



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

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

**March 10-12, 2020  
Laniakea YWCA  
Honolulu, Hawai'i**

Approved by Council:

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

Archie Sollai, 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:

- Taotasi Archie Soliai, chair (American Samoa; by web conference)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Michael Duenas, vice chair (Guam)
- Howard Dunham, vice chair (American Samoa)
- Ed Watamura, vice chair (Hawai‘i)
- Michael Goto (Hawai‘i)
- McGrew Rice (Hawai‘i)
- Monique Amani (Guam)
- Ryan Okano, Hawai‘i Department of Land and Natural Resources (Hawai‘i DLNR) (designee for Suzanne Case)
- Michael Tenorio, CNMI Department of Lands and Natural Resources (CNMI DLNR) (designee for Anthony Benavente)
- Chelsa Muna-Brecht, Guam Department of Agriculture (DOAg)
- Henry Seseapasara, American Samoa Department of Marine and Wildlife Resources (DMWR)(designee Domingo Ochavillo also in attendance)
- Michael Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)
- Brian Peck, US Fish and Wildlife Service (USFWS; by web conference)
- Jason Holstead, US Coast Guard (USCG) (designee for Rear Adm. Kevin Lunday, commander for USCG District 14)

Also in attendance were Council Executive Director Kitty Simonds, NOAA Office of General Counsel Fred Tucher and Scientific and Statistical Committee (SSC) Chair Jim Lynch. Council member Michael Brakke, US Department of State, was absent.

Soliai opened the 181<sup>st</sup> Council meeting with a greeting and prayer. He apologized that he could not attend in person due to the coronavirus and the screening protocols that American Samoa has implemented.

## **II. Oath of Office- Howard Dunham**

Tosatto swore Dunham into office.

## **III. Approval of the 181<sup>st</sup> Agenda**

Soliai asked for a motion to approve the 181<sup>st</sup> meeting agenda.

Moved by Duenas: seconded by Gourley.

Motion passed with Okano opposing.

Okano requested that agenda item 7.D.2, Aquarium Fisheries Update, be removed from the agenda, noting that the Hawai'i DLNR felt that it would be inappropriate to talk about solely state matters in a venue with a focus on federal fisheries.

Tucher advised that the State of Hawai'i may raise objection on whether the Council takes action on state fisheries matter, but there is no legal merit to say that the Council cannot discuss a state fisheries issue.

Tosatto concurred with Tucher on not removing the item. He said that discussions need to be free and open and that Hawai'i fishing communities are relevant items to discuss in the Council context.

Tucher said that the issue could go in the other direction, noting that when the Council is discussing a federal fishery management issue that has no impact on state fisheries, such issues can be appropriately addressed at this Council by individual State representatives.

Okano said that the Council can discuss the item, but the State would not be provide a presentation.

#### **IV. Approval of the 180<sup>th</sup> Meeting Minutes**

Soliai asked for a motion to approve the 180<sup>th</sup> meeting minutes

Moved by Rice: seconded by Duenas.

Motion passed.

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

Simonds addressed the status of the bottomfish stocks and fisheries in the territories. She said the problem stems from the lack of accurate and complete data from fishermen, which is due in part to the lack of outreach to educate the fishermen on the importance of reporting their catch and the lack of laws requiring all fishermen to report. Hawai'i has a similar situation with the pelagic small-boat fisheries, particularly the noncommercial sector. The status of the stocks targeted by these non-longline vessels are either healthy or unknown because the data and life history information needed for them to be assessed are missing. Stock statuses can change rapidly while federal fishery measures take years to develop and implement.

At the 180<sup>th</sup> Council meeting, the Council directed staff to evaluate the effectiveness of the Council's management measure for the Hawai'i small-boat pelagic fisheries and identify information gaps in the existing data collection programs needed to support management of the fisheries. Staff held public meetings throughout the archipelago and found that fishermen in Hawai'i, like those in the territories, would benefit from stronger outreach and education. She noted that the Advisory Panel (AP) members and Education and Outreach Program have developed plans to address this in the coming months.

Simonds described how the Council manages its fisheries through an ecosystem approach as required by the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Because the region's fish populations, fishermen and habitats straddle state and federal waters, and in some cases international waters, the Council engages with all affected fishing communities and collaborates with all governing bodies with responsibility for shared resources. Fisheries management is complex with multiple dynamic natural and regulatory processes and phenomena, including political ones. Misunderstandings arise, which is an issue shared by all eight of the nation's Regional Fishery Management Councils. The Councils are working together to develop an ongoing Council member training.

Congressman Ed Case hosted Congressman Jared Huffman's Listening Sessions on fishery issues in preparation for the next reauthorization of the MSA. Council members invited to testify included Goto, Case, Tosatto and Soliai. Watamura read the statement for Soliai, who was unable to attend. Sol Kahooalahala, a native Hawaiian kupuna, recommended that the MSA recognize native Hawaiians. He was apparently unaware that the MSA already recognizes indigenous communities through such programs such as the Western Pacific Community Demonstration Project Program, which authorizes \$500,000 annually to support traditional fishing communities. However, Congress has yet to appropriate these funds. All panelists agreed that the MSA is working and does not need an overhaul.

Simonds also spoke about a federal initiative to address redundant required assessments conducted under both MSA and the National Environmental Policy Act (NEPA). Eliminating the duplication should make the rule-making process for fisheries management more efficient.

Simonds reported that the Council is waiting for the biological opinions (BiOps) for the Hawai'i deep-set longline fishery and American Samoa longline fishery, including the application of the turtle model developed for the shallow-set fishery. For the international arena, Simonds said the Council is working with interested parties to prepare for the Western and Central Pacific Fisheries Commission (WCPFC) meeting where new conservation and management measures that allocate resources such as bigeye tuna longline and purse-seine fisheries will be developed. The Council is also planning for an area-based management international workshop in preparation for WCPFC as well as the initiative to develop a framework within the United Nations to address biodiversity beyond national jurisdiction (BBNJ). The Council hopes to partner with the Food and Agriculture Organization on the workshop initiative.

## **VI. Agency Reports**

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

Tucher reported on the following.

*Territory of American Samoa v. NMFS*: NMFS had provided an exemption to eligible longline vessels from fishing in the Large Vessel Prohibited Area (LVPA). In 2017, the District Court's finding was against NMFS. It said NMFS had not adequately considered cultural fishing as required under the Instruments of Cession, which the court found to be other applicable law under the MSA. NMFS appealed the decision. The Ninth Circuit Court of Appeals heard oral arguments on Feb. 5, 2020. The three-judge Circuit Court Panel asked a number of clarifying questions regarding what the Instruments of Cession actually protect regarding cultural fishing

rights and whether they extend to the LVPA. The case is awaiting the Ninth Circuit's final decision.

*American Tunaboat Association (ATA) v. Ross*: ATA had requested to be considered a formal applicant under the Endangered Species Act (ESA) Section 7 for an ongoing consultation for the purse-seine fishery. ESA Section 7 gives formal applicants certain participatory rights in terms of NMFS's consultation. NMFS denied this request as NMFS did not find that applicants are appropriate in broad-scheme programmatic consultations. This decision was upheld in a District Court decision in July 2019; the court found that NMFS's decision was reasonable and entitled to deference. ATA filed a Notice of Appeal but later dismissed it. The District of Columbia Court of Appeals dismissed this action on Jan. 8, 2020.

A pending complaint in the District Court of District of Columbia filed by the Center for Biological Diversity (CBD) in August 2019 alleges that NMFS failed to designate critical habitat for 20 threatened species of coral in the Caribbean and Pacific. NMFS entered a stipulated settlement agreement that was filed in February 2020 under which it agrees to submit a proposal to the Federal Register to designate critical habitat by July 31, 2020.

A second *CBD v. Ross* is a missed deadline case to issue a 12-month determination as to whether listing under the ESA is warranted for cauliflower coral. The correct date that CBD filed the Notice of Intent (NOI) to sue is May 20, 2019. The written report incorrectly says it is Feb. 5, 2018. NMFS had published a 90-day positive finding that listing may be warranted. NMFS was required to file a final finding 12 months after the petition. That deadline was missed on March 14, 2019. NMFS entered into a stipulated settlement agreement on March 4, 2020, and has agreed to submit its 12-month finding to the Federal Register by June 30, 2020.

A 60-day NOI from the Conservation Council of Hawai'i is for NMFS's failure to complete ESA consultation for the threatened oceanic whitetip shark regarding the two Hawai'i longline fisheries, American Samoa longline fishery and the purse-seine fishery. The consultation on the Hawai'i shallow-set longline fishery is now complete. NMFS has been providing monthly updates to the Conservation Council of Hawai'i regarding this NOI.

A 60-day NOI from the Hawaii Longline Association (HLA) is for NMFS's failure to meet its statutory deadline to complete a consultation on the Hawai'i deep-set longline fishery. HLA has not filed a complaint on this NOI.

Soliai asked Tucher to provide the speculative date when the court would make a decision on the American Samoa LVPA case.

Tucher said it would be difficult to predict. It could take anywhere from six months to three years. The judges seemed familiar with the record, based on the discussions at the hearing, which he judged to be a positive indicator of a timely decision.

Simonds asked if other fishing industries or parties have requested to be a formal applicant under ESA Section 7.

Tucher was not aware of any, although requests that were denied may not have reached the lawyers. He asked Tosatto if he knew of any.

Tosatto said other fisheries have applied to be applicants, which NMFS has generally denied. The ATA case was the second time the case has gone to court. In one case, HLA prevailed, and, in this case, NMFS did.

Simonds said that HLA's success was probably the reason that ATA attempted the same.

Watamura asked Tucher if there were current legislative attempts to revise the ESA due to the amount of lawsuits filed naming agency actions not met due to its stipulations as the cause.

Tucher said that some of regulations are currently under challenge but he was unaware of any changes to the ESA.

Tosatto said the legislative branch has the responsibility to propose changes to the ESA. NMFS has attempted to develop and implement policies to efficiently work within the ESA regulations and has shared the difficulty of operating within the given timelines to the legislature.

## **B. National Marine Fisheries Service**

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

Tosatto presented the PIRO report. He noted that some of the sections including the protected species and international discussions would be covered in other agenda items and so he did not elaborate further on these in his report.

PIRO published a notice of availability of Amendment 10 (regarding hard caps and trip limits for loggerhead and leatherback turtles in the shallow-set longline fishery) responding to the Council's recommendation for the Pelagic Fishery Ecosystem Plan (FEP) implementing the reasonable and prudent measures (RPMs) of the shallow-set BiOp. Amendment 10 and the proposed rule will be out for public comment until March 23, 2020, and March 20, 2020, respectively. Following the public comment period, PIRO will review and respond to the comments, draft a final rule and then approve, disapprove or partially approve the amendment. If a decision is not made, the Amendment will become effective.

PIRO Sustainable Fisheries Division (SFD) is starting a new grant competition to fund recreational and non-commercial fishing projects in the region. Up to five projects totaling \$100,000 will be awarded. The priorities are to increase the visibility of, access to and importance of sustainable recreational, noncommercial fisheries in the communities that depend on the resources.

Tosatto also reported on SFD's initiative from 2019 to provide an in-person protected species workshop to nine owners and operators located in San Diego who operate under Hawai'i longline permits. He also reported that critical habitat designations for the oceanic whitetip shark and giant manta ray were not determinable or prudent, according to NMFS.

NMFS and USFWS are coordinating with the CNMI government to prepare for the public review of the draft Monument Plan and associated environmental assessment (EA) for the Marianas Trench Marine National Monument. Once work is completed, the two agencies will make the documents available for public review.

Tosatto highlighted that Scott Bloom, who handles the Council's federal award, was key in working with several NOAA General Counsels on an issue with the renewal of the five-year award regarding the word "research" and whether fishery management councils can conduct research. Research is a core component of what the Council does. A restriction from doing research would inhibit Council staff in the Pacific region and nationwide from carrying out their mission.

Soliai asked Tosatto if he wanted to move agenda item 6.B.2 regarding NEPA procedures to later in the agenda.

Tosatto said the agenda item can stay in the order but clarified that the NEPA regulations are not issued by NMFS, even though it will be reported under the NMFS Agency Report section.

Gourley asked Tosatto when the draft Monument Plan would be available for public review.

Tosatto said his best estimate is it would be available in 2020.

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

T. Todd Jones presented the PIFSC report on behalf of the director, Michael Seki. New hires included Erin Bohaboy (research fishery biologist), Michael Kinney (Life History Program research biologist) and Jonathan Sweeney (research economist). Summer Martin moved from research ecologist to program leader for the Marine Turtle Biology and Assessment Program, and Ryan Rykaczewski is the program leader for the Habitat and Living Marine Resources Program. Stephanie Dukes left the Insular Fishery Monitoring Program to join the PIRO Observer Program. Brian Langseth step down as stock assessor for the Fisheries Research and Monitoring Division to take a NOAA position in Seattle. Ivor Williams has moved from the Ecosystem Sciences Division.

PIFSC completed the fall 2019 main Hawaiian Island (MHI) bottomfish fishery-independent survey. The video analysis is complete, and the data analysis is underway. The cruise's main objective was to include the 2019 fishery-independent survey data in the 2020 MHI bottomfish assessment. PIFSC is deploying cameras through collaborations with commercial fishing vessels, which provide more flexibility than deployment from large NOAA ships.

PIFSC completed leg 1 (25 days) of the winter Hawaiian Islands Cetacean Ecosystem and Assessment Survey, planned for 51 days, with leg 2 currently underway. A total of 203 cetaceans were sighted. This is the first winter survey, with only summer and fall surveys having

been conducted in the past, allowing NMFS to understand changes in densities throughout the year.

The NOAA Ship *Oscar Elton Sette* will no longer go to American Samoa in the summer. The planned research will still occur but will be shore-based, working with fishermen to obtain biosamples to provide data for the territorial bottomfish assessment. PIFSC plans to enhance fishery-dependent data collection of shallow-water management unit species (MUS) through remote, underwater surveys using baited video cameras that are land-based launched. The main reason for not using the *Sette* is to avoid removing three to four thousand pounds of fish for research purposes that could result in using one-third to one-half of the interim overfishing limit on bottomfish.

The NOAA Ship *Rainier* was in transit to Hawai‘i and will be outfitted with the objective of heading to the Mariana Archipelago to conduct mapping, which PIFSC uses to set up its random design for fishery-independent surveys.

The Hawaiian Monk Seal Research Program held a technical workshop on toxoplasmosis in Hawaiian monk seals in October 2019, which included 20 experts from nongovernment organization (NGOs), the University of Hawai‘i, PIRO and PIFSC. The main goals were to complete in-progress research and continue ongoing disease monitoring; fully exploit current resources, data streams and samples; generate new data streams and/or analysis to address high-impact knowledge gaps; and leverage continued partnerships in the ongoing understanding of toxoplasmosis and its impact on Hawaiian monk seals.

The Marine Turtle Biology Assessment Program now monitors green sea turtle nesting on Tern Island in the Northwestern Hawaiian Islands (NWHI) due to the 2018 Hurricane Walaka removing a large portion of East Island where nesting mainly occurred previously. In 2019, a total of 373 females were observed and identified, with about 270 on Tern Island and 100 on East Island. However, the nesting on East Island is most likely not viable as it often was inundated with high tides and/or waves. While PIFSC saw an increase in nesting on Tern Island in 2019, not all of it is viable due to areas being too shallow for the females to dig a proper nest. Females also had issues with crawling across the island and getting into entrapments.

PIFSC staff members Jamie Gove and Jonathan Whitney published a peer-reviewed paper in the *Proceedings of the National Academy of Sciences* about larval fish nurseries in the coastal waters of Hawai‘i. The paper looked at sea surface slicks that showed higher densities of pelagic and demersal larval fish and also micro-plastics (one millimeter in diameter) within the slick and in the guts of the larval fish. While the ramifications of this are not yet understood, plastics eaten by adult fish can lead to their inability to obtain needed resources or nutrients, gut impaction or death.

The Coral Reef Advisory Group in American Samoa conducted 60 benthic surveys in January 2012 and 2015 and will conduct a new survey in 2020. PIFSC is doing baseline assessments in priority watersheds to understand how coral cover is changing with time.

Okano asked whether PIFSC will set up turtle monitoring on other islands besides Tern.

Jones said PIFSC is conducting observations throughout French Frigate Shoals mainly by boat, due to the size of some of the islands. PIFSC is also cross-training monk seal researchers to observe turtle nesting and tags and will look at how turtle distributions might change throughout the NWHI.

Soliai asked whether the *Sette* trip to American Samoa had been canceled, and, if so, what were the plans to continue with shore-based assessments.

Jones said Joe O'Malley from the Life History Program will contact the American Samoa DMWR to evaluate what can be done. The objective would be to have the Life History Program scientists go to Tutuila and Manu'a for up to a month to work with fishermen to collect biosamples (otoliths and gonads) from the fish caught so that the fish can still be part of the commercial fishery. This decision was made based on the amount of fish that would have been removed using the *Sette* and its three smaller boats.

Soliai supported PIFSC staff going to American Samoa to assist in gathering data through shore-based assessments. He reiterated that the region is data-poor and that that is the reason for the current bottomfish assessment of overfished.

Ochavillo said that he suggested to O'Malley to have the PIFSC director write an official communication to DMWR outlining the schedule and goals for the summer and then to work closely with the PIFSC point of contact in American Samoa to make sure DMWR informs their committee about all planned activities and expected outcomes so that the agency can improve its outreach to fishermen and other stakeholders.

Jones said that PIFSC would work on that.

Watamura encouraged PIFSC to go to American Samoa to do research in order to rectify the last bottomfish assessment, which is foremost in the Council's priorities to address. On a separate issue, he asked if Jones thought that the green sea turtles in French Frigate Shoals have been able to adapt to new nesting grounds.

Jones confirmed it is PIFSC objective to work with American Samoa DMWR to increase its life history information, which will inform stock assessments, and also work on creel surveys. Regarding green turtles, Jones believed PIFSC is seeing in real-time the intrinsic mapping capability of marine turtles. In any given year, not all females return to nest. In 2018 with Hurricane Walaka, animals showed up and then left. In 2019 and beyond, returning and new female turtles will return to the NWHI with no prior knowledge of what happened to East Island. He thought the turtles intrinsically have a map of French Frigate Shoals and are able to switch among islands to bask or nest. Information from the last three to five years suggested that the majority of turtles foraged in the MHI and then nested in the NWHI. Scientists are now seeing that many turtle stay in the NWHI, moving between multiple islands in the chain, using other nesting grounds or areas that are available.

Soliai asked if the *Sette*'s June 2020 trip was canceled or postponed.

Jones said the only information he had was that the *Sette* would not be going to American Samoa for the Life History Program. This does not mean it would not go to American Samoa for other objectives, but current plans include the ship going to the Mariana Archipelago in 2021.

### **3. Revising National Environmental Policy Act Procedure Provisions**

Ariel Jacobs, PIRO NEPA coordinator, gave a brief overview of the Council on Environmental Quality's (CEQ) proposed NEPA regulation, based on a presentation given to the Council Coordination Committee (CCC) by Katie Renshaw, NOAA NEPA coordinator, on Feb. 11, 2020. The general guidance that NMFS follows includes NOAA Administrative Order 216-6A issued in 201 and a companion manual issued in 2017. The NMFS policy direction on MSA and NEPA is housed in Appendix C of the companion manual.

President Trump's Executive Order 13807 directed CEQ to ensure agencies apply NEPA in a manner that reduces unnecessary burdens and delays. This is the first substantive overhaul of implementing regulations since NEPA started in 1978. On June 20, 2018, CEQ published an Advance Notice of Proposed Rulemaking requesting comments on the scope of potential revisions to CEQ regulations. The Proposal Rule was published on Jan. 10, 2020. Public comments were due March 10, 2020. Public hearings were held in Washington, DC, and Denver, Colo. The CEQ aimed to update and clarify the regulations to facilitate more efficient, effective and timely NEPA reviews; respond to numerous questions raised over the past four decades regarding NEPA implementation; and reiterate and support the goals of the original rulemaking.

Proposed changes include environmental impact statement (EIS) and EA time and page limits; term changes, deletions (e.g., direct, indirect and cumulative effects) and updates; requirement to include cost estimate of preparing the EIS; a new section to determine NEPA applicability; and increased flexibility to design and customize public participation.

After the public comment period closes, CEQ will review comments received and develop a final rule based on those comments. Internally, federal agencies will also have an opportunity to comment on the proposed regulations. Once the final rule has been published, each federal agency has one year from that date to publish proposed revisions to procedures.

Jacobs described the key issues relevant to fishery management and the MSA.

- Functional equivalency – for proposed regulations, analysis under another law may satisfy or take the place of a NEPA document if it met the criteria that a NEPA document covers.
- Exhaustion of Remedies – solicitation of public comments would be moved so that they are included in the Notice of Intent to ensure that comments are timely.
- Contents of Analyses – for the EIS, the term reasonable alternatives would be refined to economically and technologically feasible alternatives and alternatives outside the agency's jurisdiction would be removed.
- Impacts – the scope of impacts considered would narrow.

- Time and page limits - a two-year limit for completion of an EIS from publication of Notice of Intent to signing of the Record of Decision, and a one-year time limit for completion of an EA; 150 page limit for an EIS, 300 pages for a complex EIS and 75 pages for an EA. The proposed rule would allow timing modifications, if necessary, to comply with another statute. This specifically refers to issues that fishery management councils have had with slightly different timing requirements between MSA and NEPA.
- Mitigated Categorical Exclusions and Finding of No Significant Impact – new section to address these.
- Efficiencies – changes would allow the use of documents such as Supplemental Information Reports.

Simonds said the Council provided comments in 2018, along with the other regional councils, emphasizing that the 2006 MSA reauthorization included a section called Environmental Review Process Procedures that directed the Secretary of Commerce to work in consultation with the Councils and CEQ. NMFS took until 2014 to publish a NEPA Policy Directive in the Federal Register, and the Councils were in disagreement with the directive. The Councils' previous comments stressed that NEPA is an important statute for them but that it was often misused and vulnerable to subjectivity. Simonds was pleased to hear about the proposed updates and will work with NMFS and CEQ on functional equivalency. She reminded the Council that the comment deadline for the proposed rule was that day. She said, if the Council did not have any objections to the draft letter prepared by staff, it was ready to be sent in.

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

Mark Fitchett, Council staff, reported on behalf of Brakke. Several meetings were canceled or postponed due to the COVID-19 outbreak. The US meeting with the Fisheries Forum Agency to clarify the Terms of Fishing Access under the South Pacific Tuna Treaty from 2021 and beyond was canceled. The meeting with the Heads of State from the Pacific Community will be postponed until May 2020. The US State Department is interested in the Biodiversity beyond National Jurisdiction (BBNJ) negotiations, which will be discussed in agenda item 11.H.2. The State Department is investigating two encroachments of foreign fishing vessels in the US exclusive economic zone (EEZ). Lastly, the Department collaborated with the South Pacific Regional Fishery Management Organization (RFMO) to make progress on jack mackerel allocation and squid management and worked on developing international agreements on boarding on the high seas inspections.

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

Peck reported that USFWS hired Ric Lopez as the new refuge and monuments supervisor for the Pacific Islands Refuges and Monuments Office. The USFWS Wildlife and Sport Fish Restoration Program is working with the State of Hawai'i on its permitting to renew the fish aggregation device (FAD) program. A beached whale at Ritidian Beach in the Guam National Wildlife Refuge was successfully returned to the water alive.

## **E. Enforcement**

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

Holstead reported that, from Oct. 1 to Jan. 31, 2020, the USCG 14<sup>th</sup> District handled 292 cases of search and rescue, law enforcement and marine environmental protection/response, and ports, waterways and coastal security missions. There were 31 living marine resources enforcement boardings on domestic fishing vessels, and one aviation flight flew on a suspected illegal, unreported and unregulated (IUU) incursion in the NWHI. The case package was sent to the NOAA Office of Law Enforcement (OLE) for disposition. USCG staff participated in several RFMO meetings including the WCPFC 16th regular session in December 2019 in Port Moresby, Papua New Guinea and the South Pacific RFMO Commission's 8th meeting in February 2020 in Port Vila, Vanuatu.

Goto asked under which flag nation the IUU incursion occurred.

Holstead said information would be available after the ongoing case is finalized.

Muna-Brecht asked whether there was an incursion in the EEZ around Guam.

Holstead confirmed that a fishing vessel incursion occurred in the EEZ around Guam. The USCG is gathering information to complete the case package before turning it over to Guam. That incident happened in February, after the current report period, and will be on the next Council meeting report. By then, the case will still not have been adjudicated, and details will not be available until the case is finalized.

Soliai asked for an update on the 2019 incident involving a local longline vessel that was boarded by foreign agents within the US EEZ.

Holstead said that case was outside of the USCG's jurisdiction since it involved other nations. The US State Department took it over and worked directly with the countries.

Soliai asked that it be put in the Council recommendations to write a letter to the State Department to get an update on that case.

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

Martina Sagapolu reported that NOAA OLE had 280 protected species, fishery management and sanctuary incidents during the period. The OLE is at the end of a protected resource detail that provided enforcement assets and support to Maui and around the MHI related to the humpback whale season.

NOAA OLE issued several summary settlement notices relating to sustainable fishery violations involving the Hawai'i longline fleet, a couple of vessel monitoring system (VMS) cases and foreign incursions. One case related to a Marshall Islands-flagged purse-seine vessel operating within the US EEZ. Two additional cases were pending; the vessels would be identified once the NOAA Office of General Counsel has those cases.

NOAA OLE Assistant Director Bill Pickering retired after 47 years in law enforcement. NOAA OLE completed many patrols and attended outreach events covering all of the MHI related to protected resources and sustainable fisheries. Officers have provided coverage to the American Samoa office. An enforcement officer will report to Pago Pago sometime in April 2020. Two additional personnel will join the Pago Pago staff once administrative issues are cleared.

Duenas asked if there was an update to the report at the October 2019 Council meeting that there might be a third agent for the Mariana Archipelago.

Sagapolu said NOAA OLE has received funding for additional enforcement personnel for the Mariana Archipelago, one for American Samoa and one for the Honolulu office.

Gourley asked if the three-person team in the Mariana Archipelago would be stationed in Guam or CNMI.

Sagapolu said that, due to existing challenges, the team will be stationed in Guam, but the new officer's area of responsibility will be CNMI and will make frequent visits.

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

Elizabeth O'Sullivan gave the NOAA Office of General Counsel, Enforcement Section (GCE) report. The GCE website has all of the charging decisions, case adjudication documents and more. GCE had 10 cases pending consideration on the issuance of a civil penalty. There were two charged cases. *Ocean Conquest* interfered with the NMFS observer onboard in violation of the WCPFC Implementation Act; the penalty assessed was \$34,000. *Ocean Galaxy* failed to release silky sharks as required by the WCPFC Implementation Act; the respondents were assessed a civil penalty of \$119,000. Three were three resolved cases in the Pacific Islands Region. *Ocean Kaimamala* fishing in the Southern Exclusion Zone (SEZ) in violation of the Marine Mammal Protection Act (MMPA); the compromised penalty paid was \$2,250. Tourist Jake Koehler was charged with harassing a Hawaiian monk seal; the case settled for \$4,000. *Triple Dragon* was charged with fishing without a valid license under the High Seas Fishing Compliance Act; the compromised penalty paid was \$1,350.

#### **F. Public Comment**

Eric Kingma, HLA executive director, provided public comment on an incident that was briefly mentioned in the US State Department report. On Feb. 1, 2020, a Taiwanese-flagged vessel reportedly had an interaction with a Hawai'i longline-permitted vessel that the Hawai'i vessel owner described as terroristic threatening. The fishing gear from the two vessels became entangled. The Hawai'i vessel later reported that it was harassed by the Taiwanese-flagged vessel for close to an hour by being followed in close proximity. Later that night, the foreign vessel got close enough to throw paint on the Hawai'i longline vessel's deck, starboard side and fishing gear, causing several thousand dollars' worth of damages. HLA was made aware of the incident with a request for the State Department and USCG to follow up. Kingma asked if the USCG inquired with the US State Department and Taiwanese officials about the incident. If not, he suggested that the Council consider recommending that the State follow up on this issue and

take appropriate diplomatic action. He said that Hawai'i longline vessels are seeing increased numbers of foreign vessels in their historic fishing grounds, especially since Hawai'i vessels have been pushed out of the EEZ and fish primarily on the high seas. He also reminded the Council that Japan recently transferred 6,000 metric tons (mt) of bigeye tuna to Chile to fish in the Eastern Pacific Ocean and 2,000 mt to Korea to fish near Hawai'i.

Tosatto said he communicated with Brakke at the South Pacific RFMO meeting and hoped to raise this issue with Taiwanese officials, but they were not in attendance at the meeting in Vanuatu. He said Brakke was following up with the Taiwanese government about this incident. Similar to the incident with the Cook Islands and other patrol boats in American Samoa, State officials can either take the diplomatic or non-diplomatic track. The US also has a relationship with the same parties within the WCPFC Technical and Compliance framework, and the incident was raised there also to prevent recurrence. NMFS expects Taiwan to control its vessels on the high seas, and it will follow up with the State Department.

Holstead said that the USCG did take action by notifying the State Department and reviewing the information it had. He said it was extremely helpful for HLA to contact the USCG quickly with information. The investigators were able to meet the vessel at the pier within a day of when it landed to take the captain's report and send it to the State Department.

Sagapolu said that the NOAA OLE and USCG are monitoring activities outside of the US EEZ but encouraged HLA vessels to report foreign-flagged vessels they see while in the area to the USCG District 14 since it is available at all times and will investigate.

Watamura said that Kingma's report highlighted the unintended consequences of closing most of the US EEZ around Hawai'i to fishing due to the establishment of the Papahānaumokuākea Marine National Monument and the SEZ for false killer whale interactions. These closures force Hawai'i longline vessels to fish where foreign vessels are also fishing and increase the chance of these types of incidents occurring in the future.

Soliai said the map of fishing effort around the US EEZ near Hawai'i highlights the presence of foreign vessels fishing right where the US EEZ ends. He suggested that the State Department be more forceful in addressing concerns from the Hawai'i fleet to ensure that fishermen are protected and industry continues to fish safely in international waters.

Simonds asked the USCG and NMFS if they are working with Global Fishing Watch (GFW) to detect vessels that turn off their VMS. She understood the Bloomberg Foundation gave GFW \$5 million to work on this.

Tosatto said NMFS is engaged on a variety of fronts with GFW for specific target projects. In the WCPFC context, there is interest in the comparison between Automatic Identification System (AIS) information and VMS, including the use of AIS information to detect vessels that turn off VMS, as well as whether AIS information could supplant VMS, for which NMFS pays a lot of money. Japan proposed pursuing that type of work at the WCPFC meeting. He said he can follow up with his contacts to provide the Council with an update.

Holstead confirmed that the USCG does work closely with GFW to “turn the light on dark fishing vessels,” along with other electronic monitoring (EM) processes.

Simonds asked if the USCG is able to see foreign vessel incursions in the US EEZ, since this is not visible from GFW.

Holstead said it could in some cases but not in others, depending on how long the vessel is in the EEZ. Even though the USCG may detect a vessel incursion, it may not be able to respond if it does not have a resource in that area.

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

*Regarding the NEPA procedural provisions, the Council **directed staff to send the comment letter, as drafted by staff, providing comments on the proposed revisions to the NEPA procedures.***

*Moved by Rice; seconded by Duenas.*

*Motion passed.*

*Regarding enforcement issues, the Council **requested the State Department provide an update and further information about the boarding of a US longline vessel by foreign government officers in the EEZ around American Samoa last year.***

*Moved by Rice; seconded by Duenas.*

*Motion passed.*

*Regarding enforcement issues, the Council **requested the State Department follow up on the complaints of assault by foreign fishing vessels on the Hawai‘i longline fishery and take the appropriate diplomatic actions.***

*Moved by Rice; seconded by Duenas.*

*Motion passed.*

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

### **A. Moku Pepa**

Watamura reported on the public scoping meetings on small-boat fisheries held around Hawai‘i and acknowledged the assistance of the AP and its leadership. It was a rewarding process to speak with local fishermen, explain the Council process and receive feedback. He hoped the Council would continue to do so in the future. The Council’s ecosystem-based management approach requires information from land to pelagic waters, so there needs to be a good working relationship that benefits the fishery and the fishermen. There is no line of demarcation in the ocean that separates state from federal, and fish swim between both areas. What happens in the deep ocean can affect what happens on land. All sides need to work together for the fishermen because it comes down to the fishermen and the community.

Okano introduced Bryan Ishida and Jules Kuo to present the State of Hawai‘i report.

Ishida, Division of Aquatic Resources (DAR) aquatic biologist, reported on the period September 2019 through January 2020 beginning with the MHI deep seven bottomfish fishery. As of January, 273 licensed fishermen made 1,027 fishing trips and caught 90,278 pounds, which has resulted in the use of 18.3% of the annual catch limit (ACL). He provided figures showing the catch per season and noted that this season was the lowest harvest within the time series. Four Bottomfish Restricted Fishing Areas (BRFAs) were opened on July 1, 2019. Data from the BRFAs are needed as under-reporting may be occurring. DAR worked with the Hawaii Fishermen's Alliance for Conservation and Tradition to spread awareness on the importance of accurate reporting.

The 2019 uku season involved 284 fishermen who made 1,304 trips and caught 88,789 pounds, or 69.9% of the ACL. Total trips increased slightly, but all of the numbers were below their 10-year averages.

For Kona crab, 23 licensed commercial fishermen made 81 trips and caught 5,292 pounds, or 17.2% of the 2020-23 ACL in 2019. [No ACL was published in 2019.] All of the numbers were increases over 2018 but well below their 10-year averages. Fishermen attribute the long-term decrease in the Kona crab fishery to regulatory changes such as the no-take of females. DAR is taking steps to change the revise the regulations for Kona crab.

A total of 739 licenses were issued or renewed so far in 2020 for revenue of \$73,180. As fishermen are less active in the winter months, an increase in the coming months was not expected. The Online Dealer Report system was implemented on Oct. 14, 2019. The online adoption rate was 90% among the approximately 170 dealers across the state, with an overall compliance of 94%.

Two conservation and management access permits were granted for the Papahānaumokuākea Marine National Monument. Requests for access are typically low during the winter months; more requests were expected as the weather improves. FADs saw moderate activity during this period; a couple of them were recovered or reported missing from September to January.

Sesepasara asked about the size of the bottomfish fishing boats.

Okano said they are smaller boats and deferred to Watamura on the actual size.

Watamura said bottomfish boats range from 20 to 30 feet.

Kuo, DAR ballast-water and biofouling coordinator, reported on vessel biofouling and aquatic invader impacts as well as fishing vessel biofouling management best practices. The Western Regional Panel Coastal Committee, comprised of western regional states including Hawai'i, developed best management practices or best practices for recreational vessels regarding biosecurity or aquatic invasive species. DAR is working on best management practices for fishing vessels and is seeking initial feedback on its draft. Kuo described biofouling as the attachment of organisms to the bottom of ships or to hard substrate and as a vector pathway that

can transfer organisms interisland or internationally. Biofouling can introduce diseases, fish parasites and invasive organisms that out compete natives for space and prey as well as destroy habitat or affect human health. Fouling on fishing vessels may produce drag affecting fuel efficiency. The impacts of aquatic invasive species are well documented, but they are not as well documented for fishing vessels and biofouling. Kuo presented a list of best practices for maintenance including using anti-fouling paint such as copper oxide or a type of releasing agent; using an appropriate method to clean the hold and niche areas; and hauling the boat out of the water if it is not being used for a long period of time to desiccate organisms already attached. Best practices for operational periods include cleaning the boat before departure, defouling gear, having a plan for managing biofouling, and disposing of bait and waste in a trash can on land. She requested comments on the practicality and feasibility of the best practices as well as the readability of the document.

Muna-Brecht said that ballast water and biofouling were huge issues for the US Coral Reef Task Force (USCRTF) because of their correlation with the stony coral tissue loss disease that impacts Florida and the Virgin Islands. She asked if there was coordination with the USCRTF on this project and what DAR is doing to make the community more aware.

Kuo said DAR was working internally with its USCRTF representative to ask Congress for additional protections and to develop biofouling rules under the Incidental Discharge Act to protect vulnerable habitats. They are doing a lot of outreach but more needs to be done, including surveys to collect data to measure impacts. They currently lack that capacity.

Muna-Brecht urged other Council members to support efforts to protect corals from these impacts. The loss of coral in Florida and the Virgin Islands from diseases has been linked to shipping routes. She said the US Environmental Protection Agency (EPA) and USCG need to be pushed to develop regulations to distance them from certain corals. She said Congress considered legislation to prohibit states or territories from implementing restrictions that are stricter than federal guidelines.

Kuo said the public would have an opportunity in the summer to comment on EPA's set of 32 incidental discharge regulations, including ballast water and biofouling. That would provide an opportunity to draft a collaborative letter on the need for more protection of coral habitats.

Watamura said highlighting individual problems and its results will get the attention of more people.

Rice said one size does not fit all because harbors are different. In Honokohau Harbor, the top two feet is fresh water. So the fouling in the harbor is minimal compared to others such as Kewalo Basin. The science needs to pay attention to those types of differences.

Gourley asked if the State of Hawai'i is thinking about passing regulatory measures to implement the best management practices.

Kuo said that the best management practices are not regulatory because authority for ballast water and biofouling authority is with the USCG and EPA. The State is providing input and consultation.

Goto recapped the last quarter of 2019 and the first quarter of 2020 in the Hawai'i longline fishery. The bigeye tuna catch limit was reached on Dec. 28, 2019. The second territorial allocation arrangement allowed the fishery to complete the holiday stretch with a strong end of the year. The beginning of 2020 was average to slow due to the weather and migration of bigeye tuna. The shallow-set swordfish fishery started on January 1 with a good number of vessels leaving out of Hawai'i and California, but it has been a short-lived season so far.

Watamura reported that the Council received a letter from Hawai'i DLNR Chair Suzanne Case. He asked Case to provide her concerns to the Council so the Council could address them. [Note: Case's comments were provided later in the agenda and have been moved here as it relates to Hawai'i.]

Case said the letter's intent was to clarify the relationship between the State of Hawai'i and the Council in three areas: consultation, jurisdiction and transparency. The State would like to have consultation on items such as the Marine Conservation Plan (MCP). While she appreciated Watamura's comments on shared jurisdiction, there is a three-mile line. Areas of shared interests such as pelagic and bottomfish should be worked on together, but nearshore fisheries and land-based impacts on nearshore fisheries are state issues. They are working, hopefully in a collaborative manner, to make sure that the Council items are focused on federal fisheries. Transparency is needed to make clear that expenditures from the Sustainable Fisheries Fund are being spent in Hawai'i and the Council is focusing on federal fisheries matters and leaving the state policy and nearshore fisheries matters to the State of Hawai'i.

Gourley expressed his disappointment that the State of Hawai'i refused to discuss any state issues at the Council meeting because he considered Hawai'i like a big brother. Hearing about the aquarium trade and Kona crab is important because CNMI has similar issues and can learn from how the State of Hawai'i handles its issues and its successes and failures. By not discussing those issues, the State of Hawai'i hurts the rest of the region and itself by not allowing for exchange of experiences that might help them. He hoped that Hawai'i would reconsider and discuss the issues that may have relevance to all island areas.

Case said the State is interested in collaborating with Council members in their particular jurisdictions on these issues and would be happy to have those discussions offline. She reiterated that Hawai'i would like to distinguish what is the Council's jurisdiction from state jurisdiction.

Gourley said he was hoping to have those discussions on the record because the Council meeting is an open forum. He asked Case how she defined consultation and to provide examples.

Case said that consultation would be communicating matters that the Council is considering addressing that affects the state. An example would be the aquarium fishery item. The agenda came out without the item having been discussed with the State. She said it is not appropriate for the State to be commenting on a state fisheries matter at a Council meeting. The

most significant example is the MCP for Hawai‘i, in which the State had no involvement. The MCP was already on the agenda when it came out on Feb. 6. She said that the MCP is something that is required to have State approval.

Gourley said that the agenda was sent on Jan. 16.

Case said she looked in her emails and could not find anything prior to Feb. 6.

Gourley asked if her staff received the agenda earlier.

Case did not know.

Gourley said that a response was received from Okano on Feb. 5. The procedure is to reply to staff with comments on the agenda.

Case said attention was being paid to it and comments were provided after it was seen.

Okano said an email was sent asking Council staff to remove items from the agenda. The response was that the Council wanted to leave it on.

Gourley said the point he was trying to make is that the State of Hawai‘i likely received the draft agenda when everyone else did on Jan. 16. The State needs to be timely in its response because it is difficult to get things done at the last minute.

Simonds said it is unfortunate that Case did not see the agenda earlier as a draft was sent several months before the meeting requesting Council member’s comments. That is the first step in getting all of the members to look at the draft agenda, based on previous agendas and ongoing amendments, projects and processes. The MCP was one of them. Staff had reminded the Council members at the October meeting to develop their drafts and go through the public process in the territories. At the current meeting the Council will review the MCPs to provide comments that would go back to the governors, and the governors would send their MCPs to NMFS for approval. For the Pacific Remote Island Areas (PRIA) MCP, the State of Hawai‘i was not included as part of the process in the MSA.

Tosatto said the MCPs are a creature of the MSA. There are four MCPs. Three are developed for the Territories by the governors, submitted for the Council for review and then approved by NMFS. In the case of the PRIAs, the MSA states that the Council shall develop and submit the MCP. It is the PRIA MCP, not the State of Hawai‘i MCP. The link to the State of Hawai‘i comes in a couple of places as grants can be made available to the University of Hawai‘i, an institution within the State of Hawai‘i. A provision in the explanation of the use of the Western Pacific Sustainable Fisheries Fund states that the Council may meet conservation and management objectives in the State of Hawai‘i if monies remain in the fund.

Tosatto said that the word consultation has a problematic connotation. The decision-making of this body is guided by the MSA, the recommendations are forwarded to NMFS, and Tosatto will make those decisions based on the MSA and other applicable law. There is no

applicable law that requires NMFS to consult with a single state among the Council membership because the consultation occurs at the Council meeting. Each member representing the obligatory seat for his/her governor, as well as all of the other members, comes to the meeting to consult in the Council process. Consultation that occurs on a daily basis is not necessarily required by the MSA.

Case said that the State is requesting consultation, communication and collaboration with the Council on the Hawai'i MCP, which the statute says requires the approval of the governor. She said she thinks the State of Hawai'i has likely fallen through a crack in the process. She said the MSA is set up such that international fishery agreements sustain that fishery. The Council has a strategy for sustaining the fishery and an MCP that is aimed at sustaining that fishery. It does not have that kind of agreement in Hawai'i, but there is a Hawai'i MCP that is not aimed at sustaining any fishery. What would be really great based on all of the comments on the issue of the longliners and the small-boat fishers would be an MCP that all parties worked on together and agreed on that was aimed at sustaining fisheries such as pelagic and bottomfish. Funds should be available from the Sustainable Fisheries Fund aimed at joint projects to implement those actions to sustain those fisheries. Her concern was that the MCP was a laundry list of projects in Hawai'i, many of which focus on nearshore fishery waters.

Simonds asked if Case would prefer that those projects not be included in the MCP.

Case said that is correct.

Simonds said that is a comment that can be made to the Council at the meeting.

Case said that is why the State asked for the agenda item to be deferred so that the State can work with the Council on what would be a good MCP.

Tosatto said he did not disagree with the conversation but wanted to clarify on a procedural item. Contrary to Case's statement, the governor of Hawai'i does not submit this MCP. The PRIA MCP is drafted by this Council and does not require the governor's approval. The nature of the MSA allows territories to enter into an agreement with a foreign country, which is why the other MCPs require this, but Hawai'i cannot. The right approach is for the State, in consultation with the Council through the Council process, to develop projects in the PRIAs and State of Hawai'i.

Simonds agreed and added that the process that had been followed on providing comments is Council members would comment on what they would like to see or not see during the agenda. The MCP has been in the works for the last year because of the deadline to submit it. If there is another process that Case would like to see, this is the opportunity to provide comments.

Case said that both staffs should work on a planning process for a year before approval of the MCP.

Simonds said they do that as part of the meeting agenda and discussion at the meeting.

Case said the process for other jurisdictions has not been happening for Hawai'i.

Simonds agreed and said that there is no process for Hawai'i except for being able to comment when the agenda is provided at the Council meeting. The Council, having jurisdiction over the PRIAs, decided years ago to include projects for Hawai'i since Hawai'i sits on the Council and has been involved in the previous iterations of these plans. The State of Hawai'i has had an opportunity to voice its concerns and can go back to check the voting record to see how Hawai'i agreed on the MCP in the past. She noted that the State mentioned consultation on NMFS stock assessments. She asked what the process is that Case would like to see.

Tosatto said NMFS has no consultation requirements regarding the conduct of stock assessments, but consultation goes on every single day with DAR regarding the sharing and use of data. The core requirement is to assess the stocks within the management plans, and some stocks that need to be assessed are those that some may consider nearshore fisheries listed in the management plans. There is no consultation needed except for consultation in the use and sharing of the data. Nevertheless, there has been a long history of collaboration and cooperation in fisheries management in the region, with the State of Hawai'i being the example to be replicated in the territories.

Muna-Brecht said the only real consultation that Guam engaged with the Council was the staff constantly reminding her to submit the MCP. Guam did everything for the plan on its own. She seconded Gourley's point about learning a lot from the conversations that the Council has about local issues facing Hawai'i at Council meetings. She was looking forward to the aquarium fishery issues because Guam is facing a similar issue. It would be a loss if these matters were not discussed face to face in the meeting.

Case suggested that, along with the Council meetings, the Council could provide opportunities to share issues that the jurisdictions are having that are in jurisdictional waters and said she looked forward to that as separate from the Council meetings.

Gourley said that at the listening session, Case provided a testimony claiming the selection of Council members was not transparent and followed that up with a statement that said the Council lacks representation by indigenous Hawaiian community members and a conservation focus. He asked Case what her concerns were.

Tosatto said the process that NMFS followed to get recommendations collected and before the Secretary of Commerce was reasonably clear. The Secretary makes the selections in some Councils, but the process for nominations and selection is the same. Governors are solicited for nominations. The governors' lists are the only source from which NMFS can compile recommendations for the Secretary. NMFS compiles recommendations because NMFS has the charge to look at the qualifications of the individuals nominated. If a governor's list is deemed not qualified because, for example, it does not provide an obligatory set of nominations or it has less than three names, then NMFS would return the package to the governor. There are two types of nominations. An obligatory seat means that the member comes from one governor's list only. Each of the Territories and the State has an obligatory seat that NMFS must make a

recommendation from that governor's list. In addition, there are four at-large seats, and those can be filled from any governor's list submitted in that cycle. NMFS has to provide a balance between commercial and noncommercial as mandated by the MSA and diversity in membership in terms of gender, fishery sector and other factors. The governors need to provide NMFS with a list of individuals who by reason of their occupational or other experience, scientific expertise or training are knowledgeable regarding the conservation and management or the commercial or recreational harvest of fishery resources of the geographical area concerned. If NMFS can see in the nomination that those qualifications with that wording is met and applies all those other layers of balance given the current membership, NMFS will categorize and make a recommendation to the Secretary. That is purposefully a closed process. The lists are made public, and external comments are accepted.

Okano said the MCP request was for collaboration. It was in the best interest of the resources and the people who depend on them, for the State and Council to work together to identify and accomplish a common goal. The State was provided a draft MCP to comment on, but Okano said he would like to develop the draft together. This collaboration would set the stage for future collaborations including stock assessments and ACLs. The State has its own ideas on how to implement ACLs, such as a split allocation between commercial and noncommercial. The State's policy is to prioritize noncommercial and subsistence take over commercial take and that was where this idea is coming from. As the Council moves towards joint management of fisheries, setting the stage on collaboration was important.

Watamura said the lack of noncommercial data was a big black hole as there was little to no information on what that part of the fishery catches. Splitting an allocation with a sector that was unknown was almost impossible. He asked Jones to provide his perspective.

Jones said he appreciated the conversation. He said the Plan Team includes members from NMFS, state, territories and others and provides the opportunity to discuss these types of matters. The Plan Team makes recommendations to the SSC and Council. When it comes to stock assessments, the Western Pacific Stock Assessment Review (WPSAR) steering committee sets the stock assessment schedule and can discuss the process.

Okano asked Jones if the stock assessments utilize a ratio of noncommercial to commercial take.

Jones said it depends on the data available. Data showed that the uku fishery was roughly 74% noncommercial. Data were provided by the agencies to conduct that type of analysis.

Gourley cautioned about using data that was not good quality as the territories learned a valuable lesson in bottomfish.

Okano agreed that the uku ratio was pretty good and asked Watamura's thoughts on it.

Watamura said he saw a lot of commercial catch so that was all he could speak to. He did not know what the noncommercial fishermen were catching. If the ratio were 74%

noncommercial, their catch must be impressive as the commercial fishermen dropped 800 to 1,000 pounds at the auction in one day.

Okano said uku was caught in a variety of ways making it different from many of the other fisheries that were jointly managed. Fish can be taken from shore all the way out to deeper depths using spearing, trolling and other methods. The State was considering to manage this fishery jointly for the benefit of the people of Hawai'i. Commercial take has a place, but the State wanted to ensure that the everyday person has a sustainable take in the fishery as well.

Watumura said, as part of the bottomfish assessment, fishermen spent a lot of time over three years to provide scientists with information. That type of collaboration with fishermen is a good thing.

Simonds added that the SSC, of which Okano is a member, has a role in the WPSAR process. It can provide comments such as which assessments need to be done and the timeframe for completion. The SSC is an additional opportunity the State has to provide comments. She also suggested that Okano has the opportunity to volunteer to chair a future WPSAR that deals with State of Hawai'i fisheries. Some of these fisheries may be in the stock assessment plans, not as a way to take over State management, but to avoid duplication in management measures and decisions.

Gourley noted that Case has stated that reports indicate that Council members benefit from the Sustainable Fisheries Fund, a troublesome appearance of conflict of interest. He asked what reports she was referring to.

Case said they were media reports and she could get him copies.

Gourley asked if she was referring to *Civil Beat*.

Case said yes.

Gourley asked if she read the Council's response to *Civil Beat*.

Case said she did, but it is something that everyone needs to keep a close eye on as she has asked for the expenditures from the Sustainable Fisheries Fund but has not received them. She said it would be helpful if they were more transparent and available to the general public, such as being online, and there were more open discussion about them.

Gourley said she brought up conflicts of interest and asked if she knew which Council members she accused of having a conflict of interest using the Sustainable Fisheries Fund.

Case said she stood by her testimony. The Council needs to be open and transparent about it and make sure everyone is clear on whether there is or is not a conflict of interest.

Gourley said that he was accused of a conflict of interest and read the section of the *Civil Beat* report that referred to him: "John Gourley, who has represented the Northern Mariana

Islands on the WestPac Council since 2014, owns a company called Micronesian Environmental Services. Records show his company has been paid more than \$70,000 from the Sustainable Fisheries Fund as part of a study that collects fish off Saipan. That work was initially contracted before he joined the Council but has continued since.” Gourley said that the report is false as his grants that are related to the MCP were before he joined the Council. The grants he received while a Council member had to do with entirely other different funding sources, Saltonstall-Kennedy and a NMFS PIFSC contract to do biosampling. He said he wrote an e-mail to *Civil Beat* explaining all this, dated May 24, but that did not stop *Civil Beat* from slandering him in public. He said the Council tried to refute these unsubstantiated public embarrassments and *Civil Beat* refused to print the initial letter and redacted the points that misled the reader. The Council had to put the letter on its website because *Civil Beat* would not address it. He said he is angry about Case taking this fake news and making a big deal out of it in front of a congressional legislative panel. He reiterated that there were no conflicts of interest between him and the MCPs. He was extremely disappointed in her testimony with respect to conflicts of interest and referring to the *Civil Beat* articles as justification for her claim that there is conflict of interest with the MCP.

Rice noted that the State gets \$3 million annually from the Sport Fish Restoration Fund. He said he would like to know how that is used. He buys tackle and pays taxes to that fund. He knew part goes to administration and part goes to the Division of Boating and Ocean Recreation, but he did not know what it goes towards and wanted to know.

Case said she would happily talk to Rice about this outside of the meeting.

Duenas said, like Gourley, he wanted to clear the air about his predecessor from Guam who was wrongly accused in *Civil Beat*. It stated that Manny Duenas, president of the Fishermen’s Coop and former Council chair, was soliciting and pushing for the Guam fishing platform. However, the organization that initiated that project was the Guam Organization of Saltwater Anglers through the Community Demonstration Project Program. Further, the project was funded through the USFWS funds and former Gov. Calvo, who liked the project and wanted to see it go through and even wanted to expand the project to make it bigger. Manny Duenas was singled out as a being a Council member to push for the project.

Watamura said he visited the platform. The most significant beneficiaries of that project were physically challenged people. He said the project should be applauded.

Goto said the Council has done a lot of good work together with the State. He echoed Okano’s sentiment that working together is a priority and has gotten us effective fishery management.

Okano replied to Gourley saying the State did not write the *Civil Beat* article. What it wants is more transparency to clarify the muddy waters some people see with the Sustainable Fisheries Fund.

Simonds said that all of the expenditures and the projects have been, and are, transparent. Annually, NMSF PIRO publishes a report on the Council on what it spends its funding on. The

Council, in 2016, provided a report that includes the projects and how much each project cost, which should be available on the website.

## **B. Legislative Report**

Ishida provided the legislative report. House Bill 1075 was introduced in 2019 and carried over to the 2020 session. It would repeal the statutory prohibition on taking or killing of female spiny lobsters, Kona crabs and Samoan crabs. The bill failed to pass. This action is needed to eventually allow the take of female Kona crab. To make the change, the regulation needs to be repealed first and moved in to a rule. DAR has no intention at this point in modifying rules pertaining to the take of spiny lobster, slipper lobster or Kona crab.

House Bill 2211 would give DLNR authority to issue commercial marine vessel licenses that satisfy the licensure requirements for all persons aboard the licensed vessel. This is aimed at vessels with intermittent crews or small boats without committed crews. The goal is to improve the consistency and quality of reporting by a single-vessel operator. This bill would also require any person who provides fishing charter services to obtain a Commercial Marine License (CML), including people guiding on foot, by kayak or by any other means.

Lastly, Senate Bill 2717 would prohibit knowingly capturing, possessing, abusing, entangling or killing a shark in state marine waters. Exemptions would be for sharks taken outside of state waters and possessed on a vessel in state waters pursuant to any federally managed fishery, with the required documentation of the location where the capture occurred.

Rice asked for the State's stance on a commercial marine vessel license instead of individual licenses.

Okano said that the State supports a vessel license. There could be an individual and vessel license, and fishermen could choose either option that fits their fishing.

Rice said, on the charter boat, the captain has the license and the patrons do not need to have one.

## **C. Enforcement Issues**

Okano reported that he had no enforcement issues related to federal fisheries to report.

## **D. Hawai'i Management Initiatives and Research**

### **1. Report on State of Hawai'i Kona Crab Rule Changes**

Okano reported that the State supported legislation to remove the Kona crab statutes, but the bill did not pass. The State had initiated a rulemaking process to move those statutes into administrative rule so that, when that statute is eventually removed, a backstop would be in place and the State would have authority to amend the regulations, such as allowing the take of females and extending the closed season into September.

## 2. Aquarium Fishery Update

Watamura asked Lynch to provide an update on the aquarium fishery issue in Hawai'i, given his familiarity with the subject and the State of Hawai'i declining to present on the matter.

Lynch provided an update on the status of the EIS process for the aquarium fishery on the Big Island and O'ahu. The Big Island Draft EIS on the aquarium fishery was submitted and published at the end of November 2019 and was followed by a 45-day public comment process that closed in early January. Since that time, the Applicant (Pet Industry Joint Advisory Council) has been reviewing the public comments that were submitted. The Applicant plans to produce a final EIS by March 2020 for publication and will coordinate with the State over the next steps of the review. Once the EIS is submitted, the State will need to review it and deem it to be final and usable to issue aquarium permits. After it is accepted, there is a 60-day challenge period to the final EIS. A Draft EIS is under development for O'ahu with a target completion by the same time as the Big Island final EIS. The process will be repeated for the O'ahu EIS.

Gourley noted that the CNMI has an interest in the aquarium fish industry and asked how Hawai'i deals with the regulatory aspect of the fishery.

Lynch said that there are State regulations that apply to each island. There are also Fishery Management Areas on the Big Island developed specifically for aquarium fish. The Fishery Management Areas were developed through a long, negotiated process. There are periodic discussions about local regulations by counties to regulate in this area. But overall, the State of Hawai'i imposes the regulations in the open and closed areas, as well as on bag limits and allowable species available for the commercial aquarium fishery.

### E. Report on Main Hawaiian Islands Small-Boat Scoping Meetings

Joshua DeMello, Council staff, presented on the MHI small-boat scoping meetings. The public scoping addressed a recommendation by the Council at its 180th meeting to develop a discussion paper on the management of small-boat fisheries in Hawai'i. The discussion paper provides the purpose and need, a background on the existing pelagic fisheries in Hawai'i, and potential scenarios that could impact the fisheries and necessitate management. Public scoping sessions were held in Honolulu, Kona, Hilo, Maui, Kaua'i and Kane'ohe in which there were 135 participants. Comments were collected at the meeting and by email. Common issues noted from nearly all islands were the need for better data, the need for research on the small-boat pelagic fisheries species, concerns about the yellowfin tuna minimum size, the need for better enforcement, and an overall need for better and more communication with fishermen and the community. DeMello reported on individual concerns from each of the island areas and asked the Council for direction and guidance on next steps.

Rice said that the Kona concerns included the minimum size of tuna. Fishermen are catching smaller tunas because they can sell them on the side of the road, which cuts the price of people selling bigger tuna to the brokers. Many roadside vendors are not reporting to the State of Hawai'i. Another concern was billfish tagging as the fishermen want to tag fish but do not have access to the tags.

Okano said he appreciated the Council staff providing information on these meetings prior to holding them and requested to be kept in the loop as this item moves forward. He said he would inform the Division of Conservation and Resources Enforcement officers about the roadside vendor issue.

Rice said that the fish sold by roadside vendors are not counted on the CMLs, resulting in low amounts of reporting and poor data. Restaurants that buy fish for cash are also not reporting, losing even more valuable data on the fishery in Kona.

Simonds asked if the dealers need to report and if restaurants are considered dealers.

Okano said the State of Hawai‘i has dealer reporting.

Sakoda said, if restaurants resell the fish they purchase from fishermen, then they are considered dealers and would need to report.

Rice noted that was the under-reporting that he mentioned previously.

Sesepasara asked if the fish caught on Kaua‘i stayed on Kaua‘i.

DeMello said participants at the scoping session reported that the small-boat catch stays on island.

Sesepasara said that was similar to what happens in the Manu‘a Islands in American Samoa. Manu‘a fishermen have no way to bring the fish to the main market in Tutuila. So they share the catch with their families.

Simonds said one reason for reviewing the catches around the MHI is because in 1991 the Council recommended, and NMFS agreed to, longline closures 75 miles around Wai‘anae, 50 miles around the different islands and 25 miles for different seasons. This was the Council’s first spatial management measure and was done to separate the longlines from the small boats. Part of reviewing the Council’s management measures was to look at where everyone is fishing, whether the closures are still necessary, and where the longline vessels are fishing in terms of the closure.

Tosatto said that reviewing management measures is a good domestic practice. Under the WCPFC, the State of Hawai‘i’s troll fisheries are captured under the management context as an “other” fishery. It is the Council’s obligation to put measures in place guided by the international context. He noted that the “other” fisheries have been set aside and there is an obligation to not increase their catch, for yellowfin in particular. These fisheries have to be managed, and it would be better to have the Council managing the fishery than NMFS requiring measures in federal and state waters due to international obligations.

## **F. Update on Precious Corals Essential Fish Habitat and Associated Bed Designation Issues**

DeMello presented on the Council's action to revise the precious corals essential fish habitat (EFH) designation at the 178<sup>th</sup> meeting that included refining boundaries, updating the geographic extent and clarifying the narratives in the FEPs. Upon review of the Council's amendment, potential issues were discovered involving the designation of known precious coral beds under the FEPs. The FEPs designate established beds where there is a history of harvest and optimum yield is available; conditional beds where the beds are known and area estimates are available, but no maximum sustainable yield (MSY) is known; exploratory areas where MSY is unknown and location is unknown; and refugia, where areas are protected from harvest. The issue to consider is whether these new EFH areas are also new beds, which would require additional management measures, and, if not, how to ensure that these new EFH areas are not depleted. All of the new EFH areas are in the current exploratory area designation, which has an overall quota for 1,000 kilograms per year. The concern is that fishermen could concentrate effort in these new EFH areas that are known to have precious corals and potentially overharvest from these areas. The question before the Council was to consider whether these new areas should be considered beds and be included in the Council's former action or if this issue should be looked at separately at another time.

Okano said a lot of the potential calculations for new beds would be dependent upon the status of the Makapu'u Bed, which has not been studied recently. He asked why the Makapu'u Bed was selected as the standard.

DeMello said the Makapu'u Bed was harvested in the 1960s-1970s, so it was the bed with the most research and available data. He was concerned about using the old MSY for the bed since research at the Makapu'u Bed had not been conducted since Richard Grigg passed away.

Simonds asked if the old MSY could be used to determine an MSY for the new beds.

DeMello said MSY is not needed to define an area as a conditional bed, but a quota would need to be determined, thus the need for the MSY for Makapu'u Bed.

Simonds said she had asked PIFSC if it would determine MSY for the other beds and the reply was there is no fishing, no information and, therefore, no MSY.

Tosatto asked what the next step for this amendment was.

DeMello said he was looking for the Council to provide guidance on whether staff should continue on with the EFH revision amendment without action on designating additional beds, wait and include additional action on designating beds into this amendment, or work on designating new beds as a separate amendment.

Okano asked about the harvest and demand for precious corals.

DeMello said a couple of harvesters are permitted for black coral and one is federally permitted for pink coral. There has been no interest in harvesting precious corals at Makapu‘u Bed using remotely operated vehicles in the recent past.

## **G. Community Activities and Issues**

Zachary Yamada, Council staff, presented on community activities and issues that the Council has been involved in regarding Hawai‘i fisheries. Poseidon Fisheries Research is conducting biosampling of coral reef fish to address gaps in life history information. As part of this effort, the organization is holding a virtual Life History Fishing Tournament for selected fish and sizes and engaging the community to provide samples for a chance to win prizes. Yamada also reported on a community effort to develop a fishing smartphone app that would provide a different approach to catch reporting. The effort is trying to engage noncommercial fishermen by creating a forum for fishermen to get information and report catch.

Simonds said a virtual fishing tournament was an interesting idea.

Yamada said social media is used to get fishermen to participate and prizes are given away.

## **H. Education and Outreach Initiatives**

Amy Vandehey, Council staff, presented on the Council’s education and outreach activities in Hawai‘i since the previous Council meeting. Two different versions of the lunar calendar were made, with a larger version focusing on community groups, educators and fishermen who teach or use the calendars and a smaller version that is water-resistant and pocket-size for fishermen. About 1,200 of the larger calendars and 500 of the smaller calendars were distributed to legislators, schools, libraries, fishing stores and boat clubs. Several efforts to provide information to the community were utilized including the *Go Fish* radio show with host Mike Buck in which the Council has appearances two weekends per month. Publishing articles in *Hawaii Fishing News* is another way information is provided to the public. Outreach topics have focused on issues such as data, bottomfish and small-boat fisheries. The Council’s Fishers Forum to be held that night on Hawai‘i’s pelagic fisheries was an additional method for highlighting the Council’s issues and providing information to the community.

Goto asked how big the audience is for the *Go Fish* radio show.

Vandehey said she did not have those numbers on hand but can follow up with Buck.

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

### **1. Advisory Panel**

Gil Kualii, Hawai‘i AP vice chair, reported that the Hawai‘i AP met on Feb. 21, 2020, and discussed the Hawai‘i small-boat scoping meetings and the Hawai‘i AP plans for engaging the fishing community. The AP provided assistance and participation at each of the scoping meetings. There is a need to close the loop on the meetings by providing feedback to

participants. The AP's plans are to engage and educate the fishing community on the process in order to open a dialogue with more fishermen on the issues facing the Council such as the need for improved data collection. The AP plans to do this at fishing tournaments in 2020. The AP also plans on providing the same type of engagement for uku, a Council managed species, through fishing tournaments that target uku. The AP also discussed issues regarding fishing infrastructure, improving data collection and communication with fishermen and making recommendations to the Council.

*Regarding stock assessments*, the Hawai'i AP recommended the Council request that NMFS PIFSC includes an AP representative at all WPSAR reviews.

*Regarding community engagement*, the Hawai'i AP recommended the Council provide greater engagement and transparency with the fishing community through public meetings across the state and collaborate with DAR, PIFSC and others in order to provide for increase collaboration and participation.

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

Lynch presented the SSC report and recommendations.

*Regarding precious corals EFH*, the SSC recommended the Council use existing regulations to manage the revised precious coral EFH through the use of an exploratory permit.

### **J. Public Comment**

Roy Morioka provided public comment on collaboration and opportunities missed. He said that the Council and the State of Hawai'i need to talk with each other because bickering has no place in managing one of the most precious resources in the state. Resources are scarce, and it is important to pool resources and take advantage of the tools available as an avenue to participate in the process. Fishermen have provided their time to help with the bottomfish stock assessment because of their expertise in the fishery, so scientists and managers need to talk to them. In terms of allocations, everyone has skin in the game and everyone shares so including fishermen in the discussions shows that the agencies care. The *konohiki* of today are the Council, NMFS and the State of Hawai'i so these groups need to work together. He apologized for his lecture but said he is old, his horizon is short and he wants to make sure that his grandson enjoys all of the opportunities that he had and continues to enjoy today.

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

*Regarding the Hawai'i pelagic small-boat fisheries*, the Council **directed staff to work with DAR to explore options for mandatory federal permitting and reporting of pelagic small-boat fishermen in the EEZ waters around Hawai'i.**

Okano suggested to change the recommendation to direct staff to work with DAR and explore options.

Rice and Goto agreed to the change.

Tosatto clarified that the recommendation is about a federal permit and federal reporting and not to convince the State to have state reporting. The Council's work with DAR is not a mandatory step to establish federal requirements.

Gourley agreed with Tosatto's clarification.

Okano asked if this was for outside of three miles.

DeMello replied yes.

Okano asked if the Council can work inside three miles if it works with DAR.

DeMello replied that it could be an option that the Council considers.

Okano asked if the recommendation needs to include EEZ.

Tosatto said having coincidental and supportive measures was a positive. However, as the State of Hawai'i brought up jurisdictional questions, the Council cannot put a mandatory requirement that is applicable in state waters for the purposes of fishery management. The federal government can put other requirements in state waters for other reasons but not for the purposes of the MSA, which applies beyond state waters.

Okano asked if the recommendation was for three miles and out in the EEZ.

Tosatto said yes, that is the purview of the Council.

DeMello added that in discussion with DAR, the Council can talk about complementary actions and the State's involvement.

Tosatto said NMFS is wholly supportive of the State putting in mandatory state permitting and reporting of small-boat fishermen in state waters around Hawai'i.

Tucher said Congress created the jurisdiction of the Councils and nothing the Council recommends or decides at this meeting could change that. Ultimately, these actions will go to the NMFS regional administrator and are reviewed for legal sufficiency within the framework established by Congress. This would not require the State to give up reporting in state waters because that would not be consistent with the MSA.

Okano said he understood the rules but the fish do not follow the rules.

Simonds said it would be great to meet and discuss the State's concerns because it was the Council's hope that everyone would work together to collect information on the fishery. The bottomfish fishery exemplifies how everyone can work together. The Council and the State rules are the same, and there is an agreement to close the fishery when the ACL is reached.

Okano said that was his intent with his suggestion, in the spirit of collaboration and working together.

Moved by Rice; seconded by Goto.

Motion passed.

**Regarding precious coral EFH, the Council directed staff to continue to push forward with the EFH amendment as is and work with NOAA GC and NMFS PIRO SFD to ensure that it is transmitted. The Council further directed staff to develop options for designating the new EFH areas as precious coral beds under the Hawai'i FEP.**

Moved by Rice; seconded by Goto.

Motion passed.

**Regarding WPSAR, the Council requested that an AP representative be invited to all future WPSAR reviews.**

Tosatto said that he did not understand the AP's request. If it were for an AP representative to be part of the review, it would probably not be possible because the reviewers have to be competent stock assessment biologists who are sought nationally to participate in those reviews. Those reviews have public access to deliberations so, if it is merely participating in the available public process, certainly NMFS could support involvement of them in that. WPSAR is not necessarily a PIFSC-only process, but it is a joint process of the Council, PIRO and PIFSC.

Simonds said the Council invited members of the AP and the fishing industry to participate in other Hawai'i WPSAR reviews, as they are sometimes able to answer questions that the scientists have.

Gourley suggested a change to be invited rather than to be present.

Rice and Goto agreed to the change.

Watanabe said, when the bottomfish stock assessment was going through WPSAR, the reviewers asked questions of the four bottomfish fishermen who were present, which assisted them in the review.

Moved by Rice; seconded by Goto.

Motion passed.

**Regarding Hawai'i fisheries, the Council directed staff to provide greater engagement and transparency with the fishing community through public meetings across the state and collaborate with DAR, PIFSC and others in order to provide for increased collaboration and participation.**

Moved by Rice; seconded by Goto.

Motion passed.

## VIII. Protected Species

### A. False Killer Whale Abundance Estimate

Amanda Bradford, PIFSC, presented the new abundance estimates for the pelagic stock of false killer whales in Hawai'i waters and the broader Central Pacific. She provided a brief background on the past abundance estimates for the stock, based on the 2002 and 2010 Hawaiian Islands Cetacean Ecosystem and Assessment Surveys (HICEAS) and design-based line transect analysis methods. While design-based estimates can be considered unbiased, they can be limiting, such as having only a single estimate of density across the study area, being heavily influenced by random variation in the sampling process and having difficulty in differentiating changes in abundance from shifts in distributions. In contrast, density of model-based line-transect methods is as a function of habitat or spatial covariates. These methods can extend estimates beyond the study area or study period. She noted that an extensive body of work from NMFS exists on developing and validating model-based methods with line transect surveys in the California Current, Central Pacific and Eastern Tropical Pacific (ETP). The method has become the state-of-the-art for estimating density and abundance.

Bradford presented the design-based and model-based estimates in the EEZ from the 2002, 2010 and 2017 HICEAS surveys, as well as the model-based estimates in the Central Pacific. Estimates from 2002 and 2010 were updated with new data and the new methods. Bradford provided an overview of the line-transect survey observation protocols used to collect data for false killer whales, which was developed by the Southwest Fisheries Science Center and have been modified over time to improve detection of false killer whale subgroups. She also described the four parameters used to estimate density in the two approaches (encounter rate, subgroup size, detection function and track-line detection probability).

The resulting point estimates from the design-based abundance estimates were 613 animals for 2002; 2,489 animals for 2010; and 5,106 animals for 2017. Bradford noted the highly variable point estimates with very large coefficient of variations (CV) and confidence intervals, which means that the point estimates for the three years are not statistically different. The new estimates for 2002 and 2010 were higher than previous estimates, and Bradford explained that the biggest contributor of the increase in estimates is the new track-line detection probability.

Previous model-based approaches applied to false killer whale abundance in the Hawai'i EEZ and the Central Pacific were limited by small sample sizes, dependence on data from the ETP and coarse spatial scales. The additional survey effort over the years has increased the sample size and reduced reliance on ETP data. All 38 sightings of pelagic false killer whales between 1997 and 2017 were used to inform the new model-based approach. Bradford provided an overview of the environmental covariates used in the model, including outputs from the hybrid coordinated ocean model, bathymetric variables and static variables. The survey effort was broken into 10-kilometer segments to be used in the model; covariates were based on the mid-point of those effort segments. The approach models encounter rate and effective group size as a function of environmental covariates by segment; used the best 1997 to 2017 model to predict environmental conditions in 2002, 2010 and 2017 for the full Central Pacific grid; and then from that extracted predicted density estimates for the Hawai'i EEZ. The final habitat model indicates overall that higher densities are predicted for warm waters with shallow mixed-layer

depth and high deviations in sea surface temperature. The model also indicates that higher densities are predicted for intermediate sea surface height values but with decreasing effect at higher latitudes. Between years, there are clear shifts in distribution in the Central Pacific in 2002, 2010 and 2017. The highest density across the Central Pacific was in 2017. Inside the EEZ around Hawai‘i, results show that the density in each of the survey periods is overall similar, with different distributions in each year.

The resulting abundance estimates from the model-based approach ranged from 2,102 animals in 2017 to 2,182 in 2010 inside the Hawai‘i EEZ, and 24,014 animals in 2010 to 32,317 in 2017 in the broader Central Pacific. Bradford noted the increase in abundance in the Central Pacific predicted for 2017, and broadly similar density estimates overall in the EEZ around Hawai‘i in each year despite the shifts in distribution. Bradford also presented average estimates from the design-based and model-based estimates, which can be used to compare the output of each approach, and noted that the average estimates are broadly similar. She explained that the between-year variability in the design-based estimates compared to the stability in the model-based estimates was due to the latter approach being dependent on habitat associations rather than the sampling process in a given year.

Bradford also described the simulations conducted to determine whether the difference in encounter rates between years were due to chance or represented change in abundance, which indicated that the encounter rates were plausible by chance alone, and the change in abundance in the EEZ may not explain the changes in encounter rates. She noted the patchiness in densities that the model-based results demonstrated in 2002 and 2017, which may be a contributing factor to the difference in encounter rates between years. The model-based method can mitigate the issue of encounter rate changes and is being considered for other cetacean species to inform the design-based estimates. Additional data will be important for identifying more habitat associations, evaluating bias and validating predictions. She said the model-based method provides a more stable basis for assessing the status of pelagic false killer whales and allows for estimating abundance outside of the EEZ.

Goto asked how the new abundance estimates could be applied to the reopening of the SEZ in 2020, noting the higher abundance estimates.

Tosatto said that his understanding is that the Pacific Scientific Review Group (PSRG), which is NMFS’ marine mammal advisory body, was briefed on the new abundance estimates and NMFS has taken feedback from the group. The estimates would then be incorporated into the next stock assessment report (SAR), which would then be used to generate the potential biological removal (PBR). That is the path in which the information enters into the discussion for use in management purposes, and the resulting PBR may be relevant in the discussions around the work of the Take Reduction Team (TRT). If the outcome changes the PBR to the point that the pelagic stock of false killer whale is no longer considered a strategic stock and not meeting the trigger for convening a TRT, then NMFS may walk away from a TRT entirely. If the strategic stock designation does not change, the PBR could still be considered in relation to the five-year average mortality and serious injury level in the context of the current TRT regulations. The new information can be used, but it will be a process going forward, including ongoing discussions with the TRT and reviewing the Take Reduction Plan (TRP) for its effectiveness.

Goto said he would like to be updated on the process, as he has been waiting on the new abundance estimate and the PBR.

Tosatto said that the new information does not immediately work itself into the decision-making of the closed SEZ, but it may inform the decision to reopen. NMFS is looking at all of the information, including data from the 2019 fishing year. The information may lead to changes in SEZ closure triggers. However, because the TRP is established by regulations, changes in the TRP would require changes in regulations.

Simonds asked about the final report timing to allow the SSC to review, noting that in previous discussions the PSRG was to meet before the SSC.

Tosatto said he did not know when the abundance estimate final report would be available. He clarified that the SSC may make recommendations to the Council, but the science advisor for decision-making under the MMPA is the PSRG.

Bradford said that the PSRG had an intersessional meeting to review the abundance estimate and the associated written document and that PIFSC is working on incorporating that feedback. The regularly scheduled meeting of the PSRG will convene the last week of March, where PIFSC will update the PSRG on the progress and the draft SAR and association information will be reviewed. The work on abundance estimates was expedited to allow presentation of the results to the March SSC and Council meeting.

## **B. Status of Endangered Species Act Consultations**

Lance Smith, PIRO Protected Resources Division, provided a status of the ESA consultations. The BiOp for the Hawai'i shallow-set longline fishery was concluded in 2019, and additional consultations for other fisheries were ongoing. The consultations for the Hawai'i and American Samoa longline fisheries were expected to be completed by August 2020, and the purse-seine and bottomfish consultations expected by June 2020.

## **C. PIRO Green Turtle Recovery Plan Implementation**

Smith presented on the implementation of the green turtle recovery plan actions. The recovery plan was completed in 1998, and a new status review was conducted in 2015, after which the species was divided into 11 distinct population segments (DPS), all of which remain listed under the ESA with eight listed as threatened and three as endangered. The 1998 recovery plan continues to be used, as there is no reason to develop 11 new plans. Six DPSs potentially interact with fisheries in the region, including the Central North Pacific, Central West Pacific and Central South Pacific DPSs.

Based on the 2015 status review, the primary threats affecting green turtle DPSs include poaching, habitat loss, habitat degradation, climate impacts, small nesting aggregations, data poor, low nesting diversity, fishery bycatch and disease. The recovery plan includes actions to address these threats. NMFS works in partnership to implement these actions, including with the Council. The main types of recovery actions include population demographic research, annual monitoring, data analysis, threat assessment, threat mitigation and reduction, educational

outreach and public management. International collaborations in the past have focused across the Pacific, while current priorities are on the Philippines and Fiji due to their migratory connections with the Mariana Archipelago and American Samoa.

Smith presented a list of recent publications resulting from NMFS-funded grants and research. NMFS has awarded \$2.634 million in grants between 2014 and 2019, of which \$1.554 million were on green turtle projects. For fiscal year 2020, PIRO received 15 grant applications totaling \$950,000 in funding requests, of which \$500,000 were for green turtle projects.

Simonds asked if there have been country-to-country discussions about regulatory measures for turtles in those countries in addition to providing NMFS funding.

Smith said that he did not know for sure and that he would follow up.

Simonds asked what type of activities are ongoing to allow the Hawaiian green turtle population to be removed from the threatened list.

Tosatto said that new recovery plans have not been developed for the revised green turtle DPS listings. Recovery plans include delisting criteria for the species. However, because the green turtle recovery plan was based on a global listing, NMFS does not have delisting criteria in place for the 11 DPSs.

Simonds asked if NMFS will be developing delisting criteria for the threatened DPSs.

Tosatto said that is a potential need and that ESA requires that recovery plans include delisting criteria, so NMFS would have to comply with that law.

Simonds said that her understanding is that the Hawaiian green turtles were not removed from the threatened list because of climate change and turtles drowning in the NWHI where they mostly nest. She is interested in the delisting criteria so interested parties can consider how to remove the DPS from the threatened list. She also noted her interest in cultural take.

Smith said he would follow up on Simonds' question regarding the delisting criteria.

#### **D. Other Endangered Species Act and Marine Mammal Protection Act Updates**

Smith presented additional updates on ESA and MMPA actions.

NMFS is undertaking a range-wide status review of *Pocillopora meandrina*, a reef coral species, with the 12-month finding expected to be published later in 2020. If NMFS finds that a listing may be warranted, a proposed rule will be published with the 12-month finding, which will be followed by a public comment period. The status review is being conducted in response to a petition by the CBD, which has filed a lawsuit because NMFS has not met the statutory deadline for the 12-month finding.

A global status review for the leatherback turtle is also underway to determine if any DPS listings may be warranted, in response to a petition from the Blue Water Fishermen's Association. The status review and a 12-month finding are anticipated in 2020. NMFS is

additionally conducting a five-year review of the North Pacific DPS of loggerhead turtles, which is expected to be published in 2020.

NMFS is expected to publish a proposed rule to designate critical habitat for reef corals listed under the ESA in 2014, several of which occur in the Mariana Archipelago and American Samoa. NMFS is also being litigated for the lack of critical habitat designation for these species.

Critical habitat for humpback whale populations were proposed in 2019, following the listing revision in 2016. No critical habitat designations have been proposed for the Western Pacific Region. NMFS also determined that critical habitat designation is not prudent for newly listed giant manta ray and oceanic whitetip shark because there were no identifiable physical or biological features essential to the conservation of the species within areas under US jurisdiction. Additionally, NMFS has been litigated for not designating critical habitat for the six green turtle DPSs that occur in US waters, two of which occur in the Pacific.

The recovery plan for the MHI false killer whale was in development. NMFS expected release of a draft plan later in 2020, which would be followed by a public comment period. NMFS issued a recovery outline for giant manta ray in 2019, which serves as an interim guidance until a full recovery plan is developed. NMFS was also developing a recovery plan for oceanic whitetip sharks and hosted two expert workshops in 2019.

Smith also presented a summary of false killer whale interactions in the Hawai'i deep-set longline fishery. Fifteen interactions were observed in 2015. The SEZ was closed following two interactions inside the EEZ. Following the SEZ closure, four additional false killer whale interactions were observed inside the EEZ. The SEZ remains closed, as the reopening depends on the five-year mortality and serious injury estimate, which is not yet available.

Gourley asked about the process for developing critical habitat in the territories. Does NMFS develop critical habitat boundaries internally and then provide it to the islanders to review and are island government representatives involved in the boundary delineations.

Smith said, for coral critical habitat, NMFS was developing a proposed rule, which would go out for public comment, at which point comments from local governments would be sought. NMFS may also hold hearings if there is interest. There was no mechanism to work with local experts when developing the proposed rule, but information was collected from local experts in CNMI and Guam.

Tosatto said that the critical habitat designation is a federal process and there was an obligation to provide notice to the affected state and territory governments as NMFS makes a proposal. He emphasized that it is a federal proposal and not a joint one.

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

### **1. Advisory Panel**

There were no AP recommendations regarding protected species.

## 2. Scientific and Statistical Committee

Lynch presented the SSC report and recommendations pertaining to protected species.

*Regarding the false killer whale abundance estimates, the SSC recommended that both design- and model-based results be used to develop false killer whale abundance estimates for the SAR. The SSC further recommended that a simulation-based evaluation of the two estimators be undertaken to better determine the relative value of each approach for management decision-making purposes.*

Lynch noted that SSC had an in-depth discussion about the model. The SSC was generally impressed with the model and the manner in which it was conducted and noted a few suggested improvements to explore. Due to the results being similar across modeling scenarios, the SSC wondered if the models need additional validation. The SSC also noted that levels of uncertainty around the modeling results should be more accurately reported, especially for the graphical representations of the results.

### F. Public Comment

There were no public comments regarding protected species.

### G. Council Discussion and Action

*Regarding the false killer whale abundance estimates, the Council **recommended NMFS use both design- and model-based results to develop false killer whale abundance estimates for the SAR. The Council further recommended that a simulation-based evaluation of the two estimators be undertaken to better determine the relative value of each approach for management decision-making purposes.***

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding the false killer whale abundance estimates, the Council **requested NMFS explore options for reopening the SEZ in light of the new abundance estimates.***

*Moved by Rice; seconded by Goto.*

*Motion passed.*

## IX. Public Comment on Non-Agenda Items

There were no public comments on non-agenda items.

## X. Program Planning and Research

### A. National Legislative Report

Gourley updated the Council on national legislation of interest to the Council. US Rep. Jared Huffman (D-Calif.) has been conducting a series of listening sessions on MSA

reauthorization and recently hosted one in Honolulu. A panel of experts provided opinions on how to improve the MSA, of which four were Council members. The video is available on Huffman's website. The bill is likely not going to move forward due to COVID-19.

On Jan. 14, 2020, the House Natural Resources Subcommittee on Water, Oceans and Wildlife held a hearing on the HR 2236, Forage Fish Conservation Act, sponsored by US Rep. Debbie Dingell (D-Mich.). The CCC has expressed concerns on implementing this legislation because forage fish are difficult to manage and resources will likely be diverted from conducting stock assessment on other managed fish species.

HR 4679, Climate-Ready Fisheries Act of 2019, sponsored by US Rep. Joe Cunningham (D-SC) requires the US comptroller general to submit to Congress a report examining efforts by the Regional Fishery Management Councils, the Atlantic States Marine Fisheries Commission and NMFS in preparing and adapting US fishery management for impacts of climate change. The Water, Oceans and Wildlife Subcommittee held its hearing at the same time as the forage fish on Jan. 14, 2020. On Jan. 29, 2020, the bill was marked up and moved forward.

Gourley noted that these bills will likely not go forward in 2020.

## **B. Territorial Bottomfish**

### **1. Interim Measure for the American Samoa Bottomfish Fishery**

Brett Schumacher, PIRO SFD, provided an update on the interim measure action from the Council recommendation at the 180<sup>th</sup> meeting. The bottomfish management unit species (BMUS) stock in American Samoa is overfished and experiencing overfishing based on the new benchmark assessment generated by PIFSC. The stock assessment passed WPSAR and was accepted by the SSC as best scientific information available (BSIA). A BSIA memo was generated, and a Decision Memo will be sent to officially inform the Council about the stock status and the Council's obligation to begin work on a rebuilding plan to ending overfishing.

The Council sent a letter to NMFS with a formal request for interim action consistent with the Council action at its October 2019 meeting, which included a request that the interim measure include an ACL for 2020 at a level that reduces overfishing and allows biomass to increase. The purpose of such an interim measure was to mitigate some of the potential cultural and socioeconomic impacts to communities in American Samoa.

Schumacher explained that the interim measure follows a different process than a normal setting of an ACL. The interim measure is initially put in place for 180 days and can be extended for another 186 days providing the public an opportunity to comment while the Council is preparing a long-term rule to address the overfished and overfishing status. There are three requirements to put an interim measure in place: 1) the measure is needed to address an unanticipated and significantly changed stock status; 2) immediately ending overfishing is expected to result in some severe social or economic impacts; and 3) the biomass will increase during the course of the interim measure.

Additional information was requested from PIFSC to determine what level of catch beyond the overfishing limit (OFL) the biomass would still increase, as the stock assessment considered only potential catches up to the OFL. PIFSC's analysis found that the inflection point in the projections was at 13,000 pounds for 2020 with a 1% increase in biomass. The average catch from 2013 to 2017 was 21,000 pounds; thus, the catch would have to be reduced by 40% under a 13,000-pound limit. There is no real-time monitoring of catch in American Samoa, and the commercial receipt book program is a mere fraction of the expanded catch totals.

Schumacher described the creel survey process, the expansion system and issues with real-time tracking and the inability to do so reliably on a shorter time scale. Another issue is the ability of NMFS to limit catch on its own. Looking at the EFH distribution for the species in federal versus territorial waters, only 15% to 16% of the BMUS EFH is in federal waters, indicating that even if federal waters are closed, it will not reduce the catch by 40%. Schumacher said that PIRO has been in discussion with Council staff and American Samoa about these issues to identify the best plan for proceeding.

Dunham urged not to pass blame but to work together to find a solution. He requested putting the e-reporting app in place in American Samoa to allow the Stock Assessment Program do the assessment with better data. He was willing to help but needed somebody from the Council to come to American Samoa and train DMWR and the local fishermen on how to use the data apps. He added that local fishermen do not send their catch off island and noted the example of Manu'a fishermen who fish for the churches and people in the community and receive money only to buy gas. A ferry goes between the islands every two weeks or, if the weather is bad, once a month. So people try to conserve their fuel. The government installed solar power in Manu'a to conserve gas. Dunham said fishermen in American Samoa still used rod and reel. They bottomfish and troll using the same gear and do not have electric or hydraulic reels, GPS or fish finders. They use the mountain to navigate.

Simonds asked whether the 13,000 pounds is actual or expanded data.

Schumacher said it is expanded data.

Simonds asked what the actual catch would be.

Schumacher said, according to the assessment, the expanded catch is the best estimate of actual catch.

Watamura said there is a need to collect proper data in order to do a proper assessment. However, with the creel survey being the method of data collection and given the lag time in the creel survey report, the fishery could never close due to those delays. From a fishermen's perspective, keeping with the creel survey will keep the fishery open. Fishermen might not provide data if they know that by providing data the fishery will be closed.

Schumacher said there is a lot of discussion on the shortcoming of the creel surveys and how it does not reflect the fishery. Continuing with status quo will not get the region out of this situation. He acknowledged that it is counterproductive for people to change things if they know it is going to hurt them, but better data are needed if the goal is to have a better assessment.

Simonds asked what the plan is to enforce the 13,000-pound target and whose job it is to determine when the fishery should be closed. She also asked how the target will be monitored and at what point would fishermen be told they have to stop fishing.

Schumacher said that work is ongoing with PIFSC and the Western Pacific Fisheries Information Network (WPacFIN) on what information is going to be available. He acknowledged it will be a challenge to monitor in season. PIRO would rely on WPacFIN to provide the best estimate. If the estimate approaches 13,000 pounds within the interim period, PIRO would proceed with closing the fishery and informing the fishermen of that. He reiterated that the estimates are generated on an annual basis and not available during the fishing year.

Soliai asked for clarification on the legends on the map and whether the different colors referred to territorial and federal waters.

Schumacher clarified the map legend with respect to territorial and federal waters and the overlay with the EFH.

Gourley asked if the bottomfish EFH areas align with the actual areas where fishermen fish.

Schumacher said there are areas within the EFH that are not good habitat for the fish as the bottomfish EFH is defined as the depth contour from 0 to 400 meters. The catch data are not geographically specific to show hot spots of fishing activities. Some of the species are reef associated and some are deep habitat associated, whereas the EFH definition covers BMUS as a whole and does not draw the line between the two habitats.

Gourley asked for confirmation that the areas fishermen fished cannot be plotted and thus the use of EFH instead.

Schumacher confirmed that the data are insufficient to expand catch to specific areas, and catch expansion can only be done on a large scale. The assessment used some spatial factors in the analysis, but catch monitoring is not based on any detailed geographic area; hence, exactly how much catch comes from federal versus territorial waters is unknown.

Soliai asked if the interim action would close only the federal waters.

Schumacher confirmed it would be a federal closure given that NMFS has authority only over federal waters. The action would not affect territorial waters unless the closure is done in coordination with DMWR.

Peck asked if the 15% to 16% of EFH in federal waters include all the banks and Manu'a Islands.

Schumacher confirmed it included the banks and Manu'a. There is no EFH area around Manu'a, Swains and Rose atoll that is in federal waters because the habitat drops off quickly within 3 nautical miles from the island.

Soliai noted that South Banks located 35 miles to the south is not shown on the map.

Schumacher confirmed that it is not shown in the map but was included in the calculation. There are additional maps that Council members could look at if they were interested.

Amani asked whether the average of over 20,000 pounds was for federal waters only or included territorial waters.

Schumacher said it is for total catch in both federal and territorial waters. Catch from both waters would also be tracked against the 13,000 pounds. While catch would be counted for both federal and territorial waters, if NMFS takes action to close the fishery, it would only be in federal waters.

Sesepasara said that the map does not show the Manu'a Banks which are never fished, which is why the data is poor because the analysis included data from Manu'a. Manu'a fishermen stay close to the shore. The analysis should not include data from Manu'a because the data there is poor. He reiterated Simonds' question on who would enforce the rules in Manu'a.

Holstead said that, since it is in federal waters, USCG would enforce the rule along with the NOAA OLE partners. The areas identified yellow on the map would be the area that USCG would be focusing on when they are in American Samoa.

Muna-Brecht suggested applying the proportion of the EFH in federal waters to territorial waters to the interim measure catch limit.

Schumacher said that the assessment is done on the whole stock, which includes catch in both federal and territorial waters. PIFSC's calculation that a catch of 13,000 pounds will result in a slight increase in biomass is applied to the whole stock. Technically, NMFS cannot reduce the 21,000 pound average catch by 10 percent and say that it meets the measure. The 13,000 is the target for the stock.

## **2. Annual Catch Limits and Accountability Measures for Marianas Bottomfish**

### **a) P\* Report**

Marlowe Sabater, Council staff, presented the Marianas P-star (P\*) working group reports. The CNMI P\* working group is comprised of local agency staff, PIFSC staff, the Council AP and fishermen. The group met on Jan. 29, 2020. The Guam P\* working group has a similar composition and met on Jan. 31, 2020. The working group reviewed the P\* process, scoring process and the P\* dimension scores.

For the Assessment Information Dimension, the working group scored the reliable catch information as 0.5 because, although there is total catch available, the quality is questionable and may not be reliable. No reductions were taken from catch per unit effort (CPUE) standardization because it is fully standardized or from source of mortality because that was accounted for in the projections. There were reductions for species-specific data, fishery independent data, spatial analysis and tagging information. Overall, there was a 4.5 reduction and a scaled equivalent of

3.3% was applied to the assessment information dimension. Since only one model was used, this score applied to both Guam and CNMI.

For the Uncertainty Characterization Dimension, the working group scored a 2.5% reduction because uncertainties were carried out in the projections.

The scores for the Stock Status Dimension differed substantially between CNMI and Guam. CNMI resulted in a 1% reduction because their stock status score is close to the fishing mortality threshold although the stock is not overfished and not subject to overfishing. Guam is deemed overfished but not subject to overfishing, resulting in a 9% reduction.

For the Productivity and Susceptibility Dimension, PIFSC Life History Program staff scored the productivity attributes while the fishermen in the working group scored the susceptibility attributes. The productivity attribute scores were the same for Guam and CNMI. Each attribute was scored for each MUS. Taking the average of all the attribute scores and species, 5.12 was the final score for productivity. The same approach was used for the susceptibility attributes. Final scores for productivity-susceptibility were 4.15 for CNMI and 4.45 for Guam.

Summing all of the dimension scores, CNMI has a total reduction score of 11% resulting in an acceptable biological catch (ABC) of 39% risk of overfishing. For Guam, a total reduction score of 19% resulted in an ABC of 31% risk of overfishing.

## **b) SEEM\* Report**

Sabater presented the outcome of the Social, Economic, Ecological and Management (SEEM) Uncertainty working group meetings. The CNMI SEEM working group met on Jan. 29, 2020, and the Guam working group met Jan. 31, 2020. The Social Science Planning Committee developed the standardized SEEM framework. The working group reviewed the SEEM dimensions and criteria under each dimension.

For the Social Dimension, the CNMI and Guam working groups scored no reduction but acknowledged that the commercial fisheries are small and the fisheries are culturally important for perpetuating the value of fishing. Fishermen share bottomfish during social events like Lent and fiestas, but the fishery is not significant for food security. The fishery is important for family-level subsistence, but fishermen also sell the catch to recover the cost of fishing. For CNMI, people purchase fish and consume it on the same day. People do not buy and store lots of fish. For Guam, the demand for red fish is not as strong compared to Hawai'i during Christmas and New Year. Skipjack is the primary target for those events.

For the Ecological Dimension, the CNMI and Guam working groups scored no reduction and noted that there is not enough information to score this dimension in an appropriate manner. Shallow bottomfish species are harvested in the coral reef fishery. The fishery is weather-dependent and peaks during the summer months.

For the Economic Dimension, the CNMI and Guam working groups scored no reduction. There were significant concerns about the fisheries' ability to maintain economics with the

sizeable reduction in the ACL. The CNMI fishery is a small fishery landing around 148,000 pounds that caters mostly to hotels and restaurants. Participants are mostly from local and Filipino communities. Fishermen have regular jobs and supplement their income by fishing. The CNMI fishery is only for local consumption; bottomfish is not exported to other islands. Hotel and restaurant demand is strong on Guam, and fishermen supply them directly. The bottomfish in Guam is not a significant component of the commercial markets. Fishermen have regular jobs and use bottomfish to supplement their income. Local fishing supply stores are not dependent on this fishery. Similar to CNMI, the fishery is for local consumption and does not export.

CNMI scored a reduction of 2.5 for Management Uncertainties, and another 2.5 for Monitoring Uncertainties. The fishery data collection cannot monitor the catch in near real time. Although mandatory license and reporting are required, this regulation is not fully enforced yet. Management uncertainties revolved around the ability to close the fishery when the ACL is about to be reached. For Guam, the working group decided not to take further reduction as it preferred to maximize the catch given the low potential ACL. There is no ability to do in-season monitoring. Commercial receipt books account for only 10% of the estimated annual catch. The working group noted that the implementation of e-reporting will significantly increase the catch reports; if e-reporting is immediately implemented, there is a high potential that the ACL will be exceeded. The difference between the catch per P\* level only corresponded to a few trips. For example, a 5% reduction from the ABC would constitute 2,000 pounds, which would be equivalent to about five bottomfish trips and does not provide a sufficient buffer to prevent the ACL from being exceeded.

For compliance and management, the SEEM Working Group recommended no further reduction. There is no mandatory license and reporting regulation and no local regulation for bottomfish; there is a need to develop parallel rulemaking. DAWR staff said a mechanism is available through the Triple A Process to put a management measure in place, but that would take some time.

The CNMI SEEM working group recommended a 5% reduction from the ABC to specify the ACL, while Guam recommended an ACL set equal to the ABC.

Tosatto said there is a need for a refresher on addressing the management uncertainty for consistency across the jurisdiction. There is uncertainty in preventing the ACL from being exceeded, and an appropriate buffer is therefore required. In particular, in Guam where the stock is overfished, ACL is addressing overfishing, but the objective is to increase the biomass that is overfished. The Council still has to take action to consider rebuilding the stock in Guam. The action at hand should lead to that path. Tosatto was concerned about maximizing the use of ACL and not considering the uncertainty from the inability to monitor the fisheries with in-season management, considering that NMFS would be relying on an after-season accountability measure.

Watamura said, when he was in the SEEM working group for the deep 7 bottomfish, positive and negative numbers were assigned to come up with the end result. He wondered why the result was zero instead of positive numbers.

Sabater said the SEEM process is a process whereby positive scores will result in going above the ABC, which is not allowed under National Standard 1. Participants should look at it from the reverse perspective where, if the aspect of the fishery is important, then one should reduce to create a buffer to make sure that the importance is preserved.

Gourley asked Sabater to elaborate on why Guam scored it a zero.

Staff showed a slide with the historical catch and the ABC at 27,000 pounds. Based on the historical catch, there is a 50% chance of exceeding the ACL. If the goal is to prevent exceeding the ACL, then setting the ABC equal to ACL results in the highest chance of not exceeding the ACL. If the ACL is reduced by 5% or 10%, the chances of exceeded the ACL would be 80%. The Council also needs to ensure that the stock is rebuilding. If the catch remained below the ACL and maintained at 31% risk of overfishing at 27,000 pounds, the biomass will continue to increase and the stock will be rebuilt by 2022. At any risk level the biomass is increasing; it is only a matter of when the Council would like the stock to be rebuilt.

**c) Alternatives for Annual Catch Limits and Accountability Measures (Final Action)**

Sabater presented the options for specifying the ACLs and accountability measures for the bottomfish fishery in the Mariana Archipelago. He provided a recap of the following information: 1) Council recommendations from the 180<sup>th</sup> meeting; 2) the P\* and SEEM working group meetings; 3) review of the MUS; 4) review of the stock status and reference point levels; 5) review of the historical catches where the average catch of BMUS from 2016 to 2018 in Guam is around 26,000 pounds and in CNMI is 32,000 pounds.; and 6) the risk tables showing the OFLs and different catch levels with the associated risk of overfishing.

The first option is not specifying the ACLs, which would not be compliant with MSA, FEPs and National Standard 1. Under this option, the fishery would operate without a catch limit. The average catches in CNMI and Guam are below the MSY and OFL. No ACL would be implemented; therefore, conduct of fishing operations would not be adversely affected.

The second option is to specify that ACLs based on the SSC-recommended ABC and the results from the SEEM analysis. This would comply with the regulatory requirements. This would utilize the P\* and SEEM results based on the BSIA. For CNMI, an annual catch target (ACT) would be applied since the source of uncertainty is coming from the monitoring and management dimensions in the SEEM framework. The ACT would be at 34% risk of overfishing in which the annual catch would be at 78,000 pounds. Since the mean catch is 41% of the ACT, overfishing would unlikely occur; therefore, this option would not have an adverse effect on the conduct of fishing. Guam would follow the same rationale as CNMI. Based on the SEEM working group evaluation, the ACL would be set equal to the ABC at 31% risk of overfishing and would have an annual catch of 27,000 pounds. There is no mechanism to track the catch in near real-time and no ability to close the fishery in-season; thus, the fishery would operate as normal and the conduct of fishing would not be adversely affected.

The third option is to specify the ACLs lower than the results of the SEEM analysis. This option would fulfill all of the regulatory requirements but would be more precautionary to

account for additional uncertainties not documented in the SEEM process. For CNMI, an additional 10% buffer would reduce the risk level to 24% and the ACT would be 64,000 pounds. For Guam, further reduction of the ACL would increase the likelihood of exceeding the ACL. However, since there is no mechanism to track the catch in near real time and in-season closure is not possible, fishing operations would not be adversely affected.

The accountability measures would be a post-season adjustment of the ACL by the amount of overage from the three recent year averages. ACL is a federal action; if there is fishery closure, it would occur in federal waters. The effort would likely shift to territorial waters, with no means of controlling fishing effort. Sabater reviewed the impact analysis and new information available.

Okano asked what would happen to the overage reduction scenario if a new benchmark assessment were generated.

Sabater said that a new benchmark assessment would reset everything. If the new assessment passed WPSAR and the SSC accepted it as BSIA, then the Council would need to specify the ACLs again.

### **C. Options to Amend the Bottomfish Management Unit Species in the American Samoa and Mariana Archipelago Fishery Ecosystem Plans (Initial Action)**

Felipe Carvalho, PIFSC, presented the analysis of available data for each BMUS to deduce the level of assessment possible for each species. This analysis supported the options paper that was presented by Council staff. The analysis was based on the Council recommendation at the 180<sup>th</sup> meeting in October 2019 where the Council directed staff to develop an options paper for the revision of the BMUS complexes as soon as possible and recommended that the new grouping be prioritized using the stock assessment prioritization process and a new benchmark assessment to be developed.

Carvalho reviewed the species composition of the BMUS complex and explained the request made to PIFSC to explore how to regroup the species in the complex and determine the level of assessment that can be done on the next benchmark assessment. PIFSC then did the following: 1) conducted a biological and fishery data inventory for each species of the complexes for all three territories; 2) given the available biological and fishery data, developed alternative groupings; and 3) evaluated the feasibility of conducting stock assessments using the potential alternative groupings in the next generation of bottomfish stock assessments for the three territories.

The analysis focused only on data. Other aspects of the assessment will be considered in future steps, such as involvement of stakeholders and managers. Regarding the first analysis, the team looked at length information available for species that comprise the BMUS complexes in the territories as well as abundance from the boat-based creel survey catch rate. The biological information was based on consultation with the PIFSC Life History Program and the scientific information available in the literature. Catch were from boat-based creel survey, shore-based

creel survey and commercial purchase data. Length data came from PIFSC's biosampling and the creel survey.

The results looked at the amount of information for each parameter for all species in the complex. The information summarized data availability on length, number of interviews for catch and effort, coefficient of variation in catch, and percentage of years where there were less than five or 10 CPUE interviews.

Possible alternative groupings for the BMUS within the complex were based on this information. The first alternative would group all of the deep species together and the rest of the species would remain as single species. In other words, the near-shore species would have single species assessments, and the deep species would be grouped as a complex and would have a separate assessment. The pros would be improved matching of life history parameters and catch composition. The cons would be the deep snapper complex would still have differences in life history parameters but they would be less extreme than the status quo. The second alternative would develop a single species assessment for each species in the complex. In this scenario, life history differences would no longer be a concern. However, the catch composition indicates that some species are caught together.

Carvalho indicated that, if the deep snappers are grouped together, the only option for assessment type is a surplus production model. There are many modeling approaches for the single species; however, the data limitation at the species level limits the type of modeling approach that can be used. The data limitation is so severe, it may not be possible to use a data limited approach to conduct a single species assessment for certain species within the complex.

Dunham asked whether PIFSC will be conducting life history studies to determine fish abundance and how life history sampling could provide abundance information.

Carvalho said conducting an assessment is a collaborative process and generating the assessment is at the terminal end of the process. Data collection including life history sampling is conducted well before the assessment is generated. The life history and fishery-dependent data from creel surveys are all collected into once dataset, and the assessment is developed based on that dataset.

Watamura asked if there are long-lived shallow-water species.

Carvalho could not recall at the moment and said he would follow up with Watamura.

Amani said that, when Carvalho was in Guam and presented the assessment, everybody determined that the data provided to the Stock Assessment Program is a little off. The science that he generated is correct with the data that was given to him. She asked what the Stock Assessment Program is doing to correct the data.

Carvalho explained that the stock assessment team is only one component of the process. When the team is tasked to do an assessment, it has to work with data on hand. Moving forward, it is important to understand the problems with the data. Carvalho acknowledged the community concerns regarding the data from creel surveys; it is not sufficient to just say not to use the data

because the assessment needs data to run. His team is committed to connecting with the local agencies and the community to understand and identify the potential problems in the data and fix it at some capacity. Problems with the design or data collection implementation in the last 30 years could not be fixed in the next one to three years.

Amani asked how long would a redo of the assessment take with the complex split into smaller units.

Carvalho said that the decision to split the complex would be a collective effort. There is a need to engage the local agencies and fishermen, and his team is committed to conducting a data workshop to gather information from those involved. At this point, no decision has been made whether to do an assessment for shallow and deep bottomfish and that is only one potential grouping. If they were to come back and consult with the fishing community, that might not be the way to do it. The final decision on what the next assessment would look like depends on the outcome of a data workshop. In addition, this process will also include the Council's SSC and the Council itself.

Carvalho said that it is difficult to determine a concrete timeline since generating an assessment takes time. A bottomfish stock assessment was made a top priority for the team. People are being hired, and the hiring process is a difficult and lengthy process. The person that will be hired will immediately jump into the next benchmark assessment. Committing to a timeline would be difficult at this stage because a lot of consultation needs to happen, and each consultation will have decisions that may change the direction of the next benchmark. This is in addition to the travel restriction from COVID-19. Writing reports and reviews will also take time. The minimum timeline is 24 to 36 months.

Gourley commended the effort to conduct outreach in the territories. He added that the bottomfish fishery is a small fishery. Not having much data will complicate the assessment. There is a need to collect better data, and communicating with the fisherman is of utmost importance.

Soliai said the issue of using questionable data is similar throughout the territories. He asked how to correct the data that was used in the assessment. Information from Manu'a was not included in the assessment because there is no data coming from there. He questioned how an assessment can claim to be for the whole territory when the half of the island group was not considered in the assessment. He said there is a need to reevaluate how the data is collected. The territorial agencies are the ones collecting the information and are the ones to blame for the wrong data. It would be hard to close the fishery. Even if it can be closed, it would be difficult to enforce with the local fishermen. There is a need to right the wrong, and the correction needs to be done now.

Watumura asked if the Stock Assessment Program considered splitting the deep and shallow species and long-lived versus short-lived and prioritizing the long-lived species first.

Carvalho said splitting the complex alone is not the solution since the same data would be used. The outcome might be different, but this is an opportunity to re-evaluate the assessment science for the territories. A deep-shallow split may cut the timeline short, but it will utilize the

same data and would be splitting the same data and would not be addressing the root of the issue. There is a need to step back and look at the data; work with the people involved in the fishery, SSC members and local agencies; identify some potential fix; and come up with recommendations to implement better data collection. They did not explore a deep-shallow split because the FEP says the assessment should be done on a complex level.

Watamura clarified his comments were about moving forward in collecting data. If the separation already exists, it would be easier for fishermen to report what they targeted because it was expressed that fishermen are targeting shallow and deep.

Carvalho said that having groups in the data collection could be an option.

Simonds said that it is fortunate to have a PIFSC director who now understands all of the imperfect data collection having to do with surveys. She attested that Dave Hamm admitted that the data collection program was a failure. Moving forward, the territories are looking at managing their fisheries together with the Council and the federal government and considering permit and reporting. In the meantime, while the regulations are being developed and approved, the territories will initiate a better data collection program. Addressing the Stock Assessment Program, Simonds suggested outlining the protocol for the process on how to get to a new benchmark assessment. She said it is unfortunate that the data collection in the territories did not work and now the region will have to start anew. The PIFSC director understands the situation and has a great new staff that will be working on a fix.

Sesepasara said DMWR is the first to blame itself for submitting those data without taking a closer look. The blame should also be on the fishermen for not supplying data that should be submitted. Whoever analyzes the data should realize that there are some questions about the data. It is hard to point fingers, but everyone should be blaming themselves for not putting up better data. He pushed moving forward to collect better data working with the Council and NMFS. He recommended treating Manu'a separately from Tutuila for Council actions related to this scientific information, as most of the public hearings are done in Tutuila where the commercial fishermen are stationed. The Manu'a fishermen never had a chance to participate in some of the scoping meetings. October 2019 was the first time that Manu'a fishermen participated in a public meeting, and they were amazed at what the Council was doing. They are not educated on what the Council and NMFS are about. He acknowledged Dunham, a fisherman and president of the Alia Fishermen Association, and said he hoped that Dunham could relay the message to the fishermen on the importance of data.

Duenas asked if it is possible to merge the Guam and CNMI stock as one stock in the assessment, and how difficult it would be.

Carvalho was unsure whether that decision is to be done at the stock assessment level. He said that this decision should be made through the Plan Team. He did not have an answer on how difficult it would be as that is hard to determine.

Tosatto concurred with Carvalho and added that NMFS relies on the FEP to provide guidance and deliberations should be done to determine if changes to the FEP are warranted. There is only one FEP with two MUS lists. To do an assessment, those two lists should be

merged into one. A stock assessment would not be useful with a merged data between the two jurisdictions because it would be inconsistent with the FEP and become irrelevant for management purposes. The FEP should be changed first. The FEP also guides NMFS on how to improve that data to accomplish a multi-stock or a single stock assessment. Option 2 (of the options paper) keeps it in that framework, which is what he is supporting.

Tosatto reminded the Council on the issue of management concern that at least one territory is overfished and experiencing overfishing while the another is not overfished and not experiencing overfishing while Guam is in between. These are management issues that, absent new information, the Council will have to act upon.

Tosatto added that it would be unfair to say that the stock assessment did not consider Manu'a. In reality it did because Manu'a is within the total area of the action. Saying that data were not collected from the fisherman of Manu'a is different than saying the stock assessment did not consider Manu'a. Tosatto said there is an action before the Council on top of whether or not to manipulate the management unit. The Council needs to act upon the information that is made available for management decision.

Sabater presented the options paper for refining the territory BMUS. He provided an analogy of slicing the pie and whether to slice the pie now and freeze it or keep it for now and slice it later. The original 1986 Bottomfish Fishery Management Plan (FMP) included 60 species of which 20 were considered dominant species. When the Council transitioned from FMPs to FEPs, the number of MUS was reduced from 20 to 16 species in the Mariana FEP and 17 species in the American Samoa FEP. The Ecosystem Component Amendment further reduced the number to 13 in the Mariana FEP and 11 in the American Samoa FEP.

Sabater described the decadal changes in the fishery where there was a rise and fall of the large vessels in the fishery that led to changes in the proportion of deep and shallow snappers landed over time. The shallow bottomfish is also a minor component of the commercial fisheries. The deep snappers had higher economic value to supply the tourism in the Mariana Archipelago. Deep bottomfish catch also started to increase in the past decade in Guam as the fishermen learned how to deep bottomfish from fishermen in Hawai'i.

Current management involves mostly federal conservation and management measures including ACLs, CNMI large vessel permit and reporting, gear prohibition and observers on vessels. Current language in the FEP allows flexibility in the application of the MSY control rules on a species level if possible, then to an indicator species and lastly on a complex level. Current language also provides the flexibility that allows the analysts to design an assessment that is appropriate based on the quantity and quality of data that are available for each species in the complex.

The need for the options paper is to review the MUS to determine whether the current species composition continues to represent the fisheries and, if needed, to refine the BMUS complex to reflect the current state of the American Samoa, Guam and CNMI bottomfish fisheries.

The first option is no action; do not refine the BMUS complex into smaller biological units. The BMUS complex would remain as a diverse set of species having varying life history characteristics. The recent BMUS assessment would remain BSIA until 2025.

The second option is to retain flexibility within the current FEPs and generate the new benchmark. This provides the Stock Assessment Program the most flexibility to apply the appropriate Status Determination Criteria based on the quality and quantity of data. There is no statutory requirement on how early a new benchmark assessment can be generated, and the schedule of the next benchmark assessment would depend on the WPSAR Steering Committee.

The third option is to amend the FEPs and generate the new benchmark. The FEPs would be amended to establish a subsector of the fisheries comprised of deep snapper and the fisheries that target the remaining species in the BMUS lists. The Council and PIFSC would lose its flexibility on how to apply the control rule because the decision would lock in how the pie would be cut and would freeze it at this time. Each defined fishery sector would have a specific Status Determination Criteria. The assessment would have to apply that Status Determination Criteria, and the fishery would have to be monitored according to how the fishery is defined. A new benchmark assessment would be generated as soon as the amendment is up for final action.

Gourley commented that, with the removal of the coral reef species as MUS and the current attempt to reshuffle the BMUS, it would be prudent to take a look at the definition of EFH for the remaining MUS.

Sabater said some tangential issues need to be addressed along with these options, including the EFH revisions, status determination criteria and standardized bycatch reporting methodology (SBRM).

Watumura said that option 2 does not delineate shallow and deep species immediately. He wondered if it could be refined even further to just shallow. He recounted the deep 7 bottomfish fishery in Hawai'i primarily targets two species. He asked if refinement could be made to the point where only the highly targeted species are considered.

Sabater said option 2 provides the maximum flexibility on how to refine the complex from a catch composition or a life history point of view.

Tosatto said the flexibility starts with a list of 13 species for which there could be 13 assessments, or one stock assessment for the complex, or an assessment on an indicator species and monitoring of its performance. Unfortunately, the American Samoa complex is overfished and experiencing overfishing. The region needs to back out of that problem. If option 2 solves the problem, then that would be the smartest way to go. If an indicator species were selected and were healthy to the extent it is supportable, then all 13 species could be determined to be healthy.

#### **D. Requirements for Rebuilding Plans**

Jarad Makaiau, PIRO SFD, provided an overview of the rebuilding requirements for overfished stocks. When NMFS determines that a stock is overfished, the Council must develop a plan within two years to rebuild the stock to the level that can support MSY. The rebuilding

plan allows fishing to continue but at a reduced level so the stock can increase back to the biomass that provides MSY. Guidance on these requirements is set forth in the MSA and the implementing regulations at 50 CFR 600.310.

In Guam and American Samoa, the BMUIS biomass levels have fallen below the minimum stock size threshold (MSST). The goal of the rebuilding plan is to get out of the overfished situation to biomass levels that produce MSY. The length of rebuilding will depend on how far the biomass is from the MSST. Makaiiau then presented the Kobe plot for American Samoa and Guam bottomfish, which showed the stocks were overfished.

Makaiiau presented the conceptual rebuilding control rule, noting that the Council does not have a rebuilding control rule at this time and the MSA no longer requires one. He clarified that this is a construct that existed prior to the 2016 revisions of National Standard 1. He noted that the fishery is no longer fishing up to the maximum fishing mortality threshold. When the stock has been overfished, the Council should attempt to reduce the fishing mortality to a level below the fishing mortality target.

Makaiiau described the contents of the rebuilding plan. The Council must first specify a time period for rebuilding the stock back up to  $B_{MSY}$ , which is the  $T_{TARGET}$ . The  $T_{TARGET}$  that the Council chooses has to take into account the following: 1) the status of the stock (how far it is below the MSST); 2) the biology of the stock (how long it takes for individual fish to mature, and how long it takes for the stock to grow); 3) the needs of the fishing community; and 4) environmental conditions.  $T_{TARGET}$  must also be as short as possible and shall not exceed 10 years, with some exceptions.

Makaiiau described details of the rebuilding time line. The fishing mortality rate that is associated with  $T_{TARGET}$  is called  $F_{REBUILD}$ . The Council should also determine  $T_{MIN}$ , the minimum amount of time the stock is expected to rebuild in the absence of fishing. If all fishing mortalities are taken out of the equation, this determines  $T_{MIN}$ , which would give the Council a reference point of how long it would take to rebuild the stock. On the other end of the scale, the Council should also determine  $T_{MAX}$ , the maximum amount of time that the stock is supposed to rebuild. If  $T_{MIN}$  is less than 10 years, then  $T_{MAX}$  is going to be 10 years. Makaiiau used the Guam overfished status as an example where the stock would be rebuilt in five years at a catch level of 27,000 pounds. Then he compared it to the American Samoa example which would likely go beyond the 10 year  $T_{MAX}$ .

The regulations allow for different ways to identify  $T_{MIN}$ .  $T_{MIN}$  could be one generation time, which is the average length of time when an individual is born to when it reproduces. The Council could also consider the amount of time the stock is expected to rebuild to  $B_{MSY}$  if it was fished at 0.75 of MSY. Another way is to multiply  $T_{MIN}$  by two. The Council should determine  $T_{MIN}$  in consultation with the SSC and based on all of the available data on the stock.

Simonds urged the directors of the local government agencies to get their acts together and do what was discussed earlier in the meeting to improve the data rather than waste time and energy on the rebuilding requirements.

Sesepasara asked about the 2025 number for American Samoa and whether the biomass at that time would still be overfished.

Makaiau confirmed that, even if no fishing occurs, the stock would still not be rebuilt. There would still be 100,000 pounds left to rebuild.

Sesepasara asked if it means that the federal waters would still be closed.

Makaiau said that the Council's plan to end overfishing and for rebuilding has yet to be decided, so those details would still need to be agreed upon in the rebuilding plan.

Gourley said that the bottom line for the American Samoa bottomfish rebuilding plan does not look good.

Makaiau said lots of hard decisions need to be made.

### **E. Standardized Bycatch Reporting Methodology**

Brett Schumacher, PIRO SFD, presented an overview on the NMFS requirements on SBRM. Section 303(a)(11) of the MSA requires that every FMP establish SBRM with the goal of assessing the amount and type of bycatch occurring in a fishery. NMFS also developed National Standard 9 guidelines, which provide several clarifications about bycatch requirements under the MSA. Bycatch is defined as fish that are harvested in a fishery but are not sold or kept for personal use. It includes economic and regulatory discards and mortality due to fishing gear even if the fish are not captured. However, National Standard 9 did not interpret the SBRM requirement, and until recently NMFS did not have formal or national policy or regulation to address this need. In the absence of a national SBRM regulation, Councils have taken varying approaches to interpreting the provision. In light of the varying approaches to establishing SBRMs, NMFS published a rule in 2017 to clarify the basic requirements through formal rulemaking to achieve greater consistency in establishing, documenting and reviewing SBRM.

Schumacher highlighted key components of the rule: 1) defines SBRM and clarifies the purpose of the SBRMs; 2) requires every FEP to identify the required procedures that constitute the SBRM for each fishery; 3) requires every FEP to explain how the SBRM meets the defined purpose based on a four-part analysis; and 4) provides for a review process for the SBRMs. The rule defines SBRM as an established, consistent procedure to collect, to record and to report bycatch data in a fishery. It does not require regional or national standardization. Instead, the requirement to establish a standardized methodology applies to each fishery managed under an FMP or FEP. Therefore, the SBRMs can vary from one fishery to another within a region or within an FEP. The final rule also recognizes the distinction between data collection and bycatch assessment.

The rule affirms the importance of these activities by making clear that the purpose of an SBRM is to collect bycatch data in a fishery so it can be used to assess the type of bycatch occurring. Ultimately, the goal is to inform the development of conservation and management measures to minimize bycatch and mortality from bycatch. The rule requires that every FEP

identify the required data collection and reporting procedures that constitute the SBRM. The FEP must explain how it meets the purpose as described in the rule.

The rule requires Councils to conduct a fishery-specific analysis when establishing or reviewing an SBRM that addresses four specific elements: 1) the characteristics of bycatch; 2) the feasibility of the methodology that will be used; 3) how much uncertainty there is in the data; and 4) how the data resulting from the methodology are going to be used. Schumacher provided detailed examples for each element. The rule provided five years from the effective date to bring FMPs and FEPs in compliance, with a deadline of Feb. 21, 2022. To verify consistency with the rule, Councils, in coordination with NMFS, are required to conduct a review of their existing SBRMs. The Councils' reviews need to provide sufficient information for NMFS to determine whether an FMP or FEP would need to be amended. The guidance also states that the review of the rule should be documented, but the review, itself, does not have to be part of the FMP or FEP. The Councils, in coordination with NMFS, should also periodically review the SBRMs to verify they're still in compliance with the MSA and the SBRM rule.

Asuka Ishizaki, Council staff, provided an update on the review status and the next steps. After the first bycatch requirements were included in the 1996 MSA Reauthorization, the Council developed an amendment to the FMPs in existence at that time (Crustacean, Precious Coral, Bottomfish and Pelagic). The original amendment was published in 1999. Of those four, the amendment for the Bottomfish and Pelagic FMPs was disapproved because additional explanations were needed for the bycatch and what was being done about those bycatch. The Council developed a supplement to address the missing items. Each of the bycatch amendments included a description of bycatch characteristics, described the different data collection methodologies that are available for each of the fisheries, and identified one or more data sources as SBRM for each fishery. When the Council transitioned from FMPs to FEPs in 2009, the Council carried forward these bycatch provisions; hence, they still exist in the current FEPs.

Ishizaki used the American Samoa FEP as an example of whether the existing SBRM may be consistent with the new requirements. She covered the fisheries in the FEP, the data collection description and methodologies and the bycatch characteristics. She then overlaid this information on the SBRM requirements in the final rule to demonstrate that the current FEPs have the elements to comply with the SBRM review, although the FEPs do not contain explicit explanation of how the SBRM meets the purpose defined in the 2017 SBRM requirements. Staff will develop the full review document and vet it through the advisory group meetings in the spring and summer 2020.

Watamura asked for an example of bycatch in the region.

Ishizaki said bycatch is minimal using the American Samoa example. Finfish that are not targeted are normally kept and not thrown back. This is a small scale fishery; hence, the bycatch is small. On a larger fishery like the Hawai'i longline fishery, observer data documents the economic or other discards. The SBRM recognizes that each fishery is different and thus will have different needs for estimating and assessing bycatch.

Watamura sought confirmation that bycatch represents discards and releases.

Ishizaki confirmed.

Tosatto added that it depends on the fishery. A framework needs to be set up that would reliably provide these bycatch estimate rather than saying “I have no bycatch.”

Rice asked if the release of billfish is bycatch.

Tosatto responded yes.

## **F. Pacific Remote Island Areas Marine Conservation Plan**

DeMello presented the contents of the PRIA MCP. The process starts with NMFS informing the Council that there is funding available in the Sustainable Fisheries Fund. The Council Executive Committee then convenes to review the priority ranking within the MCP and to consider the amount of funds available, current Council issues and available resources to do the projects. After the Executive Committee identifies the projects to be funded, Council staff works with PIRO to finalize the grant application. DeMello reviewed the goals and objectives for the PRIA MCP and described the projects listed in the plan.

Okano requested that the Council defer action on this item until June to give the State of Hawai‘i a chance to work with Council staff on the type of projects to include in the MCP so it reflects co-managed fisheries, such as pelagic, bottomfish and Kona crab, and the people who utilize them.

Simonds said that the Council could do both since the MCPs can be changed at any time. In the past the Council has also asked the territories for any projects they want the Council to deal with to be included the PRIA MCP. Simonds asked Tosatto’s opinion on how to proceed.

Tosatto said either option is viable. The MCP will be used to make decisions for the use of the Sustainable Fisheries Fund. If the MCP is capped on a short term, then NMFS cannot process those funds if available. The plan has a three-year life. The preference is to use the full life of the plan than to say that the plan is good until a replacement comes in.

Watamura said the current MCP language is broad and open for input for specifics. The role of the State is get to the specifics. He said the State and the Council have the same goal in mind, which is described well.

Okano was under the impression that the MCP expires on Aug. 3, 2020.

Muna-Brecht was on a timeline to finalize the review with local approval in June and NMFS approval in August, which led her to think that the deadline was June.

Okano preferred to refrain from getting into the specifics but instead find a way to collaborate and interact to get to a place where everyone is comfortable.

Simonds said if August is the expiry then there will be time.

Okano agreed.

Simonds noted that the deadline for the MCPs was Aug. 3, 2020, so there is time to work on them together. Between now and June people should work on them so it could be brought in front of the Council at the June meeting. After the plans are developed with their respective governors, the Council will review them. If there are changes, the plan goes back to the respective territory. It is the Territory's responsibility to send the draft MCP to Tosatto for approval by the August deadline.

Peck supported moving the action to June. He said USFWS will be reviewing the MCP.

Okano thanked the Council for the accommodation and said he will be working with DeMello on this.

Henry sought confirmation that the American Samoa MCP is not due until 2021.

Simonds confirmed the American Samoa MCP is due on July 24, 2021.

### **G. Update to Council Fishery Ecosystem Plans**

Sarah Pautzke, Council contractor, provided an update on the revisions to the Council's FEPs. The intent was for the transition from FMPs to FEPs to also include restructuring to a living document format in which the most recent language from the amendments is incorporated into the FEPs. The revision would also update old information, correct wrong information, and incorporate amendments implemented since 2009. The annual Stock Assessment and Fishery Evaluation (SAFE) reports are referenced throughout the document for the most recent data. Pautzke provided an overview of each of the sections and changes made in the restructured FEPs, using American Samoa as an example. The FEPs were reorganized so that the information flows better with a natural progression from broad scale to specific fisheries.

Gourley asked how thick the documents are now.

Pautzke said that they are significantly less than the 2009 versions.

Simonds thanked Pautzke for working on the documents.

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

Vandehey provided an update on the regional education and outreach activities. The fall *Pacific Islands Fishery News* was distributed through Constant Contact. The lead story was the territory bottomfish assessment and the shallow-set take model. The newsletter also included the year-end summary from Simonds and plans for the next five years. The regional lunar calendars were also distributed. They focused on Council funded projects in the territories. AP brochures were also generated. The big push from the AP this year is community outreach on basic information about the Council.

Sylvia Spalding, Council staff, presented the national and international education and outreach initiatives since the last Council meeting. She provided a recap on the OceanObs'19 conference that had been announced at the October Council meeting. She described the United Nations (UN) Declaration of the Rights of Indigenous People and UN Sustainable Development

Goal #14 regarding the ocean, which the upcoming UN Decade of Ocean Science for Sustainability (2021-2030) aims to address. OceanObs'19 concluded with an Indigenous Declaration, Aha Honua, regarding the indigenous peoples and the ocean observing community working together during the UN Decade of Ocean Science. Spalding also reported that Council staff met with First Stewards, Ocean Networks Canada and PacIOOS on several occasions to move the Aha Honua forward in the region. She provided an overview of upcoming events, including the UN Ocean Literacy Summit in June 2020 in Portugal and the International Pacific Marine Educators Network and the National Marine Educators Association in July 2020 in Honolulu.

Watamura said that he sits in the board of directors for PacIOOS and was asked for input on how to promote indigenous knowledge with ocean observation. The board is interested in moving forward with this initiative.

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

### **1. Advisory Panel**

Clay Tam, AP chair, presented the AP report and recommendations regarding program planning.

*Regarding the interim measure for the American Samoa bottomfish fishery*, the American Samoa AP recommended the Council exempt the Manu'a fisheries from the interim measure and the subsequent ACL actions

*Regarding the territorial bottomfish MUS*, the American Samoa AP recommended the Council select option 2 to retain flexibility and generate a new benchmark for the bottomfish MUS.

*Regarding the territorial bottomfish ACL*, the Guam AP recommended the Council select option 2 as its preferred alternative and specify the status quo with an ACL based on the SSC recommended ABC and results from the SEEM analysis. Further, the Guam AP recommended the Council work with the true bottom fishermen who land 90% of the bottomfish complex catch and allow for volunteer submission of data so that the next benchmark assessment is based on improved catch information and separate the assessment between the deep and shallow bottomfish complexes.

*Regarding territorial bottomfish*, the CNMI AP recommended the Council select option 2 and use the SSC's ABC and SEEM results

*Regarding the PRIA MCP*, the Hawai'i AP recommended the Council ensure that the PRIA MCP include community FADs as a priority project

Tam said that fishermen should be a part of the solution and the AP would walk the talk. The AP had been trained on the new app that the Council developed to help the territories. It is time to take action. Every delay is information lost. The AP is there to support the community. Arbitrary boundaries of management do not matter for the fish that are being managed;

management should adapt. Understanding on how the changing climate will affect the fisheries using ecosystem-based fishery management is needed and could be addressed if everyone works together.

## **2. Archipelagic Plan Team**

Sabater presented the Archipelagic Plan Team report and recommendations regarding program planning.

*Regarding the interim measure for American Samoa bottomfish fishery*, the Archipelagic Plan Team recommended the Council request NMFS to immediately communicate the potential management options with DMWR to address the overfishing and overfished issues in the bottomfish fishery. To meet the federal mandates, the Archipelagic Plan Team requested the Council to recommend a prohibition on fishing for BMUS in federal waters to provide time for NMFS and the Council to work with DMWR to develop a rebuilding plan that can effectively end overfishing and rebuild the stock. The Archipelagic Plan Team recognized that a unilateral closure of federal waters would be unlikely to reduce fishing mortality to a level that would ensure biomass increases during the interim measure.

*Regarding longer term management of the American Samoa bottomfish fishery*, the Archipelagic Plan Team recognized that the majority of the bottomfish fishery likely occurs in territorial water. It recommended the Council work with PIRO and DMWR to develop a plan for collaborative management of the bottomfish fishery. Further, the Archipelagic Plan Team recommended the Council, in collaboration with NMFS and DMWR, explore the feasibility of using a temporal-spatial closure approach as a longer term measure to reduce the fishing effort and catch to prevent overfishing and rebuild the stock.

*Regarding the groupings of the existing BMUS*, the Archipelagic Plan Team recommended the Council select option 2, which retains the flexibility in the application of the control rules to the MUS. Further, the Archipelagic Plan Team recommended the Council request NMFS PIFSC to initiate the development of a new benchmark assessment on a species resolution that is deemed appropriate during the data preparation workshop and apply the appropriate status determination criteria for the assessment to be WPSAR reviewed at the soonest time practicable.

*Regarding education and outreach*, the Archipelagic Plan Team recommended the Council work with NMFS and territory agencies to conduct outreach efforts on data collection and management of the bottomfish fishery.

*Regarding the review of the BMUS list*, the Archipelagic Plan Team recommended the Council work with NMFS and territory agencies to review the BMUS list and to discuss the available options and the regulatory consequences of adding and removing species from the list.

## **3. Social Science Planning Committee**

Adam Ayers, PIFSC and Social Science Planning Committee (SSPC), presented the SSPC report and recommendations.

*Regarding the annual SAFE report*, the SSPC recommended tracking progress of projects in the five-year research priorities in the annual SAFE report.

*Regarding the socioeconomic effects and economic performance*, the SSPC recommended including a social scientist on the BiOp RPM working group. Further, the SSPC recommended convening a working group to consider a process for integrating socioeconomic considerations for Council actions that require a short turn-around (e.g., responding to BiOps; emergency actions) and bringing back options to the next SSPC meeting.

*Regarding stock assessments*, the SSPC noted that the MSA allows regional flexibility and the built-in opportunity for fishermen to have a voice as the resource users. Much of the time, fishermen know as much if not much more than the biological scientists about the fish resources, their behavior, habitat and catchability. Failure to fully understand fisheries can compromise the quality of assessments, in both the protected species and stock assessment realms. The SSPC recommended that the Council engage fishermen user groups throughout the stock assessment process. Workshops and other forms of engagement should be held with a sample of local fishermen in each island group to inform any pending stock assessments. Throughout the process, fishermen can speak to their knowledge of the stocks, stock condition, and data collection and data quality issues.

#### **4. Scientific and Statistical Committee**

Lynch, SSC chair, presented the SSC report and recommendations regarding program planning.

*Regarding the interim measure for American Samoa bottomfish fishery*, the SSC recommended the Council, in collaboration with PIFSC, focus its efforts on implementing the electronic self-reporting with corresponding training of the bottomfish fishermen and comprehensive outreach efforts on the importance of accurate and timely reporting.

*Regarding the option for the ABC in the Mariana bottomfish fishery*, the SSC set the new ABCs for the Guam and CNMI bottomfish fisheries based on the results of the P\* analysis. The ABC for CNMI BMUS is at  $P^*=0.39$  corresponding to a catch level of 84,000 pounds. The ABC for Guam BMUS is at  $P^*=0.31$  corresponding to a catch level of 27,000 pounds. This P\* and ABC would apply to fishing year 2020-2023.

*Regarding the options paper to amend the BMUS in the American Samoa and Mariana FEPs*, the SSC recommended option 2, that the Council retain the current language in the FEPs that allows the application of the control rules from a single species to a complex level and initiates the development of a new benchmark assessment. Moreover, the SSC recommended the Council request PIFSC to initiate the development of a new benchmark assessment on a species resolution that is deemed appropriate during the data preparation workshop and apply the appropriate status determination criteria for the assessment that

would be subject to WPSAR at the earliest time practicable. The SSC recommended PIFSC to explore other data sets aside from the creel surveys and commercial receipt books (e.g., electronic self-reporting) and other modeling approaches for next BMUS benchmark assessment.

*Regarding the SBRM*, the SSC recommended that Council staff continue working with NMFS PIFSC and PIRO in further addressing the SBRM requirements.

#### **J. Standing Committee Report**

Gourley, Program Planning and Research Standing Committee chair, presented the report and recommendations.

*Regarding the interim measure for the American Samoa bottomfish fishery*, the Program Planning and Research Standing Committee recommended the Council direct staff to work with NMFS and DMWR to develop and implement congruent in-season monitoring and accountability measure in order to prevent overfishing and ensure that the stock is rebuilding. Moreover, the Standing Committee recommended the Council direct staff to work with DMWR, in collaboration with PIFSC, to train bottomfish fishermen and DMWR staff on the use of the electronic reporting (ER) application. Further, the Standing Committee recommended the Council direct staff to work with NMFS and the territory agencies to develop a coordinated plan to conduct targeted outreach on the importance of accurate and robust data collection and the management efforts for the bottomfish fisheries in American Samoa, Guam and CNMI.

*Regarding the specification of ACLs for the Mariana bottomfish fisheries for fishing year 2020 to 2023*, the Program Planning and Research Standing Committee recommended the Council select option 2, which uses the results from Langseth et al. 2019, P\* analysis and SEEM analysis to specify the ACLs. For the CNMI, the Council would specify the ACL equal to the ABC at 84,000 pounds at 39% risk of overfishing and sets an ACT of 78,000 pounds at 34% risk of overfishing. For Guam, the Council would specify the ACL equal to the ABC at 27,000 pounds at 31% risk of overfishing. This level of catch allows the catch to be maximized while preventing overfishing and allow the stock to rebuild within five years. This would have a 50% chance of not exceeding the ACL.

#### **K. Public Comment**

There were no public comments.

#### **L. Council Discussion and Action**

*Regarding the interim measure for the American Samoa bottomfish fishery*, the Council **directed staff to work with NMFS and DMWR to develop and implement consistent in-season monitoring and accountability measure in order to prevent overfishing and ensure that the stock is rebuilding.**

**The Council directed staff to work with DMWR, in collaboration with PIFSC, to train bottomfish fishermen on the use of the ER application as soon as possible.**

**The Council directed staff, in collaboration with NMFS and DMWR, to explore the feasibility using a temporal-spatial closure approach as a longer term measure to reduce the fishing effort and catch to prevent overfishing and rebuild the stock.**

Tosatto clarified that although the title is for the interim measure, none of the actions necessarily change the Council's prior recommendation that NMFS take Secretarial action to put the interim measure in place. This interim measure begins to address overfishing and does not relieve the Council from its obligation to end overfishing in the American Samoa fishery. The recommendation supports that intent, but the interim measure will expire. The Council will have to consider over the course of the interim measure being in place a new permanent solution to end overfishing in this fishery.

Sesepasara pointed to the second recommendation that talks about the training of fishermen. He suggested putting in a timeframe like a minimum of three months training for fishermen to use the tablets in order to move forward with better data.

Simonds said that she would have to consider whether she could send Sabater to American Samoa for three months. One month may be doable.

*Moved by Sesepasara; Seconded by Duenas.  
Motion passed.*

*Regarding the specification of ACL for the Mariana bottomfish fisheries for fishing year 2020 to 2023, the Council selected option 2, which uses the results from Langseth et al. 2019, P\* analysis and SEEM analysis to specify the ACLs. For the CNMI, the Council specifies the ACL equal to the ABC at 84,000 pounds at 39% risk of overfishing and sets an ACT of 78,000 pounds at 34% risk of overfishing. For Guam, the Council specifies the ACL equal to the ABC at 27,000 pounds at 31% risk of overfishing. At this level of catch, it allows the catch to be maximized while preventing overfishing and allow the stock to rebuild within five years. This would have a 50% chance of not exceeding the ACL.*

**The Council acknowledged that the current data collection systems in Guam and CNMI do not allow for near-real time tracking of catches thus an in-season monitoring is not possible and an in-season closure of the fishery is unlikely. Therefore, the Council recommended a post-season accountability measure where the ACL for the succeeding year will be reduced by the amount of the overage determined by the three-year average of recent catch.**

**Further, the Council deemed that the regulations implementing the recommendations were 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 were consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The executive director and the chair were authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations were not consistent with the Council action.**

Tosatto abstained from the vote as it is a final action that will come before the agency for decision making.

*Moved by Duenas; Seconded by Rice.*  
*Motion passed with Tosatto abstaining.*

*Regarding the regrouping of the territory BMUS, the Council selected option 2, which retains the flexibility in the application of the control rules to the MUS. Further, the Council requested NMFS PIFSC to initiate the development of a new benchmark assessment on a species resolution that is deemed appropriate during the data preparation workshop and apply the appropriate status determination criteria for the assessment that would be subject to WPSAR at the soonest time practicable.*

**The Council recommended NMFS PIFSC to explore other data sets aside from the creel surveys and commercial receipt books (e.g., electronic self-reporting) and other modeling approaches for next BMUS benchmark assessment.**

**The Council requested NMFS PIFSC to engage fishermen user groups throughout the stock assessment process. Workshops and other forms of engagement should be held with a sample of local fishermen in each island group to inform any pending stock assessments. Throughout the process, fishermen can speak to their knowledge of the stocks, stock condition, and data collection and data quality issues.**

**The Council directed staff to work with NMFS and territory agencies to review the BMUS list and to discuss the available options and the regulatory consequences of adding and removing species from the list.**

**The Council directed staff to work with NMFS PIFSC in the five-year EFH reviews of the territory bottomfish and incorporate this in the WPSAR schedule.**

Watamura sought clarification on whether fishermen would be present during the discussion on the addition or removal from the list.

Sabater confirmed fishermen would be included.

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

*Regarding the development of rebuilding plans for the overfished BMUS stock in American Samoa and Guam, the Council directed staff to form an action team comprised of*

**Council, NMFS PIFSC, NMFS PIRO and select SSC members and gather the information required for the development of the rebuilding plans.**

**The Council directed staff to conduct scoping meetings in American Samoa and Guam to determine the range of potential management measures that would constitute the rebuilding plans.**

Tosatto provided grammatical corrections to make the rebuilding plan plural because there are two FEPs involved.

Soliai asked whether fishermen should be included in the action team.

Sabater said that normally the action teams are people who draft the amendment and create plans on how to deal with the options. The AP will be consulted, but the composition of the action team is primarily agency staff. People can be added when practicable.

Soliai said that sounded fair as long as the AP is included. He said the information from the scoping meetings would help.

Gourley asked if a second sentence is needed to clarify the draft will be coordinated with the Plan Team and the AP before being public.

Muna-Brecht asked if the action team would come up with the plan.

Soliai said he thinks that the AP would come under the Council for the action team and he is fine with the language as it is.

*Moved by Duenas; seconded by Rice.*

*Motion passed.*

**Regarding the SBRM, the Council directed staff to work with NMFS PIRO to develop a review document to evaluate consistency of existing FEP SBRM with the 2017 requirements and identify any steps needed to bring FEPs into compliance. The document should be reviewed by the Plan Team and SSC prior to Council consideration of next steps.**

Watamura noted the interesting point McGrew made on whether a released marlin is considered bycatch. He asked who has input on what constitutes bycatch.

Sabater said that the MSA definition of bycatch provides a starting point and staff can explore other definitions for the review.

Simonds said discards for the entire region could be in the thousands and asked whether that becomes an underutilized fishery. If the fish cannot be sold in the market, they have no place to go once they are caught unless they are taken home or products are developed that tourists can take to the mainland.

Rice said the charter industry in Kona releases three thousand marlins a year.

Simonds said that the Council should look into this more.

Tosatto said the Council is deliberating on a great action. Motivation for catch and release in a sport fish fishery may be different than the release of a non-marketable billfish controlled by the Billfish Conservation Act. Those different issues should be explored. This is a broad action that should bring those issues to light as the region standardizes and reports on bycatch in the fisheries.

Watamura added, since Tosatto brought up the Billfish Conservation Act, even if the marlin is brought up dead, they have no market so there is no reason to keep them. It is an obvious problem when they are sold at 25 to 50 cents per pound.

Moved by Duenas; seconded by Rice.

Motion passed.

**Regarding outreach efforts on bottomfish data collection and management, the Council directed staff to work with NMFS and the territory agencies to develop a coordinated plan to conduct targeted outreach on the importance of accurate and robust data collection and the management efforts for the bottomfish fisheries in American Samoa, Guam and CNMI.**

Moved by Duenas; seconded by Rice.

Motion passed.

**Regarding the PRIA MCP, the Council deferred decision and directed staff to work with the State of Hawai'i, CNMI, Guam, American Samoa and USFWS in reviewing the MCPs for further revisions and to provide to the Council for approval in June 2020.**

Peck requested the USFWS be added to the recommendation.

Sesepasara asked if American Samoa can add projects in the PRIA MCP.

Sabater confirmed that American Samoa is allowed to add projects and objectives to the PRIA MCP in order to use the funds. It does not amend the American Samoa MCP.

Moved by Duenas; seconded by Rice.

Motion passed.

## **XI. Pelagic and International Fisheries**

### **A. American Samoa Longline Annual Fishery Report**

Keith Bigelow, PIFSC, provided the 2019 annual report for the American Samoa longline fishery. The report covered fishery statistics including participation, effort and catch. The data were preliminary, as some log sheets were in transit from Pago Pago to Honolulu and not yet included in the report.

Participation in the fishery increased from 13 to 27 vessels in 2019. Seventeen of those vessels are not very active in the fishery; three are alia; and two have returned to Hawai‘i. Of the remaining 12, only about eight are really active. The number of trips for 2019 was 98 based on the preliminary data. While the final number is expected to be higher, it will likely not exceed 149 trips seen in 2018. Approximately 3.2 million hooks were deployed in 2019, compared to 17 million in 2007. About 41,000 albacore tuna were caught in 2019, which was lower than the number caught in 2018. The albacore CPUE is about 12.6 albacore per thousand hooks in 2019, which was lower than 2018 but greater than the lowest CPUE on record in 2014.

Bigelow showed figures in response to a request from the Council at its 181<sup>st</sup> meeting to evaluate the catches of albacore from Chinese-flagged longline vessels operating in the Southwest Pacific and compare to the catches and performance of the American Samoa longline fleet. From 2014 to present, the number of Chinese longliners reporting in the region increased from 353 to 448 while catches and performance of the American Samoa fleet waned. In 2007, South Pacific albacore catch by Chinese longline vessels were similar to the American Samoa longline fishery, but the Chinese catch thereafter increased significantly with recent catches being 10 to 20 times greater than that of American Samoa. CPUE between the two fleets were similar from 2007 to 2013 and, thereafter, diverged with Chinese CPUE being higher. The Chinese fleet has much more flexibility, with charter arrangements in a variety of Pacific Island countries, such as Fiji and Solomon Islands. China also has a greater diversity, being able to fish on the high seas to the South in a variety of Pacific Island countries and territories, contributing to the higher CPUE in recent years.

Soliai asked for verification that the data used for the comparison of the Chinese and American Samoa longline albacore catches did not include the Hawai‘i longline attribution.

Bigelow confirmed, noting that the Hawai‘i longline attribution would be for albacore in the North Pacific, which is a separate stock than the South Pacific.

Sesepasara asked if the Chinese have a lot more fishing boats than American Samoa.

Bigelow confirmed.

Sesepasara asked if the comparison included the larger range where Chinese vessels operate versus the small area where American Samoa vessels operate.

Bigelow confirmed and noted that the Chinese longline catch presented was for the WCPFC Convention Area.

Simonds said this is an issue that the American Samoa government and the industry can bring up with the Department of the Interior’s Office of Insular Affairs as it negotiates the different treaties that it has to deal with.

Goto asked if Chinese catches included albacore in the eastern Pacific.

Bigelow said, no, the presented Chinese albacore catch is only for the WCPFC Convention Area.

## **B. Hawai'i Longline Annual Fishery Report**

Russell Ito, PIFSC, provided the 2019 annual report for the Hawai'i deep-set and shallow-set longline fishery. The report covered fishery statistics including participation, effort and catch.

In 2019, there were 150 active vessels in the longline fishery, of which 136 were deep-set vessels that targeted tuna throughout the year and 14 started shallow-setting for swordfish and then switched to deep-set due to turtle limits in the shallow-set fishery. About 15 vessels fished out of California, most of which fished out of Hawai'i for a short period of time throughout the year. Of 1,744 trips in 2019, a total of 1,719 trips were deep-set trips and 25 trips were shallow-set. A total of 22,800 sets were deployed, of which 300 were shallow-set. Sixty-three million hooks were deployed in 2019. Of those hooks, 49 million were set on the high seas and 14 million in the EEZ around Hawai'i and the PRIAs. Effort to the south of the MHI increased in 2019 compared to the long-term average. Most shallow-set effort was above 30° N.

The Hawai'i longline fishery caught 224,000 bigeye tuna with catch rates steady over the last six years. Yellowfin tuna catches increased to 62,000 fish and have been high for the last four years. Most bigeye catch was from 150° to 165° W and 15° to 20° N. Highest bigeye CPUE was 3.5 per 1,000 hooks, a slight decline from 3.7 in 2018. The shallow-set fishery caught 3,400 swordfish, a decline from 6,100 in 2019. Deep-set catches for swordfish have been higher than the shallow-set due to closures of the shallow-set fishery. CPUE of shallow-set swordfish declined from 12 fish per 1,000 hooks in 2018 to 10 fish per 1,000 hooks in 2019. In 2019, marlin caught totaled 21,000, which is a steady increase since 2016. Blue marlin catches were record high in 2019 at 16,000 fish, showing an increasing trend since 2012. Mahimahi and monchong catches declined. Bluefin tuna, which are rare in the Hawai'i fishery, were caught 14 times in 2019 according to logbook records.

The Hawai'i longline fishery for bigeye tuna closed three days shy of New Years in 2019, and the SEZ was again closed in 2019 due to false killer whale interactions.

Rice asked if the lower swordfish catch in 2019 by the deep-set fishery compared to 2017 and 2018 was due to effort being concentrated in the southwest zone rather than the northeast.

Ito said yes and added that the higher yellowfin tuna catches in the deep-set may also be a result of higher effort in the southwest.

Rice asked if Goto knew why the fleet fished more to the south in 2019 compared to past years and wondered if water temperature was different in 2019.

Goto said he did not know but the fleet does follow the fish. He asked if there was a negative correlation between record high of deep-set effort with the record low shallow-set effort and the closure of the shallow-set effort forcing vessels to convert to deep-set.

Ito said yes. Because the average number of hooks per set in the shallow-set is around 1,200 compared to 2,500 to 3,000 in the deep-set, more effort would be expected if vessels shift to deep-set. The total number of hooks would increase by a factor of two or three.

Rice asked how many shallow-set vessels are fishing at the moment.

Ito said he did not have the numbers but guessed that it may be comparable to last year.

Goto said effort has largely halted for the season and none of the Hawai'i-based vessels are currently shallow-setting, but a couple of California-based vessels could be.

Soliai asked what the cost of the transition is from shallow-set to deep-set fishing.

Kingma said about \$10,000 to \$15,000 per vessel as they use different baits and consume more fuel due to shallow-set trips being longer than deep-set trips. The gear changes require about seven days in port.

Watamura asked how many fish are caught on a typical set.

Ito said it was about 10 bigeye tuna per day plus other marketable catch.

Watamura asked how many yellowfin were caught per set, citing discussion at small boat scoping meetings.

Ito said he will have to look at the data and referred to the briefing document.

Watamura said some fishermen have a misconception that 3,000 hooks deployed per set in the longline fishery equate to 1,000 fish being caught.

Rice asked if any boats discard blue marlin or if they retain all that are dead.

Ito said he heard that some fishermen released blue marlin because they knew prices were bad during the peak of the season.

Rice said that Gulf of Mexico boats had to catch 1,500 yellowfin before they could retain one bluefin tuna. Therefore, they would release and discard 15 to 20 bluefin, which is a waste.

### **C. Hawai'i-Based Shallow-Set Longline Fishery Biological Opinion Reasonable and Prudent Measures Working Group**

Joshua Lee, PIRO, provided the BiOp RPM working group presentation on the Hawai'i-based, shallow-set longline fishery. The Hawai'i shallow-set longline BiOp issued in June 2019 included an incidental take statement and RPMs. RPMs are those actions necessary or appropriate to minimize the impacts in terms of the amount or extent of incidental take and are nondiscretionary. In response to the RPMs, SFD in collaboration with other NMFS, PIFSC and Council staff developed a work plan, which was presented at the October Council meeting. SFD subsequently formed a working group to accomplish the work needed to address the RPMs. The working group is focusing on three areas: updating the observer program data collection; evaluating different management measures with a focus on spatial and temporal patterns of fishing and interactions; and evaluating best handling and release practices for ESA listed species through post-interaction survivability studies. Lee also reported that Amendment 10,

which would implement a hard cap of 16 leatherbacks per fishing year and trip limits of five loggerhead and two leatherback turtles, is available for public comment.

Goto asked Tosatto to consider adding industry representation to the working group.

Simonds said she is anxious to implement the projects to see what does and doesn't work.

#### **D. Assessing Population Level Impacts of Marine Turtle Interactions in the Hawai'i Deep-set Longline Fishery**

Jones provided a presentation on assessing population level impacts of marine turtle interactions in the Hawai'i deep-set longline fishery, focusing on the differences between the deep-set and shallow-set longline fishery models. The main difference between the two fisheries for which the model needed to account was the observer coverage. The shallow-set has 100%, whereas the deep-set has approximately 20%. Jones provided a background on the model development, which had been previously presented to the SSC and Council in October 2018 and October 2019. The technical memorandum for the shallow-set longline fishery model was published in January, after which the work for the deep-set fishery started.

Jones provided an overview of the modeling framework, as well as the loggerhead and leatherback turtle nesting beach data used in the analysis. The loggerhead turtle population is increasing at 2.3% per year while the leatherback turtle population is declining at 6.1% per year. The model output for loggerheads suggests that there are approximately 4,548 females in the loggerhead turtle population (representing 52% of the North Pacific loggerhead turtle nesting female population) and approximately 809 females in the leatherback turtle population (representing 75% of the Western Pacific loggerhead turtle nesting female population).

To apply the impact of take to the population, the model used an anticipated take level from a distribution based on historical records and applied length and mortality rates to the takes to generate an adult nester equivalent. Results from the loggerhead model show that the population projection with the anticipated take in the Hawai'i deep-set fishery does not deviate from trends that do not incorporate take of individuals. Results from the leatherback model, in the later years starting around 2080, show some divergence from the no-take scenario. By the year 2100, the difference in two scenarios for leatherback equates to less than one adult nesting turtle. Due to the declining population trend of leatherback turtles, the model results show a strong likelihood the population will fall below abundance threshold in both scenarios, with very little difference in the time to reach thresholds of 50%, 25% and 12.5% of current abundance between the no-take and take scenarios. The model also evaluated the impact of historical takes on the population. It shows that adding the historical takes back into the population made little to no difference on the population estimate or growth rate for both loggerhead and leatherback turtles. The model included all other sources of threats and mortality as it looked at the patterns on the nesting beaches.

Watumura asked where the actual culprits in the population decline are, noting that the impact of the deep-set fishery on the leatherback turtle is one nesting female.

Jones noted various threats, including coastal gillnet fisheries in southeast Asia, pound-net fisheries in Japan, IUU fishing in southeast Asia, foreign fisheries that use J-hooks and squid bait, physical impacts to nesting beaches, depredation of nests and some direct harvest. Japan allows the retention of 100 adult females from their pound-net fisheries.

Watamura asked what the steps are for mitigating some of the threats.

Jones said that PIFSC undertakes combined research efforts with PIRO, including in the Philippines and Indonesia. The United States and Indonesia have a bilateral agreement to reduce the directed harvest of leatherback turtles, as an estimated 400 animals were being harvested as recently as two or three years ago. Through the agreement, that number was reduced to 100 and then to nine in 2019. The Council previously funded projects to reduce impacts of pigs at nesting beaches through electric fencing. The current largest effort is maintaining sufficient surveys at index beaches so data are available to do assessments.

Watamura asked if anything is being done in gillnet fisheries taking leatherbacks.

Jones said PIFSC's International Fisheries Program is conducting research on deterrents such as lights to reduce turtle bycatch in gillnets while maintaining target catch. John Wang's work shows that lights may increase target catch. Much of the work is funded by PIRO.

Soliai asked when the BiOp for the American Samoa longline fishery is expected.

Tosatto said the steps needed to complete the BiOp are not yet clear and he was not able to provide an estimated date for the draft BiOp. The Council has requested under the ESA-MSA Integration Agreement an opportunity to review the draft. If that opportunity is provided, he would alert the Council as to when that review would occur.

Soliai said Tosatto's response was not what he was hoping for.

Gourley asked whether the skewing of sex ratios by increasing nest temperatures is a documented issue for loggerhead and leatherback turtles.

Jones said the issue has been documented in turtle populations elsewhere, but there are no specific data from these two loggerhead and leatherback populations. PIFSC has done some work with green turtles in Hawai'i, American Samoa and the Mariana Archipelago. PIFSC's population models for green turtles show feminization from higher temperatures initially increases populations, but eventually the population plateaus if the male population becomes too few. Populations may crash if temperatures continue to increase and result in arrested growth or embryonic death. There is a lack of holistic understanding on how increasing temperature impacts across life history stages, which is why PIFSC did not include climate impacts to the loggerhead and leatherback turtle population models.

Tosatto thanked Jones for the work and wanted to make sure the Council understood that the model is not all-inclusive of the information being considered in the BiOp. The model is BSIA for the nature of the work done, but PIRO has to consider other information in the BiOp that is well beyond the nature of the take model. The impacts modeled by PIFSC were not

necessarily the ESA regulatory definition of “take.” He said PIRO looks forward to receiving the report as soon as possible so it can begin considering the report for the deep-set BiOp.

Simonds asked for confirmation that PIRO will use the model in the BiOp.

Tosatto confirmed and noted that it was agreed upon with the applicant, HLA, to consider the model in the deep-set BiOp.

## **E. Electronic Reporting and Electronic Monitoring**

### **1. Electronic Technologies Implementation Plan**

This item was incorporated into agenda item E.2.

### **2. Pacific Islands Region Longline Electronic Reporting Plan and Options for Implementation of Mandatory Reporting**

Bigelow presented an update on the implementation of an ER logbook system in the Hawai‘i longline fishery, as well as the status of EM. He said PIFSC and PIRO are updating the 2015 Electronic Technologies (ET) Implementation Plan, which will be presented to the Council in June 2020.

Eighteen vessels are in a voluntary EM program; 88% of their trips had fully functioning EM systems. PIFSC published a technical memorandum in October 2019 that reviewed EM data with observer data. The analyses show that some problems remain with EM detection of sharks as crews are not bringing the sharks into the field of camera view. Detection of sea turtles, marine mammals and seabirds is fairly good. PIFSC plans to conduct a catch-handling study, whereby the crew will bring sharks into the field of view. A study supported through catch share funds on evaluating the optimum video speed for reviewing data shows that reviewing footage at eight times speed provided the best results. Other ongoing and future EM projects include the Council’s tori line study, machine-learning and evaluating whether EM can be used to make the mortality and serious injury determination.

Regarding ER, the implementing process has been complex, with a number of speed bumps and detours such as changing software vendors and VMS units. PIFSC has made a lot of progress with decent software and data transmittal in place and improving the outreach with the assistance of a Vietnamese-speaker. He encouraged the Council to consider a mandatory date for the ER implementation for the Hawai‘i longline fishery.

Fitchett presented an options paper for mandatory ER in the Hawai‘i longline fishery, developed in response to a Council directive at its 180th meeting. The purpose of ER is to expedite reporting and monitoring of bigeye tuna catch for the Hawai‘i-based Limited Entry Program. ER allows for quicker management of quotas, adds precision in forecasting, reduces the administrative burden of logbook data entry and increases ease of data entry and data quality at sea. Fitchett provided background on Council action to date, including the initial action in 2018 and a request to PIFSC to form a steering committee in 2019. For the options paper, Council requested analysis on cost allocation issues, necessary regulatory and non-regulatory

changes for requiring daily ER transmissions, and system requirements for providing data access to vessel owners and operators.

The anticipated total annual cost for deploying ER for 160 vessels in the Hawai'i longline fishery is estimated at \$410,260, of which \$27,000 is for administration; \$15,000 for software updates; \$85,260 for satellite data transmission; and \$40,000 for tablet replacements. Cost options for Council consideration were industry-funded mobile device and data transmissions and NMFS-funded software; industry-funded mobile device and NMFS-funded software and data transmissions; and NMFS-funded mobile devices, software and data transmissions. Fitchett described the detailed cost breakdown under each option. Under all cost options, a regulatory change would be needed to require daily data submission. For industry data access, OLE is looking to bundle the cost of VMS with ER transmission, but industry may need to contribute some portion. Also for Council consideration was setting a date for ER to be mandatory in the Hawai'i longline fishery, with a suggested date of Jan. 1, 2021. Fitchett presented the pros and cons of each of the options, as well as the anticipated timeline for training and Council action.

Tosatto said work so far failed to look at relevant NMFS policy and the cost allocation options appeared to be uninformed by the policy statement that no ET-based fishery-dependent data collection program will be approved by NOAA if its provisions create an unfunded or unsustainable cost of implementation or operation contrary to applicable law or regulations. Under the policy, the entire range of funding authorities available under federal law would be considered including those that allow collection of funds from industry. For him to consider a mandatory ER program with NOAA funding, a thorough analysis of the cost of implementation and operation is needed so he can determine whether it is sustainable.

Goto agreed that more evaluation is needed. Industry does not have a problem with mandatory reporting, but it has to be cost-effective.

Rice asked if the first step is for both industry and NMFS to figure out cost allocation before the Council can make a decision.

Tosatto agreed. NMS is prepared to fund a piece of ET, but the question is how far to push it upstream as a NMFS responsibility. Bundling transmissions costs may hide an obligation by NMFS, which may or may not be sustainable. NMFS needs to understand those details.

Bigelow said the May 2019 EM directive is separate from a broader ET directive to which Tosatto referred. The EM directive suggests that administrative costs are borne by NOAA, but sampling costs could be borne by NOAA or industry. Sam Rauch, Tosatto's supervisor, made it clear he wanted to develop an EM directive due to its much higher cost. There is no national ER directive. The Hawai'i longline ER costs of \$360,000 are relatively minimal. Based on discussions with OLE, the \$85,000 in transmission costs can be bundled and reduced. PIRO's Observer Program costs are currently \$7.5 million, indicating that the ER program cost would be about 5% of the Observer Program.

Tosatto said a national ET policy was produced in 2013 and updated in 2019. A second procedural directive is subordinate to the overall ET policy and covers cost allocation for EM. The broad policy statement remains inclusive for both EM and ER. Tosatto said he could not

approve EM and ER programs if they are unfunded or unsustainable, and all he needs is a thorough analysis and consideration before he makes the decision.

Rice said he was confused by the discussion on costs, given that the ER cost is 5% of the observers.

Tosatto said that the cost comparison between the observer program and ER may be true but probably irrelevant. A more accurate cost comparison is the current paper reporting set up versus mandatory ER. He suspected there is inefficient data through hand key-punching, but he would need to see that presented. He needs to know the costs and whether they are funded. He wanted to advance the discussion now to avoid having to make a decision that the costs are unsustainable after receiving a recommendation from the Council.

Bigelow said the costs were illustrated in the presentation, with PIFSC current cost being \$270,000 and anticipating an annual cost-savings of \$50,000 due to the lack of key-punching and printing of log sheets.

### **3. Pacific Islands Regional Observer Program Overview and Costs**

Dawn Golden and Stefanie Dukes, PIRO, provided an overview of the Pacific Islands Regional Observer Program (PIROP) and costs for the program. Observer coverage for the American Samoa and Hawai'i deep-set longline fisheries is approximately 20%. For the Hawai'i shallow-set longline fishery, it is 100%. Observers provide photographs for identification purposes, tissue samples, measurements and data on life history, gear, economics and marine debris. PIROP coverage has been mandatory since 1994 in Hawai'i and since 2006 in American Samoa. PIROP has 13 full-time employees and an administrative assistant, two supervisors, a data manager, a training coordinator, team lead in American Samoa, 60 briefers, and a port sampler in American Samoa. Sixty to 70 contract observers cover the longline fisheries at-sea.

PIROP has a \$30 million contract for observers for five years, at about \$6 million a year for the three longline fisheries. Training for observers is about three weeks long. Lynker is the current contracting company to deploy observers. Typical observer contracts are 3 to 4 months. About two-thirds of the current observers have more than three years of experience in Pacific fisheries alone. Observer data is used for various purposes, with one of the main ones being protected species. PIROP also conducts scientific data collection for researchers, including bigeye tuna tissue sampling for stock structure, striped marlin genetic sampling, opah research, prey identification and DNA analyses of sharks. Dukes provided an overview of PIROP's data management and data modernization efforts, including implementation of ER system for observer data using tablets and updates to the data request process and data governance.

Simonds thanked the presenters for providing more information than what the Council requested. She said that the presentation was requested to better understand how the EM program may work, and what may be lost if the program goes to EM without human observers.

Dukes said that EM is good at detecting species, but there are additional challenges with protected species, which is one of the top priorities of the Observer Program. She said EM will improve over time, but it is not quite there yet.

Soliai asked if there are any plans to provide coverage for observers unable to travel to the territories should travel restrictions (due to COVID-19) become worse and if there are plans to recruit local observers.

Tosatto said staff in American Samoa facilitate placement of both US longline and purse-seine vessels operating out of American Samoa. Observers cannot be locally sourced from American Samoa because, under the South Pacific Tuna Treaty, the US has agreed to place Pacific Islands Forum Fisheries Agency observers on the US-flagged purse seine vessels whether they are fishing in the US zone, high seas or FFA zones. Placement of foreign observers is getting more difficult, and there is an added layer of complexity that the US fleet often requires cross-endorsed observers to allow them to fish in both the eastern and western Pacific. He said he is coordinating with the FFA and the US fleet as best he can.

Soliai said purse-seine owners are not so concerned about crew changes but more about getting observer placements.

Goto introduced Cody Schroeder, former observer and now working for the United Fishing Agency as the vessel manager. Goto encouraged Dukes to coordinate with Schroeder on any needs for the observer program.

#### **4. 2020 Electronic Monitoring Workshop**

Fitchett presented on outcomes of the 2020 Electronic Monitoring Workshop held in Seattle, Wash., Feb. 11-13, 2020. EM covers all regions, and funding is competitive throughout. Most EM is in place in the Greater Atlantic and Alaska regions. National Fish and Wildlife Foundation funds much of the EM research. The Gulf of Mexico has one of the greater EM research programs for snapper, grouper and some trawl fisheries. A lot of EM research is supported by the Fisheries Innovation Fund with ET priorities in data collection and modernizing data management.

Fitchett also summarized various policy development efforts related to EM. NMFS is developing a directive on data storage by a third party for review over a definitive time period, which will have an added cost. The EM procedural directive on cost allocations specifies that sampling cost responsibility is on industry, whereas the cost responsibility is on NOAA if the purpose of EM is for ESA or MMPA. Data security, privacy and enforcement were challenges identified by the workshop. Regional ET Implementation Plans are to be due June 2020. Fitchett also provided an overview of the current Hawai'i EM system, the primary objective of which is to monitor protected species interactions.

Goto asked if NMFS would cover the cost of Hawai'i longline EM system given that protected species monitoring is a primary objective.

Tosatto said fishery interaction is an MSA problem and the Council has discretionary measures implemented in the fishery that requires NMFS to place observers on the vessels. The transition to EM would be meeting those same objectives under the MSA. While protected species is the principal driver of PIROP and the EM program in the Hawai'i longline fishery, EM validation is being conducted on target catch, bycatch and other non-protected species and

seabird interactions. In considering the question of whether EM would replace human observers, the issue of fish or protected species being outside the field of view is problematic. EM would need to be able to identify sharks and turtles. He would not want to assume what the species is if it is not seen on camera. He did not understand why identification of lancetfish is poor on EM, as it looks very different from tuna.

Bigelow said PIFSC will be conducting a catch handling study this year with five vessels to see if shark detection would improve if the crew brings the sharks closer to the fish door, considering crew safety. He added that EM has documented protected species quite well.

#### **F. US Territory Longline Bigeye Catch/Allocation Limits (Final Action)**

Fitchett presented on the one-year allocation and catch limits for the United States and US Participating Territories (American Samoa, CNMI and Guam) for 2020 under Amendment 7 to the Pelagic FEP. A one-year specification is being revisited for 2020 because Amendment 9 to implement the Council's recommendation to remove the catch limit requirement for Territories and to allow multi-year specifications has not yet been implemented due to timing issues, and thus the Council is still operating under Amendment 7.

Amendment 7 was implemented in 2014 and established a management framework that includes the following:

- Catch or effort limits applicable to the US Participating Territories that include the authority of the US Participating Territories to use, assign, allocate and manage the pelagic management species catch and effort limits agreed to by the WCPFC through Specified Fishing Agreements with US vessels permitted under the Pelagic FEP for the purposes of responsible fisheries development.
- Authorization for the Council to recommend and NMFS to specify catch or effort limits in the absence of such limits or additional more restrictive limits than the WCPFC for conservation and management purposes.

Fitchett summarized new information that has become available since the Council's consideration of the 2019 specifications, including catch data for 2019, the shallow-set longline BiOp, and the loggerhead and leatherback turtle take model. He also presented information on bigeye tuna catch histories and distribution for longline and purse-seine fisheries, stock status, the international management structure and current catch limits. He additionally reviewed the history of territory longline bigeye tuna transfers and total catch for each year and explained that larger average size of bigeye and higher CPUE have contributed to the Hawai'i longline fishery reaching the US quota sooner in recent years.

The following limit options for 2020 were presented: 1) No action: No specification of catch or allocation limits; 2) Status quo: Specify for each US Participating Territory, a 2,000-mt catch limit and 1,000-mt allocation limit; and 3) Specify for each US Participating Territory, a 2,000-mt catch limit and up to a 2,000-mt allocation limit. Option 3 would allow for greater flexibility for US-permitted vessels to work with the Territories and could have multiple outcomes depending on the allocation limit and the number of agreements. One potential

outcome under Option 3 would allow up to 1,500 mt allocation limit per territory but would limit total allocations to 3,000 mt so biological impacts are commensurate to the status quo. Fitchett presented the impacts analysis for the three options, noting that all potential outcomes presented are analyzed in the existing EA for the 2019 specification action and no significant negative impacts are anticipated under options 2 or 3.

Goto said the Council has a dilemma with how to proceed. None of the options has adverse impacts on the bigeye tuna stock. The restricted shallow-set fishing effort putting greater pressure on deep-set effort is an important consideration. There will be a heavier reliance on domestic products given current events, and fish is Hawai'i's biggest harvested product. He supported option 3, as the fishery's potential needs to be maximized and the industry needs the greatest flexibility possible given the current situation.

Rice said that option 3 would provide the opportunity for the fishery to operate throughout the year if one of the territories decides not to participate in an agreement.

Watamura asked if the US-attributed catch is less than 2% of the Pacific bigeye catch.

Fitchett said that it was between 2% and 3%. The total catch was about 120,000 mt in 2019, and the US contribution was about 5,500 mt.

Goto said the increase in foreign fishing activity outside the US EEZ around the Hawaiian Islands is an important consideration.

## **G. Deep Sea Mining and Spatial Planning in the Pacific**

Doug McCauley, Deep Sea Mining Watch and University of California at Santa Barbara, presented on the expansion of deep sea mining activities. McCauley said the topic is germane at this time because discussions to develop a code or law to permit commercial mining on the high seas are happening at a fast pace, as soon as in one or two years, so it is an opportune time for stakeholders such as fisheries groups to weigh in on the issue.

McCauley provided an overview of deep sea mining operations. Minerals are mined as deep as 4,000 meters and brought through a riser to a support ship. Minerals are separated from sediment on the ship, and the sediment is pumped down deep to an undetermined depth. Mining could cause more toxins to get back into the water, which remains to be seen and something that needs to be tracked. Some toxins (plumes) move just as fish do. McCauley showed maps that illustrated the overlap of exploration claims areas and fishing activity based on Global Fishing Watch data. The Clarion Clipperton Zone, nearest to Hawai'i, has overlaps with IATTC regions accounting for 9% of IATTC catch, including bigeye tuna. Other issues with the mining activity include safety at sea with added traffic and noise. The International Seabed Authority (ISA) is the international group that makes the law determination regarding when and where ocean mining in international ocean basins could occur.

Gourley was interested in the subject but had been unable to find a reliable source of information. He said that the Mariana Archipelago has a fair number of thermal sea vents

protected in and around the monument and asked how mining activities differ for sea vents compared to areas with a flat seabed.

McCauley said different types of machinery would be used and there are different minerals. Much of the interest for mining vent communities are inside the EEZ and, hence, a national level conversation. Guam has twice the amount of impact over CNMI with respect to overlap of fisheries interests and mineral claim areas.

Gourley asked if ISA has authority under the UN Law of the Sea (UNCLOS) and who is monitoring this from the United States.

McCauley said US scientist, such as from the University of Hawai'i and Massachusetts Institute of Technology, are monitoring and doing some of the modeling work on plume formation and dynamics. Scientists at University of Hawai'i are working on toxin transmission and impact on biodiversity. At the ISA, the United States is an observer with a delegation led by experts in the US Geological Survey (USGS).

Gourley asked if the State Department is involved or if the USGS is leading the US delegation for the ISA.

Tosatto said the State Department would be involved. In general, where there is an established treaty, the State Department is a negotiator for the treaty and it would hand it over to another department. Where there is ongoing uncertainty, as in the case of UNCLOS and ISA, the State Department remains in charge, and the USGS is the technical expert for the United States.

Gourley said that the Council would be interested in receiving updates for Hawai'i, American Samoa, CNMI and Guam as deep sea mining develops.

Simonds said the interest began a year ago. She talked to the State Department and wanted to know more when she saw how close mining areas were to Hawai'i. She is interested in updates to activities near Hawai'i and the Marianas Islands while in the exploratory stage. The Council would be apprehensive about mining activity happening 500 miles from Hawai'i.

McCauley said he can provide further scientific information but also said there is an official position by the European Union that may be of interest to the Council.

Watumura asked if the minerals are high value and available on land. He also asked why the sediment effluent cannot be sent directly back to the bottom.

McCauley said the main source of interest for areas close to Hawai'i is the strategic value of cobalt for electronics. All minerals are currently mined on land such as in southern Africa. Rare earth minerals are relatively evenly distributed but are difficult to process, with most of the production processes occurring in China. Regarding the depth of waste water discharge, companies like Lockheed Martin are working on exactly how to release the effluent. Most recommendations say the effluent should be released as deep as possible, but it is very difficult to release at higher pressures (depths) and expensive.

## **H. International Fisheries**

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

#### **a) Report on 16<sup>th</sup> Regular Session of the WCPFC**

Tosatto provided a report of the 16<sup>th</sup> Regular Session of the WCPFC, convened in Port Moresby, Papua New Guinea, in December 2019. He reported on outcomes regarding bluefin tuna, North Pacific albacore, sharks and rays. Most of the new measures will not require regulatory changes for US longline fisheries, with the exception of the measures on rays, which prohibit setting and retention of mobulid rays and requires safe handling. The measures for rays become effective on Jan. 1, 2021, and NMFS will need to develop regulations to implement them. The proposed rule, when published, will determine how longline fisheries on the high seas will be affected by the new ray measures. Tosatto also reported that a new North Pacific striped marlin rebuilding plan was adopted, which sets a target and a timeline. The measures needed to address the rebuilding plan will be developed over the next year.

#### **b) Conservation and Management Measures on Tropical Tunas**

Tosatto reported that WCPFC did not reach agreement on a new tropical tuna conservation and management measure at its 16<sup>th</sup> Regular Session. The US delegation presented a discussion paper on an allocation framework at the December 2019 meeting, which received limited discussion. The discussion paper will provide a starting point for the US delegation's work for 2020. He said he had planned to re-energize efforts to connect with other delegations well ahead of the annual meeting, but the COVID-19 pandemic had already cancelled several meetings that would have provided the opportunity for those side discussions. Tosatto provided a characterization of the US proposal, which focused on FAD management in the purse-seine fishery, purse-seine management and longline management. He looked forward to Council input on the 2019 discussion paper.

Sesepasara asked if there were further discussions at WCPFC regarding American Samoa's status, noting that the American Samoa delegation had to leave the meeting early. He also asked if a host was chosen for the next annual meeting.

Tosatto said no real action took place on tropical tunas, so there were no gains or losses for American Samoa. He acknowledged that immediate and continued action is needed to preserve the fishery participation, the cannery and vessels operating out of American Samoa. Unfortunately, no significant progress was made on South Pacific albacore to control an ever-increasing Chinese effort. The US delegation will work in the interim on South Pacific albacore on behalf of American Samoa's participation in that fishery. The host for the next meeting has not been decided. The Secretariat did inquire if the United States could accommodate and incur the costs of hosting a meeting. Canada may be considering, but it has not been made official. Tosatto said he would check in the Secretariat and will report out as soon as a host is selected.

Watumura asked what considerations have been given for the small-boat fishermen in the noncommercial sector.

Tosatto said that non-longline and noncommercial fisheries are covered under “other fisheries” within the tropical tuna conservation and management measure, and NMFS could take action to live up to the obligations. The other fisheries measure focuses on the Philippines and Indonesia, but all countries have an obligation not to increase the effort for yellowfin tuna. If a spike were seen in non-longline fisheries, NMFS may have a management concern or obligation to address it. That is why understanding the noncommercial data is meaningful for domestic management as well as the international obligations.

### **c) North Pacific Striped Marlin Rebuilding Plan**

Fitchett presented on a rebuilding plan for North Pacific striped marlin introduced at the Northern Committee in 2019 and pending biological information needed to make management decisions on catch levels from recruitment scenarios. These scenarios were the basis of stock projections included in the 2019 stock assessment. They include recommendations by SSC members to consider implementing stock projections using a “medium-term recruitment scenario” that incorporates all contemporaneous data sources from 1995 to 2017. Also recommended by staff were the implementation of staged or phased reductions over time to utilize the entire 15-year rebuilding period, the timeframe of rebuilding agreed to by WCPFC. Current projections that reach the rebuilding target (of 20% spawning biomass in absence of fishing) are achieved in less than three years and require drastic immediate reductions in catch.

Tosatto clarified that the WCPFC adopted a rebuilding plan as an interim plan with a rebuilding target and timeline, but the measures needed to achieve rebuilding were still under development. He was interested in seeing a scenario where the 60% probability was reduced to 40% in one year or in phases and how the stock would react. He said these recommendations should be provided to the ISC Billfish Working Group.

Fitchett said he sent the recommendation to PIRO staff at the Commission meeting and has been communicating with PIFSC staff on the matter.

Rice asked that NMFS stay informed of the tagging and genetic work done by the private sector to evaluate whether there are two stocks or only one stock of striped marlin, as that could make a difference in the total abundance and recruitment. He added that the striped marlin off California and Mexico are doing well.

Fitchett said catch rates in recreational sectors in Mexico and California have been higher than normal.

Rice said the fish being caught off California and Mexico were considerably larger and mature.

Watumura said that historically striped marlin run strong in January and February. This disappeared for years but came back in 2020, which was a positive for small boat trollers. He asked whether NMFS could advise the international bodies about the phase reductions in the rebuilding plan, as it would be a good idea for alleviating some pressure on the fishing entities and the communities that enjoy the fish.

## **2. Outcomes of UN Biodiversity beyond National Jurisdiction Meeting**

Fitchett provided a report on BBNJ. The United States urged that any bodies established under the BBNJ framework could not and should not purport to have any ability to supplant legal, relevant sectoral bodies, such as RFMOs, including the WCPFC and IATTC. The US official position is that management under marine protected areas (MPAs) should not exclusively mean closures and that the area-based management tool (ABMT) implementation should be based only on best-available science and should allow for adaptive management tools with a science and technical body driving the selection of ABMT. Proposals for ABMT should include consultation with any involved relevant state, stakeholder and regional body and should be evaluated by a science and technical body. US fishing groups and environmental NGOs found common ground in the discussion on enforcement and how it needs to be realistic if ABMTs are proposed. Some nations including Iceland are seeking exemptions from RFMOs to keep RFMOs from being undermined completely. Fitchett also reported that the Council will be convening an international workshop on area-based management in June.

Goto asked if the State Department has been reaching out to other nations to garner support on the position that RFMOs should be exempt from area-based closures.

Fitchett said that, on an earlier call, the State Department representative indicated the department is working with a group of other like-minded nations, but it is trying to be as neutral as possible because the United States is not a signatory under UNCLOS. He also said that the next meeting scheduled for the end of March was cancelled due to the COVID-19 pandemic.

Tosatto said the United States not being a signatory to UNCLOS does not matter because BBNJ is a separate agreement. The US is in the minority for many of its positions. China is trying to align itself with small island developing states as a developing country.

Gourley said it would be important for the Council and all the Councils to approach the State Department to ensure that the integrity of the RFMOs is not compromised and that science is used in the formation of the ABMTs.

Watamura said that the BBNJ initiatives are strikingly similar to the State of Hawai'i 30x30, reflecting the lockstep thinking of NGOs. In the 30x30 discussions, he and many others stressed that the goal should be to actively manage coastal waters based on science, rather than closing off 30% of the waters. A similar kind of thinking should be applied to BBNJ.

Fitchett said the role of a science and technical body should not be diminished. It should be a priority to maintain the recommendations as mandatory for implementation of ABMT under BBNJ.

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

#### **a) Advisory Panel**

Tam presented the AP report and recommendations regarding pelagic and international fisheries.

*Regarding territorial bigeye quota allocation*, the Hawai'i AP recommended the Council select the more flexible option 3, with up to 1,500 mt transferrable with a maximum of 3,000 mt being transferrable.

*Regarding territorial bigeye quota allocation*, the Guam AP recommended the Council select option 2 as its preferred alternative and specify status quo regarding the HLA longline bigeye quota and specify 2,000 mt longline bigeye tuna limits and up to 1,000 mt transferable per each US participating territory.

*Regarding territorial bigeye quota allocation*, the CNMI AP recommended the Council select option 3.

*Regarding territorial bigeye quota allocation*, the American Samoa AP recommended the Council select option 3 allowing 2,000 mt longline bigeye limits and up to 2,000 mt transfer limits for the US Pacific territories.

Duenas asked Ken Borja to explain Guam AP's decision behind selecting option 2 for the territory bigeye allocation action.

Borja said, while Guam has not entered into agreements, the AP is trying to ensure there is equity among all of the territories rather than Guam being squeezed out. From the fishermen's perspective, it is important to have historical catch in case there are catch allocations for the small island in the future.

Duenas thanked HLA for continuing to engage with Guam. He said that the Guam fishermen realize the struggle if the Hawai'i longline fishery has to close down from reaching the limits and noted that the Council has a tough decision.

Tenorio asked if option 3 would provide Guam the opportunity to participate in an agreement.

Fitchett confirmed yes.

#### **b) Scientific and Statistical Committee**

Lynch presented the SSC report and recommendations regarding pelagic and international fisheries.

*Regarding the Hawai'i longline fishery report*, the SSC recommended that the catch of bigeye per hook be mapped at an appropriate geographic scale in future presentations and in annual fishery reports.

*Regarding the Hawai'i longline fishery report*, the SSC recommended that data presented in figures be denoted in the final two years with numerical values.

*Regarding Hawai'i-based shallow-set longline fishery BiOp RPMs working group*, the SSC noted its prior review and considerations of the RPMs and reiterated its position that

certain RPMs were not warranted. The SSC recommended that PIRO include a social scientist in the RPM working group.

Lynch said that the SSC was also concerned that a lot of effort is being spent to implement the RPMS and that effort may be better used in other areas that would have an effect on reducing risk.

*Regarding mandatory ER*, the SSC recommended the move toward mandatory ER and remained supportive of the initiative. However, it recognized there were financial and regulatory processes to be considered that were outside the purview of the SSC.

*Regarding effects of closed areas on Hawai'i longline fisheries*, the SSC requested that Council staff compile comments from the SSC small working group and distribute them to members for a response to the analyses presented in published works examining impacts of marine monument expansions.

*Regarding effects of closed areas on Hawai'i longline fisheries*, the SSC requested that Council staff examine data on size composition of bigeye and yellowfin tunas from trips observed in areas closed to fishing in the monument expansion versus size composition in areas where corresponding vessels fished elsewhere.

## **J. Standing Committee Report and Recommendations**

Goto said the Standing Committee deferred recommendations to the Council.

## **K. Public Comment**

Kingma, in regards to the territorial bigeye tuna catch and allocation limits, supported option 3 as it provides the most flexibility this year, consistent with the Amendment 7 framework and the WCPFC tuna conservation and management measure. Referring to Duenas' comments about Guam's participation in the agreements, Kingma said he met with the chief of staff last year but an agreement did not happen. This year, he reached out to the governor of Guam requesting a potential agreement and received a response citing some references to stock status and other concerns. He said HLA would like to have an agreement with all of the territories. If that does not happen, it needs to explore what is the most flexible. He added that Japan's transfer of 8,000 mt to the eastern Pacific is not trivial, as that amount is equivalent to the entire Hawai'i longline bigeye catch in both the eastern and western Pacific.

Rice read a statement on behalf of Jody Bright, who runs fishing tournaments in Kona. Bright expressed his concerns echoed by other charter boat captains regarding the reopening of the SEZ, especially as the Hawai'i charter boat and tournament industries are facing economic calamity from visitor cancellations due to the COVID-19 pandemic. If the longline fleet monopolizes the stocks that all fishermen depend upon, this would be an entirely unfair economic support of one sector over another, contrary to the National Standard requiring the Council to manage optimum yield and take into consideration all fishery sectors.

**L. Council Discussion and Action**

*Regarding ER in the Hawai‘i longline fishery, the Council recommended setting a target implementation date of Jan. 1, 2021, for requiring mandatory ER in the Hawai‘i longline fishery.*

**The Council directed staff to prepare the necessary amendment package with analysis and draft regulations for requiring mandatory reporting for the Hawai‘i longline fishery with a target final action schedule for the September 2020 Council meeting. The analysis should build on the options paper, including considerations for the 2013 NMFS Policy on Electronic Technologies and Fishery-Dependent Data Collection (revised May 2019).**

Tosatto said that setting a target implementation date of Jan. 1, 2021, would mean that the amendment package would need to be transmitted 95 days prior and that the timeline is aggressive.

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding the shallow-set longline fishery RPM working group, the Council recommended that NMFS PIRO include a social scientist and industry representative in the membership.*

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding the sea turtle interactions in pelagic fisheries, the Council directed staff to work with NMFS to obtain publicly available reports and other data on sea turtle interaction rates in foreign fisheries operating in the areas overlapping with the loggerhead and leatherback turtle distributions and to provide a presentation to the SSC at its June 2020 meeting.*

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding ESA consultations, the Council reiterated its request to review draft BiOps and any applicable RPMs or reasonable and prudent alternatives (RPAs) for all ongoing consultations for fisheries managed under the Council’s FEPs. The Council further reiterated its recommendation that NMFS work with the Council to develop any necessary RPMs or RPAs for the Hawai‘i deep-set longline fishery and the American Samoa longline fishery to ensure that such measures are appropriate and practicable to ensure the sustainability of the fisheries.*

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding 2020 bigeye tuna US Participating Territory catch limits and allocation limits under the Amendment 7 framework, the Council recommended a catch limit of 2,000 mt for each US Participating Territory (Guam, CNMI and American Samoa) and specified that each US Participating Territory can allocate up to 1,500 mt of its bigeye tuna catch limit through specified fishing agreements with eligible US longline vessels permitted under the Pelagic FEP. The Council further recommended NMFS not authorize more than 3,000 mt in total allocations in 2020.*

**The Council directed Council staff to finalize and transmit the specifications for Secretarial review, as appropriate. Further, the Council deemed that the regulations implementing the recommendations were necessary or appropriate in accordance with Section 303(c) of 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 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 chairman were authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations were not consistent with the Council action.**

Muna-Brecht supported the recommendation, with the understanding that the catch limits will be up for discussion again next year and changes could be made if Guam elects to participate. For 2020, she supported the ideal of allowing the other two territories to maximize the allocation.

Duenas supported the recommendation, citing Guam's track record of not entering into agreements. He would have supported a maximum transfer of 1,000 mt for each territory in hopes that Guam would engage with HLA, had it not been for Guam's lack of agreements since 2016, which has resulted in a loss of \$1 million. He felt confident that HLA will always attempt to engage Guam.

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding deep-sea mining and spatial planning in the Pacific, the Council directed staff to request formal annual updates from the US State Department on international activity on the matter within the Clipperton-Clarion Zone to the Council as well as activity in proximity to Guam, CNMI and American Samoa.*

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding a North Pacific striped marlin rebuilding plan, the Council directed staff to write a letter to NMFS on issues pertaining to specifying the regional definition of stock for striped marlin in the North Pacific Ocean.*

**The Council recommended NMFS request the ISC Billfish Working Group to consider conducting stock projections incorporating scenarios of phased catch reductions and to consider using a “medium term recruitment” scenario as suggested by the SSC in order to reach the rebuilding target in an appropriate timeframe.**

**The Council recommended NMFS include any new projections with phased catch reductions in any proposal for North Pacific striped marlin to WCPFC17.**

Tosatto said that rather than the letter being sent to NMFS Headquarters, which does deal with a regional definition of a stock, it should be addressed to NMFS in general as that would direct the letter to PIRO where the US section of WCPFC and IATTC may more appropriately address it in the international arena. He said NMFS has no intent of a rebuilding plan proposal as one is already in place for striped marlin and suggested modifying the motion to read “any proposal.”

Rice and Goto agreed to the changes.

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding BBNJ, the Council requested that the State Department organize a bloc of nations with similar fisheries interests to propose an exemption from BBNJ for internationally managed fisheries and that any area-based management proposals considered under BBNJ incorporate all recommendations from the scientific and technical body as outlined in the Convention’s negotiations.*

*Moved by Rice; seconded by Goto.*

*Motion passed.*

*Regarding Hawai‘i longline annual reports, the Council requested NMFS PIFSC to incorporate the following modifications to future annual reports:*

- a. Catch of bigeye per hook to be mapped at an appropriate geographic scale in future presentations and in annual fishery reports;**
- b. Data presented in figures to be denoted in the final two years with numerical values in annual reports; and**
- c. Total Hawai‘i istiophorid billfish catch per annum, by species and gear type (from longline, troll and any other gears) and specify how many of these fish were retained, discarded, released and sold.**

Simonds said that she has discussed item c. with Seki and will be discussing the request with him the following week.

Moved by Rice; seconded by Goto.

Motion passed.

*Regarding marine national monument expansions, the Council directed staff to compile comments from a SSC small working group and distribute to members for a response to the analyses presented in published works examining impacts of marine monument expansions. The Council further directed staff to examine data on size composition of bigeye and yellowfin tunas from trips observed in areas closed to fishing in monument expansions versus size composition in areas where corresponding vessels fished elsewhere.*

Moved by Rice; seconded by Goto.

Motion passed.

## **XII. American Samoa Archipelago**

### **A. Motu Lipoti**

Ochavillo presented updates of American Samoa DMWR programs from the previous quarter. DMWR's MPA Program reviewed its plans and identified priorities for the programs in the various villages. Villages prioritized land-based sources of pollution as a priority needing assistance, so DMWR will be helping the participating villages handle debris removal in the MPAs. DMWR was working with NOAA Coral Reef Conservation Program (CRCP) on the prioritization of MPAs for the US Pacific territories. DMWR has nominated the village of Fagamalu on Tutuila to be designated as a CRCP Priority MPA. This designation would translate to assistance for DMWR in developing a management plan for that village's MPA.

Ochavillo also reported on the shore-based creel survey efforts. Landings of the top gear types included 4,000 pounds by rod and reel; 1,800 pounds by spearfishing; and a smaller amount by gleaning and throw net fishing. Top species reported were trevally, blue-banded surgeonfish, filefish and octopus. The DMWR Fishery Division conducts a Key Reef Species Program that provides data that assists DMWR to better manage target species.

Ochavillo also informed the Council that DMWR had completed a project funded by CRCP in collaboration with The Nature Conservancy and Poseidon Fisheries Research that evaluated life history for three locally caught fish species. A bottomfish species, *Lethrinus rubrioperculatus* (filoa), was added before the bottomfish fishery became a priority for DMWR. He presented a slide illustrating growth rates for various species of fish and pointed out that *Chlorurus japanensis* (laea) has a very short life span and very fast growth rate. Like many reef fish, that species may slow in size growth after two years. Filoa has a maximum age of 11 years, which is a short lifespan compared to other species, and a fast growth rate. *Naso lituratus* (ili'ilia) has a maximum age of 25 years by comparison. The study shows that the three species have fast growth rates, short life spans and characteristics typical of highly productive stocks. DMWR plans to conduct additional projects that provide information on coral reef fish species

life history. A manuscript of the project will be published. Ochavillo also provided creel survey results for the boat-based spearfishing, pelagic trolling and bottomfish fisheries.

Regarding the FAD Program, Ochavillo reported that four FADs had been lost due to severe weather, including multiple cyclones in the last year. DMWR replaced a pair of deep-water FADs, important to the recreational fishery and the tournaments that are hosted each year. Tournaments in 2019, including one in the Manu‘a island group, landed 30,000 pounds of fish. Ochavillo spoke about the importance of the South Bank fishing ground, located 35 miles south of Tutuila Island in federal waters.

He provided an update on the American Samoa Disaster Relief Fund that was received for loss and damage suffered by the small-boat fishery due to the 2009 tsunami. The fund was used to repair 10 alia boats in Manu‘a (five on Ta‘u and five on Ofu and Olosega) and for a contract to install piles for floating docks. DMWR will also be working with the American Samoa Department of Public Works to develop a scope of work for the work to be conducted on the Pago Pago Boat Ramp Rehabilitation and Expansion project utilizing the Disaster Relief Funds.

Ochavillo spoke briefly about DMWR’s work to address recommendations made for the American Samoa fishery data collection programs at the Pacific Insular Fisheries Monitoring, Assessment and Planning Summit (PIFMAPS) held in August 2019. He met with the Creel Program supervisors to develop next steps for making changes to the program. One issue discussed was DMWR taking over some of the IT services that are currently provided by PIFSC. Ochavillo worked with PIFSC staff to interview local service providers to handle database maintenance and IT services for the program. However, getting capable IT services in American Samoa is difficult. He also contacted Council and PIFSC staff to discuss possible support for the shore-based creel survey through the Marine Recreational Information Program. Regarding data collection for the bottomfish fishery, DMWR received a letter from NMFS with information on the interim measure. DMWR is planning to engage fishermen and other stakeholders to discuss the measure’s implications.

Ochavillo concluded his report with an announcement that DMWR now has a Facebook page and an Instagram account and was working on being more active on social media to engage more people in American Samoa.

Sesepasara noted that American Samoa experienced a trio of tropical storms in February, which resulted in lost FADs. DMWR was fortunate to receive FEMA funding for the cyclone that hit American Samoa in 2018 and can use those funds to replace some of the FADs.

## **B. Fono Report**

Nate Ilaoa, Council staff, reported on two legislative items. First, a bipartisan bill co-sponsored by Congresswoman Amata Radewagen had passed the House Natural Resource Committee by unanimous vote. The bill was co-sponsored by Reps. Don Young (R-AK), Jarad Golden (D-ME) and Seth Moulton (D-MA). It aims to support education and training as well as workforce development for young people looking to enter the fisheries. The second item was the extension of the 30-A Tax Credit for American Samoa. The extension would now cover the

territory through January 2021. Additionally, American Samoa Gov. Lolo Moliga wrote to President Trump requesting that a permanent credit be given to the territory.

Simonds asked Seseapasara to thank the governor for his letter to President Trump.

### **C. Enforcement Issues**

Seseapasara said there were no significant items to report. DMWR continues to carry out its daily enforcement work, including checking fish sold by vendors and fishermen to ensure compliance with the commercial licensing program.

### **D. Management and Research Initiatives**

#### **1. Pacific Insular Fisheries Monitoring, Assessment and Planning Summit Implementation**

##### **a) Regulation Patch Up**

Ochavillo covered the PIFMAPS implementation plans for DMWR under Motu Lipoti. He added that DMWR will be communicating with local fishermen and other stakeholders to discuss the feasibility of doing mandatory reporting.

##### **b) Director Annual Proclamation**

Seseapasara informed the Council that DMWR had not yet utilized the Annual Proclamation provision of the American Samoa Administrative Code. The statute allows for an annual proclamation by the DMWR director to establish seasons, area and gear restrictions, license and permit fees, and harvest limits for fish and shellfish. Under the code, such proclamations will be effective from January 1 through December 31 of each year or until superseded by further proclamation of the director. Seseapasara said progress had slowed due to the recent resigning of the Attorney General who left the Department of Legal Affairs to work on his campaign for the upcoming election. He is running for lieutenant governor along with the current lieutenant governor. Seseapasara said he has plans to meet with the new Acting Attorney General to discuss a proclamation to require all fishermen to submit their catch data and other regulations.

### **E. Community Activities and Issues**

Ilaoa reported on the recent Public Broadcasting Service *News Hour* piece that focused on the American Samoa tuna fishery. The segment looked at potential impacts to the territory in the absence of the cannery. The report explored the benefits of the cannery, including subsidizing an estimated 40% of the cost of shipping and fuel for the territory's residents and businesses.

Ilaoa also reported on fishing tournaments for American Samoa, including the yellowfin and marlin species tournament hosted by the Pago Pago Game Fishing Association (PPGFA) in February, PPGFA masimasi and giant trevally tournament scheduled for late March and the 21<sup>st</sup> Annual Steinlager I'a Lapo'a Game Fishing Tournament during the last week of April. Confirmation has not been given yet on the National Marine Sanctuary of American Samoa's

annual November tournament or the Alia Fishermen Association's plans to host tournaments on Tutuila or Manu'a.

Supply of fish was still a problem for Island Fisheries Inc., which operates the fish market in Fagatogo that the Council assisted the American Samoa government in developing. The company originally planned to use the facility as a staging area for fish exports but has focused almost entirely on local retail once per week due to a very limited supply of fish to the market.

The American Samoa Department of Commerce was planning to re-submit its application to the Economic Development Administration to fund its Alia Tele Project. The Council provided the original application last year with a letter of support. According to the American Samoa Department of Commerce, it is re-submitting its application after roundtable discussions with the Economic Development Administration regional representatives. The new proposal will include the construction of not only an alia tele that the department would use for its training program but also two or three additional vessels to incorporate a business incubator program for select fishermen who successfully complete the training program.

Soliai provided updates to the Council on the American Samoa tuna industry. He encouraged everyone to watch the *News Hour* segment (available online) on the cannery and tuna industry, as it provided a good look at the dire situation the industry faces in the territory, particularly for the local longline fleet. Airing of the segment resulted in some positive outcomes regarding the previously very contentious LVPA lawsuit. The American Samoa governor issued a press release about his communication with President Trump requesting the opening of the marine national monuments. Correspondence has also been sent to Congress with respect to the 30A Tax Credit for the territory and the possibility that it could be made a permanent provision to provide relief for local industries.

Soliai also spoke of the minimum wage increase that occurred since the October Council meeting in American Samoa. The wage hike will have an impact on the cannery's operations. The Government Accountability Office sent officials to American Samoa to conduct a review and will be issuing its report soon. The cannery was hopeful that the report will illustrate the impact of the minimum wage increase.

Soliai said expansion of the American Samoa cannery operations with the relocation of the packing lines from California began late in the fourth quarter of 2019. That expansion utilizes the facility previously occupied by Samoa Tuna Processors. The new operations were going well so far. One of the new lines had begun production, and a second shift was added for that work. Additional lines are anticipated later in the year.

Soliai concluded his report with an update on StarKist Samoa's plans for COVID-19. The cannery was preparing to deal with potential impacts from the pandemic, trying to gauge the possible impacts a shutdown would have on the company's operations in American Samoa and working on a plan to address those potential problems.

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

Ilaoa presented the education and outreach report. The Council hosts an annual High School Fisheries and Marine Resource Management Summer Course for high school-aged students. The course, scheduled for July, is a mix of classroom and field lessons to teach students about local fisheries and how marine resources are managed. It is also a bridge to the Council's scholarship program, which is aimed at college upperclassmen and graduates planning on returning to school to pursue advanced degrees in fisheries-related fields. The course is designed to get more young people interested in the fisheries and begin thinking about possible career and educational paths to work in them.

Ilaoa also reported on the application process for the next awards for the Council's US Pacific Territories Capacity-Building Scholarship Program. The program's announcement and guidelines were shared with students at the American Samoa Community College and the general public. Local agencies benefit from the return of graduates from the scholarship program.

Sesepasara said that two of the graduates from the scholarship program were working at the DMWR after graduating from the University of Hawai'i at Hilo. Two other scholarship program students were enrolled at the University of Hawai'i at Hilo. He looked forward to adding them to the agency soon. One of his employees was interested in applying to get her master's degree. He thanked the Council for providing the opportunity for students from American Samoa to benefit from the program.

Simonds said PIFSC and PIRO also support the scholarship program.

Sesepasara thanked the sponsors and said that the program was good for the Pacific Island people. It addresses the need to get students interested in the marine sciences.

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

### **a) Advisory Panel**

Ilaoa presented the American Samoa AP recommendation.

*Regarding the American Samoa AP's membership*, the American Samoa AP recommended that Nonu Tuisamoa and Joseph Fa'a'aita be changed from alternates to members and that applications be opened for new alternate members.

### **b) Scientific and Statistical Committee**

There were no SSC recommendations regarding American Samoa.

## **H. Public Comment**

There were no public comments.

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

*Regarding the PIFSC research work in American Samoa, the Council requested NMFS PIFSC to provide the detailed description of research activities to DMWR to facilitate better coordination of the research with the bottomfish communities.*

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

*Regarding the American Samoa MCP, the Council recommended that the American Samoa DMWR begin the process of reviewing the American Samoa MCP in anticipation of its expiration in 2021. The Council further requested that the department include the fishing community in the process by providing opportunities for public input.*

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

## **XIII. Mariana Archipelago**

### **A. Guam**

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

Duenas provided a report on the current fishing activities on Guam. From October to December 2019, the wahoo season was slow with the normal run of 5- to 10-pound wahoo not observed. The mahimahi season between October and February and into March was also slow, but fishing was better in March. He hoped that fishing would improve.

Muna-Brecht provided the Guam Island Report for DOAg. The Guam shore-based creel survey's top five species were atulai, big-eye jack, bluefin jack, yellowfin unicorn fish and orangespine unicorn fish called hangon. She showed the total weight caught in kilograms based on DOAg's contentious data collection process, which may not reflect the true amounts captured on Guam. She presented the number of fishery participants by gear type, including hook and line, talaya, gillnet, snorkel spear and scuba spears.

The boat-based creel survey data shows 2,900 trips between October and December. The main boat-based methods were trolling and bottom fishing. Under 1% of the catch was attributed to scuba spearfishing. Muna-Brecht said DAWR personnel are not always on site when SCUBA spear fishermen are fishing. The top species captured according to boat-based creel surveys were skipjack tuna, mahimahi, wahoo, yellowfin tuna and yellowtail kalikali, with the primary method being trolling for all species except kalikali, which was caught mostly bottom fishing. She said it was interesting that onaga was not on the top-five list despite the prolific bottomfish fishermen on Guam.

Muna-Brecht reported that the boat access project on the east side is moving forward. A Memorandum of Agreement between Guam Economic Development Authority and DOAg was being routed for signatures. The estimated cost for the project was \$3.4 million.

The Memorandum of Understanding between the Department of Parks and Recreation and DOAg was in place for the Agat Marina replacement. Department of Parks and Recreation has oversight of the hiring of the contractor and the construction once the agreement is in place. Muna-Brecht recently met with the Port Authority of Guam to finalize any remaining stipulations in the agreement. She hoped work would begin by the next Council meeting. She also reported that the Harbor of Refuge and the Merizo Pier fall under the same Department of Public Works agreement, and both should show progress by the next Council meeting. All projects were funded through federal funds provided to DOAg and passed through the Port Authority of Guam, with the exception of the Merizo Pier.

Work continued to identify funds to complete the fourth segment of the fishing platform. Recently, the USFWS Sport Fish Restoration Grantor commented that her perception is the platform is not being used for fishing and wanted the Government of Guam to reimburse them for the funds invested. Muna-Brecht said photos showing fishing activity on the platform were available and would be shared with the grantor.

DAWR deployed one FAD and worked on deploying three additional FADs. Amani had informed Muna-Brecht that a private entity volunteered to deploy FADs for free and can deploy multiple FADs at once, which may speed up the deployment process as the contracting process was otherwise time consuming.

No shallow-water mooring buoys (SWMBs) have been deployed since the last Council meeting. There is discussion that there may be too many SWMBs and FADs in place. Muna-Brecht wanted to discuss with the Guam AP for guidance.

Two sea turtle strandings occurred in October and January. One was a sick sea turtle brought to Underwater World, where it remains in rehabilitation. The other was caught up in fishing lines and found dead. Muna-Brecht also reported on the seasonal man-of-wars and boxed jellyfish occurrence, as well as a stranding of a false killer whale at Ritidian, which was successfully pushed back into the water and survived.

Rice suggested Muna-Brecht check with fishermen like Duenas and his fishing groups on where the fish travel lanes are so FADs are deployed in areas where fish are. This could help FADs that are not working well.

Amani said the FAD deployments were being coordinated with many knowledgeable fishermen, including those on the AP.

Duenas reminded the Council that the fishing platform was designed for the disabled and the elderly. A lot of people on Guam, including the USFWS, forget the ocean is big and Guam has a big reef line. If able-bodied fishermen are able to fish, they will go to places they like and know. The Council has stories and photos of the disabled utilizing the platform. During the atulai season, everyone uses the platform, including those who are not disabled. He recommended those photos be shared with Muna-Brecht to forward to USFWS.

Watamura said that the last time he was in Guam, he had the opportunity to see first-hand the projects that Muna-Brecht reported, including the boat ramp, Agat Marina project and the fishing platform. The platform structure was solid, and fishermen were using it. He even witnessed a fisherman hook up and land a fish. His being there to see the fishing platform first hand confirmed that it was designed for the disabled and, together with the ramps, makes it easy for fishermen to enjoy fishing.

Duenas said that Guam does not have enough SWMBs. He sits on the University of Guam Sea Grant Advisory Board where the need for up to 50 SWMBs was identified. A proposed legislation to ban or prohibit the use of anchors, if passed, would mean that the need for SWMBs would increase, especially if the aim of the legislation is reef protection. He said reducing SWMBs seemed counterproductive in light of the proposed legislation.

Muna-Brecht said that some of the SWMBs may be too close to each other, which may be the reason for considering limiting the number.

Okano asked what the SWMBs are for.

Amani said most are used for recreation and tourism. Boats tie up because it may be a safer platform than using an anchor, a practice being discouraged due to the large number of tourist boats in Guam. SWMBs were on average placed in 30 feet of water.

## **2. Legislative Report**

### **a) SCUBA Ban Bill**

Muna-Brecht updated the Council on the latest development with Scuba Ban Bill 53-35, which was passed into law on March 11, 2020, with 13 of 15 senators voting yes. The Bill was routed to the governor's office for signature. With 13 of 15 voting yes, the bill is veto-proof.

## **3. Enforcement Issues**

Muna-Brecht reported that a shark feeding arrest was made in an MPA. The violator was a company that operates within the area, Fisheye Underwater Observatory. Conservation officers had observed questionable behavior in the area before and had provided advice to the company multiple times on what was allowed and what was not allowed. This time a person was filmed feeding sharks, leading to his arrest. He was processed at DOAg.

## **4. Management and Research Initiatives**

### **a) Pacific Insular Fisheries Monitoring, Assessment and Planning Summit Implementation**

#### **(1) Draft Regulations for Licensing**

Muna-Brecht said she met with Sabater when he was in Guam, joined by her fisheries biologist and Frank Camacho. They are moving forward with the current creel surveys for the purpose of continuity. At the same time they are working with Carvalho and his group to design

other data collection processes that would meet the needs of DAWR and Guam and provide more thorough and consistent data. Both would be done simultaneously. They were moving forward with fishing regulations for commercial reporting and would eventually go into recreational permitting and reporting.

Muna-Brecht said her agency reviewed and revised the draft proposed fishing license regulations. The draft was provided to the AP and the Council for review and input. When she returns to Guam she will work with the Bureau of Statistics and Plans to start presentations to the community for input. She made a verbal commitment with various members of the fishing communities that DOAg would always seek their input on issues important to them. She hoped to report soon on the adoption of commercial reporting regulations for fishers and resellers.

## **5. Guam Marine Conservation Plan**

Muna-Brecht said she emailed the MCP to the Council with the governor's cover letter the previous night, but the plan still needed additional edits, including the section related to imported fish based on information received from the Bureau of Statistics and Plans.

## **6. Community Activities and Issues**

Felix Reyes, Council staff, provided updates on community activities and issues. Guam has had fishery conflicts that go back a few years. Fifteen to 20 mosquito boats operate around the clock supplying up to 30 fish stores, especially during Lent. Demand for fish increased exponentially so the intent was to fish to satisfy the increased demand. Law enforcement was not always responsive, as Guam's enforcement laws require that enforcement officers witness the violation before an arrest can be made. The new SCUBA bill included a provision pertaining to intent to circumvent this enforcement issue, so that having a SCUBA tank and spear gun in the boat can be evidence to show intent to go SCUBA spear fishing. Sen. Clynton Ridgell hosted discussions about these conflicts and called for a round-table meeting in April to address the issues.

In November 2019, a meeting was held at the Merizo Pier hosted by The Nature Conservancy. It included the US EPA, Guam EPA and the USCG to address issues within Cocos Island lagoon, which was contaminated with polychlorinated biphenyls (PCBs). They were not able to share with the community which areas they could fish, which areas were contaminated, which fish species were affected and which could be harvested and eaten. Community members were asked to log the fish they catch, how they cook it to eat and report back. A contractor was hired to remove equipment from the lagoon left by USCG's Loran Station from the 1980s. The contractor was also tasked with removing thousands of car tires placed in the lagoon for an unsuccessful artificial reef experiment.

Reyes reported that the Guam AP vice chair was working with AP members to move forward with a community FAD already approved by the Council. Reyes reported on recent and upcoming fishing derbies, which were growing in number. The Shut Up and Fish Guam derby was supported by the Guam Visitors Bureau with the intent of marketing these derbies to bring in international fishermen who could charter boats and participate in the derbies.

In January 2020, Reyes addressed the Mayors Council of Guam regarding opportunities for collaborating and sharing of ideas and how their communities and the villages can work with the Council on fisheries issues. The village of Malesso already has in place a community-based resource management plan. The village of Yigo was intending to move forward with its own plan. However, at a recent meeting, the mayor and the president of the Yigo Municipal Planning Council decided against a plan to build a boat ramp in the north for emergency vehicles and boats, as it would be faster for the rescue boat to be launched from the Agana Marina. A lot of work was being developed with the Mayors Council, especially to solicit support from its villagers that fish. The Mayors offered support for the Council's Summer High School Program.

## **7. Education and Outreach Initiatives**

Reyes reported that the lunar calendar was distributed from late December through early February. Nearly every Guam agency and military outlet and many fishermen and fishermen gathering were provided copies. Work on the 2021 issue has been initiated with the AP leadership.

Reyes shared the feature in *Hawaii Fishing News* of the first blue marlin caught on Guam for 2020 at 127 pounds. While it was not large, it was significant for the beginning of the year.

Reyes reported on the outreach efforts to encourage community members to attend the bottomfish stock assessment and shark interaction meetings on Guam. The efforts included radio appearances and flyers and resulted in a high number of people participating in the meetings.

Support was provided to the USCG Auxiliary to provide training on boating safety. Twenty people were certified. It was hoped that the training would become an annual event.

Muna-Brecht said she wanted to incorporate boating safety into the commercial permit for fishermen so they are required to take a boating safety course before they can be provided with their commercial permit.

Watamura said passing a safety course was required before registering a boat in Hawai'i.

Muna-Brecht said outreach to get fishermen to attend the meetings was outstanding and more than 80 fishermen attended, which may be a record.

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

### **1. Arongol Falú**

Tenorio provided the Island Report and updates for the CNMI DLNR DFW. The division's tagging study was using surround net to target emperors, trevally and unicorn fish. About 900 fish had been caught and tagged, and seven tags were returned to date.

The Fishery Development Program secured a contract for FAD deployment. Eight systems were rigged. The Division was coordinating with the vendor and vessel captain on the deployment schedule.

DFW resumed collections of commercial invoices from vendors who were previously providing invoices to a contractor. DFW staff visited vendors to provide information regarding the mandatory data reporting regulation conditions and answer questions.

Opportunistic shore-based surveys were conducted on the windward and west sides of Saipan and the lagoon to better capture spearfishing information. Boat-based creel surveys were also continuing, with opportunistic night-time surveys conducted to better capture bottom fishing effort. The current regular schedule for the boat-based creel survey covers early morning, afternoon and twilight but does not cover late night fishing activity.

DFW continued to collect import and export information. Exports were not well documented, so DFW was working to improve the information on what was being exported from CNMI. Export declarations were made mainly by residents who bring fish to family members stateside.

DFW performed various education and outreach activities at community events, including the Marianas Fish and Seafood Festival, Rota Fishing Derby, Joeten-Kiyu Public Library event, Saipan Fishermen Association Kids Shoreline Derby and the Wahoo Derby. During these events, DFW provided general information on its projects and programs.

The CNMI DLNR Sea Turtle Program conducted outreach activities the past few months at five events, reaching approximately 670 people, and provided regular updates on its Facebook page. The program also installed four signs at certain beach locations displaying turtle rules and regulations and placed information on television, in the newspaper and on radio. In addition, the Sea Turtle Education Curriculum was completed and will be introduced to the CNMI Public School System during an upcoming island-wide teacher workshop.

DFW's Boating Access Program continued maintenance services at the various launching ramps at Saipan marinas and docks, continued daily maintenance and monitoring of the Smiling Cove Marina facility, and completed repairs to the gangway No. 3 dock entrance. On Tinian, services were provided to the boat launching ramp and marina, and the program manager worked with FEMA to obtain repair services for the docking facilities given the destruction caused by the typhoon. At the Rota Marina, the program manager received a US Army Corps of Engineers nationwide permit for change orders to the Rota West Harbor Marina Rehabilitation Project.

DFW was collaborating with NGOs to develop and maintain a coral nursery within the Saipan Lagoon. DFW was also participating in a number of meetings with the US Armed Forces to discuss proposed military training activities in CNMI, mainly involving the islands of Pagan and Tinian. Lastly, Tenorio reported that DFW was working with natural resource agencies to develop a CNMI Coral Reef Restoration Plan.

Gourley provided updates on the CNMI bio-sampling project, which was started in January 2011 with the collection of reef fish data. Samples had been processed from 3,100

unique night time spearfishing events, and data were collected on species composition, location, spear fishermen's names and the hours they went fishing. A total of is 234,000 fish had been measured. The project's current focus was bottomfish. Sampling for bottomfish was more challenging than reef fish as the sampling regime required was different and bottomfish were more difficult to obtain. Complete samples were collected for 73 bottomfish events. More than 5,500 individual bottomfish were measured, resulting in 76 bottomfish species, some of which were also seen in the spearfishing fishery. Gourley said the direction of the Bio-Sampling Program has changed. The level of uncertainty seen in the recent CNMI bottomfish stock assessment reinforced the need to improve the data collection. As a result, Joe O'Malley and Eva Schimmel from PIFSC came to CNMI and spent several days with Gourley to review data collection techniques and work with DFW. O'Malley and Schimmel were introduced to several bottom fishermen and will continue to work with them.

Gourley also reported that his office has made several purchases to meet program needs. He provided photos and described the project area and equipment. He said the vendors and people who have contributed to the Marianas Bio-sampling Program were amazing.

Tosatto asked if Gourley's program returns the catch from the fishermen or destroys them, and whether consumers would be buying a fish after it has been handled.

Gourley said that the fish were measured, weighed, iced and returned to the vendor. Fish sampled for otolith and gonads were purchased and kept. Gourley said the relationship with fishermen and vendors took a long time to develop. He was vigilant to not violate that trust and risk losing the program entirely.

## **2. Legislative Report**

No updates were provided under this agenda item.

## **3. Enforcement Issues**

Tenorio reported that the DFW Enforcement Section continued to assist the CNMI Sea Turtle Program during turtle nesting activity and respond to turtle interactions. The Enforcement Section also visited fish vendors, schools and community events to provide education and outreach. Shoreline inspections and at-sea vessel patrols were regularly conducted; however, the patrol vessel had experienced mechanical issues.

## **4. Management and Research Initiatives**

No updates were provided under this agenda item.

### **a) Pacific Insular Fisheries Monitoring, Assessment and Planning Summit Implementation**

No updates were provided under this agenda item.

## **(1) Issuing Licenses for Fishermen**

This item was reported under item B.1.

### **b) Reporting App Update**

No updates were provided under this agenda item.

## **5. Commonwealth of the Northern Mariana Islands Marine Conservation Plan**

Floyd Masga, Council staff, reported that the CNMI MCP was submitted to the Council by the Office of the Lt. Governor. The CNMI DLNR had conducted a variety of activities from public outreach to online surveys to gather recommendations on how funds would be used for the MCP. One hundred completed responses were obtained from the survey; 77 of these were written responses regarding how to use the funds.

## **6. Community Activities and Issues**

Masga provided updates on CNMI community activities and issues. The bottofish fishery development training project received NEPA clearance. DLNR was maintaining staff for the *KIRIDA* vessel and was working to conduct training on Rota once the weather improves.

The Council provided support to DFW for an identification card machine and software needed to implement CNMI's mandatory data reporting regulations. Masga also reported on DLNR's sub-award agreement with the Saipan Fishermen's Association for a project to conduct outreach and training activities and to support its quarterly magazine, *Marianas Pond*.

CNMI was dealing with financial and health issues due to COVID-19 while still recovering from Super Typhoon Yutu. The government implemented a 64-hour work week. Hours may be further reduced, as the government also implemented a 28% cut across all departments.

Watamura asked if the mandatory license and reporting were for all fishermen.

Masga said that it was for commercial fishermen only.

## **7. Education and Outreach Initiatives**

Masga reported on the CNMI education and outreach efforts. Council staff and AP members distributed the 2020 lunar calendars on Rota, Tinian and Saipan and at launching ramps, fish vendors, fish markets and various agencies. Outreach was conducted to encourage vendors and fishermen to attend the bottomfish fishermen's meeting, resulting in 45 attendees including the governor and lieutenant governor and a few legislators. Participants appreciated the Shark Depredation Workshop conducted by Carl Meyer and Derek Kraft, who provided sampling kits to the fishermen. Outreach was also conducted to encourage applications for the Marine Education and Training Grant.

Masga also reported on recent and upcoming tournaments. Twenty-five students participated in the Saipan Fishermen’s Association’s Shoreline Casting Tournament. Numerous businesses and government agencies donated shirts, fishing rods, gift certificates and meals during the event. DFW collected data and identified fish that was caught. Masga reported that 51 vessels participated in the Marianas Fishing Tournament. Sixteen fishing tournaments were scheduled in CNMI for 2020.

**C. Advisory Group Reports and Recommendations**

**1. Mariana Archipelago Fishery Ecosystem Plan Advisory Panel**

There were no AP recommendations regarding Mariana Archipelago.

**2. Scientific and Statistical Committee**

There were no SSC recommendations regarding Mariana Archipelago.

**D. Public Comment**

There were no public comments.

**E. Council Discussion and Action**

*Regarding Guam fisheries, the Council directed staff to send a letter of support for the Guam fishing platform to the USFWS, noting the intent of the platform and providing photos and information on its use.*

*Moved by Duenas; seconded by Muna-Brecht.*  
*Motion passed.*

*Regarding the CNMI MCP, the Council directed staff to write to the governor of CNMI indicating the Council’s review and concurrence with the MCP at its 181st meeting and requesting the governor provide the MCP to NMFS for approval.*

*Moved by Duenas; seconded by Muna-Brecht.*  
*Motion passed.*

**XIV. Administrative Matters**

**A. Financial Reports**

**1. Current Grants**

Simonds reported on the budget expenditures from the first year of the new five-year grant period. The Council was approved for all funding requests but had not yet received all of the funding. Simonds also reported on the Coral Reef, Turtle and Sustainable Fisheries Fund Programs. Council staff was holding discussions with American Samoa and Bloom regarding

reprogramming some of the funds under the Sustainable Fisheries Fund 10 and 11 involving training and outreach with CNMI and American Samoa.

## **2. New Grants**

This agenda item was covered under Current Grants.

### **B. Administrative Reports**

Simonds reported that the Council hired Yamada as a Fisheries Analyst 1. Yamada participated in the Council's High School Summer Program and served as an intern while attending Hawaii Pacific University. Regarding the annual audit, the Executive Committee approved the contract with Akamine, Oyadomari and Kosaki. The previous auditor had changed its scope of work regarding the type of audits it conducts. Staff was continuing to work with the Office of Inspector General on the Western Pacific Sustainable Fisheries Fund and has provided all responsive documents up to the Council meeting. The Council has also responded to ongoing Freedom of Information Act requests, including a request for the general ledger and the names, titles and salaries of Council staff.

### **C. Council Coordination Committee Meeting**

Simonds said she plans to have another teleconference with the executive directors and Headquarters the first week of April regarding the status of the CCC meeting agenda and logistics. One of the forward-looking topics under consideration was non-stationarity. The Councils were also planning a round-robin on area-based management and were looking for guidance from Headquarters regarding their specific issues.

### **D. Council Family Changes**

#### **1. Archipelagic Plan Team**

Sabater reported on several changes to the Archipelagic Plan Team, Pelagic Plan Team, Fishery Data Collection and Research Committee (FDCRC) and Education Committee. Regarding the Archipelagic Plan Team, Michael Quach would replace Stephanie Dukes; Domingo Ochavillo would replace Yvonne Mika; Bryan Ishida would replace Ryan Okano; and Marc Nadon would replace Ivor Williams. Members being added to the Pelagic Plan Team included Donald Kobayashi, Quach for the WPacFIN seat, Michael Kinney to replace Joe O'Malley for the Life History seat and Sean Felise replacing Tepora Lavatai for the DMWR seat. For the FDCRC Technical Committee, Quach would replace Dukes and O'Malley would replace Brett Taylor for the Life History seat. For the Education Committee, Alexandra Bayless would replace Tia Brown for the PIFSC seat and Malia Vaofanua would replace Lusila Minonetti for the DMWR seat.

#### **2. American Samoa Advisory Panel**

DeMello reported that, at its last meeting, the Council recommended searching for replacements for the two members removed from the American Samoa AP. There were no new

candidates, so alternates Nonu Tuisamoa and Joseph Faaita could fill the vacant seats on the American Samoa AP.

Soliai said that since the initial discussion earlier in the week, applications were sent out and the Council has since received some responses. There should be names for review in June.

#### **E. Meetings and Workshops**

Simonds reviewed upcoming meetings that were being canceled and meetings that would have remote participation by teleconference.

Soliai said that the main priority is to make sure everyone is safe. The Council would be monitoring the pandemic and make changes as needed.

Simonds said the Council would arrange for remote participation to the June meeting for members who were uncomfortable about traveling.

Chelsa Muna-Brecht said that an Oceans Conference in Palau in August was not included in the Council's events list.

Simonds said that would be added to the list.

#### **F. Standing Committee Report**

Gourley reported on the Executive and Budget Standing Committee meeting and noted that most of the items discussed were covered by Simonds in the previous agenda items. There was public comment from Case, who presented some of her concerns. Some recommendations were considered, which were included in the report.

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

There were no public comments.

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

*Regarding the advisory body changes, the Council approved the following advisory group changes:*

- **Archipelagic Plan Team**
  - **Michael Quach to replace Stefanie Dukes for the WPacFIN seat**
  - **Yvonne Mika removed from the Archipelagic Plan Team**
  - **Bryan Ishida to replace Ryan Okano for the Hawai'i seat**
  - **Marc Nadon to replace Ivor Williams for the Reef Ecosystem seat**
- **Pelagic Plan Team**
  - **Donald Kobayashi added as a member**
  - **Michael Quach to replace Stefanie Dukes for the WPacFIN seat**
  - **Michael Kinney to replace Joseph O'Malley for the Life History seat**
  - **Sean Felise to replace Tepora Lavatai**

- **FDCRC Technical Committee**
  - **Michael Quach to replace Stefanie Dukes for the WPacFIN seat**
  - **Joseph O'Malley to replace Brett Taylor for the Life History seat**
- **Education Committee**
  - **Alexandra Bayless to replace Tia Brown for the PIFSC seat**
  - **Malia Vaofanua to replace Lusila Minonetti for the DMWR seat**
- **American Samoa Advisory Panel**
  - **Nonu Tuisamoa to fill one vacant seat**
  - **Joseph Faaita to fill one vacant seat**

*Regarding the CCC meeting, the Council requested the chair and executive director to continue to work with NMFS leadership and other regional councils to assess the impacts of COVID-19 on planning efforts and hosting of the CCC meeting on May 26- 29, 2020, at the Turtle Bay Hotel and Resort.*

*Regarding financial matters, the Council approved the financial statements and status of awards and contracts as provided by staff.*

[The above three recommendations were taken together as a single motion.]

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

*Regarding the Hawai'i DLNR chair's letter of March 3, 2020, the Council directed the executive director to respond to the issues raised based on Council discussion at the 181<sup>st</sup> meeting.*

Tosatto noted that there are two DLNRs and clarified that it is the Hawai'i DLNR and not the CNMI DLNR.

Duenas and Rice agreed to the change.

*Moved by Duenas; seconded by Rice.*  
*Motion passed with Okano abstaining.*

## **XV. Other Business**

There was no other business.

[Meeting adjourned.]