



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**MINUTES OF THE  
184th MEETING OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**December 2-4, 2020, Council Plenary  
By Web Conference and Host Sites:**

**BRI Building Suite 205, Kopa Di Oru St. Garapan, Saipan, CNMI  
Tedi of Samoa Building Suite 208B, Fagatogo Village, American Samoa**

Approved by Council:

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

Archie Soliai, Chair

Western Pacific Regional Fishery Management Council

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## **I. Welcome and Introductions**

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

- Taotasi Archie Soliai, chair (American Samoa)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Michael Dueñas, vice chair (Guam)
- Howard Dunham, vice chair (American Samoa)
- Ed Watamura, vice chair (Hawai‘i)
- Roger Dang (Hawai‘i)
- Monique Amani (Guam)
- McGrew Rice (CNMI)
- Brian Neilson, 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 Muña-Brecht, Guam Department of Agriculture (DOAg)
- Henry Sesepasara, 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, U.S. Fish and Wildlife Service (USFWS)
- LCDR Jason Holstead, U.S. Coast Guard (USCG) (designee for Rear Adm. Kevin Sibley, commander for USCG District 14)
- Michael Brakke, U.S. Department of State

Also in attendance were Council Executive Director Kitty M. Simonds; Fred Tucher, Elena Onaga and Kristen Johns from NOAA General Counsel Pacific Islands (GCPI); and the Scientific and Statistical Committee (SSC) Chair James Lynch.

Soliai opened the 184th Council meeting with a prayer.

## **II. Approval of the 184th Agenda**

The 184th meeting agenda was approved by general consent.

## **III. Approval of the 183rd Meeting Minutes**

The 183rd meeting minutes were approved by general consent.

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

Simonds reported that 2020 was not the year that she had imagined. The Council's plan to meet quarterly, with an annual rather than biennial meeting in each of the Territories, were squashed by COVID-19 and kept the Council from meeting anywhere face to face. However, there are two promising vaccines poised for public release, and the 184th Council meeting could be the last Council meeting held virtually.

Simonds reported that the Council still managed to hold 25 meetings, including two Council Coordination Committee (CCC) meetings and one international meeting on spatial management. The staff have worked on 14 pelagic projects, 12 bottomfish projects, 10 protected species projects, seven community and fisheries development projects, four newsletters, five monographs, the website, four lunar calendars, the undergraduate scholarship and fellowship program and monitored and administered 10 grant awards. The agenda for the 184th Council meeting reflects these products in collaboration with local and federal agencies.

Simonds said the highlight of this year was the Trump Administration's initiatives to support American seafood through Executive Order (EO) 13921. EO 19321 on Promoting American Seafood Competitiveness and Economic Growth and Regulatory Relief provided all of the regional fishery management councils with an opportunity to publicly review which regulations work and which do not. The councils all hope that the new administration will in good faith review their recommendations. Congress will be looking at reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and could consider these recommendations.

In the Western Pacific Region, the Council did not have to look too far to identify regulations, policies and bureaucratic processes that kept fisheries from reaching their full potential. The Western Pacific Region has five major fisheries: the Hawai'i deep-set longline fishery, the Hawai'i shallow-set longline fishery, the American Samoa longline fishery, the U.S. purse-seine fishery and the bottomfish fisheries in Hawai'i, American Samoa, Guam and the CNMI.

The tuna and swordfish fisheries are healthy, but the bottomfish stocks in the Territories are overfished and require rebuilding. Council members will review options for the 2021 and 2022 bottomfish annual catch limits (ACLs) for American Samoa and Guam. Simonds said that the Western Pacific Region represents half of the U.S. exclusive economic zone (EEZ) waters and is kept from attaining its potential by regulations imposed from the White House, NOAA and NMFS. Fishing is banned in more than half of the U.S. EEZ and longline fishing is

prohibited in 70% of the U.S EEZ around Hawai'i. Simonds noted that swordfish seasons have been missed and markets have been lost to foreign countries experiencing overfishing.

The Western and Central Pacific Fisheries Commission (WCPFC) will meet on Dec. 6-13, 2020, to discuss a new tropical tuna measure. She is unsure of what the outcomes might be, but said that negotiations in the Commission have failed to increase the region's bigeye quota, currently set at 3,500-plus metric tons (mt) for the Hawai'i longline fleet. The Japan longline fleet has a quota of 17,765 mt but does not use 6,000-plus mt of their quota, 500 mt of which has been transferred to China. China has continued to spread its influence and has been facilitating more charter agreements with Small Island Developing States (SIDS), which do not have catch limits.

In negotiations with the Compact of Free Association (COFA) and other members of the Commission, the United States needs to negotiate measures that support the nation. The United States has provided the three COFA countries, the former Trust Territories, the Federated States of Micronesia (FSM), Republic of the Marshall Islands and Republic of Palau with up to \$150 million. In 2018, members of the WCPFC have received \$1.6 billion from the United States, of which \$1.4 billion supported economic development. Indonesia has received \$1.6 million in aid. Their current bigeye quota is 5,889 mt, but their reported catch in 2018 was 13 mt. Simonds said that the fisheries are not asking for money; instead, they are asking to fish in their waters. Whether it is in the international arena, or at the national/regional level, fishermen and the Council need the government's full support. She expressed hope that for the remainder of 2020, 2021 and beyond, the U.S. government will commit to working better with the Council.

Simonds said that U.S. fishermen need to be able to not only fish forever, but also to fish sustainably at the level that benefits the islands and nation. There is no better managed fishery in the world than the U.S. fisheries.

Watamura asked Simonds what she foresees happening with EO13921 under the new administration.

Simonds responded that she does not know, but hopes that the departments will continue to review what the councils, fishing industries and nongovernmental organizations submitted. She said the Council has also inquired about the U.S. Seafood Trade Task Force report, but the current Administration had not completely reviewed the report as of Dec. 3, 2020. She hoped that the new Administration will review their recommendations and report back to the councils.

Soliai thanked Simonds and her staff for all of the work they have done through this pandemic.

## **V. Agency Reports**

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

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



Tosatto presented the PIRO report. He noted that some rule makings for protected species would be covered in other agenda items and did not elaborate further on these in his report.

NMFS published a final rule Sept. 17, 2020, to implement the Pacific Pelagic Fishery Ecosystem Plan (FEP) Amendment 10 which revised the leatherback sea turtle fleet-wide hard cap to 16, removed the loggerhead sea turtle fleet-wide hard cap and established individual trip interaction limits for loggerhead and leatherback turtles. Tosatto indicated that this measure should allow the fishery to remain open year-round in the future.

Tosatto reported that PIRO approved the Marine Conservation Plan for Hawai'i and the Pacific Remote Island Areas (PRIAs).

NMFS published a proposed rule Oct. 20, 2020, establishing requirements to safeguard fishery observers and prior notification procedures for observer placement. The comment period on the proposed rule ended Nov. 19, 2020. NMFS is addressing comments and preparing the final rule. NMFS also published a final rule Nov. 10, 2020, to remove the swordfish retention limit in the American Samoa deep-set longline fishery. NMFS published a temporary rule Nov. 16, 2020, implementing an interim catch limit of 13,000 pounds of American Samoa bottomfish for fishing years 2020 and 2021. The effective period for this rule is 180 days, or until May 17, 2021.

Tosatto highlighted the status of observer coverage in the Western Pacific Region's fisheries, noting that observers continue to be deployed with waivers provided on a case-by-case basis. NMFS continues to waive fishery observer placements on vessels in the American Samoa longline fishery and the Western and Central Pacific Ocean (WCPO) purse-seine fishery due to COVID-19 related travel restrictions.

On Oct. 16, 2020, NMFS determined that silky sharks are subject to overfishing based on the results of a 2018 stock assessment. Under MSA section 304(i), the Council, within a year of the notification, is required to develop and submit recommendations for domestic regulations to address the relative impact of U.S. fishing vessels on silky sharks in the WCPO, and develop and submit recommendations for international actions that will end the overfishing of WCPO silky sharks, taking into account the relative impact of vessels of the United States and other nations on the stock.

Tosatto shared the PIRO *2020 Federal Program Report*, which shows the grant funding that NMFS provides to various programs in the region. The report highlights the Council as one of the primary beneficiaries of these grant funds but the list also includes the Saltonstall-Kennedy grants program, Marine Education and Training Program and a variety of others.

Simonds thanked Tosatto in advance for the draft biological opinions (BiOps) that are expected by the end of December 2020.

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

Michael Seki, Pacific Islands Fisheries Science Center (PIFSC) director, reported that the 2020 Bottomfish Fishery-Independent Survey in the main Hawaiian Islands (MHI) was

completed Nov. 15, 2020. All 453 grids were sampled. PIFSC deployed some of the Modular Optical Underwater Survey System deep-sea cameras via the F/V *Ao Shibi*. The NOAA ship *Oscar Elton Sette* was unable to participate in the survey as planned due to COVID-19. Toward the end of the survey, PIFSC convened a virtual meeting of all contributors and interested parties involved in the bottomfish survey effort.

PIFSC launched a new citizen science project called OceanEYES. About 3,000 citizen scientists helped analyze video footage from the bottomfish survey. OceanEYES is a big success and initiatives like this could help NMFS improve efficiency and be utilized in other projects going forward.

PIFSC is also conducting an analysis and evaluation of the American Samoa Baited Remote Underwater Video Station (BRUVS), which are remote cameras deployed during the 2012 Sette cruise. PIFSC is looking forward to what new observations might come from this reevaluation, which may help in future stock assessment practices.

PIFSC staff has mostly continued to work from home with some activities determined to be mission-critical resumed in person. PIFSC virtually hosted the 4th Annual Collaborative Climate Science Workshop, which brought together PIFSC, PIRO and council staff, to determine the major priorities for climate work as this will be the main focus for activities in the next fiscal year. The electronic monitoring (EM) and electronic reporting (ER) project continues with vessel engagement, outreach, installation and training of EM equipment and technical support. Bigeye tuna quota fast tracking continues, involving logbook drop-off, data processing, keypunching, validation and corrections and data extraction for quality control. Marine turtle field research partially resumed with a few nighttime surveys completed, aided by unusual nesting occurring on O‘ahu and some daytime nest excavations. Other activities that resumed in a limited capacity are marine mammal and sea turtle stranding and recovery activities, coral bleaching recovery shore-based surveys around O‘ahu, life history age and growth studies at the NOAA Inouye Regional Center labs, conducting Essential Fish Habitat (EFH) management unit species (MUS) sample collection and processing of mahimahi and ono stomach samples and Guam fishery data entry.

PIFSC is conducting infrastructure-type activities in person, including on-site maintenance of information technology systems, lab works, inspections and oversight of the lab facilities. Other activities resumed include dive requalification training, preparation and maintenance of the small boats, high-frequency acoustic recording packages deployments and maintenance of the Marine Animal Recovery Facility.

PIFSC conducted a spinner dolphin line-transect survey with the University of St. Andrews, with 10 days originally planned, but bad weather resulted in four days of good sampling. The data is being analyzed now. PIFSC is planning to conduct more surveys off Maui and the Big Island with supplemental aerial surveys in the future.

PIFSC completed a project to review EM and video footage from the Hawai‘i longline fisheries at three different viewing speeds, 4x, 8x and 16x, to analyze variability in observations. The 8x viewing speed produced the best results with the lowest variability and is currently considered the optimal speed. Two new projects have been funded through the Fisheries Information System Program, National Catch Shares Program and National Observer Program

for fiscal year 2021. The first project will look at the efficacy and implementation of EM to quantify mortality and serious injury of marine mammals and post-interaction mortality of sea turtles in the Western Pacific Region longline fisheries. The second project is to advance ER in the U.S. Pacific Islands bottomfish fisheries in the territories by encouraging the usage of the Catchit Logit app. Successful implementation and adoption of the new reporting app can provide additional data streams from ER that can improve fisheries management across the territories. This will be a central effort for PIFSC in the coming operational year.

Seki highlighted a recently published research paper about the reproductive biology of yellow tangs in Hawai‘i. The paper covered the tang’s age and size at maturity, which was younger and smaller than expected since the fish can live to be 40 years old.

Seki talked briefly about NMFS partnering with the Animal Telemetry Network to release PIFSC’s Hawaiian monk seal tracking data online. Starting with 2020 data, people should be able to see real-time networks. Seki described another recently published research paper titled “Understanding population-level impacts of natural and anthropogenic causes-of-death for Hawaiian monk seals in the main Hawaiian Islands.” The study found the largest causes of death were human-caused, either by body trauma or drowning due to various human activities. The second-largest cause of death was exposure to toxoplasmosis, which is carried by cats.

Stemming from the Ecosystem-Based Fishery Management (EBFM) Project initiatives, PIFSC collaborated with the University of Florida to produce a research paper on “Understanding environmental drivers of protected species bycatch in the Hawai‘i Longline fishery.” Scientists used a machine learning model called the Ensemble Random Forest to understand some of the environmental drivers in protected species bycatch. The Ensemble Random Forest model has other applicable uses and will be used going forward with EBFM approaches.

Thomas Oliver, Justin Hospital, and Rusty Brainard published a research paper on U.S. Pacific coral resilience metrics and provided a standard for prioritizing effort under resilience-based management.

Watamura asked Seki about the 3,000 citizen scientists and how they contributed to the artificial intelligence project.

Seki said the video footage is released into the virtual world and people offer their input and expertise to identify fish in the video footage. The estimated 3,000 people needs to be updated, but reflects how many people responded to the outreach and provided input to identify species at the time of the initial inquiry. Checks and balances exist to validate and corroborate fish identifications. Ben Richards, OceanEYES project manager, has more project specifics.

Watamura asked if these people were bottomfish fishermen and whether they contribute to the deep-seven bottomfish research.

Seki said that not all people were bottomfish fishermen but maybe some. The exact makeup of the group may be unknown.

Watamura asked why the Hawai'i bottomfish fishermen were not directly involved in this project as they would be the most knowledgeable.

Seki said they may be, noting that Richards is good at engaging with the bottomfish community.

Watamura said he would contact Richards and get more information.

Watamura asked about the purpose of the spinner dolphin transect surveys.

Seki said NMFS does not have abundance estimates of spinner dolphins and their habitat is often shared with tourists and ocean users causing management concerns.

Watamura asked if the ER for bottomfish in the territories that Seki reported on is specifically referring to the Catchit Logit app.

Seki said yes, the grant money will fund the app technology.

Rice asked where around the MHI will NMFS conduct the spinner dolphin survey.

Seki said the first effort was off O'ahu. Maui Nui and Big Island will be next.

Rice said that he has seen huge schools of spinner dolphins off South Point, Kailua-Kona, Keahole and Manulani on the Big Island. There are other schools that people do not go and see, so observations need to be made island-wide.

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

Tucher provided the report from the NOAA GCPI.

The appeal for the Territory of American Samoa v. NMFS was pending from the Ninth Circuit Court of Appeals. This case involves a 2016 final rule that American Samoa challenged, which provided an exemption to eligible longline vessels from the Large Vessel Prohibited Area (LVPA) in American Samoa. In March 2017, the U.S. District Court in Hawai'i invalidated the rule, and NMFS subsequently appealed the decision. On Sept. 25, 2020, a unanimous decision from the Ninth Circuit reversed a U.S. District Court of Hawai'i decision that vacated NMFS's 2016 rule. The time period for reconsideration of that decision has lapsed, and the Ninth Circuit issued a mandate reversing the lower court's decision Nov. 17, 2020. This ruling is very narrow and does not address the legal impact of the Deeds of Cession on NMFS rulemaking, concluding that NMFS did properly consider the impacts to the alia fishing under its MSA and National Environmental Policy Act (NEPA) analyses. As a result of the mandate, NMFS is proceeding to reissue the 2016 rulemaking by direct final rule.

Center for Biological Diversity v. Ross filed in August 2019 alleged that NMFS failed to timely designate critical habitat for 12 coral species listed under the Endangered Species Act (ESA) in 2014. It resulted in a stipulated settlement and agreement to submit a proposed critical habitat determination by July 31, 2020, which was later extended to Oct. 6, 2020. The proposed rule was published Nov. 17, 2020, which designated critical habitat for seven listed threatened

coral species in the WCPO. Interested parties have until Jan. 27, 2021, to submit comments on the proposal.

Dunham asked when the longliners will be able to fish in the LVPA.

Tucher said NOAA GCPI cleared the rulemaking package to reopen the LVPA, which is in review at NOAA Headquarters.

Tosatto said that all the paperwork from PIRO has been submitted to NOAA Headquarters, and the package needs departmental approval before moving into the Federal Register. The final rule would be effective immediately upon publication, but a final date has not been set.

## **C. Enforcement**

### **1. U.S. Coast Guard**

Holstead reported that, from Sept. 1 to Oct. 31, 2020, the USCG responded to 127 cases of search and rescue, law enforcement, marine and environmental protection responses and coastal security missions. The large number of cases corresponded to the lifting of some COVID-19 restrictions, which increased the amount of traffic both on and near the water.

The 154-foot USCG Cutter *Oliver Henry*, a fast response cutter (FRC) vessel based out of Hawai‘i, has completed its first of a kind mission to conduct a patrol to Guam and back. The patrol consisted of law enforcement activities focused on a high seas boarding and inspection scheme under the WCPFC Convention. The patrol was almost 10,000 miles—one of the longest transits for an FRC—showing the USCG pushing the limits of technology and resources to serve the Oceania region. It proved the USCG can ensure safe missions for both its crew and the general public.

The USCG Cutter *Sequoia*, stationed in Guam, also conducted operations in Oceania. During a trip to Palau, *Sequoia* conducted maritime security operations, high seas boarding and inspections under the WCPFC Convention. They also delivered supplies and equipment to Palau, which has been impacted by COVID-19. The operations provided opportunities to work with various USCG Oceania partners to strengthen and maintain relationships by providing assistance and an equal playing field for enforcement measures.

Gourley said on behalf of the CNMI, he would like to thank the USCG for bringing back two of their fishermen who got waylaid and ended up 128 miles west of Tinian. The USCG, U.S. Navy, CNMI Department of Public Safety, Homeland Security Emergency Operation Center and two commercial vessels helped to facilitate this rescue and the fishermen are now home with their families.

Soliai said he met the new detachments for American Samoa, Lt. Creighton C. Chong and Michelle Duty. They have acclimated well and are engaged with the fishing community.

Watamura thanked the USCG for their rescue efforts as he had lost a good friend, even though the agency put forth extensive efforts.

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

John Barysky, deputy special agent (SA) reported that from Sept. 1 to Nov. 16, 2020, NOAA Office of Law Enforcement (OLE) saw 198 incidents, including 121 for protected resources and 77 for fisheries.

OLE completed two investigations involving U.S.-flagged purse seiners. One was alleged to have conducted fishing operations within the Cook Islands EEZ closed area, for which OLE completed the investigation and sent the case package back to the Cook Islands Ministry of Fisheries for their review. The other case involved a purse seiner that allegedly set a net around a live whale shark in the WCPFC Convention Area. The case has been completed and sent to the NOAA Office of General Counsel Enforcement Section (GCES) for prosecution.

Barysky reported an investigation involving a fishing vessel that was grounded in 2016 in the American Samoa National Marine Sanctuary. The vessel had been hired to transport freight but did not have the required permits. Further investigation found the corporation was a sham and had applied for federal fishing permits by providing false statements. The case was referred to NOAA General Counsel for Natural Resources; they declined and referred back to GCES for review and final deposition. GCES issued a Notice of Violation Assessment (NOVA) to the vessel operator and owner for \$20,000.

An investigation involving a Hawai'i longline vessel fishing the MHI Southern Exclusion Zone (SEZ) has been completed. A NOVA was issued to the vessel operator and owner.

OLE initiated two different investigations involving Hawaiian monk seals. The first investigation was into the deaths of two monk seals on Kaua'i. The first seal was found shot to death and a second seal was found dead in the same vicinity. Agents are working closely with Kaua'i Police and Hawai'i Division of Conservation and Resources Enforcement (HI DOCARE). A monetary reward has been approved for any information leading to the conviction and arrest of the individuals involved. The second investigation involves an individual who fed monk seals within Poka'i Bay off O'ahu. Enforcement officers are still looking for this individual as this is a violation of the Marine Mammal Protection Act (MMPA).

Enforcement officers assisted by HI DOCARE have been conducting pulse operations down the leeward coast of Kona leading to the arrest of three commercial marine life fishermen who were illegally harvesting marine life in closed protected areas.

Enforcement officers issued a \$1,000 summary settlement notice to an importer for illegally importing sea cucumbers. The violation was discovered during cargo inspections at the Honolulu airport operating under the Seafood Inspection Monitoring Program.

In two separate cases, enforcement officers conducted a surface patrol via on a 22-foot SAFE boat off Big Island when they observed a male subject harassing a pod of spinner dolphins in Kona Bay, Hawai'i. The officers contacted the subject and explained that they witnessed him

pursue and harass a pod of spinner dolphins, in violation of the MMPA. For each case, a summary settlement notice of \$100 was issued for the harassment of spinner dolphins.

Enforcement officers, in conjunction with the USCG, HI DOCARE, the National Park Service and local law enforcement conducted 76 sea, land and air patrols on the Big Island during two Joint Operations efforts. This resulted in seven summary settlements regarding MMPA violations, assistance with numerous compliance cases and local outreach while establishing a positive NMFS/OLE presence.

Dueñas asked if there was an update about hiring a third officer or agent for the Mariana Archipelago.

Barysky said OLE has a billet for a second enforcement officer, who would be based out of Guam. One SA is retiring at the end of the year, and a billet for that position just closed. Many SA positions are filled from the Enforcement Officer Corps, so OLE is waiting to see how many enforcement officers switch to SAs, then after they will do a national hire for the officers. Then, OLE will know how much money is left for new positions.

Soliai asked if the vessel that grounded in American Samoa was confirmed to be a U.S. longline vessel.

Barysky said that it was. The case went to the NOAA General Counsel for Natural Resources for initial prosecution. They declined and the case was referred back to GCES and the NOVA was issued.

Soliai said for some reason he thought it was not a U.S. vessel.

Barysky said he will confirm.

Watamura asked if OLE has data on the frequency of dolphin harassment in the islands.

Barysky said that statistics are available in Trident, which is the OLE database capturing system for all their activities. He asked if there is a specific time period and location of interest.

Watamura asked for the information for the past six months off the west side of O‘ahu.

Barysky said he would get the information.

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

Elizabeth O’Sullivan presented the GCES report, which included four cases pending review for assessment of a civil penalty. GCES has one case that was charged (the *Pacific Dragon*) that failed to fish in accordance with seabird take mitigation techniques. The civil penalty was \$2,500.

O’Sullivan said she has resolved 2 cases involving the *Lady Mocha II* and *Kaimi*, which were in violation of fishing in the SEZ. Both were resolved after taking into account their inability to pay the full claim, and the cases were settled for \$4,500 and \$4,000, respectively.

#### **D. U.S. State Department**

Brakke reported that negotiations continue on the South Pacific Tuna Treaty to allow U.S. purse seine vessels access to South Pacific EEZs. The U.S. State Department consulted with all the Pacific Island countries on the status and expects everything to be formalized in the next couple of weeks to allow U.S. vessels to fish in those zones. The State Department has used the flexibility of the amended treaty to allow the industry to avoid making too many upfront commitments given the uncertainty in COVID-19 times.

Brakke noted that the South Pacific Tuna Treaty is set to expire in 2022. The State Department will start discussions early next year with industry stakeholders on how to improve the annexes for the treaty. These discussions will be used during the renegotiation process to improve the annex for U.S. vessels.

Brakke briefly mentioned several regional fishery management organization (RFMO) meetings: WCPFC, Inter-American Tropical Tuna Commission (IATTC), South Pacific Regional Fisheries Management Organisation (SPRFMO) and the Southern Indian Ocean Fisheries Agreement (SIOFA). WCPFC will be discussed later in the meeting. IATTC is running concurrently with the Council meeting, so nothing to report. The SPRFMO meetings will be held in late January 2021 into early February, which Brakke and Tosatto will attend. The United States participated in SIOFA for the first time as an observer.

The State Department also participates as an observer in the Indian Ocean Tuna Commission (IOTC) for two reasons. The first is due to the United States' role as a market state and to understand the fisheries development and management frameworks in that region. The second is to inform the U.S. regulatory framework as it relates to imports from the IOTC Convention area.

Brakke noted that in-person meetings are more productive and easier than virtual meetings but these are the challenges in COVID-19 times. Brakke reported that many U.N. forums and the U.N. Fisheries Resolution have been disrupted by COVID-19. Additionally, larger U.N. fisheries-related meetings have been postponed until 2022. The U.S. State Department hopes to reconvene informal consultations on the Fish Stock Agreement on Ecosystem Approach in the second half of 2021. The U.S. State Department and NMFS are developing interagency reports on human trafficking and forced labor in international fisheries in other countries' fishing fleets.

Soliai said he is concerned with the increased operating costs causing the U.S. fleets to shrink. The U.S. purse seine fleet is shrinking because owners are either reflagging or selling their vessels. The purse seine fleet is a vital contributor to the American Samoa economy. One of the main contributors to the increased operational costs is the Parties to the Nauru Agreement (PNA) vessel day scheme and these costs will continue to grow exponentially. The U.S. fleet needs relief and this will come up in the WCPFC meeting next week.

Brakke said that many different factors affect the fleet from international, domestic, market-related and other factors out of the State Department's control. The U.S. State Department and NMFS strive to improve the United States' competitiveness, which relates in



part to the tuna treaty. The terms of access under which the vessels fish have to be consistent with the zone-based vessel day scheme, but the price paid and the fishing location is still under negotiation. The U.S. State Department did not agree to a price increase for access this year, and did not agree to the rate set for the previous two years. U.S. stakeholders have stated how much they are willing to pay in each zone, which is based on the productivity and profitability of each zone.

Brakke said the tuna treaty amendment in 2016 means the U.S. State Department does not have to agree to the terms of upfront access in order to be licensed to fish. Each vessel can be licensed in different ways, allowing access to flexibly adapt to circumstances at the time. The U.S. State Department is trying to negotiate lower rates for the fleet in some of the zones, even lower than what they have paid in the past.

Soliai said the situation would be better if the PNA were more transparent in how they negotiate as the U.S. fleet is already facing many restrictions. He thanked the U.S. State Department for taking a hard stance in making sure those conditions are at the forefront.

#### **E. U.S. Fish and Wildlife Service**

Peck presented the USFWS report which covers activities from Sept. 15 to Nov. 30, 2020. The USFWS provides Sport Fish Restoration funds to each jurisdiction for various projects such as the fish aggregating device (FAD) program in Hawai‘i. USFWS is working with NMFS to update the ESA Section 7 and EFH consultations after NMFS stated some concerns about monk seals, false killer whales and oceanic whitetip interactions at the FAD sites.

Peck said the Marianas Trench Marine National Monument (MTMNM) Management Plan and Environmental Assessment will be available this winter for public review.

Peck highlighted two recently published papers, including the State of the Monument report for Papahānaumokuākea Marine National Monument.

USFWS was able to send a cleanup crew out to Tern Island. Recent hurricanes had impacted the island, deteriorating a sea wall that became a trap hazard for wildlife. The crew was able to remove parts of the seawall removing the hazard and also removed 80,000 pounds of marine debris.

The Guam National Wildlife Refuge issued a commercial permit for the Five Deeps Expedition to the MTMNM to produce a documentary. USFWS responded with the USCG to assist three different vessels in distress, one in Wake Atoll National Wildlife Refuge (NWR) and two in the Palmyra Atoll NWR. Peck mentioned that the Rose Atoll NWR hosted an evening event showcasing different aspects Rose Atoll NWR and showed a documentary film.

Gourley asked that public comments for the marine monument management plan be postponed until after the Marianas Trench Marine Advisory Council is up and running.

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

Clay Tam, Pacific Islands Fisheries Group (PIFG), provided public comments on the NMFS bottomfish survey project, and thanked NMFS for giving PIFG and the fishing community support by initiating this project. It was one of only three projects that were completed this year because of COVID-19. NMFS and the State of Hawai‘i gave PIFG permission to utilize the fish after the biosampling was completed. The fish were donated to licensed food preparers who then donated the food to the kupuna (elderly) and the needy. Tam hopes this system will be used in other biosampling projects as a way of helping out the local community.

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

There was no Council discussion or action.

### **VI. Pelagic and International Fisheries**

#### **A. Region Bigeye Tuna Research Plan**

Johanna Wren, PIFSC, provided updates to the Regional Bigeye Tuna Research Plan. PIFSC developed the Bigeye Initiative with a focus on science to support EBFM for bigeye tuna in Hawai‘i, mainly focusing on the deep-set longline fishing grounds. PIFSC gathered its pelagic expertise in an effort to promote cross-divisional collaborations within the agency and with other institutions to address the lack of bigeye tuna data.

The goal for the Bigeye Initiative is to have a cohesive research vision comprised of different projects that center on four main focus areas: 1) the ecosystem that supports fishery performance, 2) bigeye spawning and identifying spawning grounds, 3) life history of bigeye and 4) delineating stock structure.

Wren provided examples of current projects that address research questions under the focus areas. PIFSC leads are working with the Pacific Islands Regional Observer Program (PIROP), Council staff and the Southwest Fisheries Science Center to collect DNA samples from both young-of-the-year and ripe-and-running bigeye both caught in the longline fishery and near islands. The samples are sent to the Commonwealth Scientific and Industrial Research Organisation, who is working on a Pacific-wide genetic stock structure project. Understanding larval distribution and identifying spawning are also important to determine how isolated the stock is, or if it’s part of a bigger Pacific-wide stock. Doing field-based surveys can be difficult, both with aging ships and with the global pandemic. PIFSC is focusing a lot of effort on autonomous technology that can help researchers get out into the field and sample. There is also a need to understand the socioeconomic factors at play, and metrics such as effects on fishers, economic effects and trip costs will feed into a market demand model.

Gourley commended the plan and said he hopes to get some data in the Mariana Archipelago to determine the bigeye stock there.

Rice asked if PIFSC is using local experts such as David Itano and Tam, who have done a lot of research on bigeye inside the MHI and at the seamounts.

Wren said that they have used Itano's tags and will be meeting with Tam in the coming weeks.

Amani said she is excited to get as much information as she can in the Mariana Archipelago.

## **B. Oceanic Whitetip Shark Working Group Report**

Keith Bigelow, PIFSC, presented on the progress of the Oceanic Whitetip Shark Working Group, which was formed by the Council in June 2020 in response to NMFS' notification that the shark was overfished and subject to overfishing. Bigelow described the Council's obligation under MSA Section 304(i). One obligation is to develop and send recommendations to the Secretary of Commerce for domestic regulations to address the relative impact of fishing vessels of the United States on the shark stock. Secondly, develop and submit recommendations to the Secretary of State and to Congress for international actions that will end overfishing and rebuild the oceanic whitetip shark stock, taking into account the relative impact of vessels of other nations and of the United States. The working group held three meetings from September to November.

Bigelow first presented on tagging and post-release mortality estimates conducted by Melanie Hutchinson, Joint Institute of Marine and Atmospheric Research (JIMAR), with help from the PIROP deploying electronic tags in a variety of shark species, including the oceanic whitetip. The results show that oceanic whitetip sharks are relatively hardy—about one month after their release from longline vessels, about 85% and 70% survive in the Hawai'i and American Samoa longline fisheries, respectively. Council staff has also done analyses on vessel impacts, discerning if and why particular longline vessels have higher than normal catch rates of oceanic whitetip. In general, the spatial variability of oceanic whitetip sharks overwhelms the quantification of vessel impacts. PIFSC will conduct a simulation study to evaluate what-if scenarios of potential management measure impacts on oceanic whitetip shark catch rates, which they expect to present at the March 2021 Council meeting. PIFSC is also investigating the impacts of the redistribution of fishing effort in the U.S. longline fleets through an EBFM modeling effort.

Mark Fitchett, Council staff, presented on updates to stock projections led by Council contractor Joel Rice. Biomass in the terminal years of stock projections were compared with and without the U.S. longline fleet, as well as only excluding the Hawai'i deep-set fleet, which found that removing oceanic whitetip catch from the U.S. fisheries altogether would result in a 4% higher biomass and about 2.9% higher without the deep-set fishery. Spawning potential ratio (SPR), which is a proxy for impacts of exploitation rates, was also investigated. Results show that all U.S. longline fisheries cause an approximately 1.2% reduction of the entire stock's SPR, and the Hawai'i deep-set fleet causes a 0.8% reduction.

Bigelow summarized the working group's discussions. WCPFC estimates of shark bycatch are overly reliant on U.S. observer coverage, which has limited overlap with the optimum habitat for oceanic whitetip sharks between 10 degrees N to 10 degrees S. U.S. longline fishing effort in the WCPFC Convention Area is 5% of the total effort and 1% of fishing effort in optimum habitat for the species. More than 50% of international longline fleets are in the

optimum habitat with very little observer coverage. The working group therefore discussed the need for international observer coverage to be increased in waters of optimum habitat. The working group also discussed the issue of wire leaders and trailing gear. Hutchinson found that post-release mortality increases if the trailing gear is longer than the shark. The working group noted the importance of removing trailing gear to increase the post-release survival of the shark.

Watamura requested that the working group compile all of their recommendations to date for addressing the MSA obligations into a document for the March 2021 Council meeting.

## **C. North Pacific Striped Marlin**

### **1. Proposed Conservation and Management Measure for North Pacific Striped Marlin**

Fitchett presented possible WCPFC conservation and management measures (CMMs) for North Pacific striped marlin. The United States developed a rebuilding plan that was adopted at the 2019 WCPFC meeting, and a proposal may be considered at the December 2020 WCPFC meeting for a total allowable catch (TAC) based on phased levels of catches. The 2019 rebuilding plan states that, within 15 years (by 2034), the stock must reach a target of 20% unfished biomass levels with at least a 60% probability of reaching the target.

The Council previously recommended a domestic catch limit of 457 mt, which was never implemented in regulations. That recommendation was based on CMM 2010-01, which was a WCPFC measure recommending a 20% reduction in annual catch from 2000-2003 levels. The Council also recommended an accountability measure (AM) to prohibit retention of the species once the U.S. longline fishery reaches 434 mt, or 95% of 457 mt. This AM would minimize the impacts of regulatory discards, as well as impacts to other fisheries, which account for approximately 1 to 2% of U.S. catches. The Council initiated development of Amendment 8 in 2014 and developed a framework for implementing RFMO measures through the Council's Pelagic FEP. In March 2020, the Council recommended that a phased approach be used in a proposal to the WCPFC, and recommended that NMFS request the International Science Committee for Tuna and Tuna-Like Species in the North Pacific (ISC) Billfish Working Group to consider conducting stock projections incorporating catch reductions for all fisheries in phases.

The phased approach departs considerably from constant catch scenarios into the future in order to reach the WCPFC target. The first phase would be at 1951 mt, which is a 10.5% reduction from the last few years in the stock assessment (reference years 2013-2017). The stock would be reassessed at the conclusion of the first phase in 2024. Then there will be three other phased catch limit periods, with 2025-2028 having a TAC of 1751 mt (19% reduction), 2029-2032 at 1551 mt TAC (about 30% reduction) and 2033-2034 at 1351 mt TAC (40% reduction). The phased catch limits would reach the WCPFC rebuilding targets over time with 60% probability by 2034, which is the 15-year horizon. The phased design follows the phased-in approach, which has been recommended by the NMFS National Standards working group. Phased catch projections serve as a good basis for defining what needs to be done internationally and domestically.

## **2. Options for Catch and/or Effort Limits for North Pacific Striped Marlin for Amendment 8 (Initial Action)**

Fitchett presented on the Council's obligations under MSA Section 304(i) and possible options for U.S. catch and/or effort limits for Western Central North Pacific Ocean striped marlin. On June 4, 2020, the Council was notified of the overfishing condition of the stock based on a 2019 stock assessment, and its domestic and international obligations under MSA 304(i) to act within one year of notification. Fitchett reiterated the Council's past actions and recommendations regarding striped marlin.

Fitchett reviewed the stock status determination and rebuilding reference points. Domestic rebuilding parameters are not mandatory for stocks that are under international agreements, but status determination in the Pelagic FEP may depart from common limit reference points used under WCPFC. The Council's stock status determination criterion, which is the minimum stock size threshold, is a portion of biomass at maximum sustainable yield (MSY). In the international arena, there are no adopted reference points for billfishes. However, a commonly used reference point in the WCPFC among tuna and tuna-like species is 20% spawning stock biomass in the absence of fishing. For North Pacific striped marlin, applying the international reference point would result in a spawning stock biomass of about 3610 mt, which is used as the WCPFC rebuilding target. The rebuilding target to biomass under the domestic measure would be about 2600 mt, which is spawning stock biomass at MSY. Domestically, the MSA-required rebuilding timeframe is 10 years, with some exceptions, although stocks under international agreements are exempt from the MSA requirement for ACLs. Section 304(i) specifies that the councils must address relative impacts of U.S. fisheries under Council purview, which could include catch and/or effort limits.

Fitchett presented three possible options for catch or effort limits. These options were: 1) catch limits commensurate to relative U.S. impacts apportioned from a total catch biomass level that would demonstrably end overfishing by Council guidelines and achieve the adopted WCPFC rebuilding targets, 2) catch limits consistent with the previous recommendations and the existing CMM for striped marlin and 3) no action. Option 1 would impose catch reductions at relative levels, at least in the first phase (2021-2024), to end overfishing effective immediately, meet Council FEP guidelines for stock biomass exceeding biomass at MSY, and be a first step to reaching international requirements to meet a rebuilding plan. However, there is no guarantee an internationally mandated rebuilding plan will impose coinciding catch reductions. Option 2 would be consistent with the existing Council recommendations and WCPFC-adopted CMM for North Pacific striped marlin, would enact domestic catch levels already required internationally, and would be administratively simpler by enacting pending Pelagic FEP Amendment 8 (which contains all the provisions under option 2). However, further catch reductions may be needed to end overfishing immediately for stock recovery and to rebuild the stock under the interim rebuilding plan. The existing CMM for striped marlin may be obsolete once the WCPFC adopts specific terms to meet the rebuilding plan criteria. The Council may also consider the proposal for the prohibition of wire leaders which could decrease fishing mortality and catchability based on existing studies, even under "No Action." Other possible considerations are to develop measures to increase live releases, rather than have regulatory dead discards once a limit is

reached. The impact of phasing out wire leaders due to the condition of the fish possibly being less detrimental, may increase post-release survival, but that research needs to be concluded.

Fitchett described relative impacts of U.S. fisheries on the stock. U.S. fisheries contributed to 6% of all catch and landings from 1975 to present. However, that proportion has been 21.8% of all catch and landings in the last five years of the stock assessment, which are reference years 2013-2017. In the past five years, U.S. longline catches represent 23.4% of all longline catches. Longline fisheries are a common fishery among all nations that harvest billfish. Japan has a driftnet fishery that accounted for much of the historical depletion in the past, although there are a lot of uncertainties in the historical catch data. Despite declines in catches over time, Japan still accounts for 58% of current catches of North Pacific striped marlin. Other WCPFC nations historically have caught between about 1.8% to more than 5% of total catches, based on catches referenced by the ISC Billfish Working Group. PIFSC projections could suggest a percentile reduction from reference catch levels. For example, a 10.5% reduction of all catch from all fleets from the 2013 to 2017 levels for phase 1 (2021-2024) would appropriately end overfishing and increase biomass above biomass at MSY. Therefore, the U.S. could consider its contribution to ending overfishing to be a 10.5% reduction from its 2013-2017 catch levels.

Fitchett said the SSC favored setting a catch limit only during phase 1 given considerable uncertainties in the stock assessment and the limits would be reevaluated in 2024. However, the Council will also need to consider timing of the action. Fitchett noted that the level of catch under projected phase 1 renders a fishing mortality rate below 50% probability of overfishing at  $F_{MSY}$ , which is recommended by the National Research Council.

Rice asked Lynch to reiterate any discussion and recommendation from the SSC.

Lynch said the SSC had an extensive discussion about this action and recommended that Council staff develop a catch limit through 2024, which would be phase 1, whereas the probability of overfishing relative to  $F_{MSY}$  would be below 50%. The SSC recognized that a new stock assessment will be conducted in 2024, which could evaluate total catch levels needed to rebuild the stock and the recruitment assumptions for stock projections through 2034. The SSC also recommended that Council staff develop a preferred option for striped marlin catch limits for U.S. vessels consistent with the proportion of U.S. catches from 2013 to 2017 catch biomass implemented in the 2019 stock assessments.

Watamura congratulated the Hawaii Longline Association (HLA) for voluntarily removing steel wire leaders from longline gear, noting its impacts on striped marlin and other species.

Rice said that the Council should follow the SSC advice, favored option 1, and asked to hear Tosatto's opinion.

Dang said he concurred with Rice that option 1 is more favorable.

Tosatto said that the issue is complicated and needs to consider the ongoing international process. He said that NMFS plans to proceed as far as possible with the consultative draft proposal for catch limits on North Pacific striped marlin, but acknowledged that the proposal was

not likely to be fully adopted. He said he hoped to get consensus around two principle ideas in addressing rebuilding, which are to use a phased approach and allocations by historic or market share. He noted the need to reconcile whether raw catches reported to the WCPFC or ISC stock assessment information is to be used to base catch levels. Tosatto said the outcome of the Commission will produce an obligation for the U.S. that he as the regional administrator will have to meet regardless of the action that the Council takes. If the catch reductions do not go far enough to meet international obligation, Tosatto will have to go back to the Council to make further adjustments. He also said that by looking at the data provided by ISC used for the stock assessment, the United States may have exceeded limits under the WCPFC CMM, which could lead to a noncompliance finding. He noted urgency to continue deliberations on striped marlin catch limits, potentially putting a limit in place that is based on current obligation and the best scientific information available (BSIA). Tosatto said that the Amendment 8 framework to implement RFMO obligations under the FEP may not be approvable because of conflicts with obligations in the WCPFC Implementing Act. If the Council's action on striped marlin catch limits remains entangled with that part of Amendment 8, the action may only be partially approved.

Watumura asked Tosatto what he thought Japan would do to conserve striped marlin, considering it has the highest proportion of exploitation on the stock.

Tosatto noted that Japan did agree to an interim rebuilding plan and the country is under the same international obligation. Japan is also concerned with the economic impact on their fishery. He also mentioned there may be some differences between fleets taking a percentile reduction versus apportioning catches from a TAC. With respect to market shares of a TAC, Japan would likely favor using reference years going further into the past, while the United States would argue for a more recent timeframe.

Rice asked if there has been any more development on movement patterns of striped marlin between stock boundaries and genetic studies. He said that two boats in Mexico caught 400 striped marlin in Magdalena Bay in two days.

Fitchett said that stock boundaries will be revisited at the 2024 stock assessment. However, the Council will need to take action based on the status quo BSIA.

Fitchett asked Tosatto that while setting a TAC and dividing a market share will be difficult considering uncertainty in catch biomass used in the stock assessment, if there is consideration for approaching international catch limits using a percentile reduction approach as described in the presentation.

Tosatto said that PIRO is not considering any other approach departing from catch shares of a TAC. The consultative draft implements minimum values for certain SIDS which are constant values, rendering simplified percentile reductions complicated and possible over-share relative to catch limits based on percentile reductions from a historical level.

#### **D. Reasonable and Prudent Measures or Reasonable and Prudent Alternatives for the Hawai'i and American Samoa Longline Fisheries (Initial Action)**

Asuka Ishizaki, Council staff, provided the status of developing potential Reasonable and Prudent Measures (RPMs) or Reasonable and Prudent Alternatives (RPAs) for the ongoing ESA consultations for the Hawai‘i deep-set longline fishery and American Samoa. The Council at its June 2020 meeting recommended initial considerations for the development of RPMs, based on advice from PIRO Protected Resources Division (PRD) to focus on addressing impacts to leatherback sea turtles, oceanic whitetip sharks and giant manta rays. The Council also directed staff to continue working with PIRO, PIFSC, advisory group members and industry to develop any potential necessary RPMs, which has been ongoing through the Oceanic Whitetip Shark Working Group, as well as additional discussions with PIRO Sustainable Fisheries Division (SFD) and HLA. No additional information on the impact analysis, the amount of impact reduction needed or potential RPMs or RPAs have been provided by PRD since the September 2020 Council meeting. However, the Council received a proposal from HLA to reduce impacts to protected species by phasing out wire leaders. The Council was asked to consider whether it would like to proceed with the proposal under a regulatory amendment under the Council's Pelagic FEP, in addition to industry taking this initiative voluntarily.

Eric Kingma, HLA, presented the association's proposal to phase out steel wire traced leaders in the Hawai‘i longline fishery. It is widely recognized that the use of monofilament nylon leaders in pelagic longline fisheries reduces the bycatch and mortality rates of sharks compared to using wire leaders. Oceanic whitetip sharks are listed under the ESA as threatened. The ESA only applies to domestic fleets that are subjected to U.S. national laws, despite the Hawai‘i fishery having a small impact compared to international fleets. The transition from wire leaders will reduce fishery impacts on other large protected species that interact with longline gear, such as leatherback sea turtles, giant manta rays and false killer whales. These large animals make it difficult to handle and cut through the wire to remove gear as close as possible to the hook from the height of a fishing vessel deck. Transition to mono leaders will also improve the condition of animals released, post-retrieval.

HLA proposed on behalf of the Hawai‘i-based deep-set longline fishery a voluntary conversion to mono leaders by July 1, 2021. In making this transition, crew safety is a top priority. HLA will work with vessel owners, captains, crew and others to implement best practices, including deploying flyback prevention devices and branchline weight configurations and materials that prevent flyback. HLA believes training and handling are also critical. HLA will continue to collaborate with others and encourage research evaluating effectiveness of the transition to monofilament leaders and on how the gear transition can be improved. HLA believes its proposal should take care of domestic requirements under MSA 304(i). However, recovery of the oceanic whitetip shark population should focus on the international fleets, which have far greater catches of oceanic whitetips and also use wire tracers in their longlines.

Gourley asked if other international fleets will follow the United States' lead to adopt mono leaders.

Kingma was not sure how to judge foreign fleet receptiveness, but suggested enacting legislation similar to what is done for other protected species that would prohibit foreign fleets from accessing the U.S. markets if they do not follow the same rules and gear requirements as the United States. Kingma also noted that a requirement of circle hooks under MSA was not enforced by NMFS until recently.



Rice agreed that the major nexus is the international arena and that support is needed from the U.S. State Department and stronger legislation to promote the U.S. seafood market as being safer than foreign markets.

Soliai asked how removing wire leaders reduces bycatch.

Kingma said that wire leaders prevent bite-offs by sharks. The fishery uses wire leaders with weighted swivels, the latter being a requirement to reduce seabird interactions. Kingma alluded to the severity of the condition of animals caught on wire leaders versus monofilament. Shifting to mono leaders would increase the bite-offs by sharks, which results in the shark swimming away with the hook and a minimal amount of trailing gear. Longer trailing gear leads to a higher mortality risk. Kingma noted that there is a line cutter in development, but the device is several years away from commercial use and could be better suited for larger animals like leatherback turtles and manta rays.

Rice noted improvements in cutters used for monofilament line and asked what size monofilament the longline vessels use.

Kingma answered that vessels use 2.1 mm monofilament line. He said the cost to the fishery of using monofilament could be greater as mono leaders are replaced more frequently than wire if there is abrasion compromising the line.

Rice said some billfish will manage to break off line as well.

Kingma said he hopes catch rates of bigeye tuna can be maintained.

Watamura encouraged the Council to create a video documenting the transition and shed light on the gear change with the hope it can influence other countries to follow suit.

Dang lauded HLA for making the voluntary commitment and asked how the fishery can capture the success and what the next step will be.

Kingma noted there need to be incentives outlined for the operators and crew. HLA's view is that this transition is transformational and major. HLA would like to see its proposal included into the BiOp under development by having PIRO SFD request that the PRD consult on the transition. He said that HLA would support the Council moving in a direction toward a regulatory requirement to prohibit wire leaders in the fishery. These regulations take time and the fishery is going to move quickly. Kingma said that SFD should be able to request consultation based on the HLA commitment rather than waiting until a regulatory requirement is implemented.

Tosatto applauded HLA for the positive development. Tosatto said he can commit all of PIRO staff toward the effort to conduct training to prevent flyback. He said that HLA's proposal is a voluntary future commitment, how it would be used in a regulatory context would have to evolve over time. Tosatto said he is not likely to stop, reinstate or change the ongoing ESA consultation, but PIRO can consider HLA's commitment in the context of that consultation. He said the shift to monofilament is so positive that it is going to outweigh anything on the contrary,

and is a positive turn for the outcome of the BiOp. Whether the voluntary nature of the proposal is sufficient will be considered in the jeopardy determination as well as the RPM or RPA. He said the proposal will provide a variety of positive benefits, including the ability to use it in marketing a responsible fishery and for the conservation of sharks and other protected species. Tosatto noted that PIRO is starting to engage with PIFSC to determine what investigations are needed to determine the impacts on other species and what information needs to be collected. PIROP already records leader material in its datasheets, but additional data fields may be needed. Tosatto said it was “all hands on deck” to address the HLA proposal and the transition.

Rice asked if Kingma has looked at monofilament products to determine which are the best to use. He suggested there could be collaboration with international fleets on the issue.

Kingma said he has not, but noted fluorocarbon as an ideal material, which is expensive.

Tosatto said replacing wire leaders with monofilament is a recognized and supported measure to reduce shark bycatch. It has been around for a decade in WCPFC discussions and different environmental organizations have been promoting it as an alternative. Tosatto mentioned the WCPFC shark measure which evened the playing field, but also noted domestic regulations make the playing field uneven for the United States itself. He said that addressing the international issues will not be easy, as many other distant water fishing nations have longline fleets that would be affected.

## **E. International Fisheries**

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

#### **a) WCPFC Committee Outcomes**

Emily Crigler, PIRO, discussed outcomes of the 16th Regular Session of the Northern Committee (NC16) and the 16th Regular Session of the Technical and Compliance Committee (TCC16). The NC16 took place virtually Oct. 8, 2020, in conjunction with the WCPFC-IATTC Pacific Bluefin Joint Working Group on the Management of Pacific Bluefin Tuna. Japan continues to push for an increase in its annual bluefin tuna catch limit based largely on pressure from their industry. Given the virtual nature of the meetings this year, all members agreed that discussion of any substantive changes in the bluefin measure, including catch limits, would be deferred until next year. The only other major issue that was discussed during NC16 was catch and effort for North Pacific albacore. Vanuatu made a number of substantial changes to its 2020 albacore reports, namely the country revised its effort baseline in the report to use the 2004 fishing effort, which goes against the 2002-2004 average that is required in the albacore measure. The United States and a number of other members expressed concern over these changes.

TCC16, held virtually Sept. 23-29, 2020, reviewed 10 applications for cooperating nonmember status, eight renewal applications and two new applications from the Bahamas and the Democratic People’s Republic of Korea. There was one new vessel added to the provisional illegal, unreported and unregulated (IUU) fishing list. A Korean-flagged vessel was nominated by Marshall Islands for fishing illegally in their waters. TCC16 also discussed a number of issues surrounding COVID-19, including outcomes related to the intersessional decisions in response to

the global pandemic. TCC16 acknowledged the importance of getting observers safely back on vessels and progressing intersessional work on ER and EM as a priority.

Two issues related to CMM 2018-01 tropical tuna measures were raised in TCC16, both of which were related to the PNA exemption to the three-month FAD closure under footnote 1 of paragraph 16 of the measure. The United States expressed concern that the exemption has greatly diminished the effectiveness of the FAD closure in conserving tropical tuna stocks. PNA members and China were unwilling to entertain conversations on either of those issues. Following an open intervention by the United States expressing concern about the continuing reports of forced labor in the fishing industry, there was a brief conversation about the treatment of crew on fishing vessels and it was agreed that the matter should be discussed further at WCPFC17 in 2021.

#### **b) U.S. Permanent Advisory Committee**

Ryan Steen, chair of the Permanent Advisory Committee to Advise the U.S. Commissioners to the WCPFC (PAC), reported on two meetings leading up to the Oct. 14-16, 2020, PAC meeting. The biggest conservation measure up for negotiation is the tropical tuna conservation measure CMM-2018-01, which expires February 2021. There's a provision in that measure that allows SIDS to exempt themselves from the closure. The PAC recommended that the United States strongly oppose the proposed exemptions from FAD fishing closures by the PNA, which equates to one-third of the amount of fishing capacity that would otherwise be restricted from using FADs. Other purse seine recommendations included the following: 1) The United States defend the structure of Effort Limit Area for Purse Seine for managing its FAD effort; 2) The United States support an elimination of the additional two-month FAD closures in place due to the positive reports on the improved status of yellowfin and bigeye tuna and 3) The United States advocate for a restoration of the 760 high seas fishing days that were set aside in 2013 for the U.S. fishery.

For longline fisheries, the PAC recommended the following: 1) An increase in the longline limit for the United States by about 3,000 mt, which would increase the U.S. limit to 6554 mt; 2) Application of 3,000 mt limit extensions to other CCMs except for countries like Japan and Indonesia that are not fully utilizing their current limits; 3) A continuation of the no catch limits on SIDS and U.S. Participating Territories and 4) Opposition by the United States of any proposed vessel day scheme on the high seas for longline fleets. There were also notable recommendations for striped marlin and South Pacific albacore aimed at improving the American Samoa fleet. There were some recommendations from the PAC regarding EM, essentially asking the United States to support the finalization of an EM CMM that would help to establish standards for a WCPFC-wide EM program. The PAC also recommended that the United States support a transshipment ban for bigeye tuna or other phased approaches if it will improve the monitoring of longline bigeye catch within the WCPO.

Gourley noted the uneven playing field and recommended that the CMM-2018-01 not roll over.

Soliai reiterated that the United States has one of the lowest quotas of bigeye tuna and hopes that the United States takes a hard stance. He also expressed concern over the diminished purse seine fleet and American Samoa longline fleet.

Watamura supports banning seafood products from noncompliant fisheries.

## **2. Proposed Conservation and Management Measure for Tropical Tunas**

Tom Graham, PIRO, presented on the United States' proposed revisions to the tropical tuna management measure, CMM 2018-01. The United States is not proposing any changes to the objectives in the measure and is assured that the proposed changes, if adopted, would keep the measure consistent with those existing objectives.

The United States is proposing a nominal bigeye tuna TAC for the longline sector of 100,000 tons per year. The United States is not proposing that every single members' catches be limited. This TAC is akin to an aspirational limit and if it were to be approached, the expectation would be the Commission would do something to further limit members or limit additional members. Specifically, the United States proposed an increase for its limit by 3,000 tons. The proposal leaves SIDS and territories without catch limits. The United States proposed changing the meaning of a FAD set for the purpose of the closures to tighten the definition to mean that a FAD is only an object that is tracked. The United States also proposed the elimination of the additional two-month FAD closure, noting the existing three-month closure throughout the entire WCPFC Convention Area. The United States proposed to increase the United States' high seas effort limit by 760 fishing days per year and proposed to clarify that members are free to combine their fishing limits for their zones with their limits for the high seas.

Gourley said the U.S State Department and WCPFC should consider letting 2018-01 expire, or to kick it over to an intersessional meeting in 2021 that can be held in-person.

Watamura said he hoped the U.S. delegation can make progress on the matter.

Brakke said the virtual setting has made negotiations difficult and that most members come into RFMO meetings with a mandate to extend and roll over the measures for one year until they have a chance to negotiate major changes to the measure in-person. The ability to negotiate and reach agreement on the proposal at the upcoming meeting will be challenging, given the constraints. Brakke also noted that the United States has a unique position with its Participating Territories, which it can use to its advantage.

## **3. Virtual Roundtable on Illegal, Unreported and Unregulated Fishing and the Western Pacific Region**

Fitchett reported the purpose of the virtual roundtable was to hear from the commercial fishing industry throughout the Western and Central Pacific Region about the economic impact on imports of seafood products obtained via illegal, unreported and unregulated (IUU) fishing and what impacts they have on U.S. commercial fishers, production, prices and trade. Members wanted to determine how the U.S. Trade Commission can develop a framework to address IUU

fishing issues and the future direction to the office of the president. The roundtable focused on imports of seafood obtained via IUU fishing because the House of Representatives Committee on Ways and Means asked the U.S. Trade Commission to conduct a study to determine the extent to which these imports impact U.S. commercial fisheries. The roundtable went to every region in the United States to conduct these discussions and will produce a report that will be circulated in March 2021.

The roundtable discussion topics were: 1) Competition from imports of both IUU and legal seafood and how it affects livelihoods; 2) Demand trends for tuna or mahimahi and other Western Pacific stocks within the United States and other major seafood markets; 3) Pricing trends for regional seafood products, including the effects of supply changes on prices; 4) Substitutability between regional species and imported seafood products and 5) Supply chains for regional seafood and potential points of vulnerability for entry of imported IUU seafood products in the U.S. supply chain.

The panel discussion highlighted that tuna fisheries are in direct competition with international fisheries on the high seas through compliance and monitoring requirements under RFMOs. Therefore, most of the competition of product that may be having a deleterious impact on U.S. production and markets is not necessarily IUU fishing. Roundtable discussions also highlighted that the uneven playing field faced by U.S. fisheries dwarf any confounding impact of IUU fishing. Panelists discussed traceability of mislabeled tuna products in the supply chain as an issue and expressed interest in quantifying how much of that mislabeled seafood product is in the United States. Discussions also noted that lowered domestic seafood production and market uncertainty can open the door to foreign products supplanting domestic.

Gourley said he looks forward to the report in March 2021.

Rice said he was happy to see the initiative with the roundtable and issues with foreign products flooding the U.S. market.

Soliai expressed appreciation for engaging the Territories in this discussion and he looks forward to that final report.

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

### **1. Pelagic Plan Team**

Donald Kobayashi, PIFSC and Pelagic Plan Team chair, presented the Pelagic Plan Team report and recommendations.

*Regarding MSA 304(i) obligations for oceanic whitetip sharks, the Pelagic Plan Team recommended the Council work with NMFS to advise Pacific Islands Region longline fisheries to improve the handling and reduce the amount of trailing gear (e.g., less than 1 body length, or 0.5 m) left on sharks; furthermore, improve shark handling practices in all longline fisheries, as described in RFMO CMMs, so they are similar to the level of consideration for marine mammals and sea turtles.*

The Pelagic Plan Team recommended the Council work with NMFS and industry to expedite development of guidance on reducing trailing gear in Pacific Islands Region fisheries and an economically feasible and effective line cutter device.

The Pelagic Plan Team recommended the Council work with NMFS, the U.S. State Department and RFMOs to encourage increased monitoring of all non-U.S. Pacific longline fisheries, such as increased observer coverage and EM capabilities. This recognizes the need of well-monitored fisheries to develop status indicators and inform management of species with nonretention measures, such as oceanic whitetip sharks.

Kobayashi clarified that one body length as an example of trailing gear length was based on work from Hutchinson and the 0.5 m example was based on WCPFC best practices.

*Regarding U.S. catch limits for North Pacific striped marlin*, the Pelagic Plan Team recommended the Council proceed with developing U.S. catch limit options for North Pacific striped marlin using projections provided by PIFSC for rebuilding measures, taking into account relative impacts of U.S. vessels on international overfishing. Catch limit options should also take into account adopted WCPFC rebuilding plan terms and possible future rebuilding terms.

Watamura said that with the HLA proposal to transition to mono leaders, some of the recommendations may not be applicable in the near future.

## **2. Advisory Panel**

There were no Advisory Panel (AP) recommendations regarding pelagic and international fisheries.

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

Hospital, PIFSC and SSC member, presented the SSC report and recommendations.

*Regarding the HLA proposal to phase-out the use of wire leaders*, the SSC recognized that the proposal outlines proactive steps that should have significant positive impacts on survival probabilities for protected species and demonstrates industry leadership to minimize impacts from protected species interactions. As an industry-driven proposal, the likelihood of success is high. The SSC was overwhelmingly supportive of the HLA proposal.

The SSC recommended Council consider measures in the HLA proposal for further development under the Pelagic FEP for Council action at a future meeting.

*Regarding U.S. catch limits for North Pacific striped marlin*, the SSC recommended Council staff develop a preferred option for striped marlin catch limits for U.S. vessels consistent with the proportion of U.S. catches from 2013-2017 catch biomass implemented in the 2019 stock assessment, consistent with BSIA and 21.8% of a phased total catch biomass

that could demonstrably rebuild the striped marlin stock under a future WCPFC rebuilding plan.

The SSC recommended Council staff develop a catch limit through 2024 (Phase 1) whereas the probability of overfishing relative to  $F_{MSY}$  is below 50%. The SSC recognizes a new stock assessment in 2024 can evaluate total catch levels needed to rebuild the stock and recruitment assumptions for stock projections through 2034.

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

The Pelagic and International Standing Committee deferred recommendations to the Council.

### **H. Public Comment**

Theresa Labriola, Wild Oceans, commented on North Pacific striped marlin. Her organization is concerned about the current state of striped marlin, which has been hovering at very low population levels for decades. They are encouraged by the interim rebuilding plan adopted by the WCPFC last year and thankful for the U.S. leadership on this. They know that without coordinated effort to reduce the international catch of striped marlin the population will languish and opportunities for small-boat and recreational fishermen will wane. Wild Oceans supports the phased approach as it is projected to reach the rebuilding target within 15 years. The ACLs supported by the SSC would reduce the U.S. catch below the recent five-year average, but she noted the international community may not agree to a rebuilding plan on this most recent dataset. She asked for a wider range of alternatives be considered at least for discussion and analysis, including alternatives that coincide with U.S. market share from the past 10 years or a longer time frame. Measures could include eliminating the setting of shallower hooks, requiring the release of live marlin or curbing fishing activity in spawning areas.

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

*Regarding the RPMs for the Hawai'i deep-set longline fishery, the Council commended the HLA's initiative to further reduce interactions and post-hooking mortality of oceanic whitetip sharks, leatherback turtles and other protected species while also addressing associated crew safety issues through its comprehensive proposal consisting of replacement of wire leaders with monofilament, crew training, handling improvements and research.*

**The Council directed staff to prepare a regulatory amendment to the Pacific Pelagic FEP to evaluate options to prohibit the use of wire leaders in the Hawai'i deep-set longline fishery for Council action at the March 2021 meeting.**

**The Council requested NMFS PIRO to consider the HLA proposal and the regulatory amendment in the ongoing Section 7 consultation for the Hawai'i deep-set longline fishery.**

Tosatto said he is fully supportive of the first recommendation, and could support the second although some procedural steps may be needed. He said the second recommendation is viable if it is considered as an initial action with additional action later, noting that development of a regulatory action should proceed carefully. He said he would abstain from supporting the third recommendation, although not on any demerits of the HLA proposal or a potential for regulatory amendment. NMFS will consider the nature of the HLA proposal in the ongoing ESA consultation, which is a future voluntary commitment at this time, and could consider an initial action taken by the Council. He said he would abstain so as not to over indicate what these two new developments may mean for the consultation.

Moved by Rice; seconded by Dunham.  
Motion passed with Tosatto abstaining.

**Regarding oceanic whitetip sharks, the Council directed staff to work with the Oceanic Whitetip Shark Working Group and the Pelagic Plan Team to draft an options document for the Council for its March 2021 meeting, to guide the Council to take action on its obligation(s) under MSA Section 304(i). This may include a compendium of recommendations identified by the working group and Pelagic Plan Team, including increased observer coverage for all international fisheries, improved handling and reducing trailing gear in U.S. longline fisheries.**

Moved by Rice; seconded by Dunham.  
Motion passed.

**Regarding North Pacific striped marlin, the Council directed staff to develop a preferred option for U.S. catch limits of North Pacific striped marlin using 2013-2017 U.S. catch biomass implemented in the ISC 2019 stock assessment as a reference, consistent with BSIA and 21.8% of total catches needed to rebuild the stock (from NMFS PIFSC projections) under the WCPFC rebuilding plan.**

**The Council directed staff to develop a preferred catch limit option through 2024 (Phase 1) whereas the probability of overfishing relative to  $F_{MSY}$  is below 50%. The Council recognized a new stock assessment in 2024 can evaluate total catch levels needed to further rebuild the stock and recruitment assumptions for stock projections through 2034, consistent with WCPFC rebuilding plan terms.**

Tosatto said that the United States, alone, is not going to rebuild the striped marlin stock, and questioned the accuracy of the phrase “needed to rebuild the stock under WCPFC rebuilding plan,” as the U.S. role in that rebuilding plan has yet to be proscribed. He said he is willing to vote in support of these recommendations and hoped the language can be clarified in the process.

Simonds said that the staffs will be working together to ensure all concerns are addressed.

Moved by Rice; seconded by Dunham.  
Motion passed.



*Regarding WCPFC, the Council directed staff to draft a letter to head of the U.S. delegation in support of the U.S. proposal to revise CMM 2018-01 (tropical tuna measure) and the U.S. proposal to revise CMM 2010-01 (North Pacific striped marlin measure).*

**The Council requested the U.S. head of delegation to not accept a rollover of the current CMM 2018-01, recognizing that U.S. longline fisheries in the WCPFC have a disproportionately low catch quota of bigeye tuna, despite having the highest level of catch monitoring and observer coverage and lack of transshipment history. The Council further recommended an inter-sessional meeting in spring 2021 if no agreeable revision to the tropical tuna measure can be adopted.**

Tosatto said that he welcomes the Council’s support for the tropical tuna and striped marlin measures. Regarding the second recommendation, he provided his view on the matter as the designated senior staff lead for the WCPFC U.S. delegation. He said he will not support the second recommendation because it is not in the United States’ best interest to have no tropical tuna measure because there would be consequences across many markets, production sectors, catching sectors that gain certification, the standing of WCPFC and the standing of the United States in the WCPFC and other forums. Tosatto said that the U.S. objective in the negotiation is to have a changed measure and not a rollover. He said that the language that reads “recommends an inter-sessional meeting in spring 2021 if no agreeable revision to the tropical tuna measure can be adopted” appears to be in line with discussion from some members seeking to let the tropical tuna measure expire and start over.

Simonds said that his position is understandable and noted that having an inter-sessional meeting to improve tropical tuna management in spring 2021 would mean that there would be no rollover for about three months.

*Moved by Rice; seconded by Dunham.  
Motion passed with Tosatto opposing.*

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

There were no public comments on non-agenda items.

## **VIII. Protected Species**

### **A. Seabird Mitigation Measures**

#### **1. Review of Experimental Fishing Permit**

Sarah Ellgen, PIRO SFD, presented on the status of the HLA’s application for an Experimental Fishing Permit (EFP) to test tori lines, also known as bird scaring lines or streamer lines, in the Hawai‘i deep-set longline fishery. The Council recommended the EFP research at its September 2020 meeting based on results from a cooperative research project that was conducted in 2019-2020. The cooperative research results showed that tori lines, when used in conjunction with blue-dyed bait significantly reduced albatross feeding attempts and contacts with longline gear. The research results also showed that seabird attempts and contacts are more likely to occur

when offal was discharged during the set, although those results were inconclusive due to the lack of a standardized procedure for strategic offal discharge during the trials.

Ellgen described the EFP process codified in 50 CFR 665.17. The EFP is requested to allow fishing without the use of blue-dyed bait and strategic offal discharge. HLA submitted the application Nov. 9, 2020, and the PIRO regional administrator was to consult with the Council and the Hawai'i DLNR director at the Council meeting following the application submission. NMFS will publish a notice of the EFP application in the Federal Register notice with a 30-day comment period, after which NMFS will respond to public comments and decide whether to grant or deny the EFP with possible terms and conditions. If granted, NMFS will publish a notice of the EFP in the Federal Register.

Under the EFP, HLA proposes to have a maximum of four stern-setting vessels fish approximately eight trips, for a total target effort between 50-100 sets each of control and experimental treatments. The EFP trips will focus north of 23 degrees N, with effort focused between January-July during the peak seabird season. The vessels will continue to meet international seabird mitigation requirements under the WCPFC and IATTC. Target and non-target catch under the EFP trips are not expected to differ from normal commercial fishing operations. Based on the most recent five years of data, EFP trips may result in interactions between five to 11 black-footed albatrosses and between two to four Laysan albatrosses. Data on seabird interactions will be collected through an EM system with a stern-mounted camera that will record the full setting operation. Data from the study will be analyzed and results presented to the Council to inform future steps.

Watamura asked if any of the seabird species mentioned are endangered.

Ellgen said that the black-footed and Laysan albatrosses are not listed under the ESA.

Tosatto said that PIRO is consulting with the Council and the State of Hawai'i on the EFP at this meeting. He said he looks forward to the Council and the State's comments or support of this EFP, or any issues that PIRO should consider in processing the permit. He said he hopes to start the experiment shortly after the New Year.

Rice said that the experiment would be a positive development considering Dang's experiences of having difficulty sourcing blue-dye.

Dang said that about a year ago his longtime blue-dyed bait vendor sent him a notice that they will cease providing blue-dyed bait for internal business reasons and he had to search globally to source the dye. The food-dye industry is apparently consolidated and there is a limited number of vendors that offer the product. He said that blue-dyed bait also may not be effective in providing a conservation benefit and he expressed his full support of the experiment. He said it is good to hear support for what he has thought made sense for years based on his background of being a son of a fisherman, having been part of the Council and the False Killer Whale Take Reduction Team (FKWTRT) and focusing on protected species mitigation while increasing fishing efficiency of target catch. He wondered if there is an assessment of what foreign fleets are doing compared to the Hawai'i fleet, which is a small fleet that may have little impact on the overall conservation of these species. He said that experiments such as the one for

the EFP application makes him hopeful and that he is ready to provide a vessel for the experiment to support the project.

Neilson said he supports the goal of the experiment and will reach out to the Division of Forestry and Wildlife for input.

## **2. Options for Including Tori Lines in the Hawai‘i Longline Fishery Seabird Mitigation Measures**

Ishizaki presented on the options paper for including tori lines in the Hawai‘i longline fishery seabird mitigation measures, which was developed in response to a Council directive from the September 2020 meeting. Included in the Council’s directive was a specific option to allow the use of tori lines without blue-dyed bait. The presentation also included additional options for Council consideration on the scope of the action regarding associated seabird mitigation measures that may be taken up together with the tori line action. Ishizaki provided a background on the seabird interaction trends and a summary of the Council’s response to date on the increasing interactions observed since 2015. The Council’s workshops convened in 2017 and 2018 led to the identification of tori lines as a high priority mitigation measure for further testing, while blue-dyed bait was identified as a candidate for removal. The Council subsequently recommended support for additional research for alternative seabird mitigation measures with the potential for replacing blue-dyed bait, with a specific focus on tori lines, which led to the cooperative research project conducted in 2019-2020. The project was done without any exemptions to the existing seabird mitigation measures and the EFP discussed in the previous agenda item provides the next step. The Council recommended development of the management options while the EFP study is ongoing.

Ishizaki provided an overview of tori lines and blue-dyed bait, noting that tori lines have been adopted in a number of fisheries since the early trials conducted in the fishery that identified entanglement and safety issues. Blue-dyed bait has been shown to be less effective than side-setting, based on observer data from the Hawai‘i longline fishery, and is no longer considered an effective measure internationally.

Ishizaki presented the options, starting with the status quo, and explained the measures currently required in the Hawai‘i deep-set and shallow-set longline fisheries. Both fisheries have the option of side-setting or stern-setting with blue-dyed bait. Option 2, which would apply to the deep-set fishery, would add tori lines as a third suite of measures, allowing vessels to start using tori lines without blue-dyed bait while allowing flexibility to choose between tori lines and blue-dyed bait. Option 3, also for the deep-set fishery, would replace the blue-dyed bait with tori lines. Both options 2 and 3 would include specifications for tori lines to identify what should be included in the regulations versus what would be part of the design guidelines. Option 4 pertained to the shallow-set fishery, which has not been included in the tori line trials to date due to the majority of the interactions occurring during the hauling operations. A number of sub-options for potentially modifying shallow-set seabird mitigation measures were presented for further Council consideration. Option 5 pertained to modifying the strategic offal discard requirement, including sub-options that would make strategic offal discharge optional or clarifying existing regulations to improve effectiveness. Option 6 would restructure the seabird mitigation measures to a menu approach currently used in WCPFC and IATTC in which vessels

are required to use at least two measures from a two-column list, one of which has to come from the first column. The menu approach used in WCPFC and IATTC could result in Hawai'i longline vessels using less effective combination of measures. Option 7 would address cross-taxa impacts associated with weighted branchlines, which make it difficult to remove trailing gear, potentially affecting post-hooking mortality of various protected species.

Ishizaki noted that the earliest that the Council could take final action would be in June or September 2021 when the EFP results are available, during which time the alternatives and the analyses for the amendment could be developed to support rulemaking in fall 2021. This timing could allow implementation of revised measures in spring 2022. Addressing a broader scope as part of the action would likely add to this timeline.

Tenorio asked what the SSC recommended regarding the use of blue-dyed bait.

Soliai thanked Council staff for the hard work in preparing the options paper.

Sesepasara asked if any research has been conducted on dyed bait for the American Samoa longline fishery.

Ishizaki said that the American Samoa longline fishery has fewer seabird interactions compared to the Hawai'i fishery, as the fishery typically operates in areas with lower seabird density. Mitigation measures for seabirds are not required and not under consideration for the American Samoa fishery at this time.

Dang said he supports initiatives such as this that consider changes to existing measures, especially with the knowledge that tori lines are effective while blue-dyed bait is not. He asked how momentum could be built to move the change forward.

Rice said that offal discharge appears to be attracting the birds more as they learn that they will be fed when they see a fishing vessel, so the offal discharge requirement should be removed, especially during setting or hauling. Vessels can discharge offal during downtime.

Dang said he is in support of considering removal of the offal discharge requirement as part of the next steps, especially if it is changing the behavior of the seabirds and compounding the problem. He supported option 3, replacing blue-dyed bait with tori line, both from a conservation and operational standpoint. He asked Ishizaki to clarify the potential outcomes of removing blue-dyed bait from the shallow-set fishery requirements.

Ishizaki said that the ineffectiveness of blue-dyed bait compared to other measures likely holds true for both deep-set and shallow-set sectors of the fishery. The shallow-set fishery is also required to set at night, so the additional benefit from blue-dyed bait is likely limited. The challenge is that the effectiveness of night setting without blue-dyed bait has not been tested in the shallow-set fishery. The use of night setting combined with strategic offal discharge, which is what the shallow-set fishery requirements would be left with if the blue-dyed bait were to be removed, would be compliant with international requirements. Ishizaki said additional discussion with shallow-set fishery representatives would be warranted to look at whether other changes may be useful, and how to maintain efficacy of seabird mitigation measures in the shallow-set

fishery. Additional options on the shallow-set could be developed for further Council consideration for a future meeting.

Dang said he would fully support adding tori lines and removing blue-dyed bait from the deep-set fishery and that he would be interested in how the process could be improved for the shallow-set. He said he is also interested in modifying the offal discharge measure to further improve the success of the suite of seabird mitigation measures.

Rice said that options to consider removal of the two measures that are no longer effective, blue-dyed bait and offal discharge, and addition of more effective measures such as tori lines, should be discussed further. He asked Ishizaki about continuing additional trials.

Ishizaki said that several next steps would be warranted, including additional development of sub-options for the shallow-set fishery on what would be practical while maintaining effectiveness and compliance with international requirements, in coordination with the industry, PIRO and PIFSC. Based on those discussions, if additional information is needed for Council to consider action, additional research needs may be identified. One priority that could be considered at this time would be additional research and development of tori line designs suitable for the shallow-set fishery.

Rice said testing whether removal of offal discharge would mitigate bird attraction to vessels should also be considered.

Lynch said that the SSC discussed in detail the blue-dyed bait issue. The SSC is aware of guidance that indicates that blue-dyed bait is not an effective bycatch mitigation measure and that there is scientific evidence to remove blue-dyed bait from the suite of measures. Based on that information, the SSC recommended that the Council reconsider the inclusion of blue-dyed bait as a seabird bycatch mitigation measure, but also supported developing a research proposal to assess the benefits of blue-dyed bait and offal independently so that the effects of the two measures could be teased out.

## **B. Stories of Conservation Success: Results of Interviews with Hawai‘i Longline Fishers**

Adam Ayers, PIFSC, presented on the results of interviews conducted with Hawai‘i longline fishery industry members to understand protected species interactions from an industry perspective and to learn how industry-developed solutions may further reduce protected species bycatch.

A total of 38 unstructured interviews were conducted with Hawai‘i longline captains, owner-operators and crew members, eight of which were interviews with crew members. Interviews were conducted with translation assistance and informed consent. A qualitative approach to interviews were taken because protected species issues are sensitive subjects and sending out a mail survey or conducting online surveys was not likely to have high response rates. Two different sampling methods, intercept sampling and purposive stratified design, were used to allow sampling from the different subgroups of the fishery. In some cases, captains and owners were approached multiple times before conducting interviews so that the interviewees

would feel comfortable talking about protected species topics. Detailed notes were taken during the interviews, after which they were translated and coded based on thematic areas.

Ayers provided examples of how the interview responses were analyzed by themes and summarized in the report. Four key findings were identified from the results. First, vessels have major incentives to avoid protected species interactions, encounters and depredation events. One owner-operator shared that they would lose money for the whole trip if they lost five sets to depredation events, highlighting the financial loss incurred even if there are no direct interactions (incidental captures). Incentives also take the form of fishery area closures such as the SEZ. The second finding is that vessels relocate to avoid protected species and sharks. Vessels may move 15-20 miles to avoid sharks, or one to two days away to avoid false killer whales. The third finding is that captains are communicating with other vessels and sharing location information of protected species aggregation within their networks. The information may also be shared beyond their networks and more broadly in the fishery. Lastly, fishermen have innovative ideas to avoid protected species and improve release handling, such as developing their own tori line designs and reducing noise from hydraulic suppressors. Fishermen also shared ideas of teaching crew how to handle rare event protected species interactions and providing translated training material such as videos. The interview results highlighted the great lengths to which the industry goes to avoid protected species interactions on their own, in addition to existing required measures, and that fishermen have a lot of innovative solutions that could be explored further or scaled up.

Watamura said it is always enlightening to get a view from a fishermen's perspective and noted that the conclusions from the interviews were similar to what small-boat fishermen experience. Fishermen will communicate with each other if, as an example, pilot whales move into an area where ahi are biting, and let others know to avoid the area because fish stop biting when pilot whales are around. Fishermen depend on those communications to avoiding burning fuel by going to an area where the fish are not biting.

Rice agreed with Watamura and said that everyone communicates when whales are around so as not to waste time going to an area when fish are not there. He said that all fisheries react to protected species in similar ways.

### **C. Ecosystem-Based Fishery Management Project TurtleWatch Validation**

Rob Ahrens, PIFSC, reported on an evaluation of the efficacy of TurtleWatch conducted as part of a joint project by PIFSC, PIRO, the Council and the University of Florida. TurtleWatch was first released in December 2006 and emailed out to fishermen. The product was intended to be used as a first quarter of the year product and marked the 17.5-18.5 degree Celsius temperature band along the Transition Zone Chlorophyll Front as an area that fishermen could avoid to reduce sea turtle interactions. Historically, the majority of the loggerhead turtle interactions in the Hawai'i shallow-set fishery and a large proportion of the fishing effort, were occurring within that temperature band. The product was intended to identify an area where, if vessels were interacting with a lot of turtles, they could move out of the band and the turtle interactions should be reduced.

For the efficacy evaluation, more recent data were included to determine whether the TurtleWatch recommendation was still valid and whether it is still a useful tool. Loggerhead

tagging data from about 380 tagged turtles show that the latitudinal distribution of the shallow-set fishery has a strong overlap with the turtle distribution early in the year, followed by a divergence in the second and third quarters of the year and a convergence again in the fourth quarter. The majority of the turtle interactions occur in the first quarter when there is the most effort and the highest interaction rate per set. Second and third quarters have fairly low interaction rates and overall number of interactions. Similarly, the shallow-set effort has a strong overlap with the TurtleWatch temperature band in the first quarter. When considering the size of the loggerhead turtles, a cooler to warmer progression is seen as the size of the turtle increases, meaning that the smaller turtles are using cooler waters.

An interesting finding from the analysis is that the swordfish catch rate, which was standardized for soak time and an estimate of the area swept, shows a noticeable leveling across the temperature bands. This implies that the fishery effort is distributed so that no area is standing out as having higher catch rates, meaning that fishermen are exhibiting rational behavior in targeting swordfish. This also means that if effort is removed from any of these areas, the expectation is that the redistribution of effort would result in a lower catch rate in any area that they redistribute to, which may result in a longer fishing time to achieve the same catch and lead to more interactions outside the band.

The analysis shows that the TurtleWatch product is still a reasonable representation of where interactions will occur. Under the hard-cap system, the fishery does not seem to move away from the band as they approach the cap. Based on the turtle distribution, the fishery shifting to cooler waters is likely to result in interactions with smaller turtles, which are younger and more abundant, likely leading to more interactions. If the fishery shifts to warmer waters to the south, the fishery is more likely to interact with fewer but larger turtles, which would have a higher nester equivalency. The relative change in interactions with turtles is difficult to predict given the biases that exist in the tagging data, with most of the tags being deployed in the Western Pacific Region.

Rice asked if the larger turtles are caught more in the first and fourth quarters, of all the different sizes caught.

Ahrens said that the data were not in a format to look into that question in detail, but the fishery is interacting with larger turtles. His expectation is that the fourth quarter turtles were likely smaller turtles because the smaller turtles were using the cooler water where the fishery operates at that time of the year.

Zachary Siders, University of Florida, said that the fishery interacts with a mix of small and large turtles in the first quarter, with a higher tendency of interacting with larger turtles in the second and third quarters, and back to smaller turtles in the fourth quarter.

Rice asked Dang if it is easier to release the smaller or larger turtles.

Dang said he does not have on-the-water experience and does not have much detail on the challenges captains and crews face with different sizes of turtles.

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

## **1. Status of ESA Consultations**

Diana Kramer, PIRO PRD, provided a status of the ESA Section 7 formal consultations on major federal fisheries in the region. The consultation for the Hawai'i deep-set longline fishery is anticipated to be completed by February 2021, purse-seine consultation by December 2020 and the American Samoa longline and bottomfish fisheries for all areas by December 2020.

Gourley asked if PIRO has started coordinating the finalization of the consultations with Council staff, or if the development is still exclusively done by PIRO staff.

Kramer said the consultations are still in development, but a final draft will be shared as soon as they are able.

Gourley asked if the final draft is being developed without consultation with the Council staff, and whether it is a strictly internal product.

Tosatto said that the consultation is with the Action Agency, which is PIRO SFD, and for the deep-set longline consultation, HLA is an applicant. The Council has requested that a draft to be shared under a NMFS policy. When the draft is available and timing would allow, an opportunity for Council review of the draft may be granted. The consultation is a NMFS process, meaning that NMFS is not in consultation with the Council, and it is not developed in consultation with the Council.

Sesepasara asked clarification on the December completion date for the American Samoa longline fishery consultation, in terms of what is going to happen with the consultation.

Tosatto said that an internal draft is going through review at PIRO, and it will also go through review with NOAA GCPI at the draft stage. The fishery is not an applicant in this consultation. The Council has requested a review of the draft. Tosatto did not see any timing issues that would preclude a review by the Council, but he noted he will remain predecisional. He acknowledged that the Council has requested that the reviews be timed with the Council meetings, but he said that timing may be difficult as he would not want to delay the completion. He said that PIRO would coordinate the potential review by the Council, then take those comments back and then finalize the opinion. Tosatto acknowledged it will be a busy month, but said the consultations are on track, and the documents are in the final stages. He acknowledged that the reality is that their plan to complete them in December may or may not be accomplished.

Sesepasara asked if the LVPA is part of the consultation.

Tosatto said yes in a sense that the consultation does not hold up the LVPA being reinstated, as that is a court-directed action. The consultation is on the continued operation of the fisheries in accordance with all of the regulations and plans in place, including the reduced portion of the LVPA.

## **2. Coral Critical Habitat**



Kramer reported on the coral critical habitat proposed rule which was issued Nov. 27, 2020. Critical habitat was proposed for seven ESA-listed reef coral species found in the region. The proposed critical habitat includes hard substrate in shallow areas surrounding 17 islands and atolls in American Samoa, Guam, the CNMI and the PRIAs. Critical habitat is not proposed in Hawai'i because none of the listed species occur in waters around Hawai'i. Public comments on the proposed rule are accepted until Jan. 26, 2021.

Gourley said that the Pelagic and International Standing Committee discussed this issue and noted that the CNMI looks forward to working with NMFS on fine-tuning the critical habitat. The maps seem to be rough when looking at existing infrastructure and the potential impacts of assigning critical habitat to future anticipated activities. He asked if there is a way for NMFS to overlay the critical habitat designations on nautical charts so that the location of critical habitat can be seen on a smaller scale. Gourley also said that it would be highly prudent to hold public hearings on Saipan, Tinian and Rota, and to tailor each of the hearings to that specific location. Rather than giving a general broad sweep of where the critical habitat is, the hearings should focus on how the designation is going to affect any type of activity in the water that has a federal nexus. Gourley also said it would be prudent for the Council to consider forming an ad hoc working group with members from each of the island areas to coordinate the responses and to discuss how the critical habitat designation can actually benefit corals, while minimizing potential regulatory problems in the future.

Kramer said she has noted Gourley's comments and will share them with PIRO staff working on the critical habitat designation. She encouraged Gourley to submit a formal public comment.

Muña-Brecht echoed Gourley's comment and said she would like to have a meeting to discuss plans and options. She said she was contacted by local media about the critical habitat designation in Florida and its potential impacts for Guam, and wanted to make sure she has all the information available to her so she can make an informed response to the media.

Sesepasara said that too often when the federal government holds public hearings in American Samoa, it is only held on Tutuila and never out in the Manu'a Islands. The people in Manu'a are concerned that they are not included in the decisions. He asked that if public hearings are held that one be held in Manu'a. He acknowledged the current challenges with holding face-to-face meetings with the American Samoa borders being closed, but hoped that the new administration reopens the islands before the public comment period closes in January 2021.

Soliai asked if NMFS has scheduled any public hearings after the New Year.

Kramer said she would check on it.

Soliai recommended that the end of the comment period be postponed so that the public hearings can be held. He also requested that maps be provided.

Kramer said that maps are included in the proposal, but said she took note of the request for maps that are overlaid on nautical charts.

Tosatto said that no public hearings have been scheduled, and that PIRO staff are not allowed to travel because of COVID-19 restrictions. He said PIRO is considering virtual hearings and how they may be coordinated. After the public comment period, he expected that there would be time to consider public comments and work on a final determination. Tosatto said that maps are generally helpful in informing federal action agencies in preparing for consultations, but are not necessarily a requirement. The maps help to visualize, but they are not the actual designation, which is based on depth. Maps could provide a representation to the extent that there is decent bathymetric mapping, but he said it is important to read and understand the purpose of the designations. He said the good news is that PIRO has made a lot of headway with its stakeholders and state and territorial governments' understanding that critical habitat is for the purpose of federal agencies' activities rather than outright prohibitions. He acknowledged that many activities are federally funded or authorized where corals occur, and to that extent, it is meaningful that state and territorial governments understand what is being designated. The core purpose of the designation is to identify those areas that are essential to the conservation of the listed corals, so comments should be focused on those aspects. He said that economic issues can be considered at some stage, but it would have to outweigh the benefits of the designation.

Sesepasara asked how many species of corals are listed in American Samoa.

Kramer said there are seven total throughout the region, but she did not have the number offhand on how many of those occur in American Samoa.

Tosatto said that four of the seven occur in American Samoa, all seven in the Mariana Archipelago and five of the seven in the PRIAs.

Muña-Brecht said that the email from the media indicated that at least one hearing will be held for the critical habitat designation in Florida and asked if there would be one hearing for all of the Pacific Islands or if one would be held for each area. She also asked that if a public hearing is held after the comment period closes, whether any of the input from the community would be relevant to the determination.

Tosatto said that two separate rules were issued for the Pacific Islands and the Caribbean and Florida. He said he would have to verify whether any virtual hearings are planned and whether that is for the entire region. He said that public hearings are usually held during the public comment period. The agency has the ability to continue to seek information needed to make its final decision, such as awaiting publication of a relevant paper or the potential to have a focused meeting. He said that generally it takes a technical meeting to work out issues, less so through public input.

Gourley asked if NMFS would be open to extending the public comment period for another 60 days, considering COVID-19 issues and the holidays.

Tosatto said that NMFS was sued, was on a settlement time table to produce the proposed rule and may or may not receive additional pressure to finalize the rule quickly. Extending the public comment period creates a delay against that timeline. He acknowledged the timing issue with the proposed rule being released the day after Thanksgiving.

Gourley said he has not worked with critical habitat issues in the marine environment, but has dealt with the USFWS on terrestrial critical habitat. When the USFWS designates critical habitat, they include GPS coordinates so that the critical habitat location is clear. That works for everyone's benefit because there is no argument about what is included in the designation. Gourley said that for the corals, a better definition of the exact location of the critical habitat boundary would help those in the islands understand which areas are included. A visual representation of the depth contour would make it clearer than a textual description of the designated areas.

Muña-Brecht said that in looking at the critical habitat maps, it is unclear whether the entire nearshore reef areas around the southeast, southern and southwestern side of Guam would be designated. She asked what the critical habitat designation would mean and whether fishers can fish in those areas.

Kramer said that the designation is depth-based. In terms of impacts to commercial and recreational fishers, she said that critical habitat applies to federal actions, so it is not necessarily changing something for those fisheries at this time. Any nonfederal fisheries would not be affected by coral critical habitat and those that are part of federal fisheries could potentially be affected if NMFS determines that the fishery impacts the critical habitat during a Section 7 consultation. However, most of the federal fisheries in the region occur in depths greater than what's proposed for the critical habitat. She referred those interested to the Federal Register notice for additional details.

Muña-Brecht said that reading the notice will likely prompt more questions, which necessitates a public hearing.

Kramer confirmed that there have not been any public hearings scheduled yet.

### **3. Insular False Killer Whale Draft Recovery Plan**

Kramer provided an overview of the insular false killer whale draft Recovery Plan, which was published Oct. 16, 2020. The published notice included the draft Recovery Plan, draft Recovery Implementation Strategy, announcement of the initiation of the five-year status review and availability of the Recovery Status Review.

The public comment period on the draft Recovery Plan and Implementation Plan are open until Dec. 15, 2020. The plans do not implement any new regulations or restrictions, but rather lay out a roadmap for population recovery. The Recovery Plan is a high level document that outlines the recovery goal, specific targets on getting to recovery, estimated time and cost to recovery and the stakeholders that NMFS can work with to achieve recovery. The Recovery Implementation Strategy is a step-down plan of the recovery actions, is intended to be flexible and can be adapted over time quickly based on progress of the recovery and availability of new information. If progress on the implementation strategy activities indicates that the Recovery Plan needs to be changed, then the plan would go out for public comment again.

The goal of the plan is to remove the insular false killer whale from the ESA and an interim step is to down list it from endangered to threatened. The seven recovery criteria include

one demographic-based objective and six threat-based objectives. Delisting could occur without meeting all seven of the recovery criteria if the best available scientific information indicates that the species no longer meets the definition of endangered or threatened. One of the recovery objectives is to address threats from fisheries, including incidental take and competition with fisheries for prey. The estimated time to recovery is at least 50 years before delisting, and the estimated cost is about \$346 million over that period. The plan includes 95 recovery actions and activities in seven main categories that correspond to the objectives. The fishery-related recovery actions include increasing photo identification efforts; analyzing non-longline commercial and recreational fishing gear and mechanics of interactions with those fisheries; evaluating non-longline gear modifications to potentially deter or prevent depredation of catch and bait; developing outreach messaging and tools and programs for the fishing community; continuing fine-scale analysis of state fishing data in relation to insular false killer whale habitat use; and working cooperatively with the State of Hawai'i to identify initiatives and projects to enhance the conservation of insular false killer whales.

Watamura said the threats from non-longline fisheries was brought up at the Pelagic and International Standing Committee meeting, where Tosatto made a comment about SSC not being aware of interactions between false killer whales and non-longline fisheries. Watamura said he did some research on the topic and was not able to find any documents providing conclusive evidence of these fisheries causing mortality. Information about interactions are based on dorsal fin injuries and necropsy done on a false killer whale stranded in 2013 that had five fish hooks in the stomach but did not cause the death. However, a leap is made from that information to the conclusion that there are fisheries-related mortalities that impact population dynamics. He said he takes exception to Tosatto's disparaging comments about the SSC, and said it is counterproductive to present these leaps in facts when the plan calls for cooperation from fishermen to take photos of false killer whales. He said that reading through the materials, he wondered what the end game is. If the SEZ was closed to longline fishing for the pelagic population that is not ESA-listed, he wondered what would be done to the small-boat fishery.

Dang said one of the activities in the recovery plan calls for an evaluation of whether the SEZ closure resulted in an increase in shortline or other fishing effort inside the insular false killer whale population range, which implies that longline vessels are converting to shortline to fish inside the EEZ. He said such an assumption is not justified as he has never heard of any longline vessel switching to shortline to avoid regulations. He said that OLE, USCG and others already make it a high priority to monitor vessel activity inside the SEZ, so this activity is does not need to be included in the recovery plan.

Rice said non-longline boats include four types of fishing; seamount boats, small handline fishermen, recreational fishermen and the charter fleet. The plan says the fishermen are catching the food that false killer whales eat, but he said the animals are actually taking the food and the fishermen disappear from where the false killer whales are located because there are no fish there. He said that false killer whales are at the private buoys on the windward sides of the Big Island and Maui and they typically only pass through the Kona side because there are no mahimahi in calm water. He expressed his concern about potential closures if fishing is considered a threat. He also noted that the documents now acknowledge that the 400 false killer whales seen during an old aerial survey may have included pelagic stock animals and said he

believes those were misidentified and likely pygmy or other smaller whales typically seen in large groups. Rice said he has spent more hours on the water than anyone in the meeting and he has never seen a group of false killer whales larger than 30.

Tosatto said that unlike terrestrial species where every animal can be seen, false killer whales are not easily seen and cannot always be identified perfectly, so NMFS is using the best available information in the context of the ESA. He invited comments on the draft plan. He said that his comment about the SSC was that it surprised him the committee viewed the actions toward addressing fishery impacts and prey species impacts as a new issue. He said the threats were identified in the listing document and that their small population size put the population at risk. He said that these issues, including the fisheries impacts and prey competition have been well documented and have been discussed for many years. He said that in the development of the plan, fishermen were engaged and provided input. He did not think a leap is made to say that the species is threatened by fishery impacts or prey competition and he did not think NMFS is making a link that fishery impacts equal death. He welcomed input on the documents to help NMFS get to a final document that is based on substantiated information.

Rice asked if there is substantial evidence of noncommercial boats having interactions with false killer whales.

Tosatto said he did not think there is an ESA-defined level of substantial or nonsubstantial. He said NMFS is looking to mitigate the risks and work toward recovery.

Rice said the dead animal found off South Point was part of the pelagic stock and wondered if there is infighting between the two stocks that could be causing the dorsal fin injuries. He said a lot of other factors need to be considered before concluding that the injuries are caused by fisheries.

Tosatto said he agrees it is not just fisheries that create the problem and that the animals have created some of their own problems with inbreeding and their behavioral nature. He said that sometimes it is partly the endangered species' own fault as a preference for an activity, place or prey. He said NMFS' goal is to try to overcome those problems. He encouraged targeting all of the pieces in the recovery plan, implementation plan and status review when providing comments.

Rice said interviews like the one conducted for the Hawai'i longline fishery should be done for the four categories of non-longline fishermen to better characterize these interactions.

Tosatto said he appreciates the socioeconomic work as part of the ecosystem management because people are part of the ecosystem, but those efforts need to be taken for their value, just as fishery-dependent and fishery-independent data are different types of data. He said that fishermen's perspectives, as well as conservation-leaning researcher's perspectives, need to be weighed with a good understanding of what value they can provide to the system.

Rice said that there are many retirees that live in Hawai'i and have small boats who do not know the difference between a pilot whale and false killer whale. If they are asked if they see any false killer whales, they may say they do, but in reality they are likely seeing pilot whales.

Tosatto said he can claim to be part of that club, noting that he reported false killer whales for years and he has since been corrected that those were pilot whales.

Watumura said he has read through several documents and nowhere does he see that prey competition is a known fact. In fact, it is indicated that evidence is unknown. He reiterated fishermen are not going to cooperate with taking pictures or documenting interactions if a leap is made to say that non-longline fishing is a serious threat when there is limited evidence.

Rice asked if the five-year review would consider how much has recovered in that period and whether a new survey will be done to count the false killer whales. He noted that the Northwestern Hawaiian Islands (NWHI) stock comes down to Kaua'i and there is overlap between the insular and pelagic stocks.

Tosatto said that NMFS has the MMPA obligation to do marine mammal stock assessments, which produce the population counts. That is separate from the five-year status update under the ESA, which looks not only at the counts, but NMFS' best understanding of that count. Since the latest count is as accurate as the last MMPA stock assessment report, the status update will likely focus on the threats, regulatory mechanisms and recovery actions to address the threats, as well as evaluate the status.

#### **4. False Killer Whale Take Reduction Plan**

Kramer provided a brief update on the implementation of the False Killer Whale Take Reduction Plan (FKWTRP), including an update on recent interactions in the longline fishery. In 2020 to date, one false killer whale interaction in the shallow-set fishery was observed inside the EEZ. Two additional interactions were observed in the deep-set fishery outside of the EEZ. The FKWTRT had a webinar meeting in October 2020 and is working on a recommendation document to advise NMFS regarding crew training, depredation research, post-hooking mortality research and data synthesis.

#### **5. Other Updates**

Kramer reported on NMFS' proposed MMPA Section 101(a)(5)(E) permits to authorize incidental taking of ESA-listed marine mammals. The proposed authorization including the deep-set longline fishery and the shallow-set longline fishery was determined to be unnecessary due to negligible take of ESA-listed species. The comment period on the proposal has closed. NMFS is currently reviewing the comments and will issue the final permit authorizations when finished.

Regarding the MMPA imports issue that was briefed by Alexa Cole at the September 2020 Council meeting, Dang asked if it's correct that additional time was given to foreign nations before import provisions would take effect. He said that leveling the playing field for domestic fisheries has been discussed for many years and the marketability of domestic fish is most impacted by the flow of foreign imports into the domestic market.

Tosatto explained the MMPA imports provision and said that a five-year delay was provided for the countries to get organized and reach the standards. The intent is to improve

marine mammal protections, but there is also some risk in going down the road of trade restrictions, such as with an entity like the World Trade Organization. In that context, NMFS is proceeding carefully to ensure the process is aligned with principles of fair global trade and the delay was built in up front. He did not think the initial five-year deadline had been extended, but he said it would not be surprising if the deadline has been extended given the COVID-19 pandemic.

Dang asked if anyone can confirm if the deadline has been extended.

Ishizaki confirmed that a Federal Register notice was published that extended the deadline by a year.

Dang said that if the extension was given to foreign fisheries not only on conservation factors, but also on trade and international factors, and considering what the Hawai'i fishery is dealing with under the FKWTRP and the SEZ, some consideration should be made for the domestic fisheries to provide relief. The fishery is dealing with bait price increases, fuel price increases and fish being further away from port. He thinks an agreement could be reached that fishing in the SEZ does not affect the conservation status of false killer whales, thus helping the fleet fish closer to home with less fuel and bait expenses.

Tosatto said he appreciates the sentiment and the reality-based approach. He said that within the extent of the law under MSA and MMPA, every recommendation that NMFS receives that is consistent with the law will be appropriately considered. The SEZ is under the purview of the FKWTRP and Tosatto said he would need to be presented with an overwhelming purpose for engaging the FKWTRT in a direct way to make that change. He is standing by to hear recommendations from the team on how to improve the FKWTRP. He said the quickest way would be a recommendation from the FKWTRT.

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

### **1. Pelagic Plan Team**

Kobayashi presented the Pelagic Plan Team report and recommendations regarding protected species.

*Regarding the tori line options paper*, the Pelagic Plan Team recommended the Council consider development of alternatives to existing seabird mitigation measure requirements to allow use of tori lines in the Hawai'i deep-set longline fishery based on existing scientific findings as well as results of the additional at-sea study in Hawai'i.

### **2. Advisory Panel**

Tam, AP chair, presented the AP report and recommendations regarding protected species.

*Regarding tori lines*, the Hawai'i AP recommended Options 2 and 3 and encouraged the Council to complete the tests of blue-dyed bait.

### 3. Scientific and Statistical Committee

Hospital presented the SSC report and recommendations regarding protected species.

*Regarding seabird mitigation measures*, the SSC supported the EFP application and the proposed exemption to the existing mitigation measures so that the potential effects of blue-dyed bait and strategic offal discharge can be independently assessed.

The SSC recommended the Council reconsider the inclusion of blue-dyed bait as an approved seabird bycatch mitigation measure in the shallow-set longline fishery.

*Regarding the insular false killer whale draft Recovery Plan*, the SSC recommended that Council include in its response to the draft Recovery Plan the following: 1) Request NMFS to coordinate with the Council in addressing non-longline fisheries interactions and 2) Encourage working with social scientists to better characterize potential for interactions between non-longline fisheries and insular false killer whales.

*Regarding the FKWTRP*, the SSC tasked a SSC working group composed of Itano, Milani Chaloupka, Craig Severance and Lynch to develop recommendations on alternative approaches to reducing false killer whale interactions in the Hawai'i deep-set longline fishery for SSC consideration at the March 2021 meeting.

#### F. Public Comment

Manny Dueñas, Guam Fishermen's Cooperative, expressed his concern regarding the imbalance of resources put toward protected species compared to managing fisheries, as well as fisheries in the region being overregulated due to protected species issues. He questioned if catch per unit effort (CPUE) is used for fisheries management, why the same metric is not used for protected species to indicate that more interactions mean greater abundance of those animals. He asked if some of these species actually need protection, or if protecting species just provide more job opportunities, noting that PIRO PRD has more than double the staff of SFD. Based on his practical knowledge, many of the species do not need protection, but rather need to be further analyzed. He said that NMFS has failed Pacific Islanders for more than 40 years with green sea turtles, noting that Pacific Islanders are blamed for wiping out the population, yet the species still exist. He said he sees the fishery through the lens of his eyes that have been with the Guam fisheries for 27 years, rather than seeing the species in a snapshot and said the only thing endangered is the fishermen.

Tam said that in fisheries, conflict is inevitable. Fishermen are part of the ecosystem, but the discussions have been lopsided and what has not been discussed is the economic loss that fishermen experience from protected species. He said he has talked to longline captains who have experienced depredation of entire sets, which creates a huge economic impact. Fishing is often thought of as impacting protected species, but Tam said that fishing may be helping to feed the protected species. He said it is important to consider the economic loss that the fishery experiences as mitigation measures are developed so that it is more balanced. The Hawai'i fishery is the most regulated in the nation with measures in place to protect species, yet more restrictions are still being added to the fleet. Regarding the insular false killer whale recovery



goal, which is nearly double of today's abundance, Tam asked if the habitat has the capacity to support that many animals in the area. He wondered if the numbers are realistic and whether the animals will eat fishermen out of their entire fishery.

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

*Regarding the EFP, the Council recommended issuance of the EFP to HLA and requested NMFS PIRO process the application as expeditiously as possible to allow field trials to start in early 2021.*

*Moved by Rice; seconded by Dunham.*

*Motion passed.*

*Regarding the options for including tori lines in the Hawai'i longline fishery seabird mitigation measures, the Council directed staff to form an action team, initiate the development of a regulatory amendment to evaluate options for allowing the use of tori lines in lieu of blue-dyed bait and removal of the strategic offal discharge requirement in the deep-set longline fishery and schedule Council action when the results from the EFP study are available.*

**The Council directed staff to work with the action team to develop draft regulatory specifications for tori lines in the Hawai'i deep-set longline fishery for Council review at the March 2021 meeting.**

**The Council directed staff to work with the action team and industry representatives to further develop options for the shallow-set longline fishery for Council consideration at the March 2021 meeting.**

**The Council recommended NMFS support additional research and development for tori line designs suitable for use in the Hawai'i shallow-set fishery to inform future Council action to modify seabird mitigation measures for this sector.**

*Moved by Rice; seconded by Dunham.*

*Motion passed.*

*Regarding the MHI insular false killer whale draft Recovery Plan, the Council directed staff to send a comment letter incorporating the following issues:*

- a. Recommend NMFS to prioritize information gathering to verify assumptions and anecdotal information regarding potential non-longline fisheries impacts to ensure that recovery actions are based on robust scientific evidence.**
- b. Encourage NMFS to work with social scientists to better characterize potential for interactions between non-longline fisheries and insular false killer whales.**
- c. Request NMFS to coordinate with the Council on matters related to non-longline fisheries that target pelagic MUS, including actions to address data gaps and reduce impacts.**

- d. **Remove unsubstantiated assumption of longline vessels converting to shortline gear and associated recovery action in the draft recovery implementation strategy (6.6.1).**

Tosatto said he will abstain, although he does not object to sending a letter. He encouraged individual Council members to also provide public comment on the draft Recovery Plan. He said he can support some of the bullets, but he does not agree with at least one.

Moved by Rice; seconded by Dunham.  
Motion passed with Tosatto abstaining.

**Regarding the FKWTRP, the Council directed staff to work with the SSC working group composed of Itano, Chaloupka, Severance and Lynch to develop recommendations on alternative approaches to weak hooks for reducing impacts to false killer whales in the Hawai'i deep-set longline fishery for SSC and Council consideration at the March 2021 meeting.**

Rice said that the weak hooks also have an impact on striped marlin as they would also straighten the hooks.

Moved by Rice; seconded by Dunham.  
Motion passed.

**Regarding the FKWTRP, the Council recommended that NMFS suspend the SEZ provision for at least the duration of the additional one-year exemption provided to foreign fisheries under the MMPA imports provision.**

Tosatto said he will vote no, primarily as it would be predecisional of processing a recommendation. He said that the premise of the recommendation is that there is an equity in the MMPA between the foreign fisheries provisions and the domestic fisheries provisions and he did not think that such equity is allowed.

Moved by Rice; seconded by Dunham.  
Motion passed with Tosatto opposing.

**Regarding the coral critical habitat proposed rule, the Council requested NMFS PIRO to conduct public hearings for each of the areas with proposed coral critical habitat designations in the CNMI (Saipan, Tinian and Rota), Guam and American Samoa (Tutuila and Manu'a) and extend the comment period for an additional 60 days to allow sufficient time after the hearings for public to submit comments.**

**The Council requested NMFS depict the proposed critical habitat boundaries, using bottom contours as appropriate, on current nautical charts of all affected islands and make them available to the general public at least 30 days before closure of the public comment period.**

Tosatto said he will abstain, as the recommendations will come to him for a decision. He said he cannot guarantee either a favorable or unfavorable response at this time, so the best path would be for him to abstain.

Moved by Rice; seconded by Dunham.  
Motion passed with Tosatto abstaining.

**Regarding the coral critical habitat proposed rule, the Council formed an ad hoc working group to collaborate and coordinate comments on the proposed critical habitat for American Samoa, the CNMI, Guam and the PRIAs before the comment deadline Jan. 26, 2021.**

Moved by Rice; seconded by Dunham.  
Motion passed.

## **IX. American Samoa Archipelago**

### **A. Motu Lipoti**

Soliai reported on the American Samoa tuna industry. He said that two weeks remained for StarKist production in 2020 and the company would have a two-week shutdown until resuming operations Jan. 6, 2021. Fish supply has been steady for 2020 and will continue through 2021 with an expected increase in skipjack tuna catch.

Soliai said the American Samoa Government has granted StarKist a waiver to the mandate that all businesses operate only between the hours of 5 a.m. and 9 p.m. The waiver was also extended to the supporting businesses of the tuna industry—hauling companies, buses and taxis and others. Soliai said COVID-19 impacts have included the shutdown of flights to American Samoa, which prevented professional service workers from entering to continue planned projects with the cannery. Additionally, USDA contracts for school lunch and military contracts have been affected. Soliai said one of the supply vessels that carry import and export containers for StarKist had positive coronavirus cases upon arrival, which caused a scare. He said the American Samoa Government is in communication with vessel agents to reroute all vessels to have them come to American Samoa before other destinations such as Tahiti and neighboring Samoa, both areas that have had positive cases recently. Soliai said the Department of Health has implemented new protocols for incoming vessels that may affect the purse seine fleet. In October, the new policy restricted foreign crew members on purse seine vessels. Soliai said the American Tunaboat Association wrote to the American Samoa Government to ask for relief from the new requirements, but negotiations are ongoing.

Nate Ilaoa, Council staff, reported on the Sustainable Fisheries Fund (SFF) project to diversify vessels of the American Samoa longline fleet. With 2020 being a continued trend of economic difficulties for the fleet due to issues such as a measles outbreak, severe weather and the COVID-19 pandemic, the Council is assisting five vessels to explore the jig fishery outside of the normal longline season. This project will take the vessels beyond the U.S. EEZ around American Samoa with modifications to the vessels to begin pelagic trolling in southern waters. The albacore season is typically April through December and the jig season for albacore is

November through March. Ilaoa said this will allow the boats participating in the project to jig when they are not targeting albacore with longline gear. He said the local longline fleet's catch is vital to StarKist to fulfill school lunch and military contracts.

Dunham reported on the alia fishery in American Samoa. He said there are five alia owners awaiting settlement for faulty repairs that caused hull damage at the Shipyard Services Authority and the case would likely go to trial.

Dunham said in the past two months alia fishers have caught large amounts of yellowfin and skipjack tuna. During that same time, the weather has been cool and rainy—conditions that historically are connected with high catch rates of wahoo and yellowfin tuna. The weather has also been severe with a number of days with high winds that curtailed fishing effort recently. Dunham said there are only four alia currently trolling or bottomfish fishing on a regular basis.

Dunham said the palolo harvest in October was small for Tutuila, but slightly larger for the Manu'a Islands.

Dunham shared the rules that usually govern palolo harvest during the months of October and November each year. If the full moon occurs from October 1 to 8, palolo will not appear until November. If the full moon occurs from October 8 to 18, palolo will not appear in October or the swarming will be weak followed by a stronger appearance in November. If the full moon occurs from October 19 to November 7, there will be a single, strong swarming centered on this date. And if the full moon occurs from November 8 to 17, there will be a strong appearance on the date, possibly following a weaker swarming during the previous month. Dunham said palolo is like Samoan caviar, highly sought after by local residents.

Ilaoa said Catchit Logit app training to self-report fishery data was ongoing in American Samoa and a contractor was hired to train local fishers and vendors to manage the data. He said staff has worked with the contractor and DMWR to conduct multiple training sessions in the past three months. That included training DMWR's staff to train fishers and vendors to use the app. The Council supported app training with tablets for fishers who did not have their own smart phone or other device. The app was also featured during a November fishing tournament.

Ilaoa said the beta test phase will run through the end of December and the data will go live Jan. 1, 2021. Outstanding tasks include training Manu'a fishermen and seafood vendors to use the app. Ilaoa said DMWR was planning a seafood vendor forum in December to introduce the app to local businesses.

Soliai said that the November fishing tournament was also subject to local restrictions for the COVID-19 emergency declaration, but close to 20 boats still participated. The tournament was hosted by the Pago Pago Game Fishing Association with assistance from the American Samoa Alia Fishing Association and major sponsor Budweiser. It was the only fishing tournament for American Samoa in 2020. The biggest fish caught during the tournament was a 408-pound marlin.

Sesepasara said there have been fishermen who said the app was difficult to use. He asked Peck to chime in from the recreational fishers' side.

Peck said he was not on the island for the tournament.

Ilaoa said the American Samoa AP continues to work on its SFF project to produce a series of short public service announcements (PSAs) aimed at intermediate and high school-aged students. When completed, the videos will be presented to local teachers along with a workshop to teach those teachers about the fisheries. This will allow them to integrate fisheries lessons into their classrooms.

Ilaoa said the 2021 lunar tide calendar is complete and will be distributed soon. This edition features popular fishing locations around American Samoa with information on the associated target species and gear types used. He thanked the AP for their contribution in providing information for that calendar.

Ilaoa said that the American Samoa Government has recently purchased a new cargo transport vessel to serve the Manu‘a Islands. It is a converted Navy torpedo retrieval vessel with a larger load capacity than the Merchant Vessel *Sili* and *Manu‘a-tele*, which currently serve as cargo transport for Manu‘a. The *Segaula*, which also provided transport to Manu‘a, has since been reassigned to the Department of Public Safety Marine Patrol Division to bolster on-water enforcement capabilities.

Dueñas asked if the longline vessels would be converting to vertical jigging.

Dunham said it would be trolling like the small boats are doing.

Sesepasara added that the vessels involved in the project would be conducting subsurface trolling.

Watamura said that PIFSC suggested that Catchit Logit data be collected as soon as possible and that more data would assist in their stock assessment. He said it is very important because PIFSC is currently only using expanded creel data for the assessment. He said that there are only a small number of bottomfish fishermen in American Samoa and it seems unnecessary to expand the data when data could be gathered directly from the fishermen. Using the Catchit Logit app could be the perfect way to do that.

Watamura also said when he attended the October 2019 fishing tournament in American Samoa, he went fishing with the bottomfish survey team that came down from Hawai‘i. He asked if there were any further plans to do more cooperative surveys in American Samoa. Watamura also said he liked the video PSA project and encouraged more of that type of work for American Samoa.

Ilaoa said there was only one fisher using the app until the tournament in November where 16 others submitted data electronically.

## **B. Department of Marine and Wildlife Resources Report**

Ochavillo provided the DMWR report to the Council. He said the spearfish fishery reported more than 2,600 pounds landed, with rod and reel reporting 1,300 pounds. The top

species was *Myripritis berndti* with more than 900 pounds. Boat-based creel surveys showed there were only five active alia vessels fishing for pelagic species. Albacore was the top recorded species with 3,300 pounds. In the bottomfish fishery, there were only four active alia boats during the last quarter. He also summarized the top overall landed species in the territory. Their data shows 1,000 pounds landed total.

Ochavillo said DMWR has worked on a life history project with parrotfish. He said the agency has worked with PIRO staff on the general philosophy of the Coral Reef Fishery Management Plan (FMP) and hoped to develop a schedule. He said the work is locally driven and the plan is to involve local and federal partners and possibly regional ones like the Secretaries of Pacific Communities (SPC). They have also looked at templates such as the Northern Palau Coral Reef Plan. He said the next meeting is Dec. 10, 2020, and he hoped to get more specifics on the plan then.

Ochavillo said DMWR continues to work on a giant clam restoration project. He said he is working with a graduate student from the University of Hawai'i to look at the data structure of the species in American Samoa and nearby islands to identify potential donors. He said there are issues like invasive species and biological factors to consider.

Ochavillo said there is currently only one FAD in place as several were lost during storms. One FAD buoy is being retrieved and DMWR is working with a supplier in New Zealand to order preassembled FADs. However, shipping has been affected by COVID-19 restrictions, so the agency is also looking at locally assembled FADs as well. DMWR is also scoping sites in Manu'a for a FAD to be deployed there.

### **1. CARES Act distribution of funds**

Ochavillo said DMWR will accept Coronavirus Aid, Relief and Economic Security (CARES) Act applications until Dec. 11, 2020. He said a large number of applications have been received.

Sesepasara said the CARES Act fund drew hundreds of applicants and about 90% of those were from shore-based fishers. He said it is very difficult to vet them as many claimed to be fishermen, but it is hard to verify. His staff is reviewing the applications. He also said only two alia owners had applied so far, but they were anticipating others to do so.

Soliai said he hoped that would lead to more fishing effort.

### **2. Catchit Logit App Training**

Ochavillo said DMWR staff continues to work on Catchit Logit training and have held several sessions at their office. He said the main challenge with the app has been the tablets provided by the Council. Fishermen have reported that some of them do not work and several fishermen have returned their tablets.

### **3. Bottomfish Fono Resolution**

Ilaoa said the American Samoa Legislature had drafted a Senate resolution regarding the bottomfish fishery. The resolution SCR No. 36-20 supports DMWR in the development of a Territorial Bottomfish FMP.

### **C. American Samoa Bottomfish Fisheries**

#### **1. Update on the Bottomfish Fishery Interim Measure**

Brett Schumacher, PIRO, gave an update on the bottomfish interim management measure for American Samoa. The environmental assessment (EA) and draft rule were published in September 2020 and the public comment period closed Sept. 28, 2020. The preferred alternative is a 13,000 pound catch limit with an in-season AM. In October 2020, the draft EA and proposed rule were updated with a finding of no significant impact decision document. Those documents went through the policy and legal review and no substantial changes were made to the proposed rule. On Nov. 16, 2020, the final rule and EA were published in the Federal Register and the rule went into effect. The rule will be effective for 180 days with the ability to extend it for another 185 days. The initial temporary rule will end May 17, 2021, and the catch count will reset with the calendar fishing year with 13,000 pounds for 2021.

Schumacher said an updated expansion was received from the Western Pacific Fisheries Information Network (WPacFIN) with data for American Samoa through June 2020 which shows 5,500 to 5,600 pounds, less than half of what was put in for the interim measure's catch limit. He said at the end of the initial interim action, the extension for another 185 days would work as a separate rulemaking action published in the Federal Register. It would not require a new EA, but instead a Supplemental Information Report to update any new information. For the remainder of 2021 and beginning of 2022, there would be another rule requiring a Council action. Schumacher said the rebuilding plan for American Samoa would be implemented in February 2022.

Sesepasara requested a delay of the implementation of the bottomfish action to allow DMWR to complete its management plan by the end of 2020 or early January 2021. He said the agency is trying to keep a positive relationship with fishermen to avoid false data reporting. He said DMWR has a plan to work with the fishermen.

Tosatto said the analysis will be necessary for an extension and then an extension of the interim rule could be deliberated and a determination made.

#### **2. Options for Annual Catch Limits 2021-2022 (Initial Action)**

Marlowe Sabater, Council staff, provided an overview and review of the P-Star (P\*) Analysis, the BSIA used to develop the options, and the preliminary impact analyses for the 2021-2022 ACL options. Staff worked with AP members, fishermen and PIFSC staff on the P\* Analysis and an overfishing limit of 5,000 pounds would be used to end overfishing immediately.

Sabater provided information on the risk analysis and said the mean catch for the American Samoa bottomfish fishery is around 12,614 pounds. The Social, Economic, Ecological

and Management Uncertainty (SEEM) Working Group was unable to convene due to COVID-19 restrictions. The options paper adopted similar reasoning for the SEEM Analysis in Guam with the ACL equal to the acceptable biological catch (ABC).

Sabater provided a review of the stock status and detailed the total catch from the last 10 years of creel survey data, which showed that 90% of the time the catch exceeded the new overfishing limit. The average estimated commercial catch from seafood vendor data over the last three years was around 1,124 pounds relative to a 12,614-pound estimated total catch from the creel survey.

Sabater summarized the alternatives. There is no federal permit and reporting system in the American Samoa bottomfish fishery, but that there is a commercial permit and license program. While there is no local regulation to control catch, DMWR is working on a FMP for bottomfish. He provided the requirements and expected outcomes for each of those alternatives. Alternative 1 is no action, alternative 2 would use a phase-in approach, alternative 3 would immediately apply a 2,000-pound limit and alternative 4 would prohibit bottomfish fishing in federal waters for the duration of the fishing year with the technical equivalent of a zero ACL.

In summarizing catch reduction under each alternative, Sabater said alternative 4 is the maximum action that can be taken with an expected outcome that fishing effort would continue in territorial waters. Conversely, under alternative 1 there is no reduction and the fishery is free to operate. Under alternative 2, the reduction is about 750 pounds and under alternative 3 it will be 300 pounds each year. In-season AMs would be applied and the creel survey data would be relied on to have a monthly expansion of bottomfish management unit species (BMUS) catch, if possible.

Sabater reviewed the timeline for the ACLs. He said the interim catch limit of 13,000 pounds begins in November 2020. In 2021, there is a possibility for the catch limit to be extended through November and a 5,000 or 2,000-pound catch limit applied toward the end of the fishing year, depending on whether alternative 2 or 3 is selected. In 2022, both alternatives 2 and 3 would have a catch limit of 2,000 pounds. Rebuilding measures would take effect in 2023. The new benchmark assessment review would take place in 2023. Sabater reviewed conservation benefits, impacts to fishing communities and estimates of projected catch sales. He said the different alternatives will impact the fishery to varying degrees in regard to revenue and detailed the different expected impacts for each.

Rice asked if fishers could continue fishing in territorial waters when the 15% was reached in federal waters.

Sabater said they would still be able to fish in territorial waters.

Rice asked if 70% of fish caught is for home use.

Sabater said that was correct and only 9% is sold, based on DMWR's data collection.

Rice said that makes a big difference.



Amani asked how much of the bottomfish are being caught in federal waters and how the restrictions from the proposed alternatives would affect fishers.

Sabater said they are using the bottomfish EFH as a proxy to establish the 15% and there is no solid understanding of how much fish are removed from federal waters due to the estimated creel survey data. He said Ochavillo's presentation showed only 4 fishers and the probability of capturing data from those fishers from a random design survey is low. He also said that there are not enough data to show how much catch is coming specifically from federal waters relative to territorial waters.

Simonds asked about the survey form and whether it asks the fishers where they caught the fish.

Sabater said that question was in the survey, but the issue was whether the data collectors are able to intercept those fishers that actually fish in the offshore banks. Since there are very few participants, it is more effective to ask the four bottomfish fishers directly. He said the current data collection system must follow a certain design and the chances of intercepting someone intending to fish in federal waters is rare.

Simonds said the American Samoa bottomfish fishery has always been a small one. She said she understood the survey design but wanted to know if that was just for American Samoa or for fisheries everywhere.

Sabater said that design is typical of fisheries everywhere and it should evolve to account for changes in the way the fishery has changed over time, especially if the participation and effort is reduced.

Simonds said the Catchit Logit app should be very useful for this situation because there is a need to report where the fish is caught and the survey could be discarded in the future.

Amani asked how there could be an overfished and overfishing problem in American Samoa when the majority of fish is caught for personal use. She said those types of fishers might be less inclined to use the data app and COVID-19 restrictions will make it even more complicated.

Dunham said between 20 and 25% of the fishermen fish in federal waters at the offshore banks, but the ones with smaller alia boats cannot travel that far. He also said that the fish on the banks can also be caught inside territorial waters, but that it was easier to fish on the banks. He described fishing methods used by alia fishers and the importance of upgraded fishing gear. With regards to the fishers' complaints about the tablets from the Council not working well, he asked why they did not just use their smartphones.

Soliai said some of the fishers do not have smartphones.

Tosatto said option 4 is the one activity that goes as far as possible to address overfishing and rebuild the fishery, and does not have a catch AM as much as it has an enforcement AM. He said bottomfish fishing in federal waters after the closure would be contrary to the law and that

was the alternative that on paper produces the best chance for an outcome. He said the job of the Council is to end overfishing and rebuild the stock while cooperating with the territory and addressing commercial and noncommercial catch. He said previous comments about take-home catch being outside the reach of the action are not necessarily accurate. When that activity takes place inside the EEZ, it needs to be addressed and there may be a need to restrict or require reporting by both commercial and noncommercial fishers. He said it was important to solve the issue and avoid using proxies by using actual data, with the Council meeting its obligations under MSA.

Rice said many fishers in American Samoa rely on fishing to survive and to take some of that away during the COVID-19 pandemic needs to be considered.

Sesepasara asked the Council and NMFS to consider delaying action until the management plan was drafted. He also asked if the data was collected for federal or territorial waters and whether the data identifies whether the fish was caught in federal or territorial waters. He also asked how federal agencies will know where the species were caught and how they would enforce it.

Sabater said both are based on DMWR's creel survey, which generates a total catch for both federal and territorial waters. He said the creel survey was the only tool available to answer that question, but the Catchit Logit app will provide additional information. He also said USCG would have enforcement oversight.

Sesepasara asked if there is sufficient time for the action to be published in the Federal Register and for the public to provide comments before the deadline.

Sabater said that the statutory requirement for transmitting the FEP amendment for the ACL action is May 5, 2021, which is 15 months from February 2020, when NMFS informed the Council of its obligation to address overfishing and the overfished stock. Measures to address overfishing and the overfished stock must be implemented within two years from NMFS' notification, which is February 2022.

Holstead said under the MSA when a regulation is put in place, the terminology usually is fish for or possess a specific species, and violators are subject to citation.

### **3. Options for Bottomfish Stock Rebuilding Plan (Initial Action)**

Sabater reported on the MSA requirement to end overfishing immediately and develop a rebuilding plan to return biomass to  $B_{MSY}$  within 10-years. He summarized the timeline of the overfished/overfishing determination and the obligation to implement a rebuilding plan within two years with a submission deadline of within 15 months.

Sabater reviewed the parameters for the rebuilding plan and the four options under consideration. He provided the details of each of the alternatives and the built-in AMs that NMFS may take within its regulatory authority. For each option, Sabater presented anticipated impacts and outcomes.

Alternative 1 is no action which would have no rebuilding plan, ACL, AM or other management measure to prevent overfishing or rebuild the bottomfish fishery. Alternative 2 would implement an ACL of 1,500 pounds and an AM over the next 10 years. This is also the preferred alternative. Alternative 3 would establish a temporary moratorium on bottomfish fishing in federal waters around American Samoa. Alternative 4 would implement an ACL of 1,500 pounds as well as federal permitting and reporting requirements. This alternative would also require bag limits for fishing trips.

Gourley said options 2, 3 and 4 seemed like the characteristics of the fishery are very small. He said the creel survey has flaws, including that the data collection is not sufficient to give a true activity and landings picture of the fishery. He asked if the American Samoa creel survey would be adapted to collect better data and if the Catchit Logit app would be used in lieu of the creel survey. He asked what would happen with data collection to improve the estimates of actual landings.

Sabater said there is an effort to implement and encourage fishers to report via the app to provide an alternative data stream. He said as T. Todd Jones, PIFSC, mentioned at the SSC, the app would be used for one full year to determine whether it could be incorporated into the next stock assessment. He said Catchit Logit would run parallel with the creel survey to help calibrate the catch time series. Sabater said NMFS Marine Recreational Information Program certification was also going to be utilized for shore-based creel survey and boat-based collection. He said a lot of effort is being put into ER.

Rice asked when the next stock assessment would take place.

Sabater said 2023.

Rice said it may be hard to get good data if regulations are put on fishermen but they do not understand why they are being restricted if their fishery is doing well.

Sabater said outreach would be conducted with fishermen to disentangle the data collection and management options to attempt to prevent fishermen thinking that the Council is using the data against them.

Dueñas said Guam is facing a similar problem with creel surveys. He said many fishers are unaware of CPUE being based on actual time that bait is in the water. He said if the wrong questions are being asked, the wrong answers will be provided. He suggested altering the questions to get better results.

Sabater said the contractors will be relied on to communicate those specifics with the fishers. He said the creel survey can be altered and the Fishery Data Collection and Research Committee—Technical Committee could discuss that issue.

Amani said with the COVID-19 pandemic there are many people out of work and fishing has increased. She asked what American Samoa's Council members wanted to do with the rebuilding plan.

Soliai said none of the options are ideal but pointed out that the AP weighed all the options and selected alternative 2 as their preference.

Watamura asked if the stock assessment was peer reviewed.

Sabater said it was subject to the Western Pacific Stock Assessment Review (WPSAR) and also passed a peer review. He said it did not, however, include a data review.

Watamura asked if that lack of a data review was discussed.

Sabater said it was a request before WPSAR and the SSC reviewed the terms of reference, noting their concern about the data that goes into the assessment and requesting other modeling scenarios. He said the PIFSC Stock Assessment Program assigned two full-time scientists to work on the assessment and they are planning a data workshop in American Samoa in July 2021, if travel is permitted.

Tosatto said the assessment passed WPSAR and Council procedures and was reviewed by SSC and determined to be BSIA. He said establishing a moratorium in federal waters for 10 years is the option that produces a result. He said alternative 2 could provide some relief which was a benefit and could be considered. He said the Council needs to look at what these alternatives produce in a 10-year timeframe—alternative 3 would mostly do it and is the most federal managers could do. He said alternative 2 might do it as well.

Sesepasara requested that the Council take no action until American Samoa can prepare its management plan and discuss it at an interim Council meeting in February 2021.

#### **D. Status of the American Samoa Large Vessel Prohibited Area**

Simonds presented two maps showing the LVPA amendment that was put in place originally and another that the Council voted on more recently, the latter reflecting a compromise with the small boats and includes some of the offshore banks.

Tosatto said that NMFS received the necessary paperwork from the Ninth Circuit Court of Appeals, which gave them the directive to reinstate the original regulations that had been rescinded. The rule that will be reinstated will not include the offshore banks and the package to include them could still proceed if the Council considers it appropriate. If the Council no longer considers it appropriate to proceed, then the Council would have to direct staff to stop working on that package, or take a separate action to modify the course of the action.

Johns said the ruling by the Ninth Circuit Court reversed the District Court decision that invalidated the 2016 rule. She said the 2016 rule will be reinstated because the District Court decision unlawfully vacated that rule.

Sesepasara said he supported the Council's recommendation including the offshore banks.

Dunham requested monitoring of the longline vessels around the banks to see what they are catching.

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

### **1. Advisory Panel**

William Sword, American Samoa AP vice chair, presented the AP report and recommendations.

*Regarding the ACL for the American Samoa bottomfish complex, the American Samoa AP recommended the Council select alternative 2 for a phase-in approach from 5,000 pounds in 2021 to 2,000 pounds in 2022.*

*Regarding the bottomfish rebuilding plan for American Samoa's bottomfish fishery, the American Samoa AP recommended the Council select alternative 2 with an ACL of 1,500 pounds and in-season AM for the next 10 years.*

*Regarding American Samoa fishery issues, the American Samoa AP recommended the Council request DMWR to expedite repairing the floating dock in Fagatogo Village to allow small boats to dock.*

*Regarding the American Samoa LVPA, the American Samoa AP recommended the Council continue to move forward with modifying the LVPA using the 2017 options and review those options with a working group from American Samoa (longline, alia and recreational) to ensure that the preferred alternative continues to meet the needs of the fishermen.*

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

Hospital presented the SSC report and recommendations.

*Regarding the ABC for the American Samoa bottomfish fishery, the SSC recommended option 2 (i.e., a phased-in ABC of 5,000 pounds in fishing year 2021 and 2,000 pounds in fishing year 2022). This option provides a gradual reduction in the ABC over a two-year period and allows limited access to the offshore banks for the culturally important deep-water snappers.*

*Regarding the rebuilding plan for the American Samoa bottomfish fishery, the SSC supported option 2 (i.e., implement an ACL of 1,500 pounds and an in-season AM over the next 10 years). This option still allows access to the culturally important offshore deep-water snappers.*

The SSC further reiterated its recommendation that the next benchmark assessment analyze the deep-water complex separately from the shallow-water complex. The SSC recommended PIFSC conduct a data workshop with the American Samoa bottomfish

fishermen, local fishery agency and other interested parties to discuss the data and model assumptions that will be used in the next benchmark assessment.

## **F. Public Comment**

Sword, a fisherman in American Samoa, commented on the November fishing tournament held in the territory and said most fishermen could not catch fish in the nearshore areas and that most of the tournament landings occurred on the offshore banks, including the 400-pound marlin that was the event's largest. Sword said the CARES Act funds had 2,000 applicants and asked if the \$800,000 allocated to the cannery in the territory's spending plan could be redone to address issues such as the FADs needed by the fishermen and the need for artificial reefs. He said there were derelict vessels that could be used for that second purpose. He also asked for the Council to consider a fishing pier along the airport runway, a popular fishing spot. Sword said he would like to see more scholarships for graduate and doctorate level students from the region.

Jones, PIFSC, said it was important to separate the American Samoa bottomfish stock assessment and the future benchmark assessment from the interim measure and rebuilding plan. He said he wanted to speak with Dueñas and others to clarify issues with the creel survey. Jones said the creel survey is being reviewed and a WPSAR review is being done on the expansion. He said the stock assessment improvement is ongoing. Regarding Catchit Logit, Jones said PIFSC supports the app and the agency received a \$330,000 grant to improve it. He said without a mandatory license and reporting program, it would be difficult to use the app. Jones said PIFSC will work with DMWR and the fishers in American Samoa, as it is a multi-faceted approach.

Felipe Carvalho, PIFSC, said he wanted to assure everyone that the agency is working hard to use all resources to expand the breadth of the work to deliver the best science in the next generation of stock assessments.

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

*Regarding American Samoa fishery issues, the Council **requested the American Samoa DMWR expedite repairing the floating dock in Fagatogo Village to allow small vessels to dock.***

Sesepasara said the project is ongoing and should be completed in a couple of weeks.

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

*Regarding the American Samoa interim measure, the Council **requested NMFS extend the interim measure with an interim catch limit of 13,000 pounds and in-season AM for another 185 days from the expiry date of May 17, 2021, while the Council finalizes the CMM to end overfishing in the bottomfish fishery.***

Tosatto said he would abstain because it would present a future decision for him to make. He said he was not abstaining on the merits of the action of itself.

Sesepasara said he would be voting no because he had requested a delay until the FMP for bottomfish is completed.

Soliai said the action was for that very extension.

Sesepasara rescinded his opposition.

Moved by Dunham; seconded by Rice.

Motion passed with Tosatto abstaining.

*Regarding the ACL for the American Samoa bottomfish fisheries in fishing year 2021 and 2022 and rebuilding plan actions, the Council **acknowledged that none of the options, even the prohibition of bottomfish fishing in federal waters will prevent overfishing and achieve rebuilding of the overfished stock within ten years. The participation of the American Samoa Government in managing the bottomfish fishery within Territorial waters is crucial in order to meet the MSA section 304(e) and National Standard 1 50CFR 600.310(j) requirements. The Council also acknowledged the Fono resolution S.C.R. no 36-20 that supports DMWR in the development of a Territorial Bottomfish FMP. Therefore, the Council directed staff to work with DMWR to complete the draft Territorial Bottomfish FMP.***

**The Council deferred action on the ACL specification and rebuilding plan actions to a future meeting to allow for the coordination of efforts in developing both the Council's rebuilding plan and the Territorial Bottomfish FMP, which is essential to ensure overfishing is ended and the stock is rebuilt.**

**The Council directed staff to work with the action team to further analyze the impacts and prepare a FEP amendment with EA and present the information at the 185th meeting in March 2021.**

Moved by Dunham; seconded by Rice.

Motion passed.

*Regarding the American Samoa Bottomfish Fishery, the Council **directed staff to continue to work with NMFS and the American Samoa Government to develop alternative management measures that would end overfishing and rebuild the stock.***

Moved by Dunham; seconded by Rice.

Motion passed.

*Regarding the LVPA, the Council **directed staff to monitor the fishing operation and fishery performance of the American Samoa longline and alia fisheries and report back to the Council at its September 2021 meeting. Based on this performance review, the Council may reconsider its 2017 LVPA modification action at that meeting.***

Moved by Dunham; seconded by Rice.

Motion passed.

## **X. Mariana Archipelago**

### **A. Guam**

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

Dueñas reported on Guam's bottomfishing activities, noting that bottomfishing over the summer was good and went well into the winter months. August and September are usually slow months due to rough weather resulting in little bottomfishing activity. During the same period this year, the water was unusually calm into October. With the arrival of juvenile wahoo in mid-November, fishermen transitioned from bottomfishing to trolling.

Dueñas, employed at the Guam Department of Labor, provided an update on the federal Pandemic Unemployment Assistance (PUA) program he has worked on since May 2020. Many of the PUA applicants are fishermen. The PUA program gave out \$345 weekly for up to 39 payments, while the Federal Pandemic Unemployment Compensation (FPUC) provided up to \$600 per week to qualified applicants. Fishermen and charter boats have received between \$21,000 to \$22,000, depending on whether they opt to deduct taxes, which has been a big help to the fishing community. Dueñas said he will reach out to fishermen who may have been impacted to see if they can be qualified before the program ends Dec. 26, 2020. Around 71,000 residents are eligible. Another 79,000 people applied with potentially fraudulent claims and do not qualify. About \$174 million in PUA benefits have been issued, together with almost \$200 million more in FPUC benefits, which result in total taxes of about \$33 million for Guam. As a part of the appeals team, he has seen 366 appeals filed and about 331 remain pending. The implementation of an informal appeals process, implemented in part to address those who may be deterred from going to court because the initial review was formal, should speed the process.

Soliai asked what criteria was used to determine the eligibility of the 71,000 residents and if there is a registry of the residents.

Dueñas said the applicants have to be totally or partially unemployed to qualify. High numbers are reflected as some residents might just be partially employed, have reduced working hours or their place of employment is shut down. About 35,000 of the 71,000 residents are fully unemployed while the rest are partially employed. Those ordered by the government to quarantine may qualify for the quarantine period. Some residents will also qualify for child care support while the government is shut down and if they had to stay home because the schools are closed.

Sesepasara asked Dueñas if the 71,000 residents are recreational or sports fishermen and if there are applicants from the subsistence and cultural fishing sector.

Dueñas noted the program he was referring to is the PUA and not the CARES Act and different in that the CARES Act requires registration, while PUA is for residents that have been attached to the workforce but have been impacted directly by COVID-19. Dueñas added this program is not as restrictive as the regular unemployment programs some states have and those like charter boat fishermen and local fishermen qualified. To qualify as fishermen, a business



license is not needed; just proof the resident is applying as self-employed and would be classified as a subsistence fisherman and as gig workers. If the fishermen show proof of earnings and employment, including receipts, invoices and billing statements to hotels or restaurants, those can be taken into consideration and be adjudicated. There are many subsistence fishermen and small-time commercial fishermen that do not have business licenses.

Watamura asked how the Catchit Logit app is gaining in popularity in Guam, especially amongst the bottomfishermen.

Dueñas confirmed the app program is rolling along, even with Guam under Pandemic Condition of Readiness 1 (PCOR 1) and the government being shut down. He said Muña-Brecht will cover that in her report.

Amani reported on the three FRCs coming to Guam. Two have arrived. The first cutter, the *Myrtle Hazard*, arrived in Guam in September while the *Oliver Henry*, the second FRC, was scheduled to arrive Nov. 30, 2020. Instead, during their 10,620-nautical mile journey from Florida, the crew seized a cocaine shipment worth \$26.7 million and assisted in the search and rescue of two overdue fishermen off Saipan. The last FRC, the *Frederick Hatch* is scheduled to arrive sometime during the summer of 2021. All FRCs have new advanced technology equipment with greater range and endurance than those being replaced. Their mission includes search and rescue, drug interdiction, environmental protection, defense operations and fisheries, all while promoting maritime stability for Guam and strengthening partnerships between the Mariana Islands and other international partners throughout Oceania.

Amani added that 10 FADs are missing in Guam's waters, which remains the biggest problem for fishermen who spend more time and money to catch the same number of fish.

Amani also reported the military is planning on taking 89 acres of local land for a shooting range, with the area over the water extending out 2.36 nautical miles and covering 892 acres of some of the best fishing spots around Guam, which will impact fishermen already hurt by the pandemic as more access to fishing areas are lost.

Sesepasara asked what happened to the old USCG vessels that are more than 30-years old and where they are now. He said it would be good to have the vessels in American Samoa because the USCG does not have any vessels there.

Amani believes the vessels are either being decommissioned or sent to different countries as a trade-off that includes training on their operations.

Holstead said the 110-foot vessels are either decommissioned or transferred based on their life expectancy. The island-class patrol boats were specifically decommissioned and most likely will be purchased by a foreign government through a military sales process. One of the reasons the vessels do not get sent to places like American Samoa or other U.S. ports is because the equipment is transitioned and ends up becoming a logistical problem to try to maintain multiple assets of different types. The reason for the transition from island-class patrol boats to FRCs due to logistics and the difficulty of sourcing parts. It is best to have similar pieces of

equipment to ensure that they can be run and operated safely and effectively. Another aspect is crew manning. The USCG does not grow very much every year so the crews off the 110-foot island-class patrol boats become the crews for the new FRCs. He said more information could be given if desired.

## **2. Department of Agriculture / Division of Wildlife and Aquatic Resources Report**

Muña-Brecht presented the DOAg Division of Wildlife and Aquatic Resources (DAWR) report. Due to Guam remaining under the highest restriction of PCOR 1, in-person creel surveys have not been done and instead increased the number of participation surveys where the number of vehicles with trailers and gear are counted. DAWR staff conducted two participation surveys per month, one weekday and one weekend, but due to the stay-at-home order, was increased to eight weekday and eight weekend surveys per month. From Sept. 1 to Nov. 12, 2020, DAWR conducted 32 surveys, with 286 vehicle trailers observed in September, 342 trailers observed in October and 301 vehicle trailers observed in November. Fishermen have indicated that they have substantially increased their fishing effort. The pandemic has pushed people out of their homes and into the water and a lot more people are trying their hand at bottomfishing.

Regarding the Talofofo boat ramp, Muña-Brecht said in October, the Guam Economic Development Authority (GEDA) gave notice that DAWR funding and the Memorandum of Understanding (MOU) that the agency was to provide to assist with the soil boring test is no longer needed. GEDA received a lower bid for the project and decided to work with the lower offer. The bidder who included the feasibility study for the boat ramp facility in their proposal submitted an offer of \$2 million, but was too high. DAWR is still waiting for the feasibility study to be done.

For the Agat Marina Dock B replacement, Muña-Brecht said the MOU has most of the required signatures, but was returned to DOAg by the attorney general's office for edits, which are now being addressed. Once finished, it will be routed for signatures by the Port Authority of Guam, Bureau of Budget and Management Research, the office of the attorney general and the governor. Regarding the Harbor of Refuge, the attorney general is still reviewing the MOU.

Regarding the Merizo pier and ramp repair, DAWR has moved past the Memorandum of Agreement process and is now developing the scope of work with the Department of Public Works (DPW). DPW assured DAWR that the projects are still ongoing and it hopes to begin the repair of the decking, ladders and lighting soon. A structural assessment will then be conducted to determine whether other parts of the dock need to be replaced.

Since July 2020, DOAg has issued special permits to allow fishing in the marine preserves to harvest the seasonal atulai, i'e, ti'ao and mañahak using talaya or hook and line from shore. Many fishers had been asking if the permits will be issued, which Muña-Brecht appreciates since the community is aware of the permitting process.

Five of 14 FADs remain on station. DPW signed the scope of work and are now working on identifying contractors to build the anchors so DAWR can move forward with purchase

orders to procure new FADs. There are some FADs stored at DAWR, but Muña-Brecht wants to have more units available and deploy as many as possible. Seventeen out of 34 shallow-water mooring buoys are online and DAWR is working to procure 15 new ones this fiscal year, giving it time to do the deployment.

DAWR is working on installing solar lights on the fishing platform. The USFWS wants a biological assessment done first to see if there may be any impacts to protected bird species that fly through the area.

Four sea turtles were stranded and one additional turtle was released between September and November 2020. A juvenile sea turtle was found dead around U.S. Navy base waters while another dead sea turtle was found around Facpi Island. A juvenile sea turtle was found stranded and was released back into the ocean after it was rehabilitated at Underwater World for about 10 months. It had ingested a lionfish, which caused a blockage in its digestive system, resulting in a long recovery. DAWR also responded to a sea turtle that was found covered in tumors. Treatment of the tumors was attempted, but the sea turtle was euthanized a few days later. Samples of the turtle's organs were sent to the USGS National Wildlife Health Center in Hawai'i. DAWR received a report of another sea turtle with tumors and staff is investigating. Regarding sea turtle nesting activity, there was a freshly hatched nest at Ipan Beach and two or three active nests at Seaplane Ramp. An inventory of nests at Jinapsan found only shell fragments. A large nesting sea turtle was captured and tagged Nov. 15, 2020, and then measurements and blood samples were taken. A satellite GPS with transponder was also deployed.

Muña-Brecht introduced DAWR's new biologist, Jude Martinez, who recently graduated from the University of Guam with a master's degree and does sea turtle research. DAWR staff is creating outreach information to inform the public about sea turtles.

Muña-Brecht also reported that DAWR issued man-o-war warnings, but have not received reports of anyone being stung by sea jellies.

Dueñas said he finds it funny the USFWS wants an assessment done on the effects of the solar lights on seabirds at the fishing platform before installation, when it is adjacent to the baseball fields nearby which have bright lights on game nights.

Rice said in the old days, buoys were put out with a structure similar to cargo nets or streamers about 60 feet underneath the buoys. It worked well with the whole ecosystem. He suggested Muña-Brecht discuss the matter with Dueñas, Ken Borja and James Borja for more information. He also suggested trying this technique on a couple of buoys and a couple without structure to see which work best.

Muña-Brecht said the FAD design being used now was the original design approved by the USFWS. She met with the Council's AP members about helping update the FAD design, including one with the structure underneath. An application with the Sport Fish Restoration Fund grant was approved, so the next step is the design of new FADs with some that may incorporate the structure. Funding is available to test different designs.

Sesepasara said that structure underneath the buoy attracts small fish and suggested Muña-Brecht reach out to the SPC, which recently held a workshop for upgrading FADs in the Pacific Islands. He said American Samoa is ordering FADs from New Zealand based on recommendations received from the SPC, which are much cheaper than if the buoys were built in American Samoa. It is great Guam has DPW to design the anchors for the buoys, but it is very important to have the structure underneath the buoys.

Dunham said he visited Hawai'i in 1996 and did a lot of free diving at night. He was surprised to see the turtles with tumors on them and wanted to know what causes the tumors and if it is safe for humans in the water. He swam and snorkeled at Waikiki Beach and saw large turtles with large tumor-like boils and wondered if it was cancer. These are not seen in American Samoa.

Muña-Brecht said skin samples were taken before the turtle was euthanized and the samples were sent to Hawai'i and DAWR is awaiting results. She said she will share the information when received.

**a) CARES Act distribution of funds**

Muña-Brecht reported that the Guam CARES Act Fisheries Spend Plan was approved in October 2020. This allowed DAWR to open the application process for one month from Nov. 1 to 30, 2020. The initial process included registration of fishers with DAWR, which ended in August 2020. The registration requirement allowed DAWR to count the number of fishers in Guam with 844 registrations received. The overall number of applications should be the same. Outreach to fishers included press releases and call-ins to the radio by Muña-Brecht. To date, DAWR received 106 applications. Because of this low number, a request was sent to the Pacific States Marine Fisheries Commission (PSMFC) to extend the deadline to Jan. 15, 2021. Approval is pending. She said she does not expect any bumps with the approval process, except it is onerous to have the request sent to PSMFC, who forwards it to NMFS, then wait to hear back from NMFS for any amendments. She expressed appreciation to Dunham for reaching out to Amani with questions regarding the spend plan and told him she had already shared the spend plan and application forms with him and to others who were interested.

Dueñas asked Muña-Brecht what happens to the remaining CARES Act funds if only 100 applicants are received.

Muña-Brecht said it depends on who submitted applications. If the fishers were commercial fishers, then the payout would have to be recalculated. There is also an option to use the remaining funds for outreach and education projects although the preference is to give as much money to fishers and is the reason for the deadline extension request. She expects to hear back from the PSMFC on the deadline extension request, then will start conducting heavier outreach to fishers. She tasked DOAg's outreach coordinator with scheduling interviews with the media. Staff will also be calling fishers to request submission of applications if registration had already been done. The registration is like a preapproval and the fishers just need to turn in the final paperwork as a last step in the process.

Sesepasara asked if there were any subsistence and cultural fishing applications received and how they are being handled. They are having problems in American Samoa with 500 applications being submitted for subsistence and cultural fishing. Sesepasara also wanted to know if fraud was experienced in the process with people who never fished.

Muña-Brecht said both are major categories in the funding process, which was designed so fishers can qualify when they first registered with DAWR and had to indicate whether they are subsistence or cultural fishers, including the type of fishing done. This allowed them to filter out those who were not fishers who could not figure out how to answer the question of what type of fishing they engage in. In total, around 27 commercial fishers and about 760 subsistence fishers registered.

#### **b) Catchit Logit App Training**

Regarding the Catchit Logit app, Muña-Brecht said fisher and vendor training was repeatedly attempted from July through October 2020, but was postponed or canceled each time since the PCOR 1 conditions were not eased to allow for social gatherings of more than two people. A Catchit Logit ER administrator was hired in mid-September and started providing training under COVID-19 conditions. Twenty-three people were trained, including three Council members, eight AP members, plus all DAWR staff, who could then provide app support to fishers who were already trained. In all, 57 fishers and two vendors have been trained to date, which she noted is a high number given the conditions under which they were operating. Outreach using social media, radio interviews and other approaches to raise awareness for fishers was conducted. To date, fishers have submitted 22 reports and vendors submitted two reports. At a recent Guam AP meeting, the Catchit Logit administrator relayed some of the challenges and stories encountered when talking to fishers about the app. Some are not familiar with technology and complain about the reason for using the app, while others are enthusiastic about learning and participating in the data collection process.

#### **c) Mandatory Licensing and Reporting**

Regarding Guam's commercial fishing regulations, Muña-Brecht said DAWR spoke to Senator Clynton Ridgell, who needs to introduce legislation to repeal at least one section of the public law that requires the Fishing Council's approval before DAWR is able to promulgate rules and regulations for fishing regulations. The Fishing Council cannot get organized because the entities named in the law that constitute the council no longer exist. Muña-Brecht said draft regulations need to be created in consultation with Council staff. These regulations were shared with the AP and Ridgell, who wanted to have community meetings on the issue. DAWR agrees—staff needs to share a consistent message and engage with the fishing community before any fishing regulations are introduced to ensure everyone feels their voice has been heard in their development.

### **3. Options for Guam Bottomfish Stock Rebuilding Plan (Initial Action)**

Sabater presented on the Guam bottomfish rebuilding plan options. On Feb. 6, 2020, PIRO notified the Council about the change of stock status and outlined the Council's obligation under MSA 304 (3) and National Standard 1 to take immediate action to end overfishing and

implement a rebuilding plan within two years of notification. The deadline to submit a plan is within 15 months of the notification. The Council must also specify several parameters to rebuild the stock in the shortest time possible, but not to exceed 10 years. The parameters the Council needs to recommend are the minimum time of rebuilding, the maximum time of rebuilding (10 years), the target time for rebuilding and the fishing mortality to rebuild the stock to achieve the  $T_{\text{target}}$ .

Sabater presented the following options: 1) No action; 2) Implement an ACL of 27,000 pounds with an in-season AM; 3) Implement an ACL of 16,299 pounds with an in-season AM; 4) Implement an ACL of 31,000 pounds with an in-season AM; 5) Establish a moratorium on bottomfishing in federal waters and 6) Implement the same measures as options 2 to 4, with additional requirements for a federal permit, reporting and a bag limit.

All of the options use data from DAWR and were summarized by WPacFIN. Under all options, federal regulations will remain the same. Each option only considers action that NMFS can take within its regulatory authority in federal waters. There are no current regulations in territorial waters to close bottomfishing or to regulate the catch from the bottomfish fishery that would be complementary to a federal closure if ACL is reached. Sabater showed a map of the EFH from zero to 400 fathoms around Guam, of which, 26% are in federal waters and the remaining 74% in territorial waters.

Under the no action alternative, the Council would not recommend measures to rebuild the stock in Guam. However, this would not be in compliance with the MSA, National Standard 1 and the Mariana Archipelago FEP. The fishery would be expected to fish similarly to recent years. There are years where the catch is higher than the ACL, such as in 2011 with 52,000 pounds, and again in 2019 with 37,000 pounds. The average recent catch from 2017 to 2019 is around 26,900 pounds.

Under option 2, the Council would recommend an ACL and an in-season AM at 27,000 pounds, with the stock expected to be rebuilt within four years. For the in-season AM, the catch would be tracked using the monthly estimates from creel surveys and if the ACL is projected to be reached, federal waters would close. The expected result of a closure would be some displacement, but fishing would still continue within territorial waters and the chance of exceeding the ACL remains. The expected impact of option 2 is that it would restrict the fishery harvest in years where it is exceeded, which would slightly constrain catch and revenue. Catch for four out of the past 10 years exceeded 27,000 pounds. In years where there is high catch, the federal closure could result in a reduction of catch of nearly 2,500 pounds, based on the 26% EFH found in federal waters. Option 2 would also promote rebuilding in a time frame that considers the needs of the fishing community.

Option 3 would set the ACL at 16,299, which is lower than the status quo. The time of rebuilding the  $T_{\text{target}}$  is three years. At this level of catch, there is only a difference of one year, compared to closing the fishery in both territorial and federal waters. Option 3 would have the same AM as option 2 and track the catch relative to the ACL. The catch would be more constrained under this alternative and the ACL will likely be exceeded 8 out of 10 years. The rebuilding timeline will be extended every time the ACL is exceeded. If catches are similar to

recent averages, the federal closure could result in a reduction of 2,300 pounds based on the bottomfish EFH.

Option 4 has a higher catch limit at 31,000 pounds and the rebuilding timeline will be six years. Based on the recent average, it is unlikely that the ACL will be exceeded. The chances of exceeding the ACL are two out of 10 years based on recent catch, which would minimize the extension of the rebuilding period. Option 4 would allow greater availability of bottomfish resources but will take two more years to rebuild, compared to option 2.

Option 5 is the two-year moratorium of bottomfishing in federal waters, which is the maximum action that the Council could recommend to address the overfished state of the Guam BMUS. Expected impact is that the catch and revenue would be restricted. Closure of federal waters would eliminate catch from offshore banks, which are utilized by highliners. Over 7,100 pounds could be conserved from closing federal waters, based on the bottomfish EFH proportion. There is also expected displacement of fishing effort from federal waters to territorial waters without the complementary closure within zero to three miles. This option would allow rebuilding in the shortest timeframe among the options, but would reduce the available resources for the local fishing community.

Option 6 adds another layer of conservation and measures, which is to have federal permit and reporting in federal waters if fishing for BMUS. This option would be overlaid with any of the options from 2 to 4. The rebuilding timeframe is still the same within those options and would add an additional administrative layer where fishermen are required to get a permit and report their catch if they catch BMUS in federal waters. There is an estimated 7,128 pounds that could be allocated amongst the fishermen. The best estimate of the number of bottomfish fishermen is 300 fishers, which would result in 24 pounds per permit holder per year. It may not be worthwhile to have this administrative layer in place if 24 pounds of bottomfish is all that can be caught. The impacts of option 6 would be the same as option 2 to 4, but the impacts of bag limits could be greater for individuals that typically harvest bottomfish in federal waters. There will be a disproportionate burden and there is no data to determine what that is.

Sabater summarized the catch limit, rebuilding timeline and likelihood of exceeding limit of each option, as well as the timeline for the action. The Council is expected to take final action in March 2021 and there is a statutory deadline of May 5, 2021, to finalize the rebuilding plan. The implementation would start in 2022 to 2023. The next scheduled stock assessment is in 2024.

Dueñas asked Sabater to confirm that with option 2 the chance of exceeding the ACL is four years out of 10 with four years to rebuilding. With option 4, the chances of exceeding the ACL is two years out of 10 and the stock will be rebuilt in six years. He also wanted to confirm that there is a scheduled stock assessment in 2024.

Sabater confirmed.

Rice wanted to know how many of the fishers that fish for bottomfish are commercial and how many fish for home consumption.

Sabater said there is a higher percentage of the commercial portion of total catch from the creel surveys that ends up in restaurants and markets, but did not have an exact number.

Watamura said that Guam's situation reminded him of American Samoa where there are small numbers of fishermen and the total catch numbers derived from creel surveys are uncertain. He hoped that the Catchit Logit app becoming more popular will lead to more data gathered. He asked what would happen if app numbers stray a lot from the creel survey numbers.

Sabater said that if the app is able to capture data from the highliners as well as the general bottomfish fishermen, then that should provide a better picture of what the real catch is rather than relying on extrapolated data. He said that the app is still in the implementation phase, but there is potential for the dataset to inform the next stock assessment and to gather real-time information of catch. If at least one year of data is collected through the app, the information can be incorporated into the next stock assessment to back-calibrate the creel survey data. The catch under the rebuilding plan action would be tracked using the monthly expansion from the creel survey, which could be problematic due to fewer catch interviews under COVID-19 restrictions. Because data is being used from the previous year, which is at 37,000 pounds, and there are a lot of participation runs that have the potential for overexpansion, it is going to inflate the numbers. A more detailed look at the situation will be done.

Watamura said he is looking forward to the outcome. Regarding the use of Catchit Logit numbers, stock assessment scientists at PIFSC have indicated that they can use the data if there is a mandatory system for reporting in place. He asked if there will be any effort to make the Catchit Logit a mandatory reporting system.

Sabater said yes and alluded to the mandatory license and reporting update provided by Muña-Brecht under the Guam agency report.

Tosatto said that there is no certainty on who or how many of the participants are entering data under a voluntary program, which adds to the uncertainty for the stock assessors. States and territories are better than the federal government in requiring permits and reporting because they can capture the entire universe based on the active landings in their state or territory under their authority. Federal reporting could be required for resources extracted in federal waters, but more difficult to require for activity taking place in state waters. He said that NMFS has many authorities in state waters, including for ESA and MMPA, but not necessarily under MSA. He said that state and territorial reporting tracks are more efficient and effective as a way forward.

Tosatto said that the rebuilding plan has to accomplish a variety of things, including rebuilding, as soon as possible. In all cases, for NMFS to approve a plan it must be designed to succeed. His current view is that a catch level of 31,000 pounds is likely to provide a greater chance of success in that while some time might be added, there will be a lower risk of when the federal portion is closed. The flaw in the options presented is that there is no postseason AM to subtract any catch that exceeds 31,000 pounds from the following year to account for the catch that occurs in territorial waters before and after the federal portion is met. Without that postseason AM, there is a risk the plan would never succeed and stock rebuilding will not



happen in six years. He said that a case for 31,000 pounds could be made if there is a postseason AM.

Muña-Brecht said she was trying to understand differentiating between fish captured in federal waters versus territorial waters and if there would be a mechanism to track whether the information is accurate. She asked if a limit is to be imposed in territorial waters based on whether ACL has been exceeded, if that could be considered federal overreach.

Tosatto said NMFS could stop fishing within the U.S. EEZ, but not in territorial waters. While an ACL can be specified for the entire fisheries for FMP planning purposes, in many cases NMFS does cooperate with the state and territories in their management, like is done in Hawai'i for the deep-seven bottomfish fishery. He said that there is no federal overreach because the federal authority would not allow it.

Sabater said if the Council decides that the federal portion would be the trigger for the AM to kick in, the creel survey would be the mechanism to monitor the catch, which suffers the same limitations as with American Samoa where the federal portion of the catches cannot be attributed and tracked. What the Council can also do is similar to Hawai'i where there is one ACL for both areas and track the total catch, regardless of whether it is caught in territorial or federal waters. Once 31,000 pounds is projected to be reached, then only the federal portion would close. There would be some displacement, but given the historical fishery performance of a 20% chance of hitting that number, it is less likely that situation will occur, although there is acknowledgement that it could happen.

#### **4. Report on the Compact of Free Association Renegotiation**

Felix Reyes, Council staff, reported on the status of the COFA renegotiations between the United States, Republic of the Marshall Islands, Republic of Palau and the FSM, which is scheduled to conclude at the end of 2020. He said that the renegotiation seems to be coming along well, except for the Republic of Palau, which just had an election for president and delayed their negotiations proceedings. COFA expires in 2023. The governor of Guam requested a seat at the negotiations table, but the request was denied because the renegotiations are between countries and Guam is a part of the United States. Congressman Michael San Nicolas had expressed interest in following the renegotiations and said he would step in once he was reelected in November 2020. Reyes said the reason for following the COFA renegotiations is the interest in whether Guam can be designated as a clearing house for commercial tuna transshipment, marine activities, marine education, marine capacity building and marketing for the region since Guam is the closest U.S. territory with good connectivity and direct ties to Taiwan, Japan, South Korea, China, Philippines, Hawai'i and elsewhere.

#### **B. CNMI**

##### **1. Arongol Falú**

Gourley reported that the current administration of CNMI is doing a great job in controlling the spread of COVID-19. The implementation of the visitor quarantine program has resulted in 106 days without community infection and a current community vulnerability level of

blue, which is one step above green. The Centers for Disease Control and Prevention has downgraded the risk level of the CNMI from 2 to 1. The CNMI is on the list of territories that received the initial allocation of vaccines, which will be given to the first responders.

Gov. Ralph DLG. Torres sent a letter to the Hawai'i governor Nov. 2, 2020, asking that the CNMI become a trusted testing and travel partner under the Hawai'i Safe Travels program. This will allow people from Hawai'i to come into the CNMI with the hopes of increasing travel. Visitors from Hawai'i will still need to undergo quarantine upon entering, but they may not necessarily be subject to the 14-day quarantine period upon returning to Hawai'i. Currently, a shortened curfew is in place from 2 to 4 a.m. Overall fish sales have been dwindling, with sales of fresh fish coming from the local population and restaurants with local customers. Due to the tourist industry currently being affected, the only thing keeping the economy going is the federal relief funds. This allows the CNMI to work on its infrastructure and building safety improvements. The money coming in is also helping the CNMI with its harbors.

Gourley reported that the governor and the lieutenant governor have been presented with potential names to fill the seats on the Marianas Trench Monument Advisory Council (MTMAC). They are currently reviewing the names and will submit them to the USFWS and NMFS for review. The draft Management Plan is coming out, however, the CNMI is asking if it can be delayed until the MTMAC is fully operational.

## **2. Department of Lands and Natural Resources/Division of Fish and Wildlife Report**

Tenorio presented the Division of Fish and Wildlife (DFW) Report. While adhering to COVID-19 restrictions, DFW has continued with their responsibilities.

Tenorio reported on activities of the Fisheries Data Section, which include the shore-based creel survey, boat-based creel survey and the Commercial Purchase Data System. The shore-based creel surveys are being performed as scheduled with adjustments to comply with COVID-19 restrictions. Surveys scheduled from midnight to 6 a.m. were postponed, but are now moving forward with the new schedule of midnight to 2 a.m. and 4 a.m. to 6 a.m. DFW conducted 20 shore-based creel interviews between September and November 2020, of which, 17 were hook-and-line fishing, two were case net and one was spearfishing. DFW conducted 146 boat-based creel surveys as scheduled between January and November 2020, of which, 105 were trolling, 34 were bottomfishing and 7 were spearfishing.

For the Commercial Purchase Data System, DFW collected receipts from participating vendors, hotels and restaurants through October 2020, with data entered through July. During June and July 2020, respectively, an estimated 1,171 and 3,071 pounds of bottomfish were recorded, 2,008 and 6,091 pounds of reef fish were recorded and 10,319 and 11,730 pounds of pelagic fish were recorded.

The Fisheries Data Section is understaffed and DFW is working through the selection process to fill the data section manager position. The data section is also being assisted by Fisheries Research Section staffs who are serving as acting managers for the section. DFW advertised for fisheries data technicians, a data specialist and a data officer.

Tenorio reported that progress has been slow over the past three months on the rulemaking and legislation for the mandatory catch recording and reporting. A Mandatory Catch Reporting Working Group was established to work with fisheries stakeholders to implement the Mandatory Catch Reporting System. The first meeting was held in August 2020. Outreach was performed by Fisheries Data Section staff and DFW Protection and Enforcement to inform businesses about the reporting law. A printer for the commercial fishing license was purchased and is with the DFW director. A permit application for commercial fishermen and vendors was drafted and is pending review and approval. The CNMI purchase reporting form was updated to reflect items required by law. A Fisherman's Reporting Logbook was developed and is currently pending review by the project manager.

Under the Protection and Enforcement Program, Tenorio reported that water patrols are being conducted, as well as visits to seafood vendors. The CNMI currently has a total of 14 active federal bottomfishing permits within its waters. Under the FAD program, there are about 11 devices currently deployed, including the Tinian community FAD. Plans are in development to conduct maintenance work within the next few months to service the FADs around Rota.

The Sea Turtle Program continues to conduct media and in-person outreach efforts as well as school visits, including outside field visits and communication via the internet. No poaching or stranding reports were made during this period. For coral restoration work, DFW has secured a grant to fund the development of a Saipan Western Lagoon Coral Reef Fishery Ecosystem Management Plan. There is work also being done alongside the CNMI Division of Coastal Resource Management to establish a coral culture facility within the lagoon.

Under the Boating Access Program for the Saipan marina and docks, DFW has received a Public Assistance Notice of Award to repair damages to the Smiling Cove Marina caused by the previous years' storms. DFW also received a Public Assistance Notice of Award for the replacement of the Tinian Marina. The Rota West Harbor Marina Rehabilitation Project scope of work and project specifications have been finalized. The project invitation for bid announcement should be out by now.

Recent activities under the tagging study included recapturing a tagged *Naso unicornis* in September 2020 off Micro Beach, which is one of the tagging effort sites. The fish was recaptured in October 2020 in close proximity to the location it was originally released. The fish grew 5.4 centimeters after being released. Another tagged fish that was recaptured in November 2020 outside of Mañagaha Island swimming area was tagged in August 2020 at roughly the same location. The size of this mature-sized fish did not change over those three months.

Gourley provided an update on the CNMI Biosampling Program, including challenges with collecting samples due to rough weather. There have been innovative attempts to get samples for PIFSC, including the purchase of a complete bottomfish. All six crew members were deployed in securing a sample. There was an outreach training done for the new contractors in the Guam Biosampling Program. The contractors worked with the CNMI biosampling team for three and a half days and were sent back to Guam with enough supplies to start collecting samples.

Watamura asked about the large jump in catch percentage during June and July for the bottomfish and reef fish catches.

Tenorio speculated that the change was due to the improvements with the weather that allowed more fishers to go out and fish.

Gourley added that the COVID-19 restrictions may have also played a role in the disparity with the catch figures.

**a) CARES Act distribution of funds**

Tenorio reported that the CNMI Administration, in coordination with DFW and the CNMI CARES Act Task Force Working Group, successfully completed the spend plan Nov. 10, 2020, and obtained approval from the PSMFC. On Nov. 12, 2020, the CNMI task force and the CNMI grants office reviewed the spend plan and officially handed over the CARES Act project to the CNMI grants office for outreach and the application acceptance period. The grants office initiated public announcements and conducted a few outreach events to date and applications have been coming in.

**b) Catchit Logit App Training**

Floyd Masga, Council staff, reported on Catchit Logit app activities since September 2020. Several training sessions for agencies, the fishing community and seafood vendors were conducted at various locations including the Saipan Council office. Fifty-six individuals have been trained. To date, fishers have reported data for 7,810 pounds of fish caught. Vendors have reported 96 sales, with the majority of the fish caught being sold, according to the data.

**C. Advisory Group Reports and Recommendations**

**1. Advisory Panel**

Richard Farrell, CNMI AP vice chair, presented the report and recommendations.

*Regarding the Guam bottomfish rebuilding plan*, the Guam AP recommended option 2, which would implement a 27,000-pound ACL and a rebuilding timeframe of four years. This would be similar to what was already recommended and provide a shorter rebuilding time for the fishery.

The Guam AP recommended the Council direct outreach efforts in Guam toward the importance of fishery data in order to get buy-in from the fishing community.

The CNMI AP was concerned with Guam fishermen fishing in the U.S. EEZ near Rota and data being allocated to Guam's fishery. The AP recommended the Council relay to NMFS PIFSC the concerns of bottomfish fishing at Rota Banks to correctly allocate fishing catch and effort in the next stock assessment.

**2. Scientific and Statistical Committee**

Hospital presented the SSC report and recommendations.

*Regarding the Guam bottomfish rebuilding plan*, the SSC supported either option 2 (ACL of 27,000 pounds, rebuild in four years) or option 4 (ACL of 31,000 pounds, rebuild in six years). Both options mitigate short-term impacts to the fishery by allowing moderate levels of take while still achieving the objective of rebuilding the stock within  $T_{max}$ .

#### **D. Public Comment**

Jones provided public comment on the Catchit Logit app to temper expectations on the use of its data. The stock assessment will be improved through a multi-faceted approach that includes creel surveys, a review of the expansion, fishery-independent surveys, availability of data through BRUVS, bottomfish complex grouping, length-based assessments, single-species assessments and surplus production models. The Catchit Logit app data will be evaluated but its utility is uncertain.

Jones said he heard Muña-Brecht mention that there are around 300 registered bottomfishers and nearly 400 trailers and fishers in their participation surveys, but only 23 trained on the app. For American Samoa, Ochavillo reported one Catchit Logit user to date. A year's worth of Catchit Logit data is needed to match up the data with the creel survey. Catchit Logit will need to run in parallel with creel surveys so that it can be used as a tool to validate and calibrate creel surveys. The future could be self-reporting if mandatory licensing and reporting is in place to ensure consistent data reporting. Jones encouraged the territorial agencies to meet with the PIFSC Stock Assessment Team to discuss.

Soliai said he appreciates the sensitivity of the fishers and the territories, as well as the work PIFSC is trying to do. He expressed encouragement for all parties to work offline to try and come up with a solution.

M. Dueñas provided public comment saying he is baffled how PIFSC has come up with the overfished and overfishing determination. M. Dueñas has been directly involved in the fisheries for 27 years and does not see signs of the fisheries being overfished and overfishing occurring. The region is based on fishing communities and not industrialized fishing. He invited the PIFSC scientists to come back to Guam after the pandemic is over to explain the status determination because this would affect the fishing community.

M. Dueñas said that PIFSC scientists did not use 40 years of information from the Guam Fishermen's Co-op, nor the life history information that the Co-op has been collecting for 10 years from every fish received. M. Dueñas expressed his concerns with the creel survey data, saying that the DAWR information and data are wrong. M. Dueñas said that he has a document on file that states the fisheries caught 20,000 pounds of red gill emperor over a period of three months during the roughest time of the year.

M. Dueñas said that lumping more than 100 species of bottomfish together does not work—the plan team should understand the dynamics and biology of every species and the fishermen should be part of the discussion. Two samples of lehi and opakapaka that recently

came in from the PIFSC Life History Program were of smaller size fish that were in reproductive stages. His observation is that small fish exhibit schooling behavior, which makes them more productive than larger fish that are normally isolated. M. Dueñas also said that lumping the bottomfish species does not work because there are three complexes in Guam's waters (shallow, mid and deep-water bottomfish).

M. Dueñas said that the onaga program was taken away from the University of Guam and put back with PIFSC, and he speculated it was due to confidentiality in information where the project showed the fish grow twice as fast compared to the fish in the Great Barrier Reef. He asked why this information is being hidden. He claimed that the manager of the PIFSC's Life History Program is a failure. He apologized to the Council for pressing on this issue because nobody talked to the fishermen and said the Council is making a decision without doing fact finding first. M. Dueñas said he reviewed the ACLs under consideration and said if the ACL was exceeded four times that indicates that the ACL is wrong, and therefore the ACL should have been reexamined. He said that the AMs would not work unless there is enforcement at the dock.

M. Dueñas touched on several other issues, including EFH, PCB contamination, creating more limits from the coral reef initiatives, compact impact agreement, the Shark Conservation Act and the military firing range. He also noted that the Catchit Logit app is a challenge for older fishermen who represent a significant portion of the fishing community. M. Dueñas said that when he was on the Council, he asked NMFS to include two Guam representatives on the MTMAC, but the U.S. government gave away the deepest part of the trench that used to belong to the U.S. EEZ around Guam to the FSM.

Simonds said that M. Dueñas made a lot of good comments and these comments are going to be summarized and sent to PIFSC.

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

*Regarding the Guam bottomfish rebuilding plan, the Council selected option 4 that allows for an ACL of 31,000 pounds corresponding to 36-40% risk of overfishing and decreasing risk thereafter and allows the BMUS stock to rebuild in six years ( $T_{\text{target}}$ ) as the preliminary preferred alternative. The  $T_{\text{min}}$  is two years, target is six years, and  $T_{\text{max}}$  is 10 years pursuant to implementing regulations at 50 CFR 600.310(j)(3)(b)(1). Taking into account the factors in 50 CFR 600.310(j)(3), the Council selected a target time for rebuilding ( $T_{\text{target}}$ ) of six years because this level of catch and rebuilding timeframe allow the stock to rebuild to  $B_{\text{MSY}}$  and meet the commercial and subsistence needs of the bottomfish fishing community. The Council acknowledged that this option has a two out of 10 chance of exceeding that level of catch, which has the least chance of extending the rebuilding timeline.*

Moved by Dueñas; seconded by Gourley.  
Motion passed.

*Regarding the Guam bottomfish rebuilding plan, an in-season AM would be applied that would track catch of bottomfish in both federal and territorial waters against the*

**ACL. If the ACL is projected to be reached, then bottomfishing will be prohibited in federal waters.**

**Because there is still a chance of exceeding the ACL due to the ability for fishermen to continue to fish in territorial waters, a postseason AM would be applied to correct the overage, if it occurs. At the end of the fishing year, a three-year average will be used to compare the annual catch to the ACL and if the average exceeds the ACL, a postseason adjustment will be applied reducing the ACL by the amount of overage in the following fishing year.**

**The Council directed staff to work with the action team to further analyze the impacts and prepare a FEP amendment with EA and present the information at the 185th meeting in March 2021.**

*Moved by Dueñas; seconded by Gourley.*

*Motion passed.*

*Regarding Mariana Archipelago bottomfish issues, the Council requested PIFSC ensure that the next stock assessment correctly accounts for the catch and effort of Guam fishermen fishing in the U.S. EEZ around the CNMI.*

**The Council directed staff to conduct outreach efforts in Guam toward the importance of fishery data in order to get buy-in from the fishing community.**

**The Council directed staff to convene a meeting with PIFSC and CNMI representatives to review the BMUS complex to reflect the bottomfish fishery.**

*Moved by Gourley; seconded by Dueñas.*

*Motion passed.*

## **XI. Program Planning and Research**

### **A. National Legislative Report**

Gourley provided an update on the national legislation. Congressman Raul Grijalva of Arizona introduced a new House of Representatives bill 8632 titled the Ocean-Based Climate Solutions Act of 2020. It is a comprehensive bill that aims to reduce carbon emissions, make coastal communities more resilient and provide for the conservation and restoration of ocean and coastal habitats, biodiversity and marine mammal and fish populations. The House Natural Resources Committee conducted a remote legislation hearing for this bill Nov. 17, 2020, and SSC member Ray Hilborn was invited to testify. This bill will be reintroduced when the new Congressional session starts in January 2021. The Council received a letter dated Nov. 18, 2020, from Congressman Ed Case of Hawai'i asking for comments related to ocean issues, particularly on the 30x30 initiative included in H.R.8632. Gourley noted that it is important to provide comments as the bill has the potential to negatively affect the fisheries and coastal communities.

Legislation to reauthorize the MSA has been on the back burner. Congressman Jarad Huffman of California held a number of the roundtable hearings across the United States, with one in the Gulf of Mexico remaining. Gourley noted that both bills will likely gain traction in 2021 with a democratic majority in the House.

Simonds said that the Grijalva bill is a huge piece of legislation with some useful elements. In addition to the statement by Hilborn, several letters from the fishing industry and scientists were sent to the committee chair and the ranking minority. The big concern is removing anything from the MSA that has to do with management. The legislation is supporting the 30x30 initiative, and Simonds said those issues should be taken up under MSA and not under other legislation. Simonds asked that the Council members review the letters. Simonds said that in Hawai‘i, 51% of the area is already closed to fishing so the 30x30 will not be effective. For the rest of the country, areas closed to fishing are less than 1%. The big concern is making sure that the decisions are made under the MSA.

## **B. Update on Interagency U.S. Seafood Trade Task Force**

Fitchett reported that the U.S. Seafood Trade Task Force was scheduled to convene after the elections and develop a plan, but that has been delayed. No further report was available.

Watamura said he would like to see many of the seafood inequities addressed, noting that 80% of U.S. seafood is imported and frozen and gassed tuna are being labeled with Hawaiian names when they were not caught in Hawai‘i.

Gourley asked if the next administration is expected to support the U.S. Seafood Trade Task Force.

Fitchett said that this initiative is expected to continue regardless of the U.S. administration.

## **C. Electronic Technologies Implementation Plan**

Bigelow, PIFSC, provided an update on the Electronic Technologies Implementation Plan (ETIP), which was developed with PIRO staff. The plan is a five-year plan for 2020-2024 and establishes a regional vision for ER and EM. The plan is due early 2021. PIFSC provided the Council a draft in September 2020 and the Council provided comments two months after. The drafting team is incorporating the comments and will provide the Council with a revised draft. The original deadline was Feb. 1, 2021 and got moved to March 26, 2021, to give the regions additional time to complete the plans.

Bigelow described the six priorities in the ETIP. First is the implementation of the ER in the Hawai‘i and American Samoa-based longline fishery. Second is the continued development of the EM in the Hawai‘i longline fishery. Third is the collaboration with the PIROP and WPacFIN network. Fourth is better coordination with the highly migratory species professional specialist to improve the quota management in the IATTC. Fifth is the Catchit Logit application in the territories. The last is the mandatory reporting in the purse-seine fishery.



Bigelow provided the current status of electronic technologies in the region. For the Hawai'i longline fishery ER, 65 vessels are currently voluntarily using the tablets, five captains returned the tablets and 40 tablets are ready for deployment. The Council took final action in September 2020 to require mandatory ER submission by July 1, 2021. The funds are provided solely by NOAA through PIFSC and OLE is covering the data transmission. The Catchit Logit is aimed at gathering better data in the territories. Currently the funding is through the Council and additional funding was secured through a Fisheries Information System grant. For EM in the Hawai'i longline fishery, 17 vessels have systems that were previously outfitted and there are 20 new systems to replace the old ones. The cameras have a three to four year longevity.

A policy directive issued in May 2019 indicated that no electronic technology-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 regulation. Furthermore, funding of fishery-dependent data collection programs is expected to consider the entire range of funding authorities available under federal law, including those that allow collection of funds from industry. NMFS will work with the councils and stakeholders to develop a plan that transitions certain costs to the industry when allocation of monitoring costs between the agency and industry is deemed appropriate and approved under applicable law and regulations.

Bigelow presented the cost estimate for implementing EM in the Hawai'i longline fishery, assuming that 25% of longline sets are reviewed. There were two costs that were identified. First is the administrative cost covered by the agency estimated at an annual cost of \$450,000. The larger cost is the sampling cost borne by the agency and the industry, which is estimated at \$1.9 million. Much of the cost is for equipment purchase and video processing.

#### **D. Status of Pacific Islands Marine Monuments**

Peck reported that the management plan for the MTMNM is close to being released for public comment.

Gourley asked if USFWS or NOAA will be the lead in releasing the plan for public comment.

Peck said the plan was developed jointly.

Tosatto said the lead is the Department of the Interior and USFWS. The publication for the notice will be done by NOAA because the agency is the administrative lead to get the plan out the door. Addressing public comments will be a joint USFWS and NOAA effort.

Gourley asked if the public comment period can be delayed until the MTMAC is fully active.

Tosatto said that he does not think that the reconstitution of the MTMAC will be timely since it relies on departmental decisions, particularly at this stage of the administration. Tosatto added that the region has been trying for many years to change the process by which the MTMAC membership is established so that the decision-making is delegated to the region and

that the USFWS administrator in this region is the one making that decision rather than the USFWS director at the national level.

Gourley asked about the review period timeline for the draft management plan.

Tosatto said that in their staff planning efforts they would have identified the timeline and proscribed a public comment period. He said there was likely a planning document, but still likely internal at this time.

Gourley asked if Tosatto could provide the Council with a copy of the planning schedule.

Tosatto said he could likely provide an outline to the Council on the planning horizon but not give the internal planning document.

## **E. Regional Communications and Outreach Report**

Amy Vandehey, Council staff, reported on the various outreach activities conducted by the Council. The Council published the *NWHI Lobster Fishery* monograph that looks at the history of the lobster fishery, *2019 Status of the Fisheries in the Western Pacific Region* report that summarizes the annual Stock Assessment and Fishery Evaluation reports, and the quarterly *Pacific Islands Fishery News* newsletter that includes the tori line project, uku catch limits, offshore energy project and accomplishments in the past year. Council staff and AP members developed the 2021 regional lunar calendars. The Council also published articles in the *Hawai'i Fishing News* about the assessments of bigeye and yellowfin tuna, updates from the September Council meeting and efforts by the Council to address marine debris. Press releases were published for the September SSC and Council meetings as well as the CCC meeting hosted by the Council.

Regarding the scholarship program, the Council had one intern in the summer, Maria Angela Delacruz. She worked with Tim Grabowski at UH Hilo on an otolith project. She will graduate in the next couple of weeks and return to CNMI for her fellowship with DFW.

A second PSA was completed about the Catchit Logit app featuring Gourley, Masga and Tenorio as voice talents. The PSA will be aired on TV. An update to the SFF projects was provided including the bottomfish training. The Council continues to sponsor the Go Fish! radio show with Mike Buck and the recorded sessions are uploaded to the radio station and Council websites.

Watamura asked if the Council has any plans to do more outreach focusing on school-age students.

Vandehey said that this can be discussed at the year-end planning of Council staff. Outreach to children is done during the tournaments. She also said that they are considering moving the high school summer course modules online.

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

### **1. Advisory Panel**

There were no AP recommendations regarding program planning.

### **2. Non-Commercial Fisheries Advisory Committee**

There were no Non-Commercial Fisheries Advisory Committee recommendations regarding program planning.

### **3. Fishing Industry Advisory Committee**

Michael Goto presented the Fishing Industry Advisory Committee (FIAC) report and recommendations. He said that the committee was reinvigorated with new members. The FIAC met virtually Oct. 28, 2020, and had a good discussion between the seafood sectors to begin to understand what the fisheries are about in the region. There were exchanges of ideas and experiences on various fishery topics.

The following were the FIAC recommendations:

*Regarding Pacific Islands fishing and seafood promotion*, the FIAC reiterated the point that U.S. commercial fisheries managed through the MSA and Council process are accountable and sustainable. Therefore, the FIAC requested the Council support a Pacific Islands region-wide seafood promotion program highlighting the facts that Pacific Islands fisheries and seafood are:

- 1) local, wild caught and fresh, frozen and value-added seafood;
- 2) sustainably managed under the MSA and the Council;
- 3) environmentally responsible; and
- 4) safe, wholesome and healthy.

*Regarding vessel safety during extreme weather events*, the FIAC requested the Council engage the USCG and the State of Hawai‘i Harbors Division to review existing policies on allowing longline vessels under 250 gross tons to shelter in place during tropical storms and hurricanes.

*Regarding harbor management and maintenance*, the FIAC requested the Council engage the USFWS, State of Hawai‘i and Territories to revisit policies governing the spending authority of the Sportfish Restoration Funds and how it can be better used to support harbor/marina improvements of both the charter and noncommercial fisheries.

*Regarding FADs*, the FIAC recommended the Council explore options to improve public FAD construction to maximize the use of environmentally responsible materials that will also extend the time at which FADs remain on station.

*Regarding the Marine Fisheries Advisory Committee*, the FIAC recommended the Council strongly urge NMFS to include an industry representative from the Pacific Islands region on the national committee to ensure the issues and perspectives from the Pacific Islands are fully represented.

*Regarding protected species*, the FIAC requested a presentation on the status of the Mariana Archipelago green sea turtle population and work being done to recover the species be provided by NMFS at its next meeting.

Soliai asked why the second recommendation was only for Hawai‘i harbors and did not include the American Samoa harbor.

Goto said that he is not familiar with the policies for the Territories regarding port evacuation during natural disasters. It is mainly an issue for Hawai‘i and asked Soliai to provide information on the American Samoa protocol regarding port evacuations in order to consider a Council-wide recommendation.

Soliai said that he would work with DMWR to get the information.

Watamura commended the work of the committee and said the first recommendation about seafood promotion is a step toward addressing the mislabeling at the point of consumer contact and in restaurants.

Tosatto said the word seafood is important to NMFS and it was historically difficult for NMFS to engage on the topic of seafood. NMFS talks about fisheries but struggles to translate it to seafood as a commodity that needs to be promoted for its commerce. Tosatto supports the first recommendation in spirit, but it would be challenging within NMFS. It would be good to link it under the Council’s mandate. The Saltonstall-Kennedy grants program can be used to support the activities. A good and coordinated approach is needed. Tosatto said that a nuance in the recommendation is wild caught and at least in the Pacific Islands region, aquaculture is considered fishing as well.

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

There were no SSC recommendations regarding program planning.

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

There were no public comments.

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

*Regarding the ETIP*, the Council **directed staff to work with NMFS to incorporate the ETIP with the region’s strategic planning and to establish goals for incorporating electronic technologies into fisheries monitoring.**

Moved by Gourley; seconded by Dueñas.  
Motion passed.

*Regarding the FIAC recommendations*, the Council **directed staff to send a letter to the NMFS assistant administrator reiterating the point that U.S. commercial fisheries managed through the MSA and Council process are accountable and sustainable and that**

**NMFS support a Pacific Islands region-wide seafood promotion program highlighting Pacific Islands fisheries and seafood as:**

- a. Domestic, wild caught and fresh, frozen and value-added sustainable seafood;**
- b. Environmentally responsible and accountable; and**
- c. Safe, wholesome and healthy.**

*Moved by Rice; seconded by Dueñas.*

*Motion passed.*

*Regarding the FIAC recommendations, the Council directed staff to send a letter to NMFS requesting that an industry representative from the Pacific Islands region be included on the Marine Fisheries Advisory Committee to ensure the issues and perspectives from the Pacific Islands are fully represented.*

*Moved by Dueñas; seconded by Rice.*

*Motion passed.*

*Regarding the FIAC recommendations, the Council requested NMFS provide a briefing to the FIAC at its next meeting on the status of the green sea turtle population in the Mariana Archipelago and the work being done to recover the species.*

*Moved by Dueñas; seconded by Rice.*

*Motion passed.*

*Regarding the FIAC recommendations, the Council directed staff to send letters to the USCG and the State of Hawai'i Harbors Division to work with the Hawai'i longline industry to review existing policies that will allow longline vessels under 250 gross tons to shelter in place during tropical storms and hurricanes.*

*Moved by Rice; seconded by Dueñas.*

*Motion passed.*

*Regarding the FIAC recommendations, the Council directed staff to work with the USFWS and local fishery agencies to review policies governing the spending authority of the Sportfish Restoration Funds and how it can be better used to support harbor/marina maintenance and improvements for charter and noncommercial fisheries.*

*Moved by Rice; seconded by Dueñas.*

*Motion passed.*

*Regarding the FIAC recommendations, the Council directed staff to work with local fishery agencies to explore options to improve public FAD construction to maximize the use of environmentally responsible materials that may also extend the time at which FADs remain on station.*

Moved by Rice; seconded by Dueñas.  
Motion passed.

**Regarding the MTMNM, the Council recommended NMFS and USFWS delay the release of the MTMNM Management Plan until the MTMAC is seated and provides a review.**

Moved by Rice; seconded by Dueñas.  
Motion passed.

**Regarding Legislation, the Council directed staff to respond to Congressman Case’s request for input on how to support communities and meet mutual goals regarding ocean legislation in coordination with NOAA GC.**

Onaga said that in light of the lobbying restrictions and given that the letter does cover a number of different areas, she recommends amending the language by adding the phrase, “in coordination with NOAA GC.”

Simonds said when the letter came in, she sent it to Tucher so the process is documented as agreed upon several years ago. Tucher advised that, if the Council wants to respond, a draft be sent to NOAA GC for review to ensure that the Council follows the directive on lobbying.

Onaga confirmed that that process took place and adding the phrase will make it clear and ensure that the process is followed.

Simonds said she does not have a problem adding the language.

The change was approved by general consent.

Moved by Rice; seconded by Gourley.  
Motion passed.

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

### **A. Moku Pepa**

Watamura reported that O‘ahu was in Tier 2 of a four-tier system of the COVID-19 reopening strategy and Hawai‘i has the lowest per capita rate of infection of all the states in the nation, which he attributed to the aloha spirit. The economy will continue to struggle even as tourism opens back up, but he said the great news on the horizon is the vaccine development.

On Oct. 27, 2020, Watamura chaired a ground-breaking meeting that included the Council, PIRO, PIFSC and the State of Hawai‘i, to initiate collaboration between all of the agencies to better manage our fisheries. The example set by the most recent deep-seven bottomfish assessment showed that a collaborative effort is key to scientific-based management. He said he looks forward to similar collaborative efforts to manage uku, Kona crab, deep-water

shrimp, precious corals and other ecosystem component species. The goal is to have enforceable, science-based, aligned management regulations and the inclusion of reliable noncommercial fishing data.

The Lokahi app team, which includes founder Jim Hori, Tam, Dean Sensui and Watamura, is expanding their virtual fishing tournament to bottomfishing, shoreline fishing, shallow-bottom fishing and most recently starting up an uku tournament with the goal of collecting reliable noncommercial data.

Watamura said that during the current bottomfish fishing season, good fishers have been able to catch onaga and ehu despite the ongoing issues with shark predation, the growing prevalence of kahala and snake mackerel biting off entire rigs. He also said that the Hawai'i Kai boat ramp will once again be in full operation after almost three years, which is good news for bottomfish fishers as the ramp is the closest access to Penguin Bank. The estimated completion date is mid-December.

The Hawai'i Fishers Feeding Families Facebook site reports that from April 15 to Dec. 1, 2020, fishers have posted about 11,274 pounds of fish that have helped to feed 11,783 people during the pandemic. While these reports represent a snapshot, Watamura said it tells a powerful story of the noncommercial fishers helping to feed the people of Hawai'i and helping the economy. He said by island, the numbers worked out to be: Hawai'i, 3,018 pounds, 10,059 people fed; Kaua'i, 549 pounds, 169 people fed; Lana'i, 23 pounds, 13 people fed; Maui, 408 pounds, 275 people fed; Molokai, 607 pounds, 559 people fed; and O'ahu, 5,976 pounds, 9,531 people fed.

Rice reported that this has been a trying year for the fishing communities and the charter industry has taken a major hit with the lack of tourism and increased regulations. The slow increase in tourism has increased operations in the fishery but those that are owner-operators are hanging on by a thread and would not survive if there is another shutdown. At least half of Kaua'i's charter boats are owner-operators, and with Kaua'i going back to the 14-day quarantine, at least two captains have gone out of business and moved to the mainland because they cannot make a living in Hawai'i. On the Big Island, about 50% of the boats are owner-operators and 10 have already gone out of business. There are also a lot of owner-operators on O'ahu and Maui. The recreational fishery has been able to fish but money is tight to pay for bait, gas and ice. The small-boat commercial fishery has been able to supply the markets and now that some of the hotels are starting to open, the price of fish has gone up, which is a positive note for the fishery.

Rice said the CARES Act has helped a little, but with two large sectors in the commercial industry, a \$100 million industry in longline and the charter fishery that is a \$50-\$60 million industry, it is difficult to justify Hawai'i having only \$4.2 million to spread out between the two along with the small-boat fishery. It helps, but it is not helping enough. He said the state needs to open up the charter industry to be able to survive, though the ones that are more likely to survive are the ones that have absentee owners and the owner-operators are the ones that will disappear.

Neilson commended and thanked Watamura for his leadership in brining partners together for the October 2020 meeting to address how to improve data collection in Hawai'i through new technology and partnerships. He said they were invigorated by the meeting and look

forward to follow-up steps of how everyone can work together to do a better job of collecting noncommercial data.

## **B. Department of Land and Natural Resources/Division of Aquatic Resources Report**

Neilson reported that Hawai'i Division of Aquatic Resources (HDAR) is continuing to adapt to the COVID-19 situation with much of the staff still teleworking. HDAR is finding ways to continue field operations, which include Hawai'i Marine Recreational Fishing Survey staff, and have had to adapt protocols for social distancing, while continuing creel surveys throughout the state.

He said another major impact to HDAR since the last Council meeting is the retirement of Reginald Kokubun, lead database manager and head of the licensing division. Kokubun did the work of three to four people, which left a huge gap that HDAR is still trying to fill. Fortunately, HDAR staff has stepped up to take on some of those duties and relatively new hire Jason Helyer has taken on a lot of the data duties. Kokubun's and other retirements, coupled with a complete hiring freeze related to the COVID-19 economic situation, has created a perfect storm, but Neilson said that it has been great to see people come to help out, including NOAA partners.

Bryan Ishida, HDAR, presented the State of Hawai'i Island Report covering the reporting period of September through October 2020. He said that in the first two months of the 2020-21 deep-seven bottomfish season, 153 licensed fishers made 464 fishing trips and caught 33,391 pounds for combined deep-seven species. Onaga was the main species caught, which is somewhat unusual, but he said HDAR is looking forward to seeing what the holiday peak demand will bring. The Kona crab season had only 12 licensed fishers that made 45 trips and caught 2,464 pounds. The fishery continues to show slow improved catch over the past several years, but still remains below historic averages. HDAR is optimistic that the pending removal of the restriction of female take would provide better opportunities for commercial and recreational fishers. However, without the return of past, or the emergence of new Kona crab highliners or specialists, Ishida said the state may not see the fishery return or rebound to past levels of take any time soon. HDAR continued sampling Kona crab in nearshore waters around O'ahu in September 2020 to determine if spawning activity continues past the closed season as fishers have noted. If female take was to be allowed, he said HDAR would look at potentially extending the seasonal closure to include September if the sampling and other data collection suggest this is the case.

The uku fishery had 215 licensed fishers that made 739 trips and caught 37,211 pounds as of Oct. 31, 2020. The landings and value of uku catch in 2020 was below the values of the past two years and, while there were declining trends before COVID-19, the decline in 2020 could be attributed to COVID-19. On a species-by-species level, looking at the main drivers of Hawai'i's pelagic and bottomfishing industries or fisheries, many of the species similarly exhibited a decreased catch in 2020. Ishida said that the trends probably cannot be entirely attributed to COVID-19, but given its impact on the greater Hawai'i economy it is likely to be a primary cause. He noted that the magnitude of the decreases in 2020 varies between the species. For species like opah, mahimahi and uku, there were decreases of 50% or more in 2020. Other



species like bigeye tuna and opakapaka decreased 10% or less. This is likely due in part to the differences that COVID-19 had on different types of markets, such as the tourism-based markets, local consumption, home consumption and open markets.

There were 2,670 commercial marine licenses (CMLs) issued, renewed or a duplicate issued for a total revenue of \$265,230 in 2020. Ishida said that HDAR has not seen long-term declines in the number of CMLs requested but in 2020 saw what appears to be an impact potentially due to COVID-19. Data from the CML numbers issued by month for 2018-2020 showed that CMLs issued dropped in March 2020, which coincided with the first major lockdowns of Hawai'i. The number of CMLs issued in September and October increased even higher than previous years. He said that it is hard to tell exactly what that is attributed to, but that does coincide with the tourism industry starting to come back, as well as some of the restrictions lifting statewide.

During this reporting period, one conservation and management access permit for the Papahānaumokuākea Marine National Monument was awaiting approval by the Board of Land and Natural Resources and one research access permit was granted. Ishida said that there are six different types of permits issued, research, conservation and management, special ocean use, native Hawaiian practices, education and recreation. Since the monument was created, 435 have been issued and 222 of them, or about 50%, have been research. Subsistence fishing falls under a native Hawaiian practices permit, which includes the noncommercial use of monument resources while in the monument, as long as it is consumed within the monument. The only exception to that is sustenance fishing, which allows limited catches of yellowfin tuna, ono and mahimahi while in the Midway Atoll Special Management Area. Sustenance fishing is limited to 300 fish annually and is subject to a list of best management practices. Permitted subsistence take or sustenance take is limited within the monument and those permits, or rights, are only awarded to a small number of people annually.

Ishida provided an update on other programs including FADs and aquatic invasive species management. September was a busy month for the FAD program with MM, U, Longline, X, CO, R and S FADs all replaced on the same day and two devices reported missing from Hale'iwa and Penguin Bank. In October, the HH and Pearl Harbor FADs were reported missing and Ka'ena Point was recovered. He said that there have been some design issues with some of the tackle and hardware on the FADs, and HDAR is currently looking into this issue to identify potential vulnerabilities. For aquatic invasive species management, the Environmental Protection Agency published the Vessel Incidental Discharge National Standards of Performance Oct. 26, 2020. This was followed by a 30-day comment period that ended Nov. 25, 2020. HDAR identified a number of issues with the guidelines and submitted comments during that period.

The 2021 legislative session begins in January and Ishida said that HDAR will pursue a number of bills, including a commercial marine vessel license, repealing the law that prohibits the take of female Kona crabs (which is currently awaiting the signature of the governor), the establishment of a nonresidential recreational fishing license and a fee increase for nonresidential CMLs. He also provided an update regarding the State's response to the recent ruling in the *Kaupiko, et al., v. DLNR* case. On Nov. 27, 2020, Judge Crabtree of the First Circuit Court granted the Plaintiff's motion for summary judgment regarding their claim that the commercial take of aquarium fish under HRS §189-2 is subject to environmental review. As a result, HDAR

will not issue or renew CMLs without updated terms and conditions specifying that aquarium commercial collection is prohibited until the necessary environmental review is performed. Currently, CML applications are on hold until the HDAR legal team finalizes the new terms and conditions and Ishida said HDAR expected that would be finalized and in place by the Monday following the 184th Council meeting. He said that HDAR realizes that this is an inconvenience, especially to nonaquarium fishers, but they are doing what they can to resume issuing and renewing CMLs as soon possible.

Gourley said he noticed the number of licenses issued for research decreased significantly from the early days to the last five years. He asked if there was a reason for that.

Ishida said he was not sure what caused that and would have to look into it.

Tosatto said that over the years the permitting regime has evolved. The principal researcher in the NWHI has been NMFS, and in the early years NMFS was seeking individual permits for various activities including marine mammal research, fish research and shark research. NMFS now seeks a manager's permit, which is more broadly describing research and management actions that take place in NWHI. He said that there is still a small number of new or timed research efforts that seek individual research permits, but for the most part, those high research permit numbers in the early years for NMFS is now included in the manager's permit.

Rice said that the buoys are breaking loose because they take a beating before it is even set. He observed the state deploy the TT buoy and the buoy was flying 20 feet in the air when the anchor was set. He suggested that HDAR talk to the contractor about how they are setting these buoys because that buoy disappeared about a month after it got put in.

Neilson said HDAR is still determining what is causing the issues and that one theory is that because they are forced to go with the lower bidder, the quality of the material has also gone down. He said there are a lot of factors at play.

Rice said that putting structure under the buoy, as he has been trying to get the state to do, would help as well and suggested HDAR include that in the contract.

Muña-Brecht asked what the scope of the special ocean use permits was and if the research permits include the universities or any of the colleges in Honolulu and if they are charged for the permits.

Ishida said he was not involved with the monument so he would look that up and get back to her if no one else in the meeting could respond.

Tosatto said that permit summaries and reports of all permits issued are available on the monuments' website. Those research activities typically include one or two federal agencies, although some projects, while in coordination with NMFS or the University of Hawai'i JIMAR, will apply an individual permit. There is a single common application for all activities and an applicant will designate for which type they are applying. He said that he does not believe there is a fee for the application process but there are a lot of terms and conditions, including the researcher having the ability to use the data, but data must be made available for monument use.

Simonds said that she was interested in the proposed permit request from Barbara Block for tagging swordfish in the monument and said she will likely provide comments on the proposal. Of particular interest is the residency time the fish may have in the monument and what environmental conditions and oceanographic preferences these animals are utilizing in the area. She asked Fitchett to add to the issue.

Fitchett said based on his experience with satellite tagging in other oceans, the proposal appears to be written in a way that seems like it is designed to prove a point rather than have an objective sampling design. It is using one gear type and the tag deployment may not be over the distribution of the species. He said it would be beneficial to have the proposal reviewed by other scientists and PIFSC.

Watamura said the lower catch in uku was due to shark depredation. The uku season coincides with the ahi season so many of the small-boat fishers have a choice and on certain days the weather will be more conducive to going for uku instead of ahi. This year, many of the highliners in the uku fishery decided not to go because of the high degree of shark depredation. Close to 70 to 80% of the fish that the fishermen were bringing up were taken by sharks. He also said that the lower catch in bottomfish weight for the 2019-2020 fishing season was weather-related. Fishermen were hampered by many high-wind days so there were not many opportunities to fish.

## **1. CARES Act funding distribution**

Ishida reported that the Hawai'i spend plan for CARES Act funding was approved by NOAA. Applications for assistance were available through the PSMFC from Nov. 2 to 23, 2020. PSMFC is in the process of reviewing applications and will issue funds to qualifying applicants in mid-December 2020.

Nielson said that HDAR was still working with the PSMFC to find out what applications were submitted and are also in touch with HLA. Given the short application period, he said HDAR wanted to make sure that all of the potential applicants were able to submit applications and were not out at sea during that period. HDAR is cross-checking to see who got their applications in, but Neilson said he was glad that the agency did not have the lines like American Samoa and could not imagine processing hundreds of applications in person.

## **C. Plans for Hawai'i Fishery Management**

Josh DeMello, Council staff, presented a report on plans for Hawai'i fishery management. At the September 2020 Council meeting, the Council recommended staff holds a meeting with PIRO and PIFSC, the State of Hawai'i and the Council to discuss Hawai'i fishery management issues. That meeting was held Oct. 27, 2020, with Council members Watamura and Rice, PIRO Regional Administrator Tosatto, PIFSC Director Seki and State of Hawai'i representative Neilson in attendance. The group discussed the issues and talked about how some of the regulations are misaligned. The outcome of the meeting was that the group agreed to work collaboratively to address these issues. Council staff's next steps are to get back in touch with the State and the staffs from PIRO and PIFSC to tackle the priorities.

Watamura congratulated staff for organizing the meeting and said he looked forward to what is coming up in the future.

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

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

There were no AP recommendations regarding the Hawai‘i Archipelago and PRIA fisheries.

##### **2. Fishing Industry Advisory Committee**

There were no FIAC recommendations regarding the Hawai‘i Archipelago and PRIA fisheries.

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

There were no SSC recommendations regarding the Hawai‘i Archipelago and PRIA fisheries.

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

Tam provided some observations from Hawai‘i in terms of COVID-19 impacts to fisheries. He said that throughout the pandemic, commercial fishermen were fortunate to be able to fish, but there were a number of restrictions on recreational fishers. Many bottomfish fishermen targeted smaller fish for the local market (rather than larger fish for restaurants) as home consumption fish, ranging in size from one to three pounds. This allowed the fishermen to still operate and help the community at the same time. The structure in marketing and fishing changed in terms of targeting smaller fish, which would explain the decline in weight landed presented by the State.

The increase in numbers of fishermen fishing can also be attributed to sustenance in that once the initial COVID-19 funding ran out, people needed to catch fish to feed themselves and their families. A lot of people were out of work so catching an ahi or two and selling on the road or selling to neighbors was very important to them for cash flow. He said it was a good ahi season but was concerned whether the fisheries would be adequately captured due to COVID-19 impacts. The numbers may not be reflected in terms of the catch report so that is a concern.

He said as a whole, his observation was catch rates for blue marlins were higher than striped marlins this year. Part of that was likely attributed to high grading or releasing some of the fish with captains and owners advising their fishermen not to retain certain species because the price was not high enough, but some of that information may be missing in the data. Tackle shops in the islands through the COVID-19 pandemic have been very strong and most of them ran out of gear or did not have supplies as overseas production was not able to keep up with demand. He said that this is proof that fishing has helped support the community in the islands during the pandemic.

Rice said that Tam was right about the shortage of fishing gear, noting his experience of a three-month delay in supplying a popular Shimano reel.

**F. Council Discussion and Action**

There was no Council discussion or action.

**XIII. Administrative Matters**

**A. Financial Reports**

**1. Current Grants**

Simonds directed the Council to the financial reports and noted the largest line item remaining in the current fiscal year under the five-year administrative grant is travel, due to COVID-19. The Council has spent approximately \$2.4 million to date and the budget for the year is around \$4 million. Simonds anticipates spending those funds over the next year when the Council is able to work on meetings elsewhere in the region. Simonds reviewed the coral reef grant, which ends in 2022 and the SFF IX, which funds the Garapan Fishing Base. SFF X supports the CNMI Fisheries Training and Demonstration project and American Samoa's longline dock. These funds were reprogrammed to reimburse the Department of the Interior for the use of the outer Malaloa Dock for commercial vessels. The SFF XI was also reprogrammed for American Samoa projects such as the longline diversification project and included changing support from bottomfish development to electronic data collection in American Samoa. The Council is working with American Samoa and the CNMI, along with the NMFS program officers and SFD staff, to address NEPA questions and develop the grant for SFF XII. Simonds said the protected species grant will end next year and reviewed the ongoing projects for turtles 2017-2020, noting the continuation of the tori line project.

**B. Administrative Reports**

Council staff Ilaoa submitted his resignation Nov. 19, 2020, and staff is currently holding interviews with prospective applicants. The annual audit started later this year on Aug. 17, 2020, due to COVID-19 impacts, and the U.S. Office of Inspector General (OIG) audit is still ongoing. The Council is waiting for a draft report from OIG for review and comments. Simonds said the Council is working on responding to a Freedom of Information Act request from Civil Beat and has responded to the request from the State of Hawai'i (HDAR) regarding the fishing koa resource project.

**C. Program Plan Report**

Mark Mitsuyasu, Council staff, said that staff has been reviewing prior program plan accomplishments and have provided updates to areas of responsibility, activities and individual plans. Plans include existing policies and agreements in places and an outlook for upcoming management actions and projects. Staff is currently conducting evaluations which will be included in the draft report next year.

#### **D. Council Coordination Committee**

Soliai said the CCC met in September 2020 and noted the challenges and impacts the other councils and the nation's fisheries are experiencing due to COVID-19. The next CCC meeting will be hosted by the Pacific Fishery Council and Soliai said the briefing documents from the CCC meeting were available.

#### **E. Council Family Changes**

Sabater reported on Pelagic Plan Team changes as Kokobun has retired and will be replaced with Helyer. Michael Quach is also retiring at the end of 2020 and will be replaced with acting WPacFIN leads Rebecca Walker and Ashley Tomita. Sensui will step down from the FIAC as he will represent PIFG in the Non-Commercial Fishing Advisory Committee. Sabater said the Council is still waiting on PIRO to provide a replacement for Josh Lee for the Pelagic Plan Team.

#### **F. Meetings and Workshops**

Simonds reviewed the upcoming SSC and Council meetings throughout 2021 and noted the tentative dates are also listed on the website.

#### **G. Code of Ethics Training**

Sarah Sheffield, NOAA GCPI, presented the Rules of Conduct and Activities for Council members and staff. The presentation focused on financial disclosures and recusals as there were new regulations published in September 2020. Sheffield highlighted two major changes from the final rule. One is that the designated official, the NOAA attorney, will presume the information provided in the financial disclosure form is true and correct and the official is not responsible for determining the veracity of the information provided. The second change is that if the specific ownership percentages are not provided on the financial disclosure form, 100% of the fishing activity of, and vessels owned by the member's financial interest will be attributed that member. The final rule also added a number of attribution principles; several represent a change from past practice. Sheffield also covered what the Council can do in regards to lobbying such as give technical and factual presentations through testimony, letters and statements in response to a documented request, lobby to influence state legislation to reduce the cost or avoid material impairment of the organization's authority to perform the grant and noted that while lobbying the executive branch is generally not prohibited, it should not be in connection with the award, or when based on improper influence. Sheffield said the Council Rules of Conduct are found at 50 CFR 600.225.

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

Soliai noted that the recommendations will be taken up during the Council Discussion and Action section of the agenda.

#### **I. Public Comment**

There were no public comments.

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

*Regarding Council advisory group changes, the Council appointed the following members to the Pelagic Plan Team:*

- 1. Jason Helyer to replace the retired Reginald Kokubun from the State of Hawai'i**
- 2. Rebecca Walker and Ashley Tomita to replace the retiring Michael Quach from WPacFIN**

**The Council removed Dean Sensui from the FIAC.**

*Moved by Gourley; seconded by Dueñas.*

*Motion passed.*

*Regarding Council reports, the Council endorsed the financial and administrative reports as presented.*

*Moved by Gourley; seconded by Dueñas.*

*Motion passed.*

*Regarding the CARES Act, the Council requested that the State of Hawai'i DLNR and the American Samoa DMWR work with the PSMFC to further extend deadlines of the CARES Act applications, noting that many within the commercial fishing sector were unable to apply during application periods. The fishermen were at sea when the notice was published and were still at sea when the application process closed.*

*Moved by Gourley; seconded by Dueñas.*

*Motion passed.*

#### **XIV. Election of Officers**

*Regarding Council Officers, the Council appointed the following as its officers for 2021:*

- 1. Archie Soliai, chair**
- 2. Howard Dunham, American Samoa vice chair**
- 3. John Gourley, CNMI vice chair**
- 4. Michael Dueñas, Guam vice chair**
- 5. Edwin Watamura, Hawai'i vice chair**

*Moved by Gourley; seconded by Sesepasara.*

*Motion passed.*

#### **XV. Other Business**

There was no other business.

[Meeting adjourned.]