



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
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DATE: March 15, 2022

**MEMORANDUM**

**TO:** Archie Soliai, Chair  
Western Pacific Fishery Management Council

**FROM:** Frederick W. Tucher **TUCHER.FREDERICK.W.1030316289**  
Chief, Pacific Islands Section, NOAA Office of General Counsel

**SUBJECT:** NOAA OFFICE OF GENERAL COUNSEL, PACIFIC ISLANDS SECTION  
REPORT TO THE 190<sup>th</sup> COUNCIL MEETING

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NOAA Office of General Counsel Pacific Islands Section's Report to the 190th Meeting of the Western Pacific Fishery Management Council is as follows:

**Litigation Matters:**

1. *Steven Hueter, et al. v. Debra Ann Haaland, et al.*, No. 21-00344 (U.S. District of Hawaii): On August 13, 2021, three residents of Alega Village, American Samoa filed a complaint against the Secretary of the Interior, the Secretary of Commerce, the U.S. Fish & Wildlife Service (and its director), the American Samoa Department of Marine & Wildlife Resources (and its director), John and Jane Doe enforcement agents for the American Samoa Department of Marine & Wildlife Resources, and John and Jane Doe commercial fishermen alleging illegal fishing practices in the private Alega Marine Protected Area. Plaintiffs sought to compel Federal Defendants to enforce alleged violations of the Endangered Species Act, National Marine Sanctuaries Act, and the Ocean Dumping Act in the private Alega Marine Protected Area. Federal Defendants filed a motion to dismiss the complaint in November 2021, and on February 16, 2022, the Court granted Federal Defendants' motion and dismissed Federal Defendants from the case without leave to amend.



- 2. Conservation Council of Hawaii (CCH) Sixty-Day Notice of Intent to Sue for Alleged Violations of the ESA:** NMFS continues to provide regular updates to CCH on the progress of two pending ESA Section 7 consultations (Hawaii deep-set longline and American Samoa longline) in response to this 2019 NOI alleging that NMFS has failed to complete consultation and insure that the continued authorization of these fisheries do not jeopardize the threatened oceanic whitetip shark.
- 3. Hawaii Longline Association (HLA) Sixty-Day Notice of Intent to Sue for Alleged Violations of the ESA:** This 2019 NOI alleges that NMFS failed to timely complete the ESA Section 7 consultation for the Hawaii deep-set longline fishery and/or obtain an express agreement from the HLA-applicant to extend the statutory deadline. The consultation is still pending.