Samoa**
- c. Dean Sensui, vice-Chair, Hawaii**
- d. Michael Duenas, vice-Chair, Guam**
- e. John Gourley, vice-Chair, CNMI**

*Moved by Goto; seconded by Watamura.*

*Motion passed.*

*Regarding Administrative Matters, the Council* **directed staff to prepare letter to NMFS requesting that the financial interest attribution policy requiring recusal not apply to employees of a company.**

*Moved by Goto; seconded by Sensui.*

*Motion passed.*

## **XVI. Election of Officers**

Agenda item reported in prior presentation.

## **XVII. Other Business**

No other business, meeting adjourned.