



WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

**MINUTES OF THE
192nd MEETING OF THE
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**September 20-22, 2022 Council Plenary
By Web Conference and Host Site:**

**Hilton Hawaiian Village
Coral IV Ballroom
Honolulu, HI 96815
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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) and American Samoa Department of Marine and Wildlife Resources (DMWR)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Manny Dueñas, vice chair (Guam)
- Will Sword, vice chair (American Samoa)
- Roger Dang, vice chair (Hawai‘i)
- Matthew Ramsey (Hawai‘i)
- Shaelene Kamaka‘ala (Hawai‘i)
- McGrew Rice (CNMI)
- Judith Guthertz (Guam)
- David Sakoda, 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)
- Sarah Malloy, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO) (designee Jarad Makaiau also in attendance)
- Brian Peck, U.S. Fish and Wildlife Service (USFWS)
- LCDR Jessica McCollum (designee for Rear Adm. Michael Day, commander for USCG District 14)
- Colin Brinkman, U.S. State Department

Also in attendance were Council Executive Director Kitty M. Simonds; U.S. Department of the Interior (DOI) Deputy Assistant Secretary for Insular and International Affairs Keone Nakoa; NOAA Deputy Assistant Administrator for Regulatory Programs Sam Rauch; Fred Tucher, Elena Onaga and Sarah Sheffield from NOAA Office of General Counsel Pacific Islands (GCPI); and Steve Martell of the Scientific and Statistical Committee (SSC).

Soliai opened the 192nd Council meeting with a prayer.

II. Opening Remarks: Keone Nakoa, Deputy Assistant Secretary for Insular and International Affairs

Nakoa, DOI deputy assistant secretary for Insular and International Affairs, gave opening remarks. The DOI has responsibilities in coordinating federal policy for American Samoa, Guam, the U.S. Virgin Islands and the CNMI, as well as with the Freely Associated States. DOI administers and oversees federal assistance, in particular, to the Federated States of Micronesia, the Marshall Islands and Palau, as well as provide technical and financial assistance to all seven of DOI's jurisdictions. DOI also coordinates to implement regional and national-level ocean and coastal policy and actions. He acknowledged a close working relationship between the DOI and the jurisdictions that the Council's chair and vice chairs represent.

Within his own duties with the Biden-Harris Administration, he was pleased that the Council has always insured that it has Territorial representation in the leadership and in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA). He is happy to see the foresight and inclusion of the insular areas in this body. Nakoa said his intention while attending the Council meeting is to listen, learn and report back to Assistant Secretary Carmen Cantor, Secretary Deb Haaland and the others in the DOI leadership what he has gathered in these meetings. He thanked Simonds for the invitation to attend the meeting and learn as a son of Hawai'i kamaaina and expressed his respect for the Council's important mission and the sustainable management of the 1.5 million square miles of American Pacific.

Simonds said the Council is happy to have Nakoa attend the meeting, noting that there will be a lot of presentations as to what affects the resources that the Council manages. A lot of threats and risks that are happening within the fisheries are local as well as international, and it is important that the U.S. government as a whole addresses those issues so the resources are managed sustainably and protected for future generations.

III. Oath of Office - New Council Members

Rauch swore Guthertz, Kamaka'ala and Sword into office.

IV. Approval of the 192nd Council Meeting Agenda

The 192nd meeting agenda was approved by general consent.

V. Approval of the 191st Council Meeting Minutes

The 191st meeting minutes were approved by general consent.

VI. Executive Director's Report

Simonds presented the executive director's report. The Council had to relocate the meeting from American Samoa to Hawai'i because of continuing COVID-19 restrictions. The Council plans to host the December meeting in the Mariana Islands and then American Samoa in the first half of 2023.

Simonds thanked Rauch for attending and expressed hope that NMFS Assistant Administrator Janet Coit's schedule will allow her to attend the 193rd Council meeting following

the Western and Central Pacific Commission (WCPFC) meeting to held in Vietnam in December.

Simonds welcomed the new Council members. Guthertz is a past member and Chair, former President of the University of Guam and a great advocate for Guam's fishing community. Newest member Kamaka'ala was recently featured in this year's *Pacific Business News's* 40 Under 40, recognizing her work on the Big Island. Kamaka'ala will bring new insights from collaborating with communities and the State of Hawai'i that will benefit the Council's work with existing issues. Sword is also a past Council member returning to the Council. The Council looks forward to the perspectives of their experience in supporting the Council's mission.

NMFS PIRO is under new leadership. Michael Tosatto has been assigned to a special project working with Headquarters and Rauch on the implementation of the Infrastructure Act. Attending the 192nd Council meeting is the Acting Regional Administrator Sarah Malloy. She was previously the deputy regional administrator, and before that at the Pacific Islands Fisheries Science Center and the Honolulu Laboratory. There are two new assistant regional administrators, Dawn Golden replacing Ann Garrett in the Protected Resources Division, and Jason Philibotte succeeding Tom Graham in the International Fisheries Division. The Council welcomes all the new PIRO hires and look forward to the positive impact they can deliver to the region.

Over the past two funding cycles, the Council's annual operating budget has been reduced by more than \$670,000. These funds supported Council and NMFS joint efforts on capacity building, fishery monitoring and research and protected species. At the 191st meeting, the Council asked NMFS to report regularly on their budget status to avoid last minute surprises, such as when NMFS decided to remove all the Council protected species funds half way through this year. These funds support the Council's only protected species staff and program activities. The Council communicated these shortfalls to NMFS in July 2021, again in June 2022 and in August 2022 to Paul Doremus summarizing programmatic impacts due to these reductions in funding and requested a meeting to further discuss these important issues. The Council understands Headquarters is reviewing the requests.

NMFS Office of Sustainable Fisheries (OSF) is developing a new Strategic Plan from 2023-2028 and asked all the regional fishery management councils (RFMCs) for input and feedback. OSF has hired the Strategy Management Institute (SMI) to assist in gathering information from "stakeholders" to inform the plan. SMI sent the Council a questionnaire that includes nine open ended questions regarding the Council interaction with OSF, including feedback on major trends/developments, Council needs over next five years, OSF support, roles and products that work well and not so well, and Council/OSF relationship and interactions. For context and background on the Pacific Islands Region, the Council provided the consultants the final products and outcomes from the Council's initial joint strategic planning effort that took place in 2003 when PIRO and Pacific Islands Fisheries Science Center (PIFSC) were newly formed. Council staff are now working to respond to the questionnaire.

The Council hopes to improve coordination with the new PIRO leadership, including overcoming delays in implementing Council actions in more proactive approaches and improving communications regarding the Council's work, specifically Endangered Species Act (ESA) consultations. To improve communication Malloy and Simonds have agreed to meet

regularly. The Council staff will meet often with the Protected Species, International Fisheries, Sustainable Fisheries, Habitat, and other divisions to provide additional transparency and coordination across all aspects of the Council's work.

The Council cochairs the Council Coordination Committee (CCC) working group to update the ESA—MSA Integration Policy Directive. This directive, as well as the Regional Operating Agreements, established the process for improving coordination and integration into the Council process. In the 10 years since the policy directive was first issued, RFMCs have utilized it in their respective consultations for their fisheries and have identified areas for improvement. The need for greater Council involvement early in the process and improved communication was highlighted across the regions. The working group will be reporting out at the CCC meeting in October in Washington, D.C., and the Council look forward to continue working with Rauch's team to implement these changes.

The designation of the Northwestern Hawaiian Islands (NWHI) as a national marine sanctuary is still on track with NOAA Office of National Marine Sanctuaries (ONMS). The Council met with John Armor, director of the ONMS, this week to discuss options. Council staff will be presenting the options for initial action on fishing regulations for the area within 50-200 miles at this meetings. The Council will consider what type of noncommercial fishing will be allowed in the area and consider definitions for community participation in those fisheries. Of particular interest is how cultural exchange could be applied in this monument as it only exists in the other Pacific Island monuments.

Roy Morioka, former Council chair and Hawai'i fisheries champion, will be speaking on issues and solutions for Hawai'i's noncommercial data. Simonds encouraged the Council to consider this longstanding regional issue, and provide feedback and recommendations to move forward.

One longstanding biological opinion (BiOp) has been completed. The final Bottomfish BiOp, which the Council reviewed and provided comments at the June 2022 meeting, will be discussed later in the agenda. The Council has not received any new draft BiOps since June. PIRO will be reporting on the timeline for the Hawai'i deep-set and American Samoa longline fisheries BiOps, and as well as the plan for Council involvement for the remainder of the consultations. Simonds encouraged PIRO to complete the full longline BiOps for the Council and its advisors for review prior to the Council's March 2023 meeting.

After 15 years, the Council will be taking final action on establishing an aquaculture management framework in the Western Pacific. Throughout the 15 years the Council has adopted and amended its Amendment policy, worked with PIRO in the development of the EIS and developed this amendment to establish a management framework. Council staff will be presenting the options later in the meeting and answer any questions you may have.

Council family meetings were held in August 2022 in Guam and the Mariana Islands. Council staff followed up with Council recommendations regarding Guam bottomfish. Dueñas hosted a Council family meeting with the goal of providing the family with information on ongoing and future bottomfish actions. Council family members from CNMI were also invited. PIFSC and Council staff presented comprehensive science and management information on data collection to implementation of annual catch limits (ACLs).

The Council released a special issue of the *Pacific Islands Fishery News* on the Pacific Remote Islands Marine National Monument (PRIMNM) Expansion proposal by the Pacific Remote Islands Coalition (PRIC). This issue features statements from Council members made at the June 2022 meeting, and focuses on the big picture, the unintended consequences for American Samoa and the United States, and the need or lack thereof for the expansion and historical use of the area.

The Council continues to press for cross-agency cooperation leading into the WCPFC meeting in December 2022. The Pacific Strategy, which the Council developed in December 2021, suggests a holistic approach to managing fisheries in the Pacific. The Council is working with NMFS and PIRO towards amending the tropical tuna measure well in advance of its expiration next year. The Council must work early with the other countries, the trust territories, and all of the WCPFC members to move on the U.S. positions for the last 10 years to help American Samoa and the Hawaii Longline Association (HLA) with their quota.

Simonds expressed interest in discussing with Nakoa what sort of funds DOI can provide to the U.S. Pacific Islands for fisheries development in the Territories, noting that the United States is requesting \$600 million dollars over 10 years to go to the Treaty Nations. The Territories have only received sporadic funds in the past, and the basic funds the territories receive now is through agreements with the HLA in an exchange for the bigeye tuna quota. In the past, Senator Daniel Inouye provided funds for fisheries development, but the Council would like the DOI to review those needs and provide support for fisheries development. Fisheries is huge in the Pacific, and the United States should also support the three U.S. fisheries in the Pacific the same way that China, Japan and Korea provide support.

The Council published its 40-year report, *U.S. Pacific Islanders and the Sea: A History of the Western Pacific Regional Fishery Management Council (1976- 2020)*, and the book shows all of the Council's hard work under the MSA, utilizing western science and the culture and foundations to develop recommendations for the U.S. government to implement.

The Council has restarted its Fishery Rights of Indigenous People Standing Committee, which was established in the early 1980s. The standing committee discussed all sorts of rights of indigenous local cultures in the past and will continue to do so. The Biden Administration is speaking to the Council, in terms of assisting with equity and underserved communities, so this is a perfect time for this committee discuss those issues.

HLA recently achieved certification for sustainable fishing by the Marine Stewardship Council (MSC). MSC is an internationally recognized nongovernment organization that assesses if a fishery is well managed and sustainable, granting certifications based on set standards. However, in an article published in the Honolulu Star Advertiser, EarthJustice attorneys criticized the approval by questioning the legitimacy of the certifying agency citing unknown impacts on certain protected species, like green sea turtles, due to the lack of a BiOp, and claiming that HLA is unwilling to reduce the amount of bycatch in the fishery. In reality, it was HLA who took the initiative to voluntarily reduce impacts to oceanic whitetip sharks (OWTs) while the delays in BiOps were dragging on and made the switch from wire leaders to monofilament leaders within a year of their announcement in December 2020. Several environmental organizations publicly praised HLA's initiative for reducing impacts to protected species, including EarthJustice. The myopic and unfounded criticism also does not consider that

the Hawai‘i fishery is internationally recognized as the gold standard with respect to management, mitigation strategies, and monitoring and compliance. Many of the conservation and management measures were first implemented in the Hawai‘i longline fishery through the MSA Council process, from vessel monitoring system to circle hooks and are considered the standard across the world. So if the Hawai‘i only fishery certification is called into question, certainly no other tuna fishery will be worthy of MSC certification.

Dueñas asked Rauch to look into NMFS providing assistance on the financial quagmire occurring with the Council staff and funding. The Council does the same work, if not greater than the entire Agency in the region. Cutting funding is detrimental to working through the process, and the Council only has one protected species coordinator. Dueñas requested the DOI and NMFS sit down with the Council to develop funding sources for the projects requested in the marine conservation plan (MCP). Commitment from DOI or some adjustment from DOI, could resolve some of the funding issues. He also stated because of the military building up in Guam, the Office of Economic Adjustment from the Department of Defense should be footing part of the MCP to the tune of half a million dollars a year.

Guthertz asked for clarification on the large budget reduction and the rationale behind it. Reducing the Council’s budget, for this coming fiscal year, will impact many programs that are dependent upon these funds. The Council will then have to go back to the Island communities and explain why this money will no longer be available to assist in our fisheries development initiative.

Soliai asked that Guthertz question be deferred as Rauch will be presenting the NMFS Headquarters report next.

VII. Agency Reports

A. National Marine Fisheries Service

1. National Marine Fisheries Service Headquarters

Rauch provided the NMFS Headquarters report on behalf of Janet Coit, assistant administrator for NMFS, who was unable to attend the meeting. He provided an overview of some of the larger topics that NMFS is dealing with as well as some national trend. Rauch thanked the Council for putting in the work to do the important job through a transparent and science-based public process like no other. NMFS believes and knows that fishing is important to the food supply globally, nationally, and especially in the Pacific Islands, and prides itself in the management of those resources. Recent data indicate that commercial and noncommercial fishing supported 18 million jobs in the United States and \$255 billion in sales in fishing across the broader economy. Commercial fisheries landed about 9.3 billion pounds of seafood, and noncommercial fisheries landed about a billion fish. Ninety percent of U.S. fish stocks are not subject to overfishing, and 80% are not overfished. No other country can meet this level of sustainability, which is something to be proud of, and the RFMCs are a very important part of that process.

This Administration has been focusing on climate change since the beginning because it is an important issue for many aspects of the country, and especially in the Territories as they are dependent on food from the oceans. Climate change and its effects are being observed now, and

NMFS Headquarters is working with its Science Centers to better understanding what is actually happening to better prepare for what needs to be done in the face of changing fish stocks. NMFS has an obligation to coastal communities to make sure it can continue to provide economic and subsistence support, and it is the Council's job to figure out how to deal with that in the face of changing environmental parameters to manage for that.

The National Seafood Strategy has been led by Paul Doremus, deputy director for operations, who hosted a number of roundtable discussions with industry. The roundtable provided an invaluable opportunity to hear what partners and stakeholders feel was important and how NMFS should use its limited resources in looking at the importance of seafood for the country NMFS plans to have a draft Strategy available for a broader public review in the fall, and Rauch encouraged the Council to share its thoughts with NMFS at that time.

Regarding the President's initiative to conserve 30% of the land and waters by 2030, the Administration has not yet defined what "conserve" means. The Administration indicated that there is a spectrum of conservation actions that can go from full protection to managed areas, and they have indicated that Council-based actions fit within that spectrum. However, it remains to be seen how much of the management areas defined by the RFMCs will account for the 30x30 Initiative. NMFS has received the results of the CCC report to categorize Council area-based measures within the various terms of the conservation, and it is also looking at land-based metrics. The Administration is looking at all of these databases and intends to publish an atlas toward the end of 2022, which is expected to identify all areas that currently account for the 30% and evaluate whether current conservation areas are above or below that target. NMFS has provided information to the Administration on the Council-related actions so they can be appropriately considered in the atlas.

Two large appropriation bills include significant money that flows through NOAA for habitat improvement. NOAA received several billion dollars through the Infrastructure Investment and Jobs Act (IIJA), of which about a billion dollars will come to NMFS over a five-year period to fund coastal habitat restoration projects. There is money specifically set aside for tribal projects and permitting. Solicitation for all but one of the grant programs have closed for this year. NMFS's Office of Habitat Conservation usually runs around \$30 million, so having approximately \$1 billion over five years is a large increase that provides an opportunity to do coastal habitat restoration at a transformational level. This level of funding also speaks to the level of confidence Congress has in NOAA's ability to run external grants on conservation programs. The other set of money was the Inflation Reduction Act, which includes \$2.6 billion for NOAA to do coastal resiliency work. That funding may not come through to NMFS, but it is an indication that Congress is investing lot of money in climate resiliency work in the coastal environment.

Permitting was an important issue through IIJA and the Administration. After the IIJA passed, there was recognition for a need for various departments came together on a permitting action plan to facilitate infrastructure under the IIJA, which includes ensuring environmental compliance has been met and that there are resources to do so. Department of Commerce was asked to develop this plan, and Rauch is serving as the acting chief environmental review and permitting officer for the Department and working with other bureaus to coordinate permitting. Michael Tosatto, former PIRO regional administrator, is now working with Rauch as his deputy

and talking to the other agencies regarding various permitting obligations that came as a result of IJA, and all the money coming through for environmental permitting.

Rauch has personally been engaged in NMFS's equity and environmental justice (EEJ) efforts, influenced in large part by his work out in the territories and the people he has met. NMFS Headquarters held a number of meetings in the territories on the draft strategy and is taking comments through the end of September 2022. As a next step, NMFS envisions a Regional Implementation Plan working with the RFMCs and the territories to develop targeted strategies under the national strategy. However, NMFS currently does not have the resources to implement the strategy. In the pending 2023 President Biden's budget, there is money to carry out some of this EEJ work. Overall, more money is needed to achieve all of the objectives, and NMFS hopes that Congress will comply with the requested funding included in the budget.

Guthertz asked for an explanation on the Council's budget reduction, noting that many programs are dependent on those funds.

Rauch said NMFS provides presentations on the budget to the RFMCs frequently. The Council's budget is made of the base funds as well as other funds that NMFS has contributed for various purposes and some of which are competitive with the other RFMCs. NMFS has had a series of significant constraints in its fishery management budget, some of which had to be taken out of funds budgeted for the RFMCs. All of the RFMCs are experiencing the reduction, not just this council, and while NMFS has tried not to cut the operational base funds, the other funds that typically vary by year and are not guaranteed have been reduced recently for this Council. He said NMFS would like to work with the Council, and would like to avoid surprises.

Guthertz said she is hopeful that the communication will continue and funds can be identified later in the fiscal year and can be redistributed.

Rice said in Hawai'i, Mariana Archipelago and American Samoa, about 60% of its exclusive economic zone (EEZ) is already closed, and asked how that would play into the 30x30 Initiative and whether the 30% of the EEZ (that is already over the 30x30 target) could be returned to the region.

Rauch said he does not know how it will play into the 30x30 because the atlas is not yet available. He said the Administration has been adamant throughout that it does not intend to superimpose the 30% requirement under all processes. The intention is not to create a 30% standard that has to be met regardless, or cut back to. He acknowledged that areas with fishery management actions and monuments add up to close to 30% of the EEZ, and the Pacific Islands bear a larger burden of that because more areas are closed. He also noted that this Council in particular has historically been one of the most conservation-minded RFMCs, taking action early in the process to close areas to bottom fishing and other actions that other RFMCs did not do until much later. He said NMFS is working with the Administration to make sure at least some of the MSA actions will count toward the 30%.

Rice requested more restrictions not be put on Hawai'i and the region because of the already significant conservation measures.

Dueñas expressed appreciation that NMFS Headquarters recognizes that this council is the most advanced in conservation, mitigating all sorts of species including mammals, birds, and

fish. The people of this region practice strong conservation efforts, protects their islands and their resources. He said fisheries are always going to be at the forefront of conservation, and the failure has been in the agencies. Dueñas hopes the Council can get \$600,000 from the 30x30 budget since the Western Pacific Region has already exceeded the 30%, and the region accounts for over 90% of existing fishing prohibitions. He said the Council needs the money to take care of its operation, noting no other fishery at the international level is implementing mitigation measures for whales or doing BiOps. Dueñas expressed additional concern about outsiders not understanding the way of life in the Pacific, and said he will always fight for the native people because he wants to perpetuate his culture rather than seeing it preserved in a museum in Washington, D.C.

Gourley noted there is a lot of money coming down the Administration for topics that are related to the Council's work in the Western Pacific Region, like EEJ, but funding seems to be going to other new programs. He asked if there is a general attitude in Washington, D.C. where fisheries have taken a back seat and money being directed toward these new programs.

Rauch said the core fisheries funding are necessarily being cut, but they are not growing commensurate with inflation, making it more difficult to maintain the funding levels for the RFMCs. The Administration did not get everything funded it wanted, but still supports some of the things Congress has done. It is clear that at least at the moment Congress has not invested any money in traditional NMFS activities other than surveys and permitting activities that are getting some investments, and the habitat work that is getting a large investment.

Sword said he was hoping 30x30 would take EEJ to heart and reduce the region's closures down to 30% and open up some of the monuments, because the purse seine fisheries in American Samoa are having a hard time. Many of the boats are going to the Eastern Pacific to fish and landing in Panama, which will leave American Samoa with nothing for the future. The bigger freighters are coming in with fish, but it is shipped in from overseas despite probably being caught inside the U.S. EEZ. For the purposes of EEJ, the Pacific should be treated the same as everywhere else in terms of the 30x30.

Gourley asked how close NMFS is in finalizing the definition of conservation with respect to 30x30.

Rauch clarified that the 30x30 Initiative is Administration-wide so he does not necessarily know the answer to those questions. The next document that will be released is the atlas coming in the fall, and there are two issues the Administration is wrestling with. One is to actually define conservation and then to list all of the areas to say which areas meet the definitions. The other is to say conservation would have these principles in an area, such that it is not a definition, but a series of elements. The current expectation is that the report will list and provide an assessment of how close the United States is to the 30% mark and will include a number of areas that are under conservation. He said it is likely that the Administration will not characterize all of the areas the CCC has identified by this fall.

Muña-Brecht asked if consideration is given to state-managed areas as part of what is included as conservation.

Rauch said it is, noting that the "America the Beautiful" report talks about state-managed areas, locality areas, and even private landowner conservation easements, so the area does not

even have to be a governmental entity. Those privately owned areas are a much bigger issue on land, and the intent is not to federalize those areas but to recognize the importance in achieving 30x30.

Soliai asked for Rauch's report in writing, if available. He offered comments on the proposed rule that changes the way that fishing days for U.S. purse seiners are limited in the application of the Convention and Management of Highly Migratory Stocks within the WCPFC convention area. The American Samoa economy is dependent on the tuna industry and direct delivery of fish to the local cannery supports that economy and supports the cannery in providing jobs, livelihoods and so forth. Changing that whole scenario and reducing days for the purse seine fleet is going to have a negative impact on American Samoa for that closure, or any of those closures. When there was an Effort Limit Area for Purse Seine (ELAPS) closure in 2015, NMFS did a report the following year that showed the economic impact to American Samoa was in the range of \$11 to \$110 million dollars just for the few months that it was closed. That may not seem like a lot of money for other jurisdictions, but for American Samoa, that is very significant amount equivalent to about a quarter of the gross domestic product. There will be some statements from American Samoa, especially from the governor, expressing concerns on that rule-making. American Samoa understands the rulemaking satisfies WCPFC with respect to the international area, but the concerns have to do with why the fleet is not being managed as a small island developing states (SIDS) fleet. Soliai said he wanted to reiterate the importance of the fishery to the American Samoa economy, especially in the context of EEJ so that the territory does not experience disproportionate burden. American Samoa will submit comments in due course, and hopes that can be taken into consideration to find a path forward in managing that fishery.

2. Pacific Islands Regional Office

Malloy presented the PIRO report, highlighting the new leadership team in place. Malloy assumed the acting regional administrator role in mid-August 2022, Golden is the new assistant regional administrator for protected resources, Jason Philibotte is the new assistant regional administrator for international fisheries and Makaiiau is the new assistant regional administrator for sustainable fisheries.

Since the 191st Council meeting, PIRO published the Final Programmatic Environmental Impact Statement for Offshore Aquaculture, which analyzes a variety of management measures and management regimes. The record of decision identifying preferred alternatives will be issued soon. PIRO also issued a specified fishing agreement between American Samoa and the HLA enabling allocation of 1,500 tons of bigeye tuna for Hawai'i longline vessels.

PIRO staff traveled to American Samoa, Guam and the CNMI to host meetings for stakeholders regarding on the EEJ strategy. Comments are being accepted until the end September 2022 prior to development of the Regional Implementation Plan.

PIRO also completed revisions for regulation summaries for the American Samoa and Hawai'i longline fisheries, which are available online. These summaries incorporate a wide variety of information on regulations, protected resources workshops and other topics related to those fisheries.

Regarding observer coverage, NMFS is at 19% in the Hawai‘i deep-set longline fishery (DSLL) and 100% in the Hawai‘i shallow-set longline fishery. Coverage is lower in the American Samoa longline fishery, at 6.9% due to COVID-19-related restrictions affecting the ability for observers to get to American Samoa.

The False Killer Whale Take Reduction Team (FKWTRT) will meet in November 2022 to discuss interactions between the Hawai‘i longline fishery and false killer whales (FKWs). The BiOp for bottomfish species was completed in August 2022 and PIRO extensively considered the Council's comments and incorporated them.

Regarding habitat, PIRO and PIFSC continue to support development of the Joint Coral Reef Fishery Management Plans in American Samoa and Guam. The Habitat Conservation Division has engaged in 11 essential fish habitat (EFH) consultations since June, including the Navy's new dry dock at Pearl Harbor, City and County of Honolulu's stream clearing and maintenance, and wastewater outfall in Saipan.

Regarding international fisheries, this Council meeting marks the beginning of several working meetings leading up to the WCPFC plenary in December. The Technical and Compliance Committee meeting is occurring concurrent with the Council meeting. The first WCPFC Science-Management Dialogue (SMD) was hosted in August, which was an opportunity for managers to hear directly from the scientists about how to best use scientific information to develop management alternatives. The Permanent Advisory Committee to the WCPFC U.S. delegation (PAC) will be hosted in late October.

Soliai, Dueñas and Muña-Brecht thanked Malloy for attending the meeting in-person.

3. Pacific Islands Fisheries Science Center

Michael Seki, PIFSC director, presented the PIFSC report. All of NOAA at the Inouye Regional Center is moving into a mode to return to the workplace. PIFSC is accommodating a hybrid work environment with many of staff entertaining more liberal telework. PIFSC fieldwork operations are doing fine, but there are still some COVID-19 contingencies. PIFSC is now approaching the end of the field season. The NOAA ship *Oscar Elton Sette* is still in the field doing billfish camera work that includes the Fisheries Research and Monitoring Division (FRMD).

PIFSC is providing scientific support to refine the bottomfish management unit species (BMUS) and FRMD staff of the Archipelagic Plan Team (APT) subgroups provided their assigned draft MSA sections for the potential BMUS revision amendment. FRMD's Fisheries Monitoring Program continues to pursue the development and implementation of electronic reporting for the small-boat fisheries in the territories, and is working with a local company to complete the second phase of the Sellit Logit app transition in August 2022. The team also demonstrated the new data entry system to the territorial agency staff, and testing and feedback will continue through September. The legacy receipt data were fully migrated to the new database.

FRMD traveled to Saipan and Guam to establish relationships with the territorial fishery management agencies and fishing communities, including a visit with Lieutenant Governor Arnold Palacios. Staff also met with CNMI Division of Fish and Wildlife (DFW), Guam Bureau

of Statistics and Plans and the Division of Aquatic and Wildlife Resources (DAWR) to coordinate data collection improvement and stock assessment, and discussed the importance of the development of fishery management plans in which PIFSC can provide scientific support. The team also received territorial agency support to convene a Biosampling Summit that will bring all entities with life history samples and data together to understand what samples are available and which entities are interested in collaborating. Additionally, some of the FRMD staff shadowed the creel survey team to understand the survey operations and assess areas for improvements. They also met with various fishing organizations in Saipan and key fishing community partners in Guam to establish relationships and plan future collaborations. This includes the Guam Bottomfish Data Workshop and Cooperative Research through the regional competitive grant.

The stock assessment scientists joined the bottomfish fishermen on a bottomfishing trip to get a firsthand experience of the fishing operations. They had a great scientist/fisherman information exchange regarding the intricacies of the fishery and how they translate to data and how it is handled in the assessment. They also presented at the Mariana Archipelago Council family outreach in Guam on various topics, like creel survey data collection and expansion, the stock assessment process, the different data and models used in stock assessments and the plan moving forward.

Regarding RICHARD (*Rainier* Integrates Charting, Hydrography, and Reef Demographics), the Life History Program joined primarily the coral reef survey effort during the eighth leg conducting research fishing for life history samples along the Mariana Islands chain. Two small boats for fishing operations were deployed daily while the *Rainier* conducted mapping. BMUS samples were collected for age and growth, maturity work to support their life history profiles. PIFSC will also use some samples for research and method refinement for looking at gonad degradation, fecundity estimation and spatial and climate effects. In total, RICHARD completed 191-day survey in the Mariana Archipelago with both the corals and the mapping effort, and The maps were impressive and PIFSC hopes these would be useful on expanding some of the fishing operations and the independent survey in the future.

PIFSC Science Operations Division initiated the annual Bottomfish Fishery-Independent Survey in Hawai'i surveys, and the team has completed 56% of the fishing on grids and 82% of the camera grids. Seki thanked the Pacific Islands Fisheries Group for its cooperation with this project especially as it would not have been possible to conduct the surveys without them during the pandemic years, and the data have been invaluable to conducting the stock assessments.

PIFSC concluded the field season for Hawaiian monk seals in the Papahānaumokuākea Marine National Monument (PMNM), with at least 173 pups born in 2022, which is a record high in the NWHI since 2004. Laysan Island accounts for about 20% of all pups born each year, averaging about 35 pups, but in 2022 had 53 pups. The Hawaiian Monk Seal Research Program has shown that the population increase has been positive over the last 10 years as a result of a lot of the recovery efforts including translocation and the vaccination program.

The Cetacean Research Program is conducting ocean glider-based passive acoustic surveys to collect oceanographic data as well as information on presence data for cetacean species around the main Hawaiian Islands (MHI). There program is also implementing the Longline Acoustic Monitoring Project in collaboration with HLA.

The Marine Turtle Biology and Assessment Program is working on report providing a comprehensive review of the 2021 green turtle research and monitoring activities for at French Frigate Shoals. These data will be used in concert with the 44 years of tagging effort to focus on climate change. While increase in nesting beach temperature leads to feminization of turtle populations, data from French Frigate Shoals show that males appear to be reproducing twice as often as females.

PIFSC conducted the Bigeye Tuna Oceanography Cruise to look at the environmental and ecosystem statuses of the system used by the Hawai'i deep-set longline fisheries targeting bigeye tuna. They conducted transects to look at plankton and micronekton distribution and composition to better understand the prey dynamics and physics that may influence the distribution of bigeye.

The Social-Ecological and Economic Systems Program has been working with fishermen to document fisher observations, and published two data reports. For prosperity and analysis, they capture in the words of the fishers some of the experiences that they have. This effort helps develop a standard for capturing the information for future and current use.

Muña-Brecht asked if there is way to create a standard operating process and procedure that could be used for all PIFSC travel to the Mariana Archipelago for scientific data collection so that the territorial agency staff have the opportunity to be on board the research vessels traveling through the area.

Seki said it depends on the mission, noting that there are challenges such as mapping projects that would not offer time or room for the technicians to meet with staff since they are onboard the vessel and only generating maps. However, PIFSC can take it up on a case-by-case basis as there may be a leg that can accommodate territory agency staff on board.

Muña-Brecht said even for the case of mapping or coral projects, territorial staff should be involved to participate in some of the data collection to enhance collaborative efforts and keep everyone on the same page about what information is the best available science.

Seki said he would convey the interest to his staff and agreed to continue the conversation with Muña-Brecht after the Council meeting.

Gourley said PIFSC spoke to the biosampling people and that they helped pick up another fisherman to collect bottom samples from and that the CNMI appreciates it.

Simonds said she was happy to hear a report about the turtles and monk seals, specifically the increase in populations. When NMFS decided not to remove the Hawaiian green sea turtle from the threatened list in response to the petition from the Association of Hawaiian Civic Clubs, NMFS was concerned that turtles would drown because of climate change. Simonds said she would like to tell the person who made that decision that they were wrong because at least for the time being, the turtle numbers are increasing rather than declining. Overall, turtles will continue to move as they have for millions of years, and they will continue to survive even if they are removed from the ESA list.

Seki said whether it was the rise in sea level height or the change in nesting temperatures, PIFSC is still learning a lot of what goes on, so they take all of the observations with a grain of salt as they move forward and look at the general health of the resource.

Dueñas said he is concerned that PIFSC is not being consulted on the BiOps. The biosampling program on Guam has been almost completely destroyed, as it creates an artificial price index of fish and fishermen are encouraged to overfish those species needed for biosampling because the price is so high they can generate more income. Under the old Life History Program, there was no extra encouraged catch, as the program sampled from the fisher's catch. Dueñas also expressed interest in having PIFSC explore the origin of juvenile fishes through surface trawl surveys while the research vessels are in transit, noting the possible migratory pathway of plankton and juvenile fishes drifting east to west on currents from the Marshall Islands to the Mariana Archipelago. Dueñas expressed concern on nuclear waste runoff in the Marshall Islands, global warming being a potential benefit to sea turtles, sea level rise and ultimately, the blame that is placed on the back of fishers. Lastly, PIFSC needs to take caution with the mapping of corals to ensure overprotection does not occur.

Soliai echoed Muña-Brecht's comments with respect to allowing staff from the local agencies to participate in data collection. Capacity-building in the territories is a major challenge and a lot of it has to do with the remoteness of the territories. It is also important that federal partners continue to work with the local agencies in fulfilling territorial missions. The biosampling program was discontinued in American Samoa some years ago, and it is now being managed by some of the local staff. Ultimately, there will be better results when working with the local agency staff.

B. NOAA Office of General Counsel Pacific Islands Section

Sheffield provided the GCPI report. The Conservation Council of Hawai'i v. NMFS filed in May 2022 alleges that NMFS has failed to ensure through completion of ESA BiOps that the operation of the Hawai'i deep-set longline and American Samoa longline fisheries will not jeopardize the threatened OWT. Since the June 2022 meeting, HLA's motion to intervene as an Intervenor-Defendant has been granted. The Court also issued a scheduling order, and pursuant to that order, NMFS lodged its Administrative Record Sept. 1, 2022. Summary judgment briefing will begin in October and end in December.

The second case is Willie v. Raimondo, filed by three Hawai'i residents in March 2022 against NMFS. It challenges NMFS's 2021 rule prohibiting approach of Hawaiian spinner dolphins pursuant to the Appointments Clause of the U.S. Constitution. The defendants filed a motion to dismiss plaintiffs' complaint July 22, 2022, on the grounds that the NOAA Administrator Richard Spinrad's ratification of the challenged rule in July cures any potential Appointments Clause deficiencies raised by plaintiffs. Briefing on this motion concluded the week before the Council meeting, and Court's decision on the motion is pending.

C. Enforcement

1. U.S. Coast Guard

McCollum provided the USCG report from June 1 to Aug. 31, 2022. During this period, USCG responded to 323 cases, consisting of search and rescue, law enforcement, marine environmental protection and response, ports, waterways and coastal security missions. On June 7, 2022, USCG and Japan Coast Guard completed a joint counter-narcotics exercise known as SAPPHIRE. The USCG cutter *Juniper* crew also provided assistance to Kiritimati Island, Kiribati, through the offload of potable water and supplies following Kiribati's extreme drought. It was a unified effort with the U.S. Agency for International Development's Bureau of Humanitarian Assistance and USCG provided much needed assistance by supplying more than 4,000 gallons of safe drinking water, 200 buckets with lids, 600 10-liter water containers and two 10,000 liter water bladders to support this effort.

In July, the USCG C-130 participated in Op Nasse, a 12-day multilateral regional maritime surveillance operation in the South Pacific. This mission provided overt physical presence at sea for direct enforcement of regional fisheries regulations.

Guthertz asked for information on the status of recent USCG missions on Guam and in the CNMI to intercept vessels attempting to come into Guam with people who are attempting to gain entry and apply for asylum.

McCollum said this is an ongoing issue and USCG is conducting intelligence reports and to gather further information on where the vessels are coming from before they arrive.

Guthertz expressed concern about this because of national security issues. Guam went through this in the 1990s with more than 1,000 people coming into Guam that were successful travelling via a Fujian Province in China. The governor at that time insisted that they be humanely detained until their status could be defined and the U.S. Immigration Service could deal with the problem. Ultimately, Guam is looking forward to further assistance from U.S. agencies for security reasons.

Sword said there have been FCF Asian longliners in port and USCG has been active in making sure they follow the rules. Lieutenant Richard Quintana, who was recently assigned to American Samoa in the last two months, has been very sympathetic to make sure that there are no problems with any of these vessels coming to service the canneries. He said he is very appreciative of that and hopes it continues. Sword also encouraged having a cutter in American Samoa to at least protect the region, as the Pacific Remote Island Areas (PRIA) are closer to American Samoa than Hawai'i. The Chinese longliners are fishing in the U.S. EEZ and then shipping and selling fish back to the United States. It is important for other agencies that deal with fisheries to follow the same line that the USCG has shown to help sustain and maintain the fisheries in American Samoa.

Gourley asked if USCG received any extra funding for surveillance in the PRIMNM.

McCollum did not know of any extra funding, but indicated the USCG is conducting regular electronic surveillance throughout the U.S. EEZ and Oceania.

Gourley asked about extra funding for enforcement in the sanctuaries.

McCollum indicated the USCG enforces in the areas and conduct patrols, but there is no additional funding.

Soliai noted that during the June 2022 Council meeting, the Council made a recommendation requesting that a cutter be stationed in American Samoa. The response was a negative one, but the Council will continue to pursue this issue.

McCollum highlighted that American Samoa is not forgotten, and although the response was negative at this time, it is likely not a negative response forever.

2. NOAA Office of Law Enforcement

Martina Sagapolu provided the NOAA Office of Law Enforcement (OLE) report. There were 175 incidents opened in less than three months, of which 133 were for protected species, 40 for fisheries and two for sanctuaries. The increase of protected species complaints is attributed to responses to spinner dolphin regulations mainly on Hawai'i Island and some on O'ahu. The two sanctuary cases were from American Samoa and Maui.

Of the cases that OLE has completed investigations, several of the incidences involved interactions with marine mammals including one case of swimming with humpback whales. OLE also completed investigations on an incident of a longline vessel that was operating in the WCPFC area without the required WCPFC Area Endorsement. These led to small monetary fines and corrective actions were taken.

OLE is struggling to fill staff positions. The enforcement officer that was assigned in Guam is now being relocated to the Big Island, which has resulted in a lot of work that was not done, but an enforcement officer should be back in Guam within the next three months. In the interim, OLE is rotating personnel to Guam to provide coverage. Additionally, OLE still does not have a Joint Enforcement Agreement (JEA) with its CNMI partners, but OLE will continue to show presence in both CNMI and Guam.

OLE is targeting the foreign fleet that is delivering fish to the canneries in American Samoa and aiming for 100% boarding done together with DMWR. One boarding identified violations involving uncovered fishing gear prior to entering the U.S. EEZ. Prior to the Port State Measures Agreement, these vessels would have been issued a summary settlement. Any time a foreign vessel comes into port and has its fishing gear unstowed, OLE questions if the vessel operated illegally in the EEZ. There have been a lot of complaints coming from the Manu'a Islands relating to bright lights offshore. OLE is not only looking at the U.S. fleet, but the fleets that are authorized to operate in WCPFC. OLE was able to validate that some of the complaints were on vessels that were not actually fishing.

Other outreach and inspections relate to charter captains pursuing marine mammal pods, one of which involved FWKs off the Big Island. OLE, together with Hawai'i Division of Conservation and Resources Enforcement, conducted compliance assistance, which means talking to the vessel master and providing information on the regulations.

OLE is also conducting visits to markets that import seafood into the territories. Under the Seafood Inspection Monitoring Program, OLE ensures dealers have valid permits in order to export or import. The outreach event was successful given the amount of questions received. The permit is almost free, and OLE can help these companies get permits so they are in compliance.

Rice asked if the vessel that was involved with swimming with the FWK was a Zodiac, and whether it was a charter for fishing or swimming.

Sagapolu said it was a charter vessel for the purpose of swimming.

Guthertz asked if the vacant staff positions on Guam and CNMI will be announced on USA.gov for people to apply, and whether applicants have to be currently in the OLE.

Sagapolu said the announcement had been out early March. The list usually comes to OLE certified with individuals to interview, but the list did not meet the requirements that OLE was seeking. OLE also has other hiring mechanisms in place, such as veterans. OLE's goal is to find someone that is local and going to sustain and remain in the area.

Ramsey asked what method was used to confirm lights offshore were not from foreign vessels fishing.

Sagapolu said OLE looks at the different electronic tools that they have on place. For example, a foreign vessel that is entering American Samoa only has a specific time that they are allowed to pull into port. If they miss that time due to COVID-19 measures, they have to wait, and if the vessel is hanging out in a monument or a mound, that would raise OLE's suspicion and would warrant further investigation and inspection to look at whether their gear is properly stored.

Dueñas expressed concern that there is no special agent currently present on Guam, but noted that a JEA officer with U.S. Customs is still operational. Additionally, under Convention on International Trade in Endangered Species, there are certain species that are of concern and inspection of these fish, especially coming from Micronesia, is not being conducted properly because the local customs agency does not know about those species. Guam residents are concerned about ownership of turtle shells that have been in the family for decades and whether they can take it with them when they relocate. He said a USFWS special agent indicated that if the shells are not being sold, it is likely not to be enforced.

Sagapolu said OLE had one special agent and one enforcement officer, and that the special agent position is still on hold but should be filled soon. Interviews are underway for the enforcement officer position. She said she cannot speak on behalf of USFWS, but noted that the American Samoa DMWR conservation officers ran into the same scenario described by Dueñas while patrolling. The approach taken was a "knock and talk," and to ask how they acquired the sea turtle shell. If it has been in their family, that is fine, and the officer would do education and outreach on the ESA and import/export rules should they ever decide to depart from American Samoa.

Soliai commended the OLE and indicated the partnership that the office has with the local Territorial offices, especially under the JEA, is very valuable. Regarding cases where there is a need to determine whether vessels are fishing outside of Manu'a or within territorial waters, those determinations are not expedient because American Samoa does not have a USCG asset. The Manu'a reports are not new and American Samoa shares the concerns that OLE expressed.

3. NOAA Office of General Counsel Enforcement Section

The NOAA Office of General Counsel Enforcement Section representative was not available to provide the verbal report due to a conflict. Soliai referred members to the written report.

D. U.S. State Department

Brinkman provided the U.S. State Department report. The U.N. Fish Stocks resumed Review Conference is still slated to be held in 2023, if conditions allow. The UN General Assembly workshop on the impacts of bottom fishing on vulnerable marine ecosystems and deep sea fish stocks was convened in early August 2022, which was intended to inform a review of provisions and recommendations related to bottom fishing as part of the negotiations at the annual U.N. General Assembly resolution on sustainable fisheries.

The Fifth Session of the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ) was held August 15 to 26, 2022, in New York. While delegations made progress at IGC5, a number of key issues remain outstanding in the text so the agreement is not concluded. The U.S. BBNJ team is preparing a summary of issues relevant to fisheries and is also working to find a time to make a presentation to the Council.

The U.N. Ocean Conference was held in Lisbon from June 27 to July 1, 2022. U.S. announcements at the conference included: The acceleration of efforts across the United States Government and internationally to combat illegal, unreported and unregulated fishing and associated labor abuses; support for aquatic and blue foods contributions to food security; the announcement of the Bipartisan Infrastructure Law funding for ocean and coastal resilience, leadership on the development of an action plan to conserve, restore and sustainably manage coral reef ecosystems; and the release of a National Ocean Policy Committee Action Plan.

Guthertz asked if the U.S. State Department is aware of individuals attempting to come to Guam from the CNMI are on a U.S. visa to work to work there, but may be overstaying their visas by coming to Guam to apply for asylum.

Brinkman indicated he was not aware.

Guthertz said individuals who are doing this are from China, and that this issue deserves to have more attention from the U.S. federal government for different reasons, including the potential issue of Homeland Security, to spy on our U.S. military facilities and/or somehow being hired by local contractors or other entities paying below U.S. wage standards even if they have expired visas.

Brinkman indicated the U.S. State Department is not an enforcement agency, and the only involvement the agency has is in issuing the visas. Brinkman said the relevant enforcement agencies would be Customs and Border Protection and Immigration and Customs Enforcement, and added that he can make some inquiries on behalf of the Council.

Guthertz said would help, noting that the Guam governor has been aggressive about this issue and formed a task force of local law enforcement entities and DOAG to assist in the manner.

Dueñas expressed concern about the resurrection of the sanctuary's program in the Mariana Archipelago, which was initially done to describe the deepest, darkest place on earth in the Marianas Trench, but the U.S. State Department gave away approximately 1,200 square miles of the U.S. EEZ around Guam to the Federated States of Micronesia, including the deepest, darkest place on earth. He said when it comes to discussion on fishing and the rights of the developing states, the three Territories and the State of Hawai'i should still be considered developing states because they do not have unlimited fishing. Dueñas is hoping the U.S. State Department will have a little more generosity in terms of a buffer around fishing grounds (i.e., the EEZ) as the United States is going to give \$60 or \$70 million dollars to the Pacific Islands Forum Fisheries Agency countries, and it would be unfair that the Territories will be inundated by foreign fisheries while, for example, American Samoa suffers from the lack of fish for the cannery.

E. U.S. Fish and Wildlife Service

Peck provided the USFWS report. Regarding staffing, Tammy Summers, the superintendent for the Marianas Trench Marine National Monument has taken another job at Midway Atoll and Toni Mizerak is the acting superintendent for 60 days. For the monument, there has been quite a bit of community outreach and education activities associated with the CNMI Ocean Month in June. USFWS has also been working with Tenorio to update the Chamorro and Carolinian fish species name lists. For the PRIMNM, John Klavitter is the acting superintendent for 120 days. USFWS implemented a new prohibition on the release of the weather balloons within the U.S. EEZ around Wake Atoll because they become marine debris when they land.

Lasha Salbosa, USFWS endangered species classification supervisor, provided an update on the green sea turtle proposed critical habitat. The USFWS Ecological Services Program is working under a court-ordered settlement to propose critical habitat by June 30, 2023. Under that timeline, USFWS anticipates holding public meetings in July and August 2023. USFWS is currently refining draft critical habitat unit areas, and plans to reach out to local government officials to provide additional briefings in the coming months.

Gourley asked if USFWS is looking at areas above the mean high water line and if there is a line in the sand that becomes jurisdictional with respect to critical habitat for the green sea turtle.

Salbosa said it will not be a line in the sand, but USFWS's proposed critical habitat boundary will be in the terrestrial area, in the mean high water tide area and above. They are currently working to refine the description of these areas as well as the boundaries.

Gourley asked if USFWS has worked with any other local agencies to better understand and define the critical habitat maps before going out for public comment.

Salbosa said USFWS has been working with local staff in those areas, noting that the agency will be holding a public comment period and informational meetings on the proposed critical habitat areas. Boundaries will still be able to be adjusted after that time.

Gourley asked if the critical habitat is going to be based on the mean high water line, at what stage they are at with the maps, and for further clarification on the coordination with the local agencies to date.

Salbosa said most of the areas will be based on the mean high water line, but they are still working on the description and developing the draft boundaries for those areas, noting that the maps are about 80% finished. The *Federal Register* notice on the proposed rule will include both maps and a narrative description of the critical habitat. Salbosa said USFWS has worked with a number of federal partners and state and territorial agencies. When USFWS proposes the designation and move into the public comment period they expect to have several in-depth meetings with the members of the public to gather further input to refine the areas.

Gourley asked if USFWS could coordinate with the CNMI Department of Public Lands, which manage the beaches, as well as the hotels before completing the maps.

Salbosa said USFWS has been coordinating with various federal and state and territorial officials in those areas, and because USFWS cannot be prediscisional, it will reach out to those individuals once the public comment period starts. Salbosa acknowledged that many of the beaches throughout the Pacific Islands are publicly owned, but noted that critical habitat is specifically for federal agencies that restricts federal activities, as well as any activities that are federally funded and requires federal agencies to consult with USFWS if they think any of the activities may affect the critical habitat areas. Thus projects like hotels and other private businesses are not affected by critical habitat designation.

Gourley asked if lighting on the beaches would affect critical habitat, which in turn would affect hotels and other private businesses.

Salbosa said they will be talking with those individuals and will work continually on the ground with those entities and partners as part of other areas of USFWS's ESA work.

Gourley asked with whom specifically in the CNMI government USFWS has been coordinating.

Salbosa said she does not have the names on hand but she could contact staff to get a full list to send to Gourley.

Gourley said based on the region's experience with other critical habitat designations, and his personal experience with critical habitat and USFWS, there is a very serious need for USFWS to do some pre-coordination with affected stakeholders before they come out with a public rule and finalized maps. He added that people in the islands have the perception that when the federal agency comes out during the public comment period with the maps, it is a done deal, and asked if it would be possible to have input prior to the final development of the maps and the proposed rule.

Salbosa said they can work to see if they can make that happen.

Muña-Brecht requested that Guam also receive the list of individuals who had been contacted about the green turtle critical habitat, and how it may impact private homeowners with property that many be considered nesting habitat.

Soliai asked Salbosa to also include American Samoa in the communication.

F. Public Comment

There were no public comments.

G. Council Discussion and Action

Regarding the PIFSC report, the Council requested PIFSC invite local agency staff to participate in future research cruises in the territories.

Moved by Guthertz; seconded by Rice.

Motion passed.

Regarding USCG assets, the Council directed staff to send a letter to DOI to assist American Samoa in supporting the development of infrastructure needed to station a USCG cutter in Pago Pago.

Moved by Guthertz; seconded by Sword.

Motion passed.

Regarding the green turtle critical habitat, the Council requested USFWS and NMFS to coordinate with the territory governments of American Samoa, the CNMI and Guam in advance of publishing the proposed rule.

Moved by Guthertz; seconded by Sword.

Motion passed.

VIII. Protected Species

A. Endangered Species Act Section 7 Consultations

1. Status of the Hawai'i Deep-Set and American Samoa Longline Fishery Draft Biological Opinions

Golden, PIRO Protected Resources Division (PRD), reported the status of the Hawai'i deep-set and American Samoa longline fisheries consultations. The estimated completion date of the all species BiOps for the two fisheries is early 2023. The Hawai'i DSLL is currently covered under the 2014 BiOp as supplemented, and the American Samoa longline fishery is covered under the 2015 BiOp, with the exception of the OWT and giant manta ray. PIRO has decided to do supplement BiOps for the two species not covered by existing BiOps, and Golden reported that PIRO will meet the deadlines of Sept. 30, 2022, for the Hawai'i DSLL, and Oct. 30, 2022, for the American Samoa longline fishery. By the December 2022 Council meeting, PIRO expects to have a more detailed timeline of when the Council will be provided with the opportunity to review the all-species BiOps. Due to the tight timeline of completing the

supplements, the Council will not be provided an opportunity to review those drafts, but PIRO plans to include OWTs and giant manta rays in the all-species BiOps, at which point the Council will have an opportunity to comment on those species sections. The goal for the all-species BiOp is to have them available before the March 2022 Council meeting.

Soliai said the BiOps have been a contentious subject over the years, and noted that Golden's presentation was the longest one the Council has received from PIRO on this subject matter in the last three years. Soliai asked for clarification on the difference between a supplement BiOp and a normal BiOp.

Golden said the supplement BiOp will focus on the two species that were not covered under the previous BiOps rather than doing a consultation on all listed species for which there is existing consultation coverage. The supplement will include the same kind of analysis as a regular BiOp.

2. Final Bottomfish Fishery Biological Opinion

Melissa Snover, PRD, provided an overview of the final bottomfish BiOp, which was signed in August 2022. The anticipated level of OWT captures are two interactions over five years in the MHI, one interaction over five years in Guam, four interactions over five years in CNMI and none in American Samoa. Post-interaction mortality rate is estimated at 10-16% based on available information in the literature due to the lack of species-specific information in the bottomfish fisheries. The BiOp concluded that bottomfish fisheries are not likely to jeopardize the continued existence of the threatened OWT, and includes an Incidental Take Statement (ITS) based on the anticipated level of interactions and post-interaction mortality estimates. The BiOp includes a Reasonable and Prudent Measure (RPM) that requires PIRO Sustainable Fisheries Division (SFD) to monitor the take of OWTs in the bottomfish fisheries, along with Conservation Recommendations aimed at improving identification of sharks as well as reporting and monitoring.

Snover also reported on PIRO's responses to the Council's comments to the draft bottomfish BiOp. Regarding the Council's recommendation that NMFS should remove the RPM from the BiOp, PIRO determined that case law instructs them to include an ITS for the OWT even though take is not currently prohibited. ESA implementing regulations also require the federal agency to report the progress of the action and its impact on the species as specified in the ITS. PIRO modified the RPM language to provide greater flexibility in monitoring and updated the post-interaction mortality estimate from 25% to 10-16% in response to Council comments.

Gourley asked how NMFS plans to monitor the incidental take and whether it would be through fishermen self-reporting or through NMFS observers.

Snover said PRD is leaving that decision up to SFD.

Makaiau, SFD, said monitoring is a difficult endeavor, and for the analysis used in the consultation, SFD worked with the Territories and the State of Hawai'i to look at the available data to determine which of the whitetip shark data may have been OWTs rather than whitetip reef sharks. SFD plans to continue this approach, as well as working with the Council's plan

teams and advisory groups to determine an appropriate method of attributing unidentified sharks to OWTs.

Gourley asked whether under the ESA, an interaction could be called an incidental take of a specific species without the animal being seen and species identification confirmed, noting his concerns about species identification of sharks by fishermen.

Snover said PIRO is relying on the reporting and species identification by fishermen, and for any unidentified sharks, will rely on information available for proportion of sharks that are identified as OWT versus other types of sharks. She noted that the ITS is based on reported OWTs, or some inference of separation of oceanic whitetip and whitetip reef sharks.

Gourley said species identification will be important in any type of ESA Section 7 consultation, and community outreach in shark identification would be useful in the Mariana Archipelago and American Samoa.

Dueñas said the agencies need to work collaboratively with the communities of concern because the villages in American Samoa, Guam and the CNMI have village systems and the mayors or chiefs are in charge of the small villages. He expressed concern that reliable data are not being captured through existing processes and assumptions are being made about shark interactions, and said a community-based data collection program is needed to capture data on fish caught, interactions with sharks, and observations of sea turtles and other species of concern. He said there is a missed opportunity with data collection through the communities because fishermen take pictures of everything on their cell phones and are willing to talk and share information.

B. False Killer Whales Interaction and Depredation Analysis

Robert Ahrens, FRMD, presented the results from an analysis looking at the influence of Southern Exclusion Zone (SEZ) on false killer whale depredation in the Hawai'i DSLL. The analysis was conducted in response to requests from the FKWTRT as well as the Council to address concerns that effort displacement of effort out of the SEZ during the closure in 2019 resulted in a higher than expected probability of interacting with FWKs to the east and south of the SEZ. Previous work looking at FWK depredation events in the Hawai'i DSLL showed that about six out of every 100 sets are likely to have depredation events recorded, which resulted in an estimated cost to the fishery of about \$1 million. Telemetry studies have shown that FKWs appear to respond to gear hauling, and their movements can be over fairly large distances.

The analysis used logbook data to calculate effort in the region and observed data to look at interaction rates. Global Fishing Watch estimates of fishing activity was also used to look at foreign fishing effort, which turned out to be not a useful component to add into the analysis, but those data showed that foreign fishing effort intensity is high in areas south of Johnston Atoll. The cursory analysis suggested that depredation probabilities increase as the effort moves closer to the MHI and into the SEZ, and the model examined whether cumulative effort preceding a set is causing a higher than expected probability of interactions and depredation events. The model results showed that depredation events are occurring at a probability of approximately six in 100 sets consistent with earlier studies, depredation probability is higher in the SEZ by 20%, and the cumulative effort that occurred in a specific location one week prior to a set did not have an effect on the probability of depredation event occurring on that set. The results indicate that more

effort does not seem to translate into an increased chance of depredation, but showed a complex spatial pattern of where the depredation probability is higher or lower. In 2019, higher probabilities of depredation tended to be isolated to the south and to the east of the SEZ, whereas other years exhibited a more complex spatial pattern. The model results also showed that higher effort occurred to the south and east of the SEZ when the area was closed compared to when it was open, displacing effort out of the SEZ and into areas where there are higher potential for interactions with giant manta ray, OWT and olive ridley sea turtles, as well as with foreign fishing vessels.

Dang said the information from the analysis is useful for providing a vision for the FKWTRT, which will be meeting in two months. He noted that the results are consistent with what he had assumed would happen, which was displacement of impacts to the south of the SEZ, and said the effort displacement into areas with rays, sharks and turtles is a concern.

Dueñas asked if the depredation events are known to be caused by FWKs rather than sharks. He also noted findings from tagging studies that indicated sound attracting whales and asked if any research has been done to create noise that could be added to the acoustics portion of the hauling process to deter FWKs.

Ahrens said observer data categorizes depredation events by marine mammal, sharks or other, and the analysis only used those depredation events that were attributed to marine mammals, which is generally assumed that those are predominantly FWKs. Ahrens said he was unaware of research on counter-acoustic sounds.

Rice said counter-acoustics have been tried but the animals are smart and continue to follow the boats after they figure out the new sounds. He asked if the FKWTRT will be looking at keeping the SEZ closure or if they will consider the results of the analysis, noting the effort being pushed outside and into areas with more depredation and more foreign vessels that do not report interactions with FWKs.

Ahrens said the analysis results were presented to the FKWTRT in a webinar prior to the Council meeting, but he could not comment on what they choose to do with the information. He clarified that the effort is being displaced out of the zone, but the per set probability of having a depredation event does not appear to change, so the higher depredation and interactions seen in 2019 to the south and east of the SEZ was because there was more individuals fishing, not because fishing appeared to be attracting in more whales to that area. He said it would be nice to have data on the effects of the foreign fishing vessels in areas where there are higher effort.

Rice asked if it is worth closing the SEZ.

Ahrens said probability of a depredation event occurring inside the SEZ is 20% higher, so closing the SEZ may result in potentially dropping the overall probability of a depredation.

Dang asked if the depredation in the data is on the bait or the hooked fish.

Ahrens said it is the hooked fish.

Rice asked if there has been more research to determine what counts as a mortality that counts toward the closure and whether FWKs survive interactions after they are released.

Golden said looking at relevant research and future direction are on the table for the next in-person meeting of the FKWTRT.

C. Endangered Species Act and Marine Mammal Protection Act Updates

Golden provided the ESA and MMPA updates. On June 28, 2022, the Center for Biological Diversity (CBD) sent a notice of intent (NOI) to sue for missing the deadline to complete a 12-month finding on a petition to list shortfin mako sharks under the ESA. An Extinction Risk Assessment Team convened several times in 2022 and made recommendations to the NMFS Office of Protected Resources, and development of the 12-month finding is underway although no timeline was available for the anticipated publication date.

NMFS received a petition to list the great hammerhead shark June 16, 2022, and the 90-day finding is now overdue but expected within the upcoming months. When NMFS previously received a petition to list the species in 2014, the status review at the time concluded that the species did not warrant listing.

NMFS plans to publish a draft recovery plan in late 2022 for the three distinct population segments of humpback whales that occur in U.S. waters. An internal working group was convened to develop a three-part recovery plan, recovery status review, and recovery implementation strategy.

In response to public comments received from the Council and territorial governments on the coral critical habitat proposed rule, NMFS worked with the territorial governments to gather and review all records of listed corals and developed a new methodology for application of the records. NMFS is revising the coral critical habitat and considering options for next steps, including publishing a final rule or withdrawing the 2020 proposed rule and publishing a new proposed rule followed by a public comment period. Golden highlighted the high level of collaboration on the critical habitat designation and expressed appreciation for the good information provided throughout the process.

Golden also presented updates on the FKW Take Reduction Plan and highlighted recent interactions observed in the Hawai'i DSLL in 2022, noting two interactions have been confirmed to date inside the EEZ. FKWTRT convened on August 30, 2022 to review information related to the FKW Take Reduction Plan, including the SEZ analysis and updated interaction data. FKWTRT will also meet in-person November 7-10, 2022 when they will review the plan measures and goals, consider new information, and consider measures for reducing mortality and serious injury.

Gourley asked what NMFS's assessment of CBD's NOI on the coral critical habitat was, and whether NMFS has talked to CBD.

Golden said she has not talked to CBD and that NMFS does not have any comments on the NOI.

Gourley said he talked to the CBD representative who signed the NOI, and relayed to them that NMFS has been putting a lot of effort into coordinating with the three territories. He said the representative said they have talked about it informally but no serious decision had been made.

Golden thanked Gourley for having that conversation with the CBD representative.

Rice asked if the FKWTRT will look at the new determination on serious injury versus non-serious injury, noting that a FKW that stranded on the south side of the Big Island had six hooks in its stomach but it had died of old age. He said releasing a FKW with a hook in its mouth does not seem like a serious injury if a whale was found with six hooks and survived for years before it died.

Golden recalled that the hooks found in the stomach were not the same hooks that longline vessels were using, and noted there are multiple issues with morality and serious injury. If NMFS has new information, it will consider it, but Golden was not sure that one stranded animal would change things significantly for assessing mortality and serious injury.

Elena Duke, PRD, said both hooking and the amount of trailing gear are considered in the serious injury determination. She said the issue is something the FKWTRT will consider when looking at different measures as well as research into post-hooking mortality and ways to mitigate it.

Rice said the whales are tough as they come, and based on his experience releasing a lot of marlin throughout the year, he said the more the fisherman struggles with the animal before releasing it, the more that will hurt the animal. He said if the line can be cut below the weight and released, that interaction should not be counted as serious injury even though the hook is still in the fish.

Golden said the FKWTRT does not determine the mortality and serious injury criteria because that is a national policy, but FKWTRT will look at any research that is available. FKWTRT could make recommendations about the policy, but that does not mean they can change the policy.

Rice said he has always had issue with the subject because of the impact it has on the fishery, and said PIFSC and everyone should continue to look at what constitutes serious injury versus nonserious injury.

Dueñas asked if the observers on board carry tags to deploy on FWKs before they are released to find out the mortality rate, noting the question of mortality has to be understood if mitigation measures have to be implemented.

Golden said based on her experience of being an observer, getting tags on the FWKs is difficult because these are very rare events and they never go smoothly. The tags are also expensive and tagging requires experts that have a lot of experience, whereas most of the observers may see one interaction in their career. NMFS has about 60 observers at any given time, so there would need to be about 120 tags. It is not an easy feat to satellite tag a large animal, as just getting the animal close enough and having the crew try to remove the hook or able to see it is challenging. Golden said if NMFS could do it and had the money, it would certainly do so, but it would require coordination with the captain and crew as well as the right observer to do the job, and that observer encountering a FKW interaction while they are on board would be challenging.

Rice said he understands the challenge given his experience deploying over 100 tags on fish, and hoped that the cost of satellite tags will come down in the future as the technology improves.

D. Advisory Group Report and Recommendations

1. Advisory Panel

There were no Advisory Panel (AP) recommendations regarding protected species.

2. Fishing Industry Advisory Committee

There were no Fishing Industry Advisory Committee (FIAC) recommendations regarding protected species.

3. Non-Commercial Fishery Advisory Committee

There were no Non-Commercial Fishery Advisory Committee (NCFAC) recommendations regarding protected species.

4. Scientific and Statistical Committee

Martell, SCC member, presented the SSC recommendations regarding protected species.

Regarding the Final Bottomfish Fishery BiOp, the SSC recommended that the Council seek clarification from GCPI regarding NOAA's authority to require monitoring of OWTs because there are no Section 9 take prohibitions in place.

Martell reported that the SSC inquired about the application of the monitoring requirement under the RPMs for OWTs, for which NMFS has not applied take prohibitions. SSC received clarification from PRD staff that there is precedence for requiring monitoring for other species that do not have take prohibitions, there is case law reaffirming this approach, and that NOAA GC would be able to further clarify NMFS's authority for requiring monitoring.

Regarding the FKW Interaction and Depredation Analysis, the SSC recommended that PIFSC (i) investigate operational aspects, including temporal, spatial, gear-related and acoustic signatures of vessels at both extremes (high and low) to reduce depredation rates; (ii) continue discussions with the Hawai'i deep-set longline captains to better understand industry perspectives on the drivers of depredation rates; and (iii) explore the use of structural equation modeling to help quantify the potential direct effects of the SEZ closure on longline fishing effort and any subsequent indirect effects on protected species interactions such as OWTs, manta rays and olive ridley turtles.

Martell reported that the SSC noted the seasonal effect being weak and not likely to have much meaning given the rarity of events and cautioned about putting too much emphasis on the permit effect findings. However, SSC members found value in further engagement with captains to better understand their perspectives on the drivers of depredation rates (acoustic signatures, bait, other factors). The SSC noted the analysis confirms that the SEZ closure displaced fishing effort out of the SEZ and EEZ, while the probability of depredation does not differ substantially

between inside and outside the SEZ. The model suggests that the tradeoff to the SEZ closure is effort displacement into areas with higher interaction rates for other protected species (OWTs, giant manta rays, olive ridley turtles) and areas with higher foreign vessel presence, and further analysis would be warranted to quantify the extent of those tradeoffs.

Regarding protected species interaction estimation, the SSC recommended that PIFSC explore additional covariates such as vessel operational characteristics and species-level relationships.

Martell reported that the SSC received a presentation from PIFSC staff on an analysis to evaluate the use of a machine learning algorithm (ensemble random forest model) for estimating protected species interactions. The ensemble random forest model used 2005-2020 observer data from the Hawai'i shallow-set longline fishery, which has 100% coverage and allows for estimating bycatch using multiple methods and compare estimates to true take. The analysis focused on OWTs, loggerhead turtles and leatherback turtles, with the model using a set of 26 environmental covariates.

The ensemble random forest algorithm was more effective at predicting sets with higher bycatch rates (OWTs) than lower bycatch rates (loggerheads and leatherbacks). The ensemble random forest model estimates of OWTs closely matched the actual 2021 value. The loggerhead estimates were biased lower, whereas the leatherback estimates were biased higher. Mean ensemble random forest estimates were more precise compared to the Horvitz-Thomson estimator currently used for estimating protected species interactions.

The SSC noted that the only variables used to predict bycatch in the modeling framework were surface factors and discussed the utility of including additional environmental parameters such as salinity and subsurface data fields, or the incorporation of other covariates such as vessel operational characteristics and species interactions (e.g., interaction patterns with one protected species being associated with another). The SSC acknowledged that estimating rare interactions is difficult irrespective of the model approach.

5. Pelagic and International Standing Committee

There were no Pelagic and International Standing Committee recommendations regarding protected species.

E. Public Comment

Eric Kingma, HLA, provided comment regarding the SEZ evaluation. He said the economic impact of FKW depredation estimated at 6% of the sets and \$1 million appears to be low, noting that bait depredation impacts have not been quantified. He estimates the true impact to be about \$20 million and the impact is seasonal, and noted that depredation impacts are significant to the fleet. Kingma expressed disappointment that the false killer whale research funding allocated to the region with Senator Brian Schatz's support in the last two years have not supported projects that HLA and FKWTRT members have prioritized, and most of the funding has been going to insular FKW research. The SEZ has a significant impact especially for the smaller vessels in the Hawai'i DSLL because the SEZ closure affects the year-end seasonal run of bigeye closer to the islands. There is a need to work together on prioritizing funding for projects that have a real impact on the fishery, such as research on pingers, post-release tagging,

fleet avoidance and deterrents. Kingma said the time is now to work together to focus collectively on the big FKW issues surrounding the DSLL.

F. Council Discussion and Action

Regarding the Hawai‘i deep-set and American Samoa Longline ESA consultations, the Council requested PIRO to coordinate with the Council on a review schedule for the full BiOps, with a target of providing drafts for advisory group review in advance of the March 2023 meeting.

Moved by Rice; seconded by Dueñas.
Motion passed.

Regarding the FKW analysis, the Council reiterated its previous recommendation from the 172nd meeting (March 2018) that the SEZ be considered for removal when the Take Reduction Plan measures are revised, noting the tradeoffs of the closure on other protected species interactions and competition with foreign fishing vessels.

The Council requested PIFSC to:

- a. Investigate operational aspects, including temporal, spatial, gear-related and acoustic signatures of vessels at both extremes (high and low) to reduce depredation rates;
- b. Continue discussions with the Hawai‘i DSLL captains to better understand industry perspectives on the drivers of depredation rates;
- c. Explore the use of structural equation modeling to help quantify the potential direct effects of the SEZ closure on longline fishing effort and any subsequent indirect effects on Protected Species interactions such as OWTs, manta rays and olive ridley turtles.

Malloy said NMFS will abstain from the first recommendation regarding SEZ removal.

Moved by Dueñas; seconded by Sword.
Motion passed.

Regarding the SSC Report on Protected Species Interaction Estimation, the Council requested PIFSC to explore additional covariates such as vessel operational characteristics and species-level relationships.

Moved by Rice; seconded by Sword.
Motion passed.

IX. Hawai‘i Archipelago and Pacific Remote Island Areas

A. Moku Pepa

Ramsey reported that there has been a decline in COVID-19 cases and he was glad that the Council was able to meet in person. He congratulated the Miloli‘i community on approval of their community based subsistence fishing area plan, which has a focus to ensure fish stocks and high quality fishing experiences and to perpetuate customary fishing practices in Hawai‘i. ‘Oama

and halalu have arrived in nearshore waters around Hawai‘i, which appeared later than usual. He congratulated Michael Matsunaga who caught a record breaking tako (octopus) of 26 pounds while bottomfishing in about 400 feet of water.

Rice reported that the charter fleet had a good summer season although fishing has been slower than usual. The ono bite was slower than usual, but it was a good year for bigger fish more than 500 pounds. There was a lack of the state taking care of their public harbors. Ma‘alaea Harbor has not been upkept and it has left the facilities unsanitary. The State previously addressed issues at the Honokohau Harbor, and there is a need to upkeep the harbors statewide.

Kamaka‘ala reported that the fishing community observed the spawning seasons for lobster and *moi* on Kauai and O‘ahu respectively, and the spawning season are in line with the State’s fishing regulations. Practitioners on the west side of Hawai‘i Island and Maui observed an increase in manta rays, although their migration patterns have changed over time. There is a potential interest for offshore wind projects off the Main Hawaiian Island and the communities have concerns on the impacts of that technology on deep sea marine environment and pelagic migrating species.

Dang reported the overall market condition has stabilized to more typical levels in their off-peak season which correlates with the drop in tourists from the high summer season. They expect fish prices to remain at this level until after Thanksgiving when the tourists and demand returns. A small portion of the longline fleet will convert from deep-set to shallow-set to target swordfish to compensate for the low season. In terms of production, captains are reporting that some boats are catching and some are not. Captains are deciding to go further east for fishing, which may cause an inconsistent landing and availability of fish at the auction for the upcoming weeks. Fuel cost have lowered from the high summer peaks, but the cost remain high, which causes problems for vessel owners with the correlating lower demand and lower revenue on the fish they catch.

B. Department of Land and Natural Resources / Division of Aquatic Resources Report (Legislation, Enforcement)

Bryan Ishida, Hawai‘i DAR commercial fisheries biologist, presented the State’s report for May to July 2022. As of the end of the reporting period, 372 commercial marine license holders made 1,972 trips and caught 178,423 pounds of mixed deep-seven species, which was similar to the 2018-2019 fishing year. As of the end of the reporting period, 43% of the deep-seven species was ‘ōpakapaka, which is considered a normal proportion, and the catch for the entire fishery is still level for most species except for ehu and gindai.

The Kona crab season reopened in September for commercial and noncommercial fishing. The 2022 catch was really low with a lower commercial effort for Kona crab. The regulations for Kona crab are restrictive and a lot of crabs that are thrown back. DAR is currently working towards repealing the no-take of females, which will improve retention rate.

As of the end of July 2022, 148 commercial marine license holders made 428 trips and caught 27,948 pounds of uku, which was similar to 2020. The demand for fish at hotels and restaurants have returned to normal although catch seems to be lagging despite good prices at the market.

As of the end of the reporting period, 1,940 licenses were issued or renewed for a revenue of \$270,950, which was a slight increase over 2020, but still below the 10-year average in number of licenses issues. During the reporting period, one conservation and management permit, four research permits and one special ocean use permit were granted for entry into the PMNM. The Permit Coordinators Group is reviewing four applications for the fall to winter 2022 application period. The Permit Working Group, Resource Protection Working Group and the Permit Coordinators Group met in May, June and July 2022 to discuss boundary-related differences in regulations and potential future regulations. They also discussed the use of detection canine for detecting rodents and other invasive species or unwanted species on vessels moving up to the PMNM. During the reporting period, six fish aggregating devices (FADs) were replaced and one was recovered.

Regarding aquatic invasive species (AIS) management, the State of Hawai‘i has been preparing for the potential arrival of the Caribbean coral disease and the stony coral tissue loss disease. This preparation will include the creation of a Stony Coral Tissue Loss Disease Action Plan with collaboration with all of the other territories to identify potential gaps in monitoring and response efforts. DAR staff is working on the draft and have requested for comments from their collaborators.

The AIS team has completed their annual Snap Assessment surveys to monitor invasive algae levels in Kaneohe Bay and the Waikiki Marine Life Conservation District. As a method of biocontrol for the invasive algae *Gracilaria salicornia*, the AIS team planted Hawaiian collector sea urchins that were spawned and raised at the Ānuenuue Fisheries Research Center. In August 2022, they planted the 900,000th urchin and are on target to hit the one million mark by Thanksgiving 2022. The AIS team responded to community concerns of an invasive algae known as Golden Threads near Waimanalo Beach. It was verified that the outbreak of this algae should not be long term.

For the 2022 legislative session, Senate Bill 2065 took effect on June 27, 2022 and was signed into law as Act 207. This law bans the use or possession of unmanned aerial vehicles, or drones, on, in, or near state marine waters for the purpose of taking aquatic life. This act authorizes DLNR to issue drone fishing permits, provided that drone use is consistent with other legal requirements. In the past couple of years, the use of drones became popular for targeting ulua from shore.

Regarding the Coronavirus Aid, Relief and Economic Security (CARES) Act funding, the 290 Hawai‘i fishery participants who applied continue to wait for disbursement of funds. Applicants will be notified with updates.

Rice said there are six FADs off of Kona that do not have fish on them and asked DLNR to retrieve them. He reiterated that for years that he has recommended that the State of Hawai‘i should consider putting structure on the FADs to increase their productivity.

Dueñas asked why there was an increase for the deep-seven bottomfish ACL from 2007 to 2022. Ishida said there was an increase in the ACL following the 2018 benchmark stock assessment due to better data collection from the fishery and new data streams to provide a better understanding of what is going on in the fishery.

Dueñas asked if there are any effort to do work on the old lobster tagging study conducted in the NWHI, and if there was an intention to do a follow-up program to see the efficiency of the project. He said there was a huge effort for tagging fish in the MHI and he would like to see that type of follow up in the NWHI. Scientists have said they are the best of the best and he would like to

understand the effects of the monument especially when the president is considering to expand the PRIMNM. He said the State of Hawai‘i could consider introducing rabbitfish to address the invasive algae issue.

Ishida said DLNR does not plan to conduct any tagging or lobster although they do have a volunteer tagging program limited to goatfish and moi. DAR has taken a proactive response to control the invasive algae through the protection of herbivores and is working on updating their herbivore rules.

C. Alternatives for Fisheries Management Measures in the Northwestern Hawaiian Islands (Initial Action)

Joshua DeMello, Council staff, presented the options for fishing regulations in the NWHI Monument Expansion Area (MEA). At its 191st meeting, the Council preliminarily supported alternative 2, prohibiting commercial fishing and permitting noncommercial fishing in the MEA and directed staff to continue analysis of the options to work out the details of the alternatives for initial action. The alternatives for regulating fishing activities to fulfill responsibilities under Proclamation 9478 are: 1) no action; 2) prohibit commercial and permit noncommercial fishing within the MEA; 3) prohibit commercial and noncommercial fishing in the MEA; 4) permit subsistence fishing as a native Hawaiian practices; and 5) prohibit all fishing activities in the MEA.

96.1% of the MEA is deeper than 4,000 meters and the longline fishery typically fishes at depths up to 400 meters. About 1% of the MEA is shallower than 3,000 meters where most fishing activities would occur. Commercial fishing stopped in 2016 and the nearest point of the MEA is approximately 200 miles from the island of Kaua‘i. The Council looked at the fishing cost per trip when the bottomfish fishery operated in the area and found that a 44 foot diesel-powered vessel with a refrigerated hold on a five-day trip with fuel, food and bait would cost about \$2,600. Sustenance fishing for bottomfish or pelagic species are allowed provided that the fish are eaten in PMNM. There is special management for recreational fishing at Midway Atoll.

The SSC recommended defining subsistence fishing as “fishing for food to eat and to share without a monetary profit motive and may include fishing with any legal gear and the transport and holding of fish or fish products that can be shared or gifted among both, immediate or extended family and friends in ways that contribute to communities, sustainability, food security and social solidarity.” The SSC asked the Council to consider different options for subsistence fishing and including the idea of exchange of fish and fish products for food or nonedible items if the exchange is of a limited or noncommercial nature or consider customary exchange without cost recovery. The Council could also consider defining subsistence similar to what the PMNM defines sustenance fishing.

Sakoda said his understanding is that the definition of subsistence fishing would fall under noncommercial, and asked for confirmation that there would be no customary exchange allowed under alternative 3.

DeMello said yes, and noted that the alternatives are not mutually exclusive.

Sakoda said on behalf of the State, they would like the definition of subsistence fishing from the SSC to align with the existing sustenance fishing that occurs in the PMNM, as the alignment would make enforcement easier. This would avoid having to police people bringing resources back from the monument and would require everything to be consumed in the monument. The State of

Hawai‘i does not want to commercialize or monetize any of the resources in the MEA, and would like the resources to be something that is consumed or used incidental to other purpose for being in the monument.

Rice said unless someone has a big boat, they are not going to be able to fish in the MEA due to weather. If someone wanted to go fishing for sustenance, the good fishing is in the PMNM.

DeMello asked what size boat at a minimum would be needed to fish in the MEA.

Rice said someone would need a 45- or 50-foot boat at a minimum to hold enough fuel to go to the MEA, fish and return.

Kamaka‘ala asked how any proposed management by the Council might work well or not with the current management of the area. She said the current comanagement in the areas seems to be sufficient and in line with the traditional and cultural use of the area. Based on her short time as a Native Hawaiian Rights attorney and in looking at the definitions of traditional and customary practices, she said subsistence does not always mean that the practice is fitting of that place. From her personal knowledge, she said no action would be fitting for the Council’s consideration.

DeMello said the PMNM is comanaged by USFWS, NMFS, State of Hawai‘i and the Office of Hawaiian Affairs, and fishing recommendations from the Council will go to NMFS. In discussion of the management plan, which does not exist for the MEA, there is still a need for a management plan for that area. Additionally, there is a proposal for a national marine sanctuary to overlay the NWHI. Any recommendations that become regulations for fishing would have to be considered as part of that management plan and he cannot speak for that management board.

Kamaka‘ala asked if the Council took no action, whether that would be sufficient to inform NMFS that management planning for the MEA.

DeMello said if the Council took no action, then NMFS would put in regulations, which would not go through the Council process.

Gourley said he reviewed the PMNM management plan and comanagement has limits as each agency has jurisdiction over specific areas. He said comanagement is not equal amongst stakeholders of the management board.

Dueñas said people in charge of their native people need to understand that this action is affording them the opportunity to fish to feed their communities. He said the vessels entering the MEA should be compensated somehow through customary exchange, and wanted to ensure that the Native Hawaiian communities and other indigenous communities are afforded the opportunity. He said foreign fishing fleets are decimating whatever potential conservation effort is made by so-called conservation areas as those fleets are surrounding the PRIA when U.S. vessels have no access to those waters. He said allowing customary exchange is a viable compromise in order to protect and perpetuate their indigenous practices and their people.

Kamaka‘ala said it is her responsibility as an indigenous kanaka maoli of Hawai‘i to share the details of her cultural practice and connection to PMNM and the MEA. Their relationship with that place is revered as very sacred and their relationship goes beyond the gathering of resources for food as they have those resources closer to the island where they live and reside. Those relationship with the NWHI is not a place where they traditionally went to harvest and they do revere sharks and other marine life, but that is not to say that they do not also eat them in that same line of reverence

for them. The traditional Hawaiian relationship with the NWHI dictates their practice. She said the NWHI serves as a home for ancient navigational heiau and practitioners regularly utilize these heiau to continue their research in celestial alignments to inform many things, from farming to navigation.

D. Development of Status Determination Criteria for the Hawai‘i Kona Crab Fishery

Thomas Remington, Lynker, provided a review of status determination criteria (SDC) in the Hawai‘i Archipelago Fishery Ecosystem Plan (FEP) for Kona crab harvested around the MHI. Despite the results of the stock assessment, the stock status of MHI Kona crab remains “unknown” under NMFS’s Fish Stock Sustainability Index (FSSI) as there is no SDC, and the FEP currently does not meet the requirements of National Standard 1 of the MSA, which prevents the determination of stock status within the Fish Stock Sustainability Index. Filling this management gap would further support MHI Kona crab as an actively managed species under the FEP and allow for results of stock assessments to be used to determine stock status. Remington presented options for the Council to consider: 1) no action; 2) utilize the SDC from the recent stock assessment; or 3) use a SDC from crab fisheries from outside the Pacific Islands to bring the FEP into compliance with MSA. The APT is expected to review this issue at an intersessional meeting in January or February 2022 to gather additional feedback before bringing it back to the Council for initial action as appropriate.

Rice asked Sakoda if the State of Hawai‘i allowed the take of female Kona crab.

Sakoda said the Hawai‘i State Legislature repealed the statute, but there is still an administrative rule that prohibits the take female. Sakoda said they still need to go through public review and other agency review, and plan to finish the regulation change by next year.

Dueñas asked for the rationale to prohibit the take of female Kona crab.

Sakoda said he did not know the rationale behind the law that was passed in 2006.

Dueñas asked if the State of Hawai‘i could amend their rule.

Sakoda said they had to add the no-take of females rule into the DLNR rules before they could request the legislature to repeal the statute. Now that the legislature has repealed it, DLNR has to change the rules so they can allow the take of females. They are working on their plan to implement the new rule. He said they are working to remove the no-take of female rule because it is not economical for fishers to target Kona crab when they would have to release over half of their catch.

E. Report on Uku Essential Fish Habitat Western Pacific Stock Assessment Review

David Itano, Western Pacific Stock Assessment Review (WPSAR) chair, provided a report on the external independent review under the WPSAR process on Level 1 and 2 EFH models for MHI uku (*Aprion virescens*). Erik Franklin provided a Level 1 estimate of Uku relative abundance based on two presence-absence models using boosted regression trees. The models utilized shallow water diver observations (<30 m) and baited remote underwater video (BRUV) data (30 – 300 m) which in combination covered the full vertical habitat range of the

species. Kisei Tanaka and colleagues developed a Level 2 generalized additive mixed-effects model using the diver data exclusively to estimate Uku population density for shallow-water areas (<30 m). The models were evaluated under seven terms of reference criteria, and the primary objective of the review was to make a judgement on whether these products to be used as best scientific information available (BSIA) for further refining EFH for uku in the MHI. The review also provided recommendations for improvements to the model and for future research to improve EFH for this species.

Neither study examined egg or larval abundance, concentrating on EFH for large juvenile, sub/adult and adult stages. A variety of static and dynamic covariates were examined in the Level 1 and Level 2 modeling approaches. Both approaches represent a great improvement over the existing literature-based description of uku EFH. However, both approaches have a number of areas for development and improvement as detailed in the report. The review panel found that the Level 1 Franklin model could be considered BSIA because it encompassed the whole range of the species and the animal in the MHI, whereas the Level 2 Tanaka approach would not be considered BSIA considering the data involved and applied. The SSC took a different approach and looked at the model of each level and whether the model could be consider BSIA, which they considered both models worthy of BSIA and consideration for use in improving uku EFH.

Gourley asked if this approach could be applicable to more than one species if they are closely related or if it would have to apply species by species.

Itano said it would depend on how accurate and applicable the data will be. He said individual species-based determination would be best, but not practical in some cases. If they were to apply the same approach to the Mariana Archipelago BMUS complex, the results would be less accurate.

Dueñas asked what depth ranges the model considered, noting he catches uku at a different depth in Guam.

Itano said the diver surveys went down to 90 meters and the BotCam/ Modular Optical Underwater Survey System surveys observed up to 300 meters within the entire range where uku live.

Dueñas asked if there were observation of prey fish in the area that may have affected their behavior.

Itano said uku are like all the predatory fish and will congregate towards to the food source. The survey data on the video camera shows that uku also utilize soft-bottom areas.

Dueñas asked if there was intention to recover tagged uku in the NWHI to give better insight into how to develop EFH for uku in the MHI.

Itano said there was a study conducted in the NWHI where they were able to show the movement of uku along one atoll, and there have been proposals similar to this project in the MHI. The cost of setting up acoustic arrays is expensive and would need to be extensive to track the migration.

Soliai asked if there was a similar study done in other regions for uku.

Itano said the Level 1 work by Franklin was based on a model developed in Alaska and there have been attempts at model-based estimation of EFH in the Alaska region and possibly others.

Soliai asked if the findings were similar to Alaska.

Itano said since they are based on the same methodology, he would expect similarities, but there were no direct comparisons between the two.

F. Update on Green Turtle Management

Asuka Ishizaki, Council staff, provided an update on exploring avenues to honu (green sea turtle) harvest. Over the years, the Council and its advisory bodies have made recommendations in support of cultural harvest of green sea turtles in the region. At the 189th Council meeting in December 2021, the U.S. State Department provided additional details on issues with authorizing a cultural take which includes the prohibition under the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC) to which the United States is a signatory. The Council also received a letter in January 2022 from PIRO confirming the same issue.

The Council sent a letter to President Biden June 8, 2022, in advance of the IAC meeting convened June 15-17, 2022, requesting the assistance of the Administration to pursue an avenue to resume sustainable harvest of a traditional resource, noting that the United States negotiated the permanent prohibition on turtle harvest through the IAC without consultation with traditional communities or governors of Hawai‘i, Guam, the CNMI or American Samoa. Following the June IAC meeting, the Council received a brief report from the U.S. delegation, which included the adoption of five resolutions, none of which pertain to green sea turtles. Staff will continue to follow up with agency representatives involved in the IAC discussions as a response the Council’s request has not been provided.

Dueñas recited a quote by Senator George F. Hoar, a Republican senator from Massachusetts, following the ratification of the Treaty of Peace that acquired Guam, Puerto Rico and the Philippines from Spain following the Spanish-American War: “This treaty will make us a vulgar, commonplace empire, controlling subject races and vassal states, in which one class must forever rule and other classes must forever obey.” Dueñas said this quote was from a century ago and he realized that this is also happening today as well. Regarding the IAC, he said he is American but the Americas is not in Hawai‘i nor the Mariana Archipelago, noting that geographically, the Americas refers to North America, Central America and South America. The excuse that the IAC is the reason green sea turtle take cannot be allowed is wrong because of this geography. The Hawaiian green sea turtle population is able to withstand the harvest of 500 turtles annually, but the United States has never acted on allowing the take. Dueñas said he is frustrated with how the federal government continues to take away the resources from the people, and the indigenous people of the Pacific continue to suffer from their decisions. He wondered why federal partners would not allow the take of turtles to allow cultural perpetuation. He hopes that Pacific Islanders can someday perpetuate their rights and culture through the take of the green sea turtle.

G. Proposal to Expand the Pacific Remote Islands Marine National Monument

Mark Fitchett, Council staff provided an update on the PRIC proposal to expand the PRIMNM. In May 2022, the PRIC sent President Biden a letter asking to expand the boundaries around Kingman Reef and Palmyra Atoll, and Howland and Baker Island to 200 nautical miles. To date Congressmen Ed Case and Hawai'i Governor David Ige have sent letters in support of PRIC's proposal. American Samoa Governor Lemanu Mauga provided a letter in opposition of the proposal. Clay Tam, Michael Goto and Martell, provided a summary of the AP, FIAC and SSC's comments, respectively, in regard to the proposed monument expansion.

Goto reported that FIAC discussed research from International Science Committee for Tuna and Tuna-Like Species in the North Pacific (ISC) and WCPFC that state that tuna stocks are not experiencing overfishing or overfished. The effects of the foreign fleets far outweigh the effects of the U.S. fleets as they continue to compete with them on the high seas. The U.S. fleet is experiencing "death by a thousand cuts" meaning that as more areas are closed off to fishing effort, the fleet continues to lose access and more opportunity. The effects of the monument expansion would negatively affect American Samoa and their cannery that supports jobs for the indigenous people. This expansion would continue to diminish the value of the fishery and to the American Samoa economy. The area closures would benefit the Chinese fleet as they continue to fish right outside the U.S. EEZ and import their catch into the U.S. market. The FIAC discussed how the unilateral decision process through the Antiquities Act does not have a true due process when it comes to engaging with stakeholders as the fleet has to fish for the right to even be heard in the process.

Tam reported that the AP's discussion focused on the effects of everyday people as they are losing their ability to turn to the sea for their subsistence. He said it is difficult for the people that represent the community to feel the pain of what they are experiencing. Mechanisms such as the MHI longline closure provided the opportunity for small boats to fish close to shore, but that is not enough to ensure that both parties get the best of both worlds. Although this may not be a Hawai'i or Mariana Archipelago issue, but the AP believes that everyone is in the same boat in the Western Pacific Region and this initiative would compromise the president's EEJ initiative. Other initiatives such as offshore wind development and the America the Beautiful initiative will also impact the fisheries in the region. There is no public input process through the Antiquities Act that hurts the communities that will be affected the most.

Martell reported that the SSC received a presentation from Bob Richmond, director of the Kewalo Marine Laboratory at the University of Hawai'i, and an author and science advisor of the PRIC. Richmond provided a perspective for the proposed expansion, and identified the existential threats to biodiversity in the monument to include deep-sea mining, climate change, and fishing. Richmond claimed that large marine protected areas (MPAs) help ensure protections for large spawning female fish known as BOFFFFs (big, old, fat, fecund, female fish), alleviation from fishing pressure, and distributional effects of climate change. The location of the proposed expansion was claimed to be in an area likely to feel the greatest effects of climate change and in need of refuge from fishing, including island areas where sea level rise engulf inhabitable areas. The SSC unanimously expressed concern over the lack of data to support claims that an expansion of the PRIMNM would yield the benefits as claimed in the proposal. The SSC asked about the analytical framework for assembling the data in the evaluation of the expansion proposal. Richmond said quality of input data will dictate an approach used, but did not offer

details on any analytical framework. The SSC found that having no analytical framework to evaluate the proposed expansion would be counter to evidence-informed management. No effectively managed marine resource management regime has been known to be based on the use of large static closed areas in lieu of other fishery management tools and without proper data-driven evaluation.

Rice said he, Ed Ebisui Jr., and Goto met with representatives from the Obama Administration prior to the expansion of the PMNM. Following the meeting, the three of them agreed that the Administration had already made a decision but the representatives met with them and pretended they were listening to their concerns.

Dueñas said the purpose of the original monument designation was to protect areas essential for onaga, monk seals and green sea turtles that lived in the NWHI, but research later showed that those species would rather come down to MHI or that they were abundant. The communities have observed increased turtle populations and the only detriment to their existence was the federal agencies. There was a flourishing bottomfish fishery in the NWHI and there are native Hawaiians who want to perpetuate their culture and fish there. He said this exercise was futile as the foreign fleets continue to surround that area to fish. He asked if there are plans to follow up on past lobster and uku tagging projects that existed prior to the closure, as it would be a good idea to tag fish in the NWHI and PRIA to understand who are catching those fish. There is a need to provide food security to the world. He appreciates the time and effort that the FIAC, AP and SSC took to analyze and provide the Council with greater insight on the proposed plan. He said Hawai'i needs fish and offered a suggestion for PRIC to make peace with the various indigenous people in the Western Pacific Region and offer \$20,000 a square mile for the affected communities.

Soliai said American Samoa has been through this fight before the monument was created. There has been no new information on the benefits of the established and proposed monuments. Soliai made reference to the American Samoa Governor Mauga's letter to the President, in which the governor expressed disappointment that there was no aloha coming from Hawai'i to American Samoa and that the State of Hawai'i Governor Ige endorsed and supported the monument expansion without consulting with American Samoa. He said was not the Pacific way to disregard one's Pacific brothers and sisters. He is concerned that the president has the ability to create a monument without due process to the people that will be affected and impacted. He hopes that the president will consider the concerns of the U.S. Pacific Territories. He invited Nakoa and Malloy to visit American Samoa to understand the importance of the fishing industry to their community. He asked Rauch if NMFS is considering expressing a position on this issue, noting that it is the federal government's prerogative to ensure that every jurisdiction under the U.S. flag is protected and nothing threatens their livelihood and sustainability. Any aspirations that Guam and the CNMI have in the future in developing their fisheries will be negatively impacted by the monument expansion process. He hoped that NOAA and NMFS's positions on the expansion can be considered as decisions that affect the region's fisheries are being made, noting that there will be no waters left for U.S. vessels to fish if the proposed rulemaking related to the U.S. purse seine fishery goes forward and push vessels out of the high seas while more of U.S. waters are closed.

Rauch said NMFS provides information and data when asked about the economic impacts of what kind of activity is occurring. NMFS, in working through the Council process,

understands what displaced efforts would look like, which is the type of data they provide. NMFS does not provide a policy position to the U.S. government about whether or not the president should or should not designate a monument, and Rauch does not expect ONMS to provide an opinion on the advisability of any monument as they have not done so in the past.

Soliai asked if Rauch could discuss impacts.

Rauch said he was not certain about the status of the PRIA expansion proposal and whether it is being considered by the Administration, but noted that NMFS provides information in impacts in terms of what fishing is going on in the area and what would be affected within the Administrative process.

Soliai asked how soon NMFS could provide information on those impacts if the Council asked, noting the concern that the President could make a decision at any moment, and suggested that the Council make that recommendation to NMFS to provide information on the economic impact of the proposal. The fishing industry supports more than a third of private employment within the territories and this proposal would impact American Samoa as 60% of their population are living below the U.S. poverty level.

Simonds said Rauch did not answer Soliai's question related to the purse seine fishery rule-making process.

Rauch said he would defer to Malloy on that issue.

Simonds asked if Malloy understood Soliai's concerns related to the rulemaking, and asked Fitchett to explain the issue.

Fitchett said the rulemaking relates to the recognition of the American Samoa purse seine fleet as a distinct fleet, which would open the doors for American Samoa to be entitled to privileges recognized under Article 30 and 43 of the WCPFC Convention providing benefits of SIDS and Participating Territories, similar to how the American Samoa longline fleet is already recognized as a distinct fleet. At the March 2022 Council meeting, Soliai brought this action to the Council's attention as it was on the Biden Administration's Unified Agenda with pending proposed rulemaking scheduled for April or May 2022. The action was initiated in 2015 during the Obama Administration.

Malloy asked for clarification if the Council is requesting the status of the action under the Unified Agenda.

Simonds said the question is whether there will be movement on the request given the Unified Agenda had indicated the next step would be taken in April.

Soliai suggested that further discussion on the Unified Agenda be deferred to the Pelagic and International section of the agenda.

Sword said the statistics show fuel sales have dropped and FAD closures have also come into place that affect the purse seiners to fish in the Eastern Pacific where they are catching more juvenile tuna. He said this increased pressure could lead to the stock experiencing overfishing. Sword thanked NOAA for including and recognizing American Samoa as the fifth major

producer in the nation, and said the monument expansion would potentially cut down their fishing effort that feeds the country and contributes to their economy. Sword provided the history of the longline and purse seine fisheries in American Samoa, which peaked in 2004, after which the United States began to give away their quota and that began the demise of the purse seine fleet, reducing the fleet size from 48 vessels down to 11 in 2022. Sword said the United States does not have a dog in the fight internationally and their fishing vessels are the eyes and ears for the nation in the U.S. EEZ since the USCG cannot handle it. The purse seiners and longliners want to fish within the U.S. EEZ, but they are not able to with the establishment and expansion of these monuments. The rules only hurt the U.S. vessel as the Chinese fleets continue to increase their fishing pressure in the Pacific. Sword said the United States should not be finding ways to kill the fleet; instead, they should find ways to help the fishery.

Gourley said the Antiquities Act was not the right way to establish these conservation areas at the expense of the fishing communities. The Administration continues to use the Antiquities Act as a way to make decision faster, rather than through the Sanctuary process that could take several years. The sanctuary process involves collecting information from communities, stakeholders and members of the public. Gourley was unsure why the proponents call themselves the PRIC when the people in the CNMI are not aware of the effort. For off-island visitors, they need to remember that Guam, CNMI and American Samoa have non-voting representatives and no senators in Congress. They do not vote for the president, yet Hawai'i has the political power to make decisions for the territories.

Rice said for eight years, the Hawai'i Administration has thought of the ocean as an afterthought, but he hopes there will be a change with the change in administration. Rice asked for confirmation that the military is one of the biggest buyers of tuna from the American Samoa cannery.

Soliai said the military and U.S. Department of Agriculture are the biggest buyers for school lunch as Star-Kist is the only tuna processor that satisfies the Made in USA requirement.

Rice asked Rauch if NMFS also provides ecological data to the Administration in addition to economic data.

Rauch said NMFS has historically provided data to the Administration on what exists in the area that is under consideration, if any, what economic uses are occurring, and what biological features exist in the area.

Guthertz said the territories depend on Hawai'i's support in the Congress and it was obvious that this proposal is not good thing for the territories. She asked why the United States would pursue this proposal at the cost of harming the US Pacific Territories. There are movements from the CNMI and Guam that advocate for independence from the US due to actions like this. Guthertz said she is an advocate for full integration rather than independence. The most cherished resource that islanders have is the land and the water, but when those resources are cut off, then that also cuts part of their inheritance, history, culture and livelihood. She said this may be good thing for posterity for the President's name, but there is a need to consult with the territories when making decisions such as this. They are either a part of the American family or they are not. They should not be robbed the opportunity to be treated as

Americans or nationals in the case of their brothers and sisters from the Territory of American Samoa.

Rauch said the president has not made any indication of his decision or consideration of the request from the PRIC.

Dueñas said it was apparent that people are embarrassed and want to pursue that embarrassment by continuously taking away their ocean to save themselves from themselves. He appreciates that as a native Pacific Islander he has been given the opportunity to speak in a federal forum to share his heartfelt concerns as he sees his people disappearing from the earth. Dueñas said EEJ is another slang for cultural appropriation. He said the lack of support for the fisheries in American Samoa, Hawai‘i and Guam has to stop as this is a part of their culture.

Ramsey asked Tam, Goto and Martell if PRIC provided any discussion about alternatives or if it was purely about no fishing.

Martell, Tam and Goto said there was no discussion on alternatives to the proposed expansion area.

Ramsey said it troubles him that conservation has to be painted black or white. He recognized the intent of the proposal and respects the authors, but wondered if there was a happy medium that still achieves that level of protection without impacting people. For example, deep-sea mining was identified as a threat, and he wondered if the area could still be protected from that threat without impacting the people of American Samoa.

H. Advisory Group Report and Recommendations

1. Advisory Panel

Gil Kualii, Hawai‘i AP vice chair, presented the AP report and recommendations.

Regarding the alternatives for fisheries management measures in the NWHI, the Hawai‘i AP recommended the Council select the alternative that maximizes fishing opportunities and reiterates the need to ensure that fisheries research is able to continue in the MEA.

Regarding the proposal to expand the PRIMNM, the American Samoa AP recommended the Council to request updates from NMFS on its previous recommendations to consider unintended consequences to American Samoa and its previous request for the scientific evaluation of the proposal.

2. Fishing Industry Advisory Committee

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

3. Non-Commercial Fishery Advisory Committee

Dean Sensui, NCFAC chair, presented the NCFAC report and recommendations.

Regarding the NWHI MEA fishing regulations, the NCFAC supports alternative 3 and alternative 4 with cost recovery. Fishing in the MEA would be expensive due to the distance resulting in self-limitation. Additional limits on fishing would greatly limit participation.

4. Scientific and Statistical Committee

Martell, SSC, presented the SSC report and recommendations.

Regarding the proposal to expand the PRIMNM, the SSC recommended the Council inform the White House and relevant federal agencies on the lack of scientific justification for previous and proposed expansion of marine national monuments in the Pacific that prohibit U.S. tuna fisheries based on input from the SSC. The Council should also reiterate the SSC's June 2022 recommendation to request a comprehensive evaluation of the unintended consequences, including social and economic impacts, be conducted and evaluated through a transparent and public process if further closures are considered.

The SSC recommended the Council request the PRIC to directly address and consult with fishing communities in the U.S. Pacific Territories along with territorial agencies.

Regarding the alternatives for fishing regulations in the NWHI, the SSC endorsed the working group report, which includes the working definition of subsistence fishing as: Subsistence fishing means fishing for food to eat and to share without a monetary profit motive and may include fishing with any legal gear and the transport and holding of fish or fish products that can be shared or gifted among both immediate and extended family and friends in ways that contribute to community sustainability, food security and social solidarity.

The SSC recommended that the Council consider these options for defining “subsistence fishing” for any MEA permit:

- define subsistence fishing to include the exchange of fish and fish products for food or for non-edible items if the exchange is of a limited or noncommercial nature;
- define subsistence fishing to include customary exchange as defined in 50CFR665.12;
- Define subsistence fishing to include customary exchange as defined in 50CFR665.12 without cost recovery;
- Subsistence fishing would align with the definition of fishing within the PMNM and be defined as fishing for bottomfish or pelagic species in which all catch is consumed within the MEA, and that is incidental to an activity permitted under this part.

Regarding the development of SDC for the Hawai'i Kona crab fishery, the SSC recommended the Council take into account the following considerations in further developing this management action:

- Data challenges identified during the last stock assessment highlighted uncertainty in noncommercial landings;
- New studies since the last assessment may provide an improved understanding of survivability and habitat utilization of Kona Crab;
- Pending regulatory changes by the State of Hawai'i to allow for the retention of

- female crabs will no longer make the harvest control rules consistent with the last stock assessment and associated SDC under option 2; and
- Utilizing SDC from other fisheries (option 3) would be challenging due to regional differences in Spanner crab fisheries.

The SSC further recommended that although the Hawai‘i FEP would not be in compliance with the MSA, the Council should consider deferring action until this additional information can be considered by the APT.

Regarding the report on uku EFH WPSAR, the SSC recognized the models reviewed by WPSAR as vast improvements over the status quo and considers both models BSIA. The SSC endorsed the WPSAR recommendations. Future work should consider post-stratification techniques to address under-sampled habitats.

5. Fishing Rights of Indigenous Peoples Standing Committee

Dueñas presented the Fishing Rights of Indigenous Peoples (FRIP) Standing Committee report and recommendation.

Regarding the NWHI fishing regulations for the MEA, the FRIP Standing Committee recommended the Council direct staff to draft a strawman to work through the definition of subsistence fishing to be included in the final alternatives.

I. Public Comment

Tam, Pacific Islands Fisheries Group, said highliner Kona crab fishermen have recommended for a number of years to extend the closed season until October to allow the females still holding eggs to be able to drop their eggs. Regarding the uku fishery, he understands that there is a push for a single-species assessment but he would not want see the commercial fleet compromised by the uncertainty from the noncommercial data. Tam said improved data is needed to make better decisions. Regarding turtle take, Tam took a poll on the Council members, asking how many members have eaten green sea turtles. Six members said they have eaten turtles. Tam asked how many of them have prepared and knows how to cook green sea turtle, and two members raised their hands. Tam asked how many of them have caught, prepared and process turtles, and two members raised their hands. Tam said based on the responses, he does not expect a huge rush to harvest turtles as there are only a few people that know how to catch and process it. Tam said if that part of tradition is not practiced, all of it will be lost. Tam said he is not Hawaiian, but he was born and raised in Hawai‘i and he respects the culture. He has adopted the culture of where he lives and it is important to who they are and what they are. He read a quote from Dalai Lama that said, “People were created to be loved and things were created to be used. The reason why the world is in chaos is because things are being loved and people are being used.”

Two additional public comments submitted to the Council in writing regarding the alternatives for fisheries management measures in the NWHI were noted for the record and provided to the members in the briefing book.

J. Council Discussion and Action

Regarding green sea turtles, the Council directed staff to work with the governors to seek the U.S. State Department support at the IAC to provide an exemption for green sea turtle harvest in the U.S. Pacific Islands.

Malloy said NMFS will abstain from voting on this recommendation.

Moved by Dueñas; seconded by Rice.

Motion passed with Malloy abstaining.

Regarding the proposal to expand the PRIMNM, the Council directed staff to write a letter to inform the White House and relevant federal agencies, with GCPI legal review, on the lack of scientific justification for previous and proposed expansion of marine national monuments in the Pacific that prohibit U.S. tuna fisheries based on input from the SSC. The Council should also reiterate its June 2022 recommendation to request a comprehensive evaluation of the unintended consequences, including social and economic impacts, be conducted and evaluated through a transparent and public process if further closures are considered.

The Council directed staff to write a letter requesting the PRIC to directly address and consult with fishing communities in the U.S. Pacific Territories along with territorial agencies.

The Council requested NMFS assist the territories on a scientific and economic evaluation of the proposal, including unintended consequences to American Samoa fisheries.

Malloy said NMFS will abstain from voting on the recommendations regarding the proposal to expand the PRIA.

Moved by Rice; seconded by Sword.

Motion passed with Malloy abstaining.

Regarding Kona Crab SDC, the Council directed staff to convene an action team to include PIRO, PIFSC and GCPI to develop the amendment to the Hawai'i Archipelago FEP to include status determination criteria for Kona crab fisheries. The action team should solicit comments, recommendations, and additional information from the APT in preparation for initial action by the Council at its March 2023 meeting.

Dueñas asked if the concerns raised during public comment were in addressed in the recommendation.

Council staff said APT will consider this in their upcoming meeting.

Moved by Guthertz; seconded by Dueñas.
Motion passed.

Regarding WPSAR review of uku, the Council approved the report of the uku WPSAR and directs staff to determine the use of the models for revising uku EFH through an amendment to the Hawai'i FEP.

Moved by Dueñas; seconded by Sword.
Motion passed.

Regarding NWHI fishing regulations for the MEA, the Council directed staff to solicit additional input from the community on the following revised alternatives:

- a. No Action.**
- b. Status Quo-Fishing regulations in the MEA would mirror the fishing regulations in the PMNM.**
- c. Prohibit commercial fishing.**
- d. Require federal permits and reporting for a noncommercial fishing under the authority of the MSA that allows for noncommercial fishing (as defined in 50 CFR §665.12).**
- e. Require a federal subsistence fishing permit for Native Hawaiian practices with a definition of subsistence and options for including customary exchange.**

Further, the Council directed staff to work with the action team to finalize an amendment to the Hawai'i Archipelago and Pacific Pelagic FEPs for final action by the Council at its December meeting. The amendment should identify the potential levels of sustainability for management unit species so the Council may consider a limit on the amount of fish that may be caught in the MEA. Sustainability limits may include maximum sustainable yield and/or underutilized portions of existing stock assessments, past levels of catch by persons fishing under permits issued under 50 CFR 404.11 and other methods.

The Council noted that federal permitting includes annual reviews of catch and effort in accordance with existing ACLs and standard requirements under 50 CFR 665 such as permit sanctions, gear restrictions, requirement for vessel monitoring system at-sea observer coverage, notification requirements and other provisions required under the FEPs.

Sakoda said the alternatives in the recommendation were different from what was presented and asked if the status quo action would be parallel with the current PMNM regulations.

DeMello said yes.

Sakoda recommended that the Council select status quo as their preliminary preferred alternative to mirror the existing regulations that would make compliance easier. He said based on written testimony, that area was not used to harvest resources to bring back to the MHI.

Soliai said the Council will not be making a recommendation on a preferred alternative and will ask for additional input from the community on the alternatives to build on the possible alternatives that the Council will consider.

Kamaka‘ala asked if the Council has received community feedback on the alternatives.

DeMello said not on the alternatives.

Kamaka‘ala said the highest laws in the State protect native Hawaiian gathering practices, and some of the language confuses what those practices are, but noted it is okay because the action is going forward for more community input. She said education on what those traditional practices are in the NWHI would be useful in these community conversations and gaining input on the alternatives.

Tucher said it would be important for the Council to fully develop all reasonable alternatives at this stage to make an informed decision on final action at its next meeting. He added that it is important to consider reasonable alternatives for the National Environmental Protection Act analysis and explain why some alternatives are either accepted or rejected at this initial action stage.

Dueñas said the Mariana Archipelago is looking at this as a template as to how Hawai‘i will work this out because tradition is equivalent to access to the ocean. Dueñas said it was a good idea to consider all of the options and afford the various Pacific Island communities to be empowered. He looks forward to the advancement of the strategy and how it would truly benefit the EEJ process to provide economic and social opportunities for the indigenous people.

Sakoda asked if alternative C, prohibit commercial fishing, would be done under all of the other options.

DeMello said the alternatives were not mutually exclusive and it is up to the Council to choose.

Moved by Dueñas; seconded by Sword.
Motion passed.

X. Program Planning and Research

A. National Legislative Report

Gourley provided the National Legislative report. The most important legislation being discussed is HR 4690 on the reauthorization of the MSA, introduced by Congressman Jared Huffman and Congressman Case. With the passing of Congressman Don Young in March 2022, the legislation was put in abeyance until Alaska could elect someone to replace Young. His

replacement, Congresswoman Mary Peltola, is a Democrat, a commercial fisher and a native Alaskan. A large amendment to this bill was introduced the previous week and the markup was being held during the week of the Council meeting.

1. Inflation Reduction Act of 2022

Gourley provided the highlights of the Inflation Reduction Act of 2022 as it pertains to fisheries and oceans. ONMS was provided \$50 million; the USFWS received \$125 million to work on recovery plans; \$23.5 million was provided to Native Hawaiian climate resilience; and the RFMCs did not get any funding.

2. American Fisheries Advisory Committee Nominations

DeMello, Council staff, reported that the American Fisheries Advisory Committee had requested nominations for members. The Committee is the group that will review Saltonstall-Kennedy grants and funding. Hawai'i and the Western Pacific is part of Region 1, which includes Alaska, and there are three seats available. The deadline for nominations was Sept. 24, 2022.

B. Alternatives for an Aquaculture Management Framework in the Western Pacific (Final Action)

Zachary Yamada, Council staff, presented the alternatives for an Aquaculture Management Program in federal waters of the Western Pacific Region. The Council has been involved in aquaculture since 2007 when it adopted an Aquaculture Policy and then took initial action to establish permitting requirements in 2009 at its 146th meeting. The review process has taken some time and it was not until the action was reviewed again at its 172nd meeting that the Council selected a preliminarily preferred alternative to create a management framework. Upon NMFS's completion of a draft Programmatic Environmental Impact Statement, the Council revised its previous initial action at its 190th meeting to support alternative 3 as a preliminarily preferred alternative.

Yamada presented the alternatives for management which included three options and eleven program components. The first alternative is no action where the Council would not recommend a management framework for aquaculture; the second is to create a limited management framework; and the third alternative is an expanded management framework. Alternatives 2 and 3 include program components consisting of permitting, application requirements, operational requirements and restrictions, permit duration, allowable marine aquaculture systems, citing requirements and restrictions, allowable species, record-keeping and reporting, framework procedures, and program capacity. He explained the differences between the alternatives and provided an analysis of the program components for each alternative and the potential environmental impacts.

Dueñas asked if the aquaculture management program could be geographically based, noting that Hawai'i's oceanographic features are different from Guam and there are different concerns based on each island area. A quarter-mile off of Guam is already 2,000 feet of water so there are probably limited areas that would be ideal for some sort of aquaculture.

Yamada said the NOAA Office of Aquaculture is developing Aquaculture Opportunity Areas that would identify appropriate areas for aquaculture and provide the environmental analysis for those areas. He also said the management program takes into account the differences in island areas by allowing for native species only as well as addressing issues of releases, escapes, and decommissioning.

Kamaka‘ala asked if there were mechanisms for permits to be revoked if the operations are found to have negative impacts to such things as habitat.

Yamada said yes, noting the permitting process would have to go through an approval to make sure that the aquaculture project is abiding by all regulations and monitoring required.

Gourley said the ability to provide check-ins and updates on the operation could be wrapped into specific permit requirements for each facility. There are monitoring requirements such as through the U.S. Army Corps of Engineers and Coastal Zone Management that might address any type of future unintended impacts the facility may have.

Gourley asked if broodstock could be imported from Hawai‘i to the Mariana Archipelago if a species is native to both.

Yamada said yes.

C. Status Update on Territorial Bottomfish Management Unit Species Revision

Matt Seeley, Council staff, provided an update on the Council’s effort to revise the territorial BMUS list. The purpose is to refine the BMUS complex to reflect the current state of the bottomfish fisheries in American Samoa, Guam, and the CNMI and determine whether the current species composition of the complexes remains representative of the fisheries. He provided a background of Council bottomfish management since 1986, noting that the original fishery management plan had 60 species which was then reduced to around a dozen species in 2019 by including the majority of the species as ecosystem components. Seeley provided a description of the fishery in each of the island areas as well as the existing federal fishery management regime. The bottomfish stocks are experiencing overfishing or overfished in most of the territories and has necessitated a review of the MUS and how they are assessed.

The existing BMUS lists were separated into deep and shallow-water groups and would be revised to include the shallow-water species as Ecosystem Component Species and the deep-water species remaining as BMUS. Working groups are looking at five different MSA components including Status Determination Criteria, the mechanisms to set ACLs, bycatch, monitoring, communities, and EFH. These working groups will provide the necessary information to be included in an amendment to the American Samoa and the Mariana Archipelago FEPs. Seeley provided a description of each working group with an update of the group’s progress, noting that each group will provide a report to be presented to the Council at a future meeting. The next step is to work with the community on stakeholder engagement and review the results of the working group with the APT for recommendations to the Council.

Tenorio asked what the logic was between adding the giant ehu and blueline gindai to the BMUS list.

Seeley said the justification comes from the outcomes of the PIFSC hierarchical cluster analysis that was presented to the SSC and Council at the June 2022 meetings. That model and analysis provided the deep-water and shallow-water clusters of species that form a unit. The proposed list will go out for community engagement and staff will want to hear from the communities on whether or not the list is representative of what is being caught in the fishery.

Gourley said the catch of the giant ehu is very small, but it is still caught.

Dueñas said there are numerous species in the bottomfish fishery so this issue of dividing up the list is difficult. He said there has been life history biosampling done in the Mariana Archipelago that could provide information towards the effort of developing Spawning Potential Ratio.

D. Update on the National Saltwater Recreational Fishing Policy

Russ Dunn, National Policy Advisor for Recreational Fisheries, presented an update on the National Saltwater Recreational Fishing Policy. As a result of the Recreational Fishing Summit held in March 2022, NMFS recognized that it needed to update the policy to maintain relevance by adding issues not currently in the policy such as climate change, offshore wind, aquaculture, and EEJ. NMFS is undertaking a review and update of the policy. Dunn provided an overview of the policy's purpose, scope, goals, and guiding principles.

NMFS wants to ensure that fishing opportunities are available not just for the current generation of fishermen, but also for future generations. The Council's participants in the Summit emphasized the need to meet anglers where they are so NMFS is making an effort to get out into the communities to gather comments about the policy update. NMFS has planned 20 public meetings and hopes to be in Hawai'i in November to hold an open public discussion. The comment period for the policy update began in August 2022 and is open through the end of the year.

Soliai said the one of the gray areas that continues to surface is the distinction between recreational fishing and subsistence, and asked whether that has been defined to distinguish between the two fisheries. He said it is important to give consideration for the distinction because people in the Pacific love fishing, whether it be recreational or traditional, and the two can be considered to be the same thing.

Dunn said it has not been defined or resolved, noting that the discussion is not limited to the definition, but a real issue that continues to be of interest to NMFS to ensure that the population of anglers has a voice and representation in the process. What should be done in terms of the policy with regard to noncommercial or more traditional subsistence fishing and where it fits should be explored. The question is where that lives in the greater scheme of NOAA's management and administration of fisheries. He encouraged the Council to weigh in on that issue as they see fit.

Dueñas said recreational fishing has to be defined more thoroughly because there is a lot of interest in recreational fishing with funding provided for recreational fishing programs. However, the vessels that are utilizing equipment that are being taxed to fund so-called recreational programs are also using that same gear to go commercial fishing, so the recreational programs need to be redefined to include noncommercial or limited commercial fishing so that

USFWS Wildlife and Sport Fish Restoration (WSFR) Program funds can be used for small-scale commercial vessels. He also said there is a need to look at alternative fishing strategies, noting that the loss of FADs is what has led to fishermen now go bottomfishing.

E. Improving the Collection of Hawai‘i Recreational Catch and Effort Data

Roy Morioka, fisherman, presented a proposal to improve Hawai‘i’s noncommercial fishing catch and effort data. Although efforts have been made to make changes to the way noncommercial data are collected, fisheries are still in the same place, asking the same questions due to the rigidity in the programs and the limits on discussing alternative methods of obtaining information. Around the continent, the efficacy of the Marine Recreational Information Program data is being questioned. A 2004 review of the program by the National Academy of Sciences recommended that NOAA adopt guidelines to ensure that the best scientific information used is relevant and timely, and characterized by inclusiveness, transparency, and openness. Morioka said Hawai‘i’s fishermen are seeking the investigation of alternative catch and effort data collection methods to ensure that the BSIA is being utilized.

The lack of noncommercial data in Hawai‘i is a problem that needs to be addressed through institutional change and countering fishermen apathy. The Biden Administration’s initiatives on EEJ may encourage the inclusion of fishermen in the discussion and development of the BSIA rather than business as usual. Hawai‘i’s bottomfish fishermen have demonstrated the benefits of this kind of collaboration and discussions, and fishermen apathy can be changed through inclusive participation with regular informational communication and periodic meetings. Morioka said the island fisheries are unique and asked the Council to look at and consider the comments that the fishermen wish to be part of the solution and not the problem.

Sakoda said the Hawai‘i Marine Recreational Fishing Survey is updating their survey methodology, which needs to go through a number of approvals. He said they recognize the need as well and are working on it.

Dueñas said he supported what is being asked by the Hawai‘i fishermen and has always believed that a community-based data collection program is the best way forward as it gives credibility and faith to the process.

F. Report of the 7th National Scientific Coordination Subcommittee Meeting

Franklin, SSC member, reported on the outcomes of the 7th National Scientific Coordination Subcommittee Meeting held in August 2022 in Sitka, Alaska. The Council’s SSC was represented by himself, Frank Camacho and Shelton Harley. The meeting covered three thematic sessions including incorporating ecosystem indicators under the stock assessment process; developing information to support the management of interacting species in consideration of Ecosystem-Based Fishery Management (EBFM); and assessing and developing fishing level recommendations for species exhibiting distributional changes.

The take-home message is that non-stationarity may be the new normal in changing environments, where the expectations for environmental conditions are going to change and new extreme events may be experienced. He provided the example of the decline of snow crab in Alaska where the fishery is data rich and yet they were still unable to predict the decline in stocks. Climate change provides new challenges to management that require new tools and data

streams. Some of the extremes that are expected to happen are being seen now but are expected to be worse in the coming decades, and it is important to incorporate ecosystem linkages and climate-informed assessments. Upcoming challenges include shifting biological reference points; understanding carrying capacity; determining management units when stocks are migrating; and finding an equitable pathway to managing stocks that move. The Western Pacific's regional perspective was that there is no one-size-fits-all solution and the regions need to have the flexibility to adapt to the upcoming challenges in the best way possible for their region. He provided recommendations from the meeting and noted that the SSC report identified priorities for the Western Pacific Region.

G. Preparation for the Ecosystem-Based Fisheries Management Workshop

Seeley presented an update on the development of an EBFM Workshop as a joint effort between the Council, PIFSC and PIRO. The main goals of the workshop are to prioritize EBFM work within the region, identify the future of EBFM, and map the next steps for focused stakeholder engagement and planning. He provided an overview of the draft agenda and requested the Council's input on the agenda items.

Dueñas said he appreciated the exercise in EBFM but wanted to look at the engagement process. He said Guam fishermen know that fish can be found in particular habitats and hoped that EBFM incorporates local knowledge rather than a strict scientific approach.

H. Regional Communications and Outreach Report

Amy Vandehey, Council staff, provided a report on the Council's regional communications and outreach activities between June and August 2022. The Council published its quarterly newsletter, *Pacific Island Fishery News*, published the 2021 Annual Stock Assessment and Fishery Evaluation (SAFE) reports, and submitted monthly submissions to *Hawai'i Fishing News*. The Council also solicited for new AP members for 2023-26, published a monograph on the WCPFC, and published a book on the history of the Council titled *U.S. Pacific Islanders and the Sea: A History of the Western Pacific Regional Fishery Management Council (1976-2020)*. The Council also continued its outreach efforts with Mike Buck on the "Go Fish" radio show. Vandehey also reported there were 29 instances that the Council was included in the media during this period. The Council received interview requests regarding the new Pacific Strategy to advance U.S. interests through fisheries and annual budget cuts. The Council has also continued to support fishery outreach events in the CNMI, Guam and Hawai'i, through informational booths and event program advertisements.

Kuali'i, Hawai'i AP vice chair, reported on the Hawai'i AP's outreach efforts, whose primary purpose is to communicate and engage with the local community. The Hawai'i AP continued its effort to systematically collected fishermen's observations by sponsoring outreach events and administering brief voluntary surveys on fishermen's knowledge and attitudes toward management. AP members have also participated in outreach at local fishing stores as well as at local fishing tournaments.

I. Advisory Group Report and Recommendations

1. Advisory Panel

Tam, AP chair, presented the AP recommendations.

Regarding the alternatives for Aquaculture Management Framework in the Western Pacific, the CNMI AP recommended the Council select alternative 3 on the expanded aquaculture management framework for the CNMI and the Western Pacific, following options to amend the FEPs to allow aquaculture development in the territory's EEZ.

The Hawai'i AP recommended the Council implement alternative 3 to establish an Aquaculture Management Framework in the Western Pacific that only allows species native to the region of the proposed facility.

The American Samoa AP recommended alternative 3.

The American Samoa AP recommended that the Council coordinate with the American Samoa Department of Commerce regarding aquaculture oversight, noting that existing aquaculture management in the territory is handled by the Department of Commerce.

The Guam AP recommended the Council select Alternative 2 on the expanded aquaculture management framework for Guam and the Western Pacific, following options to amend the FEPs to allow aquaculture development in the territory's EEZ.

2. Fishing Industry Advisory Committee

Goto, FIAC chair, presented the FIAC report and recommendations.

Regarding the CARES Act funding, the FIAC recommended the Council to request the State of Hawai'i, territorial agencies, and the Pacific States Marine Fisheries Commission expeditiously distribute CARES Act funding for its second round, particularly recognizing the hardship on American Samoa.

3. Non-Commercial Fishery Advisory Committee

Dean Sensui, NCFAC chair, presented the NCFAC report and recommendations.

Regarding noncommercial data collection, the NCFAC recommended the Council include Morioka's suggestions for data collection improvements into the Marine Recreational Information Program Implementation Plan to provide a way to fund these changes.

Regarding National Saltwater Recreational Fishing Policy/Summit, the NCFAC recommended the Council direct staff to work with NCFAC and others to develop regional approaches and a list of priorities/needs that address the summit and policy.

4. Scientific and Statistical Committee

Martell, SSC member, presented the SSC report and recommendations.

Regarding the alternatives for an Aquaculture Management Framework in the Western Pacific, the SSC recommended alternative 3 as it would provide flexibility with new innovative facilities and extended permit duration. Moreover, this recommendation is consistent with the preliminary preferred option identified at the 190th Council meeting.

Regarding Improving the collection of Hawai'i recreational catch and effort data, the SSC recommended the Council direct the Social Science Planning Committee to work with Morioka and staff to further develop a process for improving noncommercial data collection and provide a report to the SSC.

Regarding the report of the 7th National Scientific Coordination Subcommittee meeting, the SSC endorsed the following next steps for implementing EBFM into the management of the Western Pacific Region, identified by the Western Pacific delegation to SCS7, and recommended the Council consider these priorities in EBFM-related planning:

- Identify reliable ecosystem indicators to incorporate into stock assessments, as well as resources needed to improve and enhance data collection for monitoring the indicators and providing information to understand ecosystem changes and their effects;
- Conduct scenario planning for extreme environmental events to assist with economic and social resilience of fishing communities;
- Collaborate and share ideas among regions to explore expanded management options;
- Support efforts to build flexibility into stock status, reference point, and rebuilding guidelines when incorporating ecosystem considerations;
- Consider approaches to link allocations to climate-related changes in abundance for data-rich pelagic fisheries;
- Identify scenarios where quantitative decision making tools could help improve understanding of ecosystem considerations for fisheries in the Western Pacific Region. Priorities include interactions between protected species taken in the region's longline fisheries and current management approaches, and considering ways to incorporate ecosystem considerations into bottomfish assessments and reference points.

5. Fishing Rights of Indigenous Peoples Standing Committee

Dueñas, FRIP Standing Committee acting chair, presented the FRIP Standing Committee report and recommendations.

Regarding aquaculture management, the FRIP Standing Committee recommended the Council recommend alternative 3.

Regarding the MCPs, the FRIP Standing Committee recommended the Council request the governments be inclusive in the outreach for developing the MCPs and expedite the process for approval by the Council in March 2023.

Regarding EEJ, the FRIP Standing Committee recommended the Council continue to engage in the national discussions regarding EEJ and request the NMFS to expand their engagement with the community to get further insight on EEJ.

6. Pelagic and International Standing Committee

Dang, Pelagic and International Standing Committee Chair, presented the Pelagic Standing Committee report and recommendations.

Regarding fishery funding for the territories, the Pelagic and International Standing Committee recommended the Council write a letter to DOI and other departments requesting that the Territories get a percentage of matching funds commensurate with the Pacific Islands Forum Fisheries Agency Economic Assistance Agreement.

J. Public Comment

There were no public comments.

K. Council Discussion and Action

Regarding final action on the Aquaculture Management Framework, the Council recommended alternative 3, to establish an expanded aquaculture management program, as a preferred alternative for managing aquaculture in the Western Pacific Region and directs staff to finalize the amendment to the Hawai‘i and Pacific Pelagic FEPs for transmission to PIRO.

Further, the Council deems that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directs staff to work with NMFS to complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, the Council authorizes the executive director and the chairman to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The executive director and the chairman are authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.

Moved by Dueñas; seconded by Guthertz.

Motion passed.

Regarding the Territorial BMUS revision, the Council directed staff to refine the working group reports and conduct community engagement in December for the Mariana Archipelago and February for American Samoa.

The Council directed staff to work with the Mariana Archipelago fishing communities and the PIFSC to further review the inclusion of *Etelis boweni* and *Pristipomoides argyrogrammicus* within the proposed BMUS lists.

Moved by Dueñas; seconded by Guthertz.

Motion passed.

Regarding the National Saltwater Recreational Fishing Policy, the Council directed staff to work with the NCFAC and other advisors to develop a regional list of priorities and needs that could be incorporated into the Council comments on the policy.

Moved by Dueñas; seconded by Sword.

Motion passed.

Regarding Hawai‘i noncommercial data collection, the Council directed staff to engage the fishing community in Hawai‘i on the importance of accurate data and the need to provide noncommercial data for fisheries science and management. The Council further directed staff to work with the NMFS, State of Hawai‘i, Hawai‘i AP, NCFAC, and Social Science Planning Committee to develop a process for improving noncommercial data collection.

Dueñas said the exercise should include nonfish species, or species of concern because too many components of the various agencies are worried about species such as sharks, birds, and turtles, and are all are all haphazardly getting information. The incorporation of this information into that community data form would be appropriate and beneficial for assessments.

Sakoda said the State of Hawai‘i is also attempting to engage the fishing community to try to get better noncommercial fisheries data. He said the State of Hawai‘i would be happy to collaborate and contact him to work together on this.

Moved by Guthertz; seconded by Sword.
Motion passed.

Regarding the 7th National Scientific Coordination Subcommittee Meeting, the Council endorsed the following next steps for implementing EBFM into the management of the Western Pacific Region, and directed staff to incorporate these priorities in EBFM-related planning:

- a. **Identify reliable ecosystem indicators to incorporate into stock assessments, as well as resources needed to improve and enhance data collection for monitoring the indicators and providing information to understand ecosystem changes and their effects;**
- b. **Conduct scenario planning for extreme environmental events to assist with economic and social resilience of fishing communities;**
- c. **Collaboration and idea sharing between regions to explore expanded management options;**
- d. **Support efforts to build flexibility into stock status, reference point, and rebuilding guidelines when incorporating ecosystem considerations;**
- e. **Data-rich pelagic fisheries should consider approaches to link allocations to climate-related changes to abundance;**
- f. **Identify scenarios where quantitative decision making tools could help improve understanding of ecosystem considerations for fisheries in the Western Pacific Region. Priorities include interactions between protected species taken in the region’s longline fisheries and current management approaches, and considering ways to incorporate ecosystem considerations into bottomfish assessments and reference points.**

Dueñas said there is a need to work with the community. These are issues that adversely affect the community. He requested that this exercise include at the get-go a potential of working with communities, not giving them the outcome, but rather work with them from the onset.

Moved by Dueñas; seconded by Guthertz.
Motion passed.

Regarding the EBFM Workshop, the Council endorsed the draft agenda and directed staff to report on the workshop at its next meeting.

Moved by Sword; seconded by Dueñas.

Motion passed.

Regarding CARES Act funding, the Council requested the State of Hawai‘i, territorial agencies, and the Pacific States Marine Fisheries Commission expeditiously distribute CARES Act funding for its second round, particularly recognizing the hardship on American Samoa.

Moved by Dueñas; seconded by Sword.

Motion passed.

Regarding fishery funding for the territories, the Council directed staff to write a letter to DOI and other departments requesting that the territories get a percentage of matching funds commensurate with the Pacific Islands Forum Fisheries Agency Economic Assistance Agreement.

Moved by Dueñas; seconded by Sword.

Motion passed.

XI. Pelagic and International Fisheries

A. Pacific Islands Ocean Observing System Updates

Jordan Watson, deputy director of the Pacific Islands Ocean Observing System (PacIOOS), presented on new services provided through the Voyager data portal. The mission of PacIOOS aligns with the broader Integrated Ocean Observing System and is largely centered around empowering ocean users and providing stakeholders with ocean data, products and services for a suite of different applications and purposes. PacIOOS is funded by several federal entities such as the National Weather Service, Office of Insular Affairs, State, City and County, and recently the U.S. State Department and National Science Foundation. PacIOOS maintains an array of directional Waverider buoys throughout the region to collect near real-time wave data, which are available on its Voyager platform. PacIOOS Voyager is a free, interactive, online mapping experience on the Google maps platform. Voyager also provides a graphical interface to display and analyze animal telemetry such as fish and shark tagging data along with movement of FADs. Watson provided a demonstration of data services available through the platform, including weather, static habitat features, oceanographic dynamic features, and potential features of interest to fishermen, and provided examples of data available for the Hawai‘i, Mariana and American Samoa Archipelagos.

Rice asked if ocean current and sea surface temperature (SST) data on Voyager is real-time.

Watson said there is a one day latency on the SST. He was not certain on the latency for the Regional Ocean Modeling currents, and said he could follow up.

Rice asked for confirmation that he would see the SST for the day before if he looked at the data on the day he wanted to go fishing. He also said he likes to see the tiger shark tagging data off Makena and Maalea on the PacIOOS website.

Watson confirmed the SST would show data for the previous day, and noted that the shark tagging data is the most popular page they have.

Sword said American Samoa has one weather buoy around Aunu'u and asked what other buoys can provide information for local models.

Watson said the information used in those models depends on the data available, including bathymetry data and other oceanographic data like currents (from satellites).

Soliai asked if there any intentions to install buoys in the other islands in American Samoa, such as in the Manu'a area, Rose Atoll, or Swains.

Watson was not certain how many bouys are in the "backyard buoy" program for American Samoa, but noted that they are working with people on the ground to determine where the buoys should be located and welcomed feedback on particular locations where the buoys would be most effective.

Soliai said Manu'a should be a priority given the seismic activity that has been going on in the area. Soliai also asked if there were tidal information provided.

Watson said they collaborate with tide gauge sensors across the Pacific.

Soliai asked if information presented could be used to assist the fishermen in finding fish and whether PacIOOS could coordinate training for the fishermen to get that information.

Watson said they would be willing to do training on how to use the Voyager platform or other PacIOOS tools. Regarding helping fishermen find the fish, he said they would need to collaborate with experts for those particular fish from PIFSC and other partners to build species distribution models using known habitat or biological characteristics, after which that model could be operationalized on the PacIOOS platform.

Soliai said training and additional tools to help fishermen find fish would be helpful especially for the America Samoa longline fisheries with their low catch per unit effort (CPUE) and said this training should be put into recommendations.

Watson also said Voyager and PacIOOS tools could be used in species avoidance.

Dueñas said the wave buoy on the eastern side of Guam is not necessary because that area is inaccessible to fishermen 10 months in the year, and suggested relocating that buoy toward the seamounts where fishing could be informed. The buoy at Ritidian Point near the Marine firing range is helpful and is more productive for fishing than the FADs.

Dang said he would like to follow up with Watson to discuss information on species avoidance.

B. Hawai'i Longline Semi-Annual Report

Russell Ito, PIFSC, provided the 2022 semi-annual report for the Hawai'i longline fishery (deep-set and shallow-set components). The report covered fishery statistics including participation, effort, and catch up to July 1, 2022. In the first half of 2022, there were 140 vessels operating, a slight decline from the second half of 2021, and 850 total longline trips took place, a decrease of about 100 trips from compared to the first half of 2021. Lower fishing effort in the U.S. EEZ around Hawai'i can be attributed to the periodic closure of the SEZ. Albacore and yellowfin tuna catches are slightly up while bigeye tuna catch was slightly down. Specifically, the catch of bigeye tuna in the first half of 2022 comprised 14,000 fewer fish than the same period in 2021. Bigeye tuna CPUE has gradually declined below 4 bigeye per 1,000 hooks. Swordfish catch from the shallow-set fishery yielded 9,000 fish in the first half of 2022 and total catches have increased since 2019. Blue marlin catches are up in 2022. Striped marlin, mahimahi, and skipjack tuna catches were lower than the previous year. In summary, the season was generally characterized by lower catches, higher fuel costs but higher prices for most species.

Rice asked if bigeye tuna catch rates were correlated with the number of boats and effort (hooks) in the water.

Ito said there was only slightly less effort the first half of 2022, noting that it is likely just a poor year for bigeye, but the lower catches were made up for in high yellowfin catches.

Rice said the prevailing La Niña has had effects on catches in Kona.

Dueñas asked if catch rates were related to smaller fish in terms of the length composition of tuna. Dueñas also asked if high fuel prices are limiting fishing range of the fleet.

Ito indicated prices at the market for tunas were high, which may have offset some of the cost. Ito could not answer the question on size frequencies of the fish going into the market since he has not been on the auction floor frequently. Ito said based on long-term size data in the Pelagic SAFE Report, the average sizes of fish has not changed much.

Dueñas said this presentation is important to provide indicators on the fishery.

C. American Samoa Longline Semi-Annual Report

Keith Bigelow, PIFSC, provided the 2022 semi-annual report for the American Samoa longline fishery. The report covered fishery statistics including participation, effort, and catch up to July 1, 2022. Albacore catch and CPUE increased for this time period relative to 2021, with CPUE increasing from 8.9 fish per 1,000 hooks to 13.3 fish per 1,000 hooks. There was notable progress with electronic reporting with 8 of 9 vessels successfully pairing their tablets with the vessel monitoring system. PIFSC has not had a staff in Pago Pago for a number of years, and continues to discuss internally how to recruit staff to better improve monitoring in American Samoa.

Soliai said it was positive to see an increase in CPUE and hopes this is a sustained trend. Soliai also said it would be beneficial to track the amount of landings from foreign longline fleets

offloading in Pago Pago to ensure that illegal, unreported and unregulated fish is not entering American Samoa.

Bigelow said DMWR staff recently contacted PIFSC requesting that information, and PIFSC confirmed it does not have foreign landings data for Pago Pago. Bigelow suggested he could inquire with the International Seafood Sustainability Foundation to see if they have cannery landings data that are nonconfidential.

Rice asked if the exemptions of vessels to fish within the Large Vessel Prohibited Area (LVPA) had any influence on the recent catch rates of the American Samoa longline fishery.

Bigelow said it has only been a year and more time is needed to make a thorough analysis, but noted that based on past analyses, fishing within the LVPA did not seem to have much of an effect on fishing performance of the longline vessels that were grandfathered in to fish in the LVPA .

Rice asked if the current catch rate is a good CPUE.

Bigelow said 13 fish per 1,000 hooks is a good year, considering the previous year was 9 fish per 1,000 hooks.

Soliai asked how much of the fishing was outside or inside the LVPA boundaries.

Bigelow said they have not investigated that yet, but noted that before the LVPA was closed they did run into confidentiality rules with presenting the data with less than three vessels fishing in the area.

Dueñas asked about size frequency of American Samoa catch and if there were any notable trends. Dueñas also suggested weighing and measuring every foreign fish offloaded, following the data collection format that Guam’s Bureau of Statistics and Plans used when foreign longline vessels were offloading in Guam.

Bigelow said transshipment data in Guam provided some great data for stock assessments. For American Samoa, the only data on size frequency is the observer program data and cannery does not measure any fish. There is no notable decline in the size of albacore over the last 10 years based on the available observer data.

Dueñas said must indicate the fishery is healthy.

D. American Samoa Large Vessel Prohibited Area Performance Review

Fitchett, Council staff, presented the fishery performance of all pelagic vessels fishing and reporting catch in American Samoa, including “large” longline vessels greater than 50 feet long. The American Samoa LVPA was established in 2002, and prohibited longline fishing of vessels greater than 50 feet in length for 50 nautical miles seaward of three American Samoa island areas with the intent to increase performance of small longline and trolling vessels. The Council recommended and NMFS implemented an exemption to the LVPA in 2016 that allowed certain U.S. longline vessels 50 feet and larger to fish in portions of the LVPA. The 2016 LVPA exemption was repealed in 2017 following litigation, and reinstated in July 2021 after the 9th

Circuit Court of Appeals reversed the earlier District Court decision. The reinstated LVPA exemption action included a provision for the Council to annually review the effects of the exemption on catch rates, small vessel participation, and sustainable fisheries development initiatives. Data presented were from the 2021 SAFE Report, which do not have any reported data from alia longline vessels in 2021.

Longline vessels targeting albacore experienced an increase in CPUE from 2020 to 2021. Trolling vessels also experienced a significant increase in pelagic management unit species CPUE from 21 pounds trolling per hour to 33 pounds trolling per hour. Skipjack trolling CPUE doubled from 2020 to 2021 and experienced the greatest CPUE since 2012 in the most recent year. Alia longline and troll vessel participation continuously declined since the establishment of the LVPA in 2002. There was no detectable effect of the LVPA since 2002 on small vessel fishing effort and the LVPA does not appear to be a factor attributable to the decline in fishing performance (especially for albacore tuna).

Soliai suggested the Council defer any further recommendations related to the LVPA until June 2023 or later, when NMFS has more information on how these fisheries are performing.

Dang supported the suggestion.

E. International Fisheries Issues

1. Increasing Influence of China in Pacific Islands

Josh Nowlis, Lynker, presented the initial findings of the analyses looking at the rise of China's economic and political influence in the Pacific tuna fishery. Chinese fishing business is booming across the whole supply chain, and the reach of those businesses has expanded geographically to span the Pacific Ocean. Fishing and seafood growth in China has helped them to become a significant economic competitor in the global tuna market, which is a relatively recent development. China is likely using fisheries as a conduit for economic and ultimately political influence in the Pacific Islands. These efforts are countering U.S. influence, beginning in the Solomon Islands and Kiribati.

Subsidies are another major issue that the work in progress addresses. The World Trade Organization has made some efforts to try to curb subsidies that are unhealthy for fisheries, but they are still quite significant. Recent studies have estimated that global Chinese fisheries are subsidized in the range of \$7 billion to \$8 billion, some of which are fisheries targeting tuna and much of these subsidies are in forms that are deemed harmful from a perspective of maintaining a capacity that is too much for what would be healthy for the fishery, and that can end up providing an unfair economic advantage. China's Belt and Road initiative provides for infrastructure projects around the world, builds economic ties, and creates debt incurred by those countries.

Continued increases in Chinese at-sea transshipments is one indication of China being more and more involved in global trade of seafood. Fiji and Vanuatu have evident increases in reported catches, and both of those countries have historical ties to China. Kiribati also has shown some recent affiliation with China in providing FAD exemptions to 15 Chinese purse seine vessels within their EEZ. Chinese tuna catches have recently eclipsed the United States,

and China has also increased its catches in longline and purse seine fisheries within the EEZs of Pacific Island nations. Charter arrangement and joint ventures likely create a mechanism for increased Chinese catches. This is evident with albacore catches, as in when Chinese catches decrease, some Pacific Island nations start reporting catches that offset any decline, many of which have prominent fishing agreements with China. Recently, China exported 2,532,000 metric tons (mt) of seafood, exceeding its imports of 1,630,000 mt.

Sword noted inconsistencies in catch reports from China, stating there is likely underreporting.

Rice asked if Japan is still providing a transfer of bigeye tuna quota to China.

Fitchett confirmed 500 mt are transferred a year, plus a significant amount in the eastern Pacific outside the WCPFC.

Rice said in the past, China exceeded their WCPFC catch limits and nothing happened to them.

Soliai said China has been masking its catches in its reporting through charters. Soliai said he would like to see continued reporting of Chinese vs U.S. catches in the WCPFC, noting that the rise of China is likely at the detriment of U.S. fishermen, and that impact needs to be evaluated.

Gourley asked whether the tuna is air-freighted, goes back to China and marketed, or transshipped to China for offloading.

Fitchett said a third of bigeye tuna is transshipped and tracing that fish is very difficult, noting that the estimate of bigeye is probably lower than reality. Fitchett suggested looking into this issue in the final report.

Gourley asked what cities in China are offloading sites for tuna.

Nowlis said it is very difficult to tell, noting that about 20% of transshipments are happening within the EEZ of other countries while the other 80% are happening in international waters.

Gourley said he would be interested to know where tuna are entering the Chinese market and where transshipped fish ends up.

Nowlis said it is difficult to track transshipped products and there is a growing labor market and seafood processing industry associated with these products.

Dueñas said there are basically three types of fish being transshipped, with high-grade ones going to Japan out of the port, filet round used for gassed fish, and the cannery grade left as whole fish. The whole fish is least preferred because it takes space in the container and there is also difficulty in filling up the containers. Flights from Guam and Micronesia allowed the quick ability to move fish to Japan, even with the high price. Dueñas noted Hong Kong is also a major player.

McCollum confirmed issues with Solomon Islands admitting a USCG vessel into port at Honiara, but the USCG still plans to operate in the region and continue to request access for support both in the Solomon Islands, Kiribati and elsewhere with no strings attached.

Soliai asked if the report is final.

Nowlis said the report is currently in draft form and will be finalized soon.

2. U.N. Ocean Conference and Biodiversity Beyond National Jurisdiction

Brinkman referred to the briefing provided under agency reports and noted he did not have anything further to add.

3. International Science Committee for Tuna and Tuna-Like Species in the North Pacific 2022 Working Groups and Plenary

Seki presented on outcomes of the 2022 meeting of the ISC in the North Pacific Ocean held July 8 to 17, 2022, in Kona, Hawai'i. Topics of interest were a 2022 benchmark assessment for North Pacific striped marlin, North Pacific blue shark assessment, Pacific bluefin stock assessment, and progress of a management strategy evaluation on North Pacific albacore. The North Pacific blue shark was assessed as not overfished and not experiencing overfishing. The Pacific bluefin tuna are overfished but not experiencing overfishing, with a rebuilding program underway.

The ISC Plenary decided to revert to the previous 2019 assessment for North Pacific striped marlin due to a postponement on the delivery of the new benchmark assessment over concerns associated with the incorporation of a new growth parameter. The new benchmark assessment will be presented at the 2023 ISC Plenary.

Dueñas asked if the rumors about a 25% increase for Japan bluefin tuna catch was true. Dueñas also asked if new studies on striped marlin by Tam and Molly Lutcavage were considered in the new stock assessments.

Bigelow confirmed that Japan's bluefin tuna catch quota increased.

Seki said the bluefin catch limit is based on a total allowable catch estimated and considers discards. Regarding striped marlin, Seki said it would be best to be patient to ensure scientific integrity, noting that uncertainty over growth parameters precluded the ability to make progress.

4. Western and Central Pacific Commission 18th Science Committee

Bigelow and Valerie Post, PIRO, presented on outcomes of the 18th Science Committee of the WCPFC (SC18) and the WCPFC SMD, respectively. SC18 was held virtually Aug. 10-18, 2022. The WCPFC established an online discussion forum because all the papers could not be presented.

Bigelow presented on tuna trends. In 2021 the total catch was about 2.5 million mt, of which purse seine fishery was the largest component at about 1.7 million mt and longline fisheries catch representing almost 200,000 mt. Pole and line fisheries are still on the decline with only Japan and Indonesia having pole-and-line fisheries, which represented about 123,000 mt. Small scale fisheries in Philippines and Indonesia catch about 435,000 mt. Purse seine skipjack catches are about 1.5 million mt, which is about half a million mt lower than the record catch in 2019. Total yellowfin catches were fairly stable at about almost 700,000 mt, and albacore was about 80,000 mt for the two different stocks, North Pacific and South Pacific. The value for WCPFC tuna catches declined to about \$4.6 billion in 2021 compared to the highest of about \$8 billion dollars. Skipjack comprises \$2.2 billion, yellowfin at \$1.6 billion, bigeye at \$633 million (its lowest value since 2005), and albacore about \$230 million. Skipjack has declined because purse seine effort has declined. A vessel day in the purse seine fishery is a day fishing or a day searching, which in 2021 was less than 50,000 vessel days in the fishery, leading to a reduction in fishery catch. Effort reductions were also seen for the South Pacific albacore fishery, as well as the tropical fishery that targets yellowfin and bigeye in those tropical latitudes.

SC18 reviewed six assessments, of which three were covered by the ISC22 report. SC18 also reviewed assessments for skipjack tuna, the South Pacific blue shark, and Southwest Pacific shortfin mako shark. Skipjack tuna was assessed to be no overfishing and not overfished. However, SC18 could not agree on its consensus on management advice. The South Pacific blue shark assessment was not accepted in 2021 and new models were presented. The current F over F_{MSY} is about 0.65, which is moderately exploited. Regarding South Pacific mako, assessment scientists were not comfortable with using any of the assessment outputs to construct management advice because there is a problem with data and statistics due to the lack of observer coverage during the pandemic, especially for the purse seine and longline fisheries. Yellowfin and bigeye tunas will be assessed in 2023, and silky shark could proceed if the budget is approved.

Bigelow said he presented some new OWT stock projections at SC18 that used new information on gear characteristics from a variety of longline fleets. The United States may submit a proposal to amend shark management measures based on effects of wire leader and shark line bans in WCPFC longline fisheries.

Dueñas asked what is being done to reduce bigeye tuna catch in purse seine fisheries, given their implications on bigeye stocks for longline fisheries and noting difficulty of distinguishing yellowfin and bigeye at smaller sizes. Dueñas also noted foreign mahi mahi entering Guam markets. Dueñas said WCPFC matters are futile if the United States is giving \$60 million a year to WCPFC members and the US does not get anything in return. Skipjack tuna seem to be bountiful around Guam.

Bigelow said if purse seine nets remove some of the panels, then the net fishes shallower and could have lower bigeye tuna catch. The bigeye tuna are actually identified by observers onboard the purse seine vessels. There are many layers of estimating catches in purse seine fisheries. Bigelow also noted catches have declined as well as effort, which can be attributed to fishing access fees and vessels moving to other ocean areas. The U.S. purse seine fleet in the WCPFC has also declined in number of vessels.

Post presented on the WCPFC SMD meeting held virtually Aug. 19-22, 2022. In December 2022 the Commission is supposed to adopt harvest control rules. In 2021, the WCPFC agreed to trial a SMD with the following objectives for the first meeting: 1) to improve the CCM understanding of harvest strategies approach to fisheries, 2) to advance discussions on management procedures and identify additional analyses needed before the 19th Regular Session of the WCPFC for Western and Central Pacific Ocean skipjack and South Pacific albacore, and 3) to provide suggestions on the future role of the SMD process for the Commission's consideration. The Pacific Community provided several seminars in June and July 2022, and developed an online web app called the Performance Indicators for Management Procedures Explorer to help compare the performance of candidate management procedures for skipjack. Participants requested refinements to management strategy evaluation for skipjack and albacore, further analysis on the impacts of small-scale fisheries, and additional robustness runs per recommendations from SC18. Some proposals for management procedures and harvest strategies (control rules) are expected at the next WCPFC meeting. Meanwhile, additional meetings and the ongoing future of the WCPFC SMD process remains in doubt at this stage.

5. U.S. Permanent Advisory Committee to Western and Central Pacific Commission

Fitchett reviewed the 2021 recommendations to the PAC and anticipated items for the upcoming meeting scheduled for Oct. 27-28, 2022, to inform U.S. positions going into the WCPFC annual meeting scheduled for Nov. 27-Dec. 4, 2022, in Da Nang, Vietnam. The U.S. delegation should expect proposals at the next WCPFC meeting with respect to outcomes of the SC18 and SMD. South Pacific albacore is of interest to American Samoa because the current management measure does not cover areas north of 20 degrees south, including some of the areas that the stock assessment indicated had the highest levels of regional or local depletion. The issue of the proposed expansion of the PRIMNM will also be proposed for the agenda for the upcoming PAC meeting. The PAC will also deliberate on tropical tunas, noting the current conservation and management measure (CMM) expires at the end of 2023. In December 2021, the United States proposed amending the current CMM which included a bigeye catch limit increase for the U.S. longline fishery and provisions for recognition of an American Samoa purse seine fleet. Findings from recent PIFSC analyses of the OWT is also proposed for the agenda.

F. Advisory Group Report and Recommendations

1. Advisory Panel

There were no AP recommendations regarding pelagic and international fisheries.

2. Fishing Industry Advisory Committee

Fitchett presented recommendations from the FIAC, in place of Chair Goto.

Regarding the WCPFC, the FIAC recommended the Council request NMFS to draft a proposal towards amending components of the tropical tuna measure at the December 2022 WCPFC Regular Session, in order to introduce potential changes of the measure well in advance of the expiration of CMM 2021-01 at the end of 2023.

3. Non-Commercial Fishery Advisory Committee

There were no NCFAC recommendations regarding pelagic and international fisheries.

4. Scientific and Statistical Committee

Martell, SSC member, presented the SSC report and recommendations.

Regarding updates to PacIOOS scientific products and Voyager data portal, the SSC recommended that the Council request PacIOOS provide a presentation to the Council's advisory committees, specifically on the Voyager data portal.

Regarding the Hawai'i longline fishery report, the SSC recommended that PIFSC staff report on recent information on market prices and trends to better understand underlying market dynamics and targeting in the Hawai'i longline fishery.

Regarding the American Samoa LVPA performance review, the SSC recommended that the Council request PIFSC to work with vessel owners to infer socioeconomic impacts of the LVPA (and the recent exemption of large vessels) and inform trends in fishery participation.

Regarding ISC22 Working Groups and Plenary, the SSC recommended that PIFSC prioritize life history work on species that lack contemporaneous information and are considered to be overfished or experiencing overfishing.

Martell reported that the SSC discussed data and research plans associated with the striped marlin stock assessment, and received clarification that no additional research is planned for incorporating age validation in the 2023 benchmark assessment but that there will be continued examination of existing age and growth data.

Regarding recommendations to the PAC, the SSC recommended the Council to request the PAC support the Council's position against the proposed expansion of the PRIMNM.

Regarding the longline gear modifications and impacts on catch of target and non-target species, the SSC recommended that a SSC subgroup and Council staff prepare a 1-page infographic to provide a simple communication tool on the potential cross-taxa impacts for various management measures in place for the Hawai'i-based pelagic longline tuna fishery. The draft infographic should be provided for review at the next SSC meeting.

Martell reported that this recommendation stems from a presentation that the SSC received from PIFSC staff on a recently published study that investigated options to optimize fishing gear configurations for U.S. Pacific pelagic longline vessels to maintain target catch rates while reducing bycatch mortality, injury, and harm. The SSC discussed the need for a more comprehensive approach for addressing potential cross-taxa conflicts and tradeoffs of species-specific bycatch mitigation measures in the Hawai'i longline fishery, noting similar discussions of tradeoffs regarding the SEZ closure effects and recognizing the increasing focus on EBFM. The weighted branch lines required for seabird mitigation measures, which also helps to sink gear to desired depth, may have negative impacts on sharks and other species due to crew safety issues for cutting the leader as close to the shark as possible. The SSC acknowledged that reviewing current developments in biodegradable leader material and alternative materials for crimps would be worthwhile, but noted that the tradeoff of higher gear cost and replacement

frequency will likely be a barrier to adoption by industry. The SSC further noted that recent and ongoing advances in line cutter designs should be considered in alleviating the tradeoffs between trailing gear removal and crew safety.

5. Pelagic and International Standing Committee

Dang, Pelagic and International Standing Committee Chair, presented the recommendations.

Regarding BBNJ, the Pelagic and International Standing Committee recommended the Council write a letter to the U.S. State Department requesting that the U.S. position maintain provisions that the regional fisheries management organizations are not undermined by the new BBNJ negotiations.

The Pelagic and International Standing Committee requested that NOAA and other federal agencies conduct research to determine the possible impacts of the PRIMNM and other potential closed areas on the high seas.

Regarding WCPFC, the Pelagic and International Standing Committee requested NMFS and Council staff to begin drafting a joint proposal with Pacific Island nations exploring a revision to the tropical tuna measure to explore the use of zone-based management but with provisions to potentially incentivize the U.S. fishery. This effort is in order to introduce potential positive changes of the measure well in advance of the expiration of CMM 2021-01 at the end of 2023.

The Pelagic and International Standing Committee requested NMFS and relevant agencies conduct a holistic review of conservation and management measures for sharks and other species of conservation concern.

G. Public Comment

There were no public comments.

H. Council Discussion and Action

Regarding the Hawai‘i longline fishery report, the Council **requested PIFSC report on recent information on market prices and trends to better understand underlying market dynamics and targeting in the Hawai‘i longline fishery.**

Moved by Dueñas; seconded by Sword.
Motion passed.

Regarding the PacIOOS, the Council **directed staff request PacIOOS provide a training presentation on the Voyager online portal to the Council’s advisory committees and fishing communities.**

The Council directed staff request PacIOOS deploy weather buoys off of Manu‘a Island.

Soliai requested consideration for weather buoys for Manu‘a Island to be added to the recommendation.

Dueñas and Sword agreed to the addition.

Moved by Dueñas; seconded by Sword.

Motion passed.

Regarding American Samoa LVPA performance review, the Council requested PIFSC to work with vessel owners to infer socioeconomic impacts of the LVPA (and the recent exemption of large vessels) and inform trends in fishery participation.

Moved by Guthertz; seconded by Rice.

Motion passed.

Regarding BBNJ, the Council directed staff to write a letter to the U.S. State Department and NMFS International Fisheries Division requesting their positions going into the final deliberations of BBNJ and to reiterate a) the importance of not undermining the competence of regional fisheries management organizations and existing regulatory frameworks and b) the need to ensure that high seas fishery closures are not adjacent to existing fishery closures within a state’s national jurisdiction, such as the U.S. Pacific Marine National Monuments.

The Council requested that NOAA and other federal agencies conduct research to determine the possible impacts of the PRIMNM and other potential closed areas on the high seas.

Moved by Guthertz; seconded by Sword.

Motion passed.

Regarding the SSC Report on longline gear modifications and impacts on catch of target and nontarget species, the Council directed staff and an SSC subgroup to prepare a 1-page infographic to provide a simple communication tool on the potential cross-taxa impacts for various management measures in place for the Hawai‘i-based pelagic longline tuna fishery. The draft infographic should be provided for review at the next SSC and Council meeting.

Moved by Dueñas; seconded by Sword.

Motion passed.

Regarding improving the North Pacific striped marlin stock assessment, the Council requested PIFSC to prioritize life history work on species that lack contemporaneous information and that are considered overfished or experiencing overfishing.

Moved by Guthertz; seconded by Sword.

Motion passed.

Regarding the PAC, the Council requested the PAC support the Council's position against the proposed expansion of the PRIMNM, noting a) lack of demonstrable conservation benefit under the auspices of international management frameworks, b) hardships to American Samoa, and c) the possibility of area-based management proposed on the high seas under BBNJ.

The Council requested NMFS and Council staff to begin drafting a proposal based on the 2021 proposed revision to the tropical tuna measure and to explore the use of zone-based management but with provisions exempting vessels from high seas longline effort limits if a) do not have transshipment history, b) exceed observer coverage and monitoring, control and surveillance (MCS) requirements, c) do not exceed a specified vessel size. This effort is in order to introduce potential positive changes of the measure well in advance of the expiration of CMM 2021-01 at the end of 2023.

The Council requested NMFS and relevant agencies conduct a holistic review of conservation and management measures for sharks and other species of conservation concern.

*Moved by Dueñas; seconded by Sword.
Motion passed.*

XII. American Samoa Archipelago

A. Motu Lipoti

Soliai prefaced his report by thanking NMFS for including American Samoa for the first time in the *2020 Fisheries of the United States* report, which shows that Pago Pago is ranked seventh in the nation in terms of volume and fifth by value.

There was a big COVID-19 spike after the pandemic first hit American Samoa in February 2022, but the case counts have declined to nearly zero with a positivity rate of 1% as of the previous week. Travel schedules are back to normal with tests prior to travel no longer required, although tests are still administered upon arrival in American Samoa and individuals will be asked to self-isolate rather than quarantine if positive. Travelers must still register using the Talofa Pass to travel to the islands.

The StarKist CEO visited the island and met with Governor Mauga for the first time during his administration. The CEO put forth a request for additional guest workers to support cannery production, which was approved by the governor. Albacore landings have doubled between the second and third quarters, based on data received from the cannery. These data may differ from the PIFSC's report and the difference may be attributed to direct deliveries and containerized shipments. Skipjack tuna is showing similar landings to 2021, at 80% of production in the cannery, although still well below the 2020 levels. In 2021 during COVID-19, the cannery suffered a 30% production loss and downturn and still have not recovered. It is hard to compare with 2020 because that was a banner year for the cannery when demand for protein was high when the nation was shut down.

Regarding CARES Act, the applications for the second round are currently being reviewed by the Pacific States Marine Fisheries Commission. The spend plan was approved in mid-June 2022. Deadline to apply was Aug. 2, 2022, and the review period ended in early September 2022.

Sword reported that the American Samoa fuel sales are down by almost half due to FAD closures. Compared to the peak in 2004 when American Samoa was selling 2.5 million gallons per month to vessels coming to refuel, current sales is about 600,000 gallons, which is a huge loss for the government. At-sea bunkering remains high, but quality control is not present and is the reason the purse seiners come into port to fuel. These boats come from Asia with their tanks full to fuel other boats then take back fish, and there is little accounting of what is going on. The price of purse seine fish is down, affecting the purse seiners. If the fish price is down, most go to Panama to fish rather than coming to American Samoa. With the FAD closures, the vessels are also fishing more to the east and are not bringing their catch to American Samoa. The canneries must bring fish through freighters to compensate and keep production up. Monument expansion would also be a problem for American Samoa.

FCF, a Taiwan-based company who recently purchased BumbleBee, is planning on bringing some of their longline vessels to American Samoa. The USCG has been helpful in encouraging the company to do so. The company also purchased former U.S.-flagged purse seiners, and they have the potential to return to American Samoa as reflagged vessels and fish in its waters and help the cannery.

Tautai o Samoa Longline Association's 13 longline boats that supply the cannery have been overhauled, painted, and met USCG requirements, ready to fish for another five years. The shipyard has a 3,000-ton slipway which can handle a purse seiner if it is empty. A lot of training with certification of welders was already done, but finding the right personnel to work on vessels remains a problem. They currently employ 35 people who can work on small vessels, but they still need more. Carlos Sanchez, the shipyard manager, bought back \$500,000 worth of equipment able to maintain or repair purse seiners. As a board member of the shipyard, Sword noted he is able confirm they are in the process of getting a \$15 million grant to build a 600-ton lift able to support the servicing of three 600-ton vessels at the same time. The USCG has a 154-foot patrol boat at about 600 tons and the new system would be able to handle this vessel. Drawings are being drafted to expand the shipyard before an application to the U.S. Army Corps of Engineers is submitted.

Recreational fisheries has been dormant the last few months due to bad weather with fishers only able to go fishing during the few times the weather clears. A fishing tournament was held in July 2022 in Manu'a but due to high winds, no boats from Tutuila was able to make the 60-mile journey to participate. Mahimahi, marlin, and wahoo remains plentiful for those able to go fishing. DMWR deployed two FADs on the south shore. Regarding the Catchit Logit app, problems remain and Sword hoped they get resolved soon.

Guthertz asked where the temporary workers come from.

Soliai said they come from Samoa.

Dueñas said regarding the shipyard repairs and other federal assets, the federal government took back the shipyard from a private company in Guam and the military is looking at reoccupying the shipyard. There is a need to make sure federal requirements are studied.

Sword said USCG representatives are ex-officio members and join association's meetings resulting in American Samoa getting the American Welding Society Certification for welders as a requirement to work on vessels to meet federal requirements.

B. Department of Marine and Wildlife Resources Report

Domingo Ochavillo reported that DMWR is reviving the Community-Based Fishery Management Plan programs. Meetings with various mayors were held and a new round of cooperative agreements with three villages was initiated.

Regarding creel surveys, the first wave of COVID-19 occurred in American Samoa between February and June 2022, resulting in low catch reporting, especially for boat-based creel surveys. There remain some fishing activities with shore-based fishing. When there is a crisis, people go fishing. There was a recent run of akule in Tutuila and Manu'a. Trevally, octopus, and snappers are also being reported, possibly caught from hand-lining. There was only one alia that fished pelagic species with very few catches. There was some bottomfish fishing, but it has been very slow due to poor participation. BMUS is below 100 pounds for the year-to-date. Creel survey staff are capturing activities but noted the fishing effort had dropped drastically. There was some spearfishing targeting parrotfish and surgeonfish.

An alia-designed FAD was deployed a week earlier, and a satellite buoy will be attached later to track fish that gather around the buoys. FAD orders from New Zealand have been approved for deployment during 2023.

Regarding enforcement, conservation officers have been busy inspecting foreign vessels and monitoring compliance. They board domestic vessels and inspect fish containers. They also conducted land and sea patrols between April and June 2022.

Regarding protected species activities during this period, three turtles were released after being stuck in a gill net in Nu'uuii. Officers also responded to a dead whale stranding onto a beach in June 2022.

Rice said the American Samoa FAD buoys have simple structures on them that would make them work better.

Soliai said the FADs were procured from New Zealand. A waiver was available to purchase from non-U.S. manufacturers. A similar FAD deployed during 2021 was vandalized so the enforcement officers will be making sure they are safe and protected.

Muña-Brecht said DAWR will make the same request to get a waiver to purchase other models.

Dueñas asked what the unit cost was for the FADs.

Ochavillo said they each cost from \$4,000 to \$6,000, lower than the previous cost of \$10,000 to \$12,000 each.

C. Advisory Group Report and Recommendations

1. Advisory Panel

There were no AP recommendations regarding American Samoa.

2. Fishing Industry Advisory Committee

There were no FIAC recommendations regarding American Samoa.

3. Scientific and Statistical Committee

There were no SSC recommendations regarding American Samoa.

4. Fishing Rights of Indigenous Peoples Standing Committee

There were no FRIP Standing Committee recommendations regarding American Samoa.

D. Public Comment

There were no public comments.

E. Council Discussion and Action

Soliai introduced other business following up on earlier discussions.

Rini Ghosh, PIRO International Fisheries Division, provided clarifications about the status of rulemaking related to purse seine fisheries and implementation of WCPFC decisions. NMFS issued an Advanced Notice of Proposed Rulemaking (ANPR) in 2015 to solicit input related to the treatment of U.S.-flagged purse seine vessels and their fishing activities and regulations implementing WCPFC decisions. In the ANPR, NMFS stated that it was considering proposing recommendations that recognized that in the context of WCPFC decisions, one or more of the U.S. Participating Territories have their own purse seine fisheries that are distinct from the U.S. purse seine fishery. In that case, the purse seine fisheries of U.S. Participating Territories might be subject to special provisions of WCPFC decisions, and NMFS would implement those provisions and decisions accordingly. NMFS did not proceed on this rule earlier due to ongoing discussions at the WCPFC and intervening decisions, including CMM 2017-01, which included special provisions for American Samoa for calendar year 2018, which NMFS implemented. Given passage of time and new WCPFC discussions resulting in the current Tropical Tuna CMM 2021-01, which is in effect until February 2024, NMFS is no longer considering proceeding on this particular rule-making at this time.

Ghosh also clarified questions related to the Unified Agenda, which is only published twice a year so updates to agency actions may not be reflected in the current version. NMFS has recently published a separate proposed rule that would modify existing purse seine fishing effort limits to implement WCPFC decisions. The comment period for this proposed rule closed Oct. 3, 2022. NMFS welcomes discussion and consideration of alternate approaches to management of

the U.S. purse seine fishing operations related to American Samoa's economy and the development of WCPFC's next Tropical Tuna CMM. Discussion of development of U.S. positions and WCPFC negotiations is scheduled for the upcoming meeting of the PAC at the end of October 2022.

Rice asked if the rulemaking to change the purse seine vessels for American Samoa so they can be considered SIDS has been tabled.

Ghosh said NMFS will not be proceeding on the rule-making that it put out in the 2015 ANRP at this time, but noted that does not preclude discussions in the WCPFC context related to WCPFC decisions regarding SIDS, and should the WCPFC decide upon specific measures, NMFS would then proceed to implement those WCPFC decisions.

Soliai asked for confirmation that NMFS is still allowing discussion on the issue even if it is not proceeding with rulemaking at this time.

Ghosh said they are accepting comments on the separate rulemaking regarding modification of the purse seine effort limits through Oct. 3, 2022, so all comments are welcome on that. Discussions of U.S. positions in WCPFC negotiations are always open at the PAC meeting, so comments and discussions on all matters are welcome.

Soliai said it sounds like NMFS has merged the 2015 proposed rulemaking with the current proposed rulemaking.

Ghosh said no, and clarified that they are two separate rulemakings, but both relate to implementation of purse seine fishing restrictions as specified in WCPFC decisions. The public is welcome to provide comments as they see fit in that rulemaking, but NMFS is no longer accepting specific comments on the ANRP that was issued in 2015. While NMFS is not proceeding on that rulemaking, that does not mean the issue is something that NMFS is not continuing to consider separately.

Soliai said things have changed drastically since 2015, with much less U.S. vessels now than there were seven years ago and that trend continuing. Most of those boats have reflagged to other countries mainly because of not getting any support from the U.S. government. Soliai asked for further explanation on the current proposed rulemaking issued Sept. 12, 2022.

Ghosh said the current rulemaking includes five elements, one of which is regarding the modification of purse seine fishing restrictions. The current implementation of purse seine effort limits is a combined effort limit of 1828 fishing days. Under the proposed rule, there would be a separate limit for the U.S. EEZ of 558 fishing days per calendar year and 1270 fishing days on the high seas. The current rulemaking also includes modification of the 2022 longline bigeye tuna catch limits due to an overage of the 2021 catch limits, as well as a few administrative changes related to the implementation of longline bigeye tuna catch limits and purse seine effort fishing limits.

Soliai expressed his concern regarding the short public comment period for a rule that is an important issue not only for the purse seine fleet but also for American Samoa that will face the negative impacts. Soliai asked why this rule is being proposed.

Ghosh said, as stated in the proposed rule, other WCPFC members have vigorously opposed the United States combined purse seine fishing effort limit. While the United States does not concede that its implementation of the combined limit was not in accordance with WCPFC decisions and implementation of the Convention, it has decided to implement the plain language of the CMM and proceed with separate limits as specified in the WCPFC decision. With the reduced purse seine fishing effort in the region, there has not been a purse seine fishery closure for the past couple of years and NMFS does not foresee a purse seine fishery closure even under the new limits for the foreseeable future.

Soliai said he is dismayed and disappointed that there was no discussion on the proposed rulemaking prior to it being published, noting American Samoa will face negative consequences because of this action. The in-zone EEZ and the high seas days are managed together under the current arrangement, and there is a significant risk under the proposed separate limits that purse seiners based in American Samoa will run out of high seas days and will have to change their fishing grounds to the Eastern Pacific. When the vessels move to the Eastern Pacific, it is not economical for them to return back to American Samoa because of the distance, cost of fuel, and other factors. If that happens, the impacts to American Samoa will likely be similar to the ELAPS closure in 2015, which NMFS estimated to be more than \$100 million in impacts during the closure. He said he is saddened that the rulemaking has gone this far without consultation, and it appears that NMFS does not care about the Territories and American Samoa, and the impacts this will have. Soliai said Governor Mauga is opposed to the rule and will be providing a letter expressing his concerns and opposition. He said there needs to be another way forward that will not have as negative an impact, and requested the comment period be extended so that the rule is not rushed without due diligence to the people that are affected.

Rice said the comment period should be extended to after the PAC meeting as this issue will likely be discussed at that meeting. He also said instead of subjecting the remaining few boats to more regulations, they should be regulated less so that the boats will reflag back to the United States and enhance American Samoa's economy.

Soliai concurred with Rice's comments and said the PAC needs to weigh in on this discussion. He said he understands and has no issue with the fact that the action is being taken because the United States needs to comply with the CMM adopted by WCPFC, but the question is why the United States does not regulate the U.S.-flagged purse seiners based in American Samoa as a SIDS fleet. The benefits in the Convention that are provided to Participating Territories as SIDS is not afforded to American Samoa because the fleet is managed as a U.S. fleet rather than an American Samoa fleet, even though it is based in American Samoa and support its economy by delivering fish to the cannery.

Dueñas echoed the other members' comments and said he is also dismayed with the actions taken and more consultation is needed. He said the U.S. State Department or NMFS should also look at the effects of all of the draconian measures applied across the board on coastal communities' ability to continue their economic progress, and thoroughly address the economic impacts.

Sword said since 2004 when American Samoa had 48 purse seiners delivering to two canneries, things have gone downhill. He said it seems like the Samoans are being discriminated against, with the federal government continuing to give away what the people are supposed to

have to maintain production and the fisheries. He said has to stop because it is unfair and does not provide any justice for the people of American Samoa who are producing the fifth in the nation by volume. The rulemaking needs to look at the consequences of the action and what is fair, as 60% of American Samoa's population is below the national poverty level. He said NMFS and the U.S. State Department need to find ways to get American Samoa back to where it was before rather than making American Samoa useless to what is good for the nation.

Soliai said the proposed rule is in conflict with the poresident's initiative to ensure EEJ for underserved communities because it will impact American Samoa. He said there is no equity for American Samoa when these types of actions are being done without consultation. The region's fisheries are facing many risks, and sometimes the threats are coming from within. He asked NMFS to consider consultation with stakeholders and the parties that will be affected prior to taking any drastic measure or action.

Regarding the American Samoa fisheries, the Council directed staff to follow up on the March 2022 letter to NMFS pertaining to the president's unified agenda item on regulating some U.S.-flagged purse seine vessels as a distinct American Samoa fishery.

The Council directed staff to prepare a letter to NMFS through the *Federal Register*, requesting an extension to the comment period for proposed rulemaking for fishing restrictions on ELAPS (Docket No. NOAA-NMFS-2022-0082) to Nov. 1, 2022.

The Council directed staff to respond to the proposed rulemaking for fishing restrictions on ELAPS (Docket No. NOAA-NMFS-2022-0082), requesting NMFS to consider the negative impacts that the rulemaking will have on American Samoa, noting the results of a 2016 study on the ELAPS closure in 2015 that had an impact up to \$110 million during that period.

Malloy said to extend the comment period for the proposed rulemaking, an individual or the entity would need to submit a comment during the current open comment period requesting NMFS to consider extending the comment period before any consideration is made.

Soliai asked if the recommendation itself could be considered as a request to extend the comment period once it gets to NMFS.

Malloy said is not sufficient to serve as a request. A request must be submitted to the portal.

Simonds suggested adding to the original motion to say the Council directs staff to prepare a letter of request to NMFS through the portal before the actual comment period ends, She asked what the portal is called.

Malloy said the portal is called the *Federal Register* portal.

Dueñas and Guthertz agreed to the change.

Dueñas asked if a date needed to be added because the comment period can be extended for another 10 days or around Nov.1, 2022.

Soliai said the date is already included in the motion.

Malloy said it would be helpful to provide a rationale for the extension.

Soliai said a rationale will be included in the letter.

Malloy said NMFS will abstain from voting.

Moved by Dueñas; seconded by Guthertz.

Motion passed with Malloy abstaining.

Regarding the proposed expansion of the PRIMNM, the Council directed staff to send a letter to NMFS weighing in on the negative impacts that the proposed expansion would have on American Samoa.

Malloy said NMFS abstains from the recommendation.

Moved by Rice; seconded by Sword.

Motion passed with Malloy abstaining.

XIII. Public Comment on Non-Agenda Items

There were no public comments.

XIV. Mariana Archipelago

A. Commonwealth of the Northern Mariana Islands

1. Arongol Falú

Gourley reported that the CNMI is doing well in terms of COVID-19 cases, noting that the seven-day rolling averages show low community infection rates and fatality ratio is 0.3%. The CNMI gubernatorial election is coming up in November, with the current governor running against the sitting lieutenant governor for governor as well as a Democratic Party candidate.

Regarding the economy, CNMI is in the blue line with regard to visitor arrivals. As of February 2022, all travelers entering the CNMI no longer have to be tested on arrival. CNMI's new airline company, Marianas Southern Airways, had its inaugural flight from Saipan to Guam Aug. 15, 2022, and the first direct United Airlines flight from Narita, Japan to Saipan occurred Sept. 2, 2022. CNMI is positioning itself to bring tourists in and get people traveling between the islands. There has also been recent increases in South Korean tourists.

Gas prices have gone down as of Sept. 6, 2022, but Tinian and Rota are still paying higher prices such that people from Rota are going to Guam to buy fuel for their boats. Ice bags remain at \$2.

Regarding the five-year review of the nomination of the Mariana Trench National Marine Sanctuary, ONMS has not made a decision on whether to keep the Mariana Trench on the list following the expiration in March 2022. It has been five months since the second of the two 30-

day public comment periods ended April 25, 2022. During the second comment period, the CNMI government submitted letters in opposition to the sanctuary, indicating that the sanctuary does not have the support of the CNMI government.

There was a visit by East Coast environmental groups to discuss the sanctuary, during which Gourley met with one person from the Center for American Progress and they tried to convince him that the sanctuary would be good for the CNMI. He told the individual that the Mariana Archipelago would not want to give up the management authority it has in the EEZ to a federal government. Gourley called the ONMS to ask if they were working with the Center for American Progress and the National Ocean Protection Coalition (NOPC), and ONMS said they did know the individuals nor did they have any knowledge of them traveling to the CNMI. Gourley said he had never heard of the NOPC and the Center for American Progress prior to their visit. According to their website, NOPC is a coalition of environmental groups to support new and expanded MPAs for the purpose of restoring the health of the ocean, fortifying the economy and sustaining people in all life on earth. NOPC tried to get an audience with the Governor, but that did not occur. Gourley said he found an article published by the Center for American Progress in December 2021 that advocates for the designation of the Mariana Trench sanctuary and implies support for closing down fishing in the sanctuary. The article also claimed that the nomination was submitted by local members of the indigenous community.

Gourley reported that based on a call he had with ONMS in August 2022, ONMS is still reviewing the nomination and have not given any information concerning their decision. ONMS also indicated that it wanted to send staff to the Mariana Archipelago to meet face-to-face with community members, but it is unclear when that visit may occur and what the purpose of the visit would be.

Regarding coral critical habitat, a webinar was held Aug. 23, 2022, concerning the Records Document of ESA-listed corals developed by Lance Smith, NMFS PIRO. The Records Document consolidated and evaluated all of the presence-absence data provided by the territories to inform the creation of new distribution maps. The end result was that the number of ESA-listed species occurring in the Mariana Archipelago was reduced from two or three down to one. Information about when the final rule would be published or what it would contain was not discussed during the webinar. On June 15, 2022, CBD issued a 60-day NOI to sue NMFS because the coral critical habitat had not been designated. Gourley contacted the CBD on September 13, 2022, and talked to the attorney who signed the NOI letter, and learned that there has not been serious discussion about whether to pursue a lawsuit. Gourley conveyed to the attorney that NMFS has been working with all of the Territorial Governments to resolve the critical habitat for the corals. The Territorial agency directors from Guam, American Samoa and CNMI sent a letter to Malloy Sept. 7, 2022, requesting a briefing prior to publication of the final rule. The letter was shared with the CBD attorney to give her indication of the coordination. Gourley said the option presented by Golden during her report the previous day indicating that NMFS could reissue a proposed rule for the coral critical habitat would provide another opportunity for everybody to take a look at what is being proposed.

2. DLNR/DFW Report

Tenorio provided the CNMI DLNR report, presenting the performance for the boat-based creel survey between June and mid-August 2022. Surveys were performed regularly even with

limited staffing. Of about 50 interviews conducted during the reporting period, 28 were listed as trolling, 10 were listed as bottom fishing, four were spearfishing, and 10 were hook-and-line. Two interviewees conducted bottom fishing and trolling in one trip. For the shore-based creel, 30 interviews were conducted during the reporting period, of which three were cast net, 25 were hook-and-line and two were spearfishing. CNMI had a good i'e'e (juvenile rabbitfish) run, contributing to a lot more hook-and-line fishers during this reporting period.

Regarding market performance, commercial purchase data system reports were received from participating vendors, hotels and restaurants through the month of July. Between June and July, sales were estimated at 3,405 pounds of bottomfish, 4,886 pounds of reef fish, 14,730 pounds of pelagic fish (mostly skipjack tuna) and 352 pounds of invertebrates. A few new vendors have entered the market and are selling reef fish and tuna.

Regarding fishery assistance, the Office of Grants Management reviewed submitted applications for errors, and contacted applicants for corrections and additional information. As of Aug. 19, 2022, 1,049 out of 1,500 applications were received for Saipan, 347 out of 500 were received for Tinian, and 307 out of 500 were received for Rota.

Regarding the Boating Access Program, construction has begun on the Garapan Fishing Base shoreline revetment project. The DFW also constructed a new storage facility in the Smiling Cove Marina office and installed a security system for the Smiling Cove parking area. For the Tinian Marina Project, a scope of work was forwarded to the Public Assistance Office for final view to schedule an invitation to bid announcement.

The Fish Habitat Monitoring Program installed a new weather station at their fisheries warehouse. The west weather station collects information on wind speed, wind direction, temperature, pressure and precipitation. A couple of sensors being installed in some sites within the Saipan Lagoon will collect dissolved oxygen and temperatures.

Dueñas commended Tenorio for providing good report, noting a lot of community work ongoing. He asked what structure was being built at the Smiling Cove Marina.

Tenorio said it is a storage facility for the marina office equipment. They share the warehouse with the Department of Public Safety Boating Safety Unit and they needed to expand.

Dueñas asked who funded the weigh-in facility at Smiling Cove, and who handles the weigh station.

Tenorio said funds were from the WSFR Program. The DFW marina office handles the weigh station, and there has been some discussions with a few of the fisher associations trying about improving the area for their events, as well as adding additional entertainment structures for the community during those events.

B. Guam

1. Department of Agriculture / Division of Aquatic and Wildlife Resources Report

Muña-Brecht presented the DOAG/DAWR report. All 24 scheduled shore-based creel surveys were conducted this quarter. The top species harvested include pulonun (triggerfish), ti'ao (juvenile goatfish), dogtooth tuna, atulai (big eye scad), tarakito (jack), and reef squid. The top gear used were hook and line followed by castnet, gillnet and snorkel spear. All 30 scheduled boat-based creel surveys were conducted, with skipjack tuna reported as the top species caught, followed by Pacific blue marlin, mahimahi, and yellowfin tuna. Skipjack tuna comprised 91% of troll catch and 76% of the total boat-based creel reports. Deep bottomfish fishing showed ehu, onaga, and yellowtail kalikali as the top species reported. Shallow bottomfish species caught was not in enough quantities to be in the top 10 species reported, although onaga made up 29% of all bottom fish caught.

A groundbreaking ceremony was held for the Agat Marina Dock B dock repair project on July 11, 2022. The use of no-rot recycled plastic composite material, marine-grade aluminum frames and stringers, stainless steel components, connections, and accessories are a part of the upgrade. The WSFR Program will provide \$500,000 for the repairs and the Port Authority of Guam will pay for the rest, for a total \$1.49 million.

The vendor selected for the repair of the Harbor of Refuge has 180 days from Aug. 8, 2022, to complete the project. The notice to proceed was issued Aug. 2, 2022. Regarding the Merizo Pier and Boat Ramp upgrade, the initial vendor solicitation became moot with a new requirement that all government of Guam procurement must have six vendor responses. The Guam Department of Public Works will be issuing a request for proposal to solicit prospective vendors to bid on an assessment of the entire marina. The WSFR Program will provide \$40,000 of the \$80,000 project cost. A preconstruction meeting was held April 6, 2022, with the initial selected contractor working on the permitting process.

Regarding enforcement, there were nine males and one female arrested for illegal fishing in the MPAs during the period.

Regarding the proposed fishing license initiative, a community outreach group has been conducting meetings with more events expected.

Special fishing permits in the MPAs will continue to be issued for seasonal take of atulai, i'e, ti'ao, and mañahak.

DAWR had been working with NOAA using a FishPath tool to identify fish species. They are looking at what the University of Guam is using to identify fish as a possible tool to identify fish to be included in the fishery management plan listing of species. A fishery management plan meeting was recently held to discuss the plan before it is rolled out to the community.

New FAD buoys remain in limbo awaiting shipping delays to clear. Plans remain in place to replace the detached echo-sounder buoy tethered to FAD #3 but are awaiting approval from the USFWS. Request for Proposals were submitted to the government of Guam's General Services Agency for deployment of the shallow water mooring buoys, which is taking longer because of the change in procurement processes. All of the attachment component material is on hand ready for deployment.

The Na’ Boka (to feed) Clam Project, funded by the Pacific States Marine Fisheries Commission, will import 1,000 giant clams to create village-owned clam farms. The sites will be developed, clams brought in, and the public engaged on how to grow and properly take care of them. They will work with the Youth ‘Hima (giant clam) Ambassadors’ from each village to teach them how to lead the management of the clams. An amended contract for a two-year extension was received and a nation-wide permit from the U.S. Army Corps of Engineers is pending before construction of the enclosures can start.

DAWR has a project to prevent extirpation of bumphead parrotfish through the reintroduction of integrated management with a \$500,000 WSFR Program grant. The project will create an island-wide remote tracking, passive acoustic receiver array to import, tag and release 500 giant bumphead parrotfish into Guam’s MPAs. They will then collaborate with local fishers to study their movement and habitat usage patterns. This will become the focal point of bringing DAWR management and fishers together to participate and learn key adaptive management aspects.

Rice asked how much the FADs cost.

Muña-Brecht said they each cost about \$20,000 and another \$20,000 for deployment, which is why there is interest in the FADs being used in American Samoa.

Dueñas asked if a baseline for the bumphead parrotfish will be established as they are released into the MPAs, and whether the food source for the fish will be studied. Regarding giant clams, he understands the plan is to put them in cages, but said would make it easier for poachers to identify them. He said the area of greatest abundance of giant clams is outside Double Reef where they live on coral substrate.

2. Isla Informe

Guthertz reported there had been another influx of people from China coming by small boats from the CNMI and entering Guam illegally. None enter through Guam’s two designated ports of entry, Port Authority of Guam and Guam International Airport. Guam’s law enforcement community, including the USCG, have been working with their counterparts in the CNMI to stop them before they leave the CNMI or divert the vessels before they get to Guam’s shores. It is still not known if they are coming to Guam to seek political asylum and a better life or even to monitor U.S. military activities. The federal government had been slow to respond initially to this serious situation, as they had back in the 1990s with the initial migration of Chinese nationals. What is known is they paid to be brought to Guam from the CNMI. There is fear they may be exploited as cheap labor in Guam by folks who meet them when they come ashore. To date, there have been 10 boats confiscated by law enforcement personnel.

Dueñas reported on the Guam Fishermen’s Cooperative Association’s (GFCA) new \$8 million facility, with funding coming from the current administration and Congressman Michael San Nicolas. Since the GFCA did not qualify for the CARES Act, the governor provided \$200,000 to help the GFCA survive the pandemic, in addition to the already-confirmed \$5 million for the basic structure. The congressman gave \$3 million under U.S. Department of Agriculture Rural Development funding. The project’s first phase is the installation of a seawall, which will allow boats from Agat to tie up when the water gets rough in the south. The second group that will benefit from the seawall will be boats from the CNMI as a form of reciprocity as

boaters from Guam are treated well when they visit Saipan. During fishing tournaments, the seawall will provide additional safe space for participating boats.

On the coral reef habitat, Guam is being punished for the failures of the federal government. The Coastal Zone Management Program is supposed to address runoff and land issues. Runoffs used to be restricted to river mouths with brown water and built-up sedimentation inshore. The Coral Reef Initiative funded by the federal government only focuses on fishing. The topshell (aliling) is a good indicator of where the boundaries of algal blooms are. Tumon Bay was manmade by Peter T. Wilson. It used to be a mangrove, but Wilson blew an opening in the reef allowing water to circulate in the bay. Tourists do more damage to the corals than fishing.

Regarding the fishery management plan and fishing regulations for Guam, there is a federal regulation that says a saltwater permit is needed. But a waiver for Guam was issued because it is supposed to be traditional practice to use the ocean. If licensing becomes a requirement, all fishermen and the community should be engaged. Perpetuation of community capacity is a major reason for rejoining the Council.

Regarding NMFS's recreational program, there should be meetings with the Council, USFWS, WSFR Program, USCG and NMFS, to consolidate the two programs and better recognize the entities that use the same gear in their fishery, and to come to a compromise on how best to use available funds. Trolling gear are all taxed at the manufacturer with the funds generated going to the WSFR Program. Fishermen who sell fish should be eligible for some type of funding to fix old marinas. The USCG has reauthorization program for their funding. The states get \$10 million annually, while the territories get \$1 million.

The GFCFA assisted two fishing derbies, one of which was a spearfishing tournament. The GFCFA also supported the 2nd Annual Greg D. Perez International Fishing Tournament held Aug. 20-21, 2022, and 80 boats participated in the event.

C. Advisory Group Report and Recommendations

1. Advisory Panel

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

Regarding CNMI fishery issues, the CNMI AP recommended the Council write a letter to the CNMI DLNR/DFW, to allow the harvest of seasonal species such as mañahak, kichu, atulai, i'e, and ti'ao in MPAs around the CNMI.

Regarding the Young Fishermen's Development Act (YFDA), the Guam AP recommended the Council encourage Guam Sea Grant to work on getting YFDA funding and assist the fishing community in applying for and receiving YFDA funding.

The CNMI AP recommended the Council request NMFS provide grant writing workshops to help the fishing community become competitive in grant funding opportunities such as the Young Fishermen's Development Program, Saltonstall-Kennedy Program, etc. Further, the CNMI AP recommended the Council request PIRO

provide funding to the Marine Education and Training Program to support fishery and maritime training in the Pacific Islands.

Regarding funding the Guam MCP, the Guam AP recommended the Council explore other ways to fund Guam's MCP or funding through the Sustainable Fisheries Fund for Guam.

2. Fishing Industry Advisory Committee

There were no FIAC recommendations regarding the Mariana Archipelago.

3. Non-Commercial Fishery Advisory Committee

There were no NCFAC recommendations regarding the Mariana Archipelago.

4. Scientific and Statistical Committee

There were no SSC recommendations regarding the Mariana Archipelago.

5. Fishing Rights of Indigenous Peoples Standing Committee

There were no FRIP Standing Committee recommendations regarding the Mariana Archipelago.

D. Public Comment

There were no public comments.

E. Council Discussion and Action

*Regarding traditional fisheries in the CNMI, the Council **directed staff to work with CNMI DLNR/DFW to explore the feasibility to establish permits for seasonal harvest of traditional fisheries (e.g., mañahak, kichu, atulai, i'e'e, and ti'ao) from within the CNMI MPAs.***

Moved by Rice; seconded by Sword.

Motion passed.

*Regarding the YFDA, the Council **encouraged Guam Sea Grant to allow YFDA funding to assist in building fisheries capacity in the Mariana Archipelago.***

The Council recommended NMFS provide grant writing workshops to help the fishing community become competitive in grant funding opportunities such as the Young Fishermen's Development Program, Saltonstall-Kennedy, Marine Education and Training. Further, the Council recommended PIRO provide Marine Education and Training funding opportunities to support fishery and maritime training in the Pacific Islands.

Malloy said NMFS abstains from the second recommendation regarding grant writing workshops.

Moved by Rice; seconded by Sword.
Motion passed with Malloy abstaining.

Regarding the MCPs, the Council recommended Guam and the CNMI reach out to the public in developing their next MCPs and expedite the process for approval by the Council in March 2023. Further, the Council directed staff to work with the Guam AP to explore further options for funding projects under the Guam MCP.

Moved by Guthertz; seconded by Sword.
Motion passed.

Regarding national marine sanctuaries, the Council directed staff to send a letter to ONMS requesting an update on whether the Mariana Trench will be retained or removed from the National Marine Sanctuary nomination inventory list.

Moved by Rice; seconded by Sword.
Motion passed.

Regarding coral critical habitat, the Council requested NMFS to consider issuing a revised proposed rule reflecting the updated species records information as well as comments from the Council and the governments of American Samoa, CNMI and Guam. The Council further requested that NMFS coordinate with territory representatives in advance of issuing the revised proposed rule.

Malloy said NMFS will abstain from this recommendation.

Moved by Rice; seconded by Sword.
Motion passed with Malloy abstaining.

XV. Administrative Matters

A. Financial Reports

Simonds referred members to their briefing materials. The Council is adjusting the budget due to the reduction of funding received this fiscal year. The Council is pending a reply to the last letter sent to NMFS Headquarters and will report on updates at the December Council meeting.

B. Administrative Reports

This agenda item was addressed with the previous agenda item.

C. Council Program Planning Update

DeMello reported on the Council staff's planning session held Aug 1-2, 2022, in Kailua-Kona. Staff evaluated activities currently in progress and updated the Program Plan priorities. Before the planning session, a survey was sent to the Council family, which had an 80%

response rate. The survey was used to help inform the Hedgehog Concept and Starfish exercises used during the planning session. These exercises were used to look at what drives the staff and Council to frame discussions and what the Council should be doing more or less and what the Council should stop, start or keep doing. The survey helped highlight a lack of representation and resources from the Council family and the exercises highlighted the need for better engagement with the communities to build relationships with the fishermen, environmental groups, and other agencies. The staff will be working in small working groups to address short-term activities and prioritize actions for long-term activities. The Council will be provided periodic updates as the staff progress forward.

D. Council Family Changes

DeMello reported that the Council received a letter from CNMI DFW requesting membership changes to the plan teams and the Fishery Data Collection and Research Committee's (FDCRC) Technical Committee. Kelsey Lizama will replace Francisco Villagomez on the Pelagic Plan Team. Angela Dela Cruz will replace Villagomez on the APT. Nathan Van Ee will replace Villagomez on the FDCRC Technical Committee.

1. Advisory Panel Solicitation Review

Yamada reported that the AP solicitation was open from July 19 through Aug. 19, 2022, and the Council received 61 applications. Applicants consisted of recreational and commercial fishermen and also restaurant owners and seafood marketers. Yamada referred to the application package in the Council briefing materials and reported that the Executive Committee provided the final list.

E. Meetings and Workshops

Simonds reported on the upcoming end-of-the-year meetings and associated travel. Staff sent information on the flights for the December Council meeting, and Simonds said members can contact her regarding participation in any of the listed meetings.

Gourley noted that are schedule changes to available flights departing CNMI.

Soliai referred to the briefing materials for further information.

F. Standing Committee Reports

1. Fishing Rights of Indigenous Peoples Standing Committee

There were no FRIP Standing Committee recommendations regarding administrative matters.

2. Executive and Budget Standing Committee

Soliai reported that most items were discussed under prior agenda items and referred members to the briefing materials.

G. Public Comment

There were no public comments.

H. Council Discussion and Action

Regarding Council family changes, the Council recommended the following changes to its advisory groups:

- a. Appointed Kelsey Lizama and Nathan Van Ee to the Pelagic Plan Team and FDCRC-Technical Committee replacing Francisco Villagomez.**
- b. Appointed Angela Dela Cruz to the APT replacing Francisco Villagomez.**

Moved by Sword; seconded by Rice.

Motion passed.

Regarding the AP, the Council appointed the following persons to the AP:

As Chairperson: Clayward Tam

American Samoa:

- 1. Nate Ilaoa**
- 2. Brian Thompson**
- 3. Nonu TuiSamoa**
- 4. Joe Hamby**
- 5. Jerome Ierome**
- 6. Dustin Snow**
- Alt 1. Joseph Fa'a'aita**
- Alt 2. Ray Tulafono**
- Alt 3. Carl Floor**

Guam:

- 1. Judy Amesbury**
- 2. Dominik San Gil**
- 3. Dale Alvarez**
- 4. Jesse Rosario**
- 5. Michael Dueñas**
- 6. James Borja**
- Alt 1. Jason Miller**
- Alt 2. Jonathan Deloso**
- Alt 3. Michael Gawel**

CNMI:

- 1. Richard Farrell**
- 2. Ray Tebuteb**
- 3. Mike Fleming**
- 4. Cecilio Raiukiulipiy**
- 5. Perry Mesngon**
- 6. Lino Tenorio**
- Alt 1. Anthony Guerrero**
- Alt 2. David Cabrera**
- Alt 3. Lawrence Concepcion**

Hawai'i:

- 1. Gil Kualii**
- 2. Khang Dang**

3. **Carrie Johnston**
4. **Abraham Apilado Jr.**
5. **Nathan Abe**
6. **Amanda Padilla**
- Alt 1. **Cherise Van Kuren**
- Alt 2. **Nathan Tsao**
- Alt 3. **Len Nakano**

Moved by Sword; seconded by Dueñas.
Motion passed.

*Regarding Regional Operating Agreement, the Council endorsed the amended language to **Regional Operating Agreement for the council executive director, regional administrator and science director to meet monthly or prior to and after each council meeting to review programmatic initiatives, ongoing Council actions, priorities and other matters of mutual interest.***

Makaiau said the acting regional administrator supports and has committed verbally to the executive director to meet monthly, but NMFS will be abstaining from the vote on this recommendation.

Moved by Dueñas; seconded by Rice.
Motion passed with Makaiau abstaining.

Regarding administrative matters, the Council endorsed the 192nd Council meeting financial and administrative reports as provided by staff.

The Council directed staff to request the reprogramming of the Sustainable Fisheries Fund 11 (2019) award to support an American Samoa longline fuel subsidy program using the remaining funds from the American Samoa gear diversification project.

The Council directed staff to continue to work with NMFS to restore funding for the Council's protected species staff and program, capacity building program, annual SAFE report coordinator and territorial science initiative.

Mark Mitsuyasu, Council staff, said the Sustainable Fisheries Fund 11 award ends in September 2022 and the Council put in a request for a one-year extension. The last project this award was supporting in American Samoa was the gear diversification project, converting the longliners to albacore jigging. As it was not practical to complete the remaining four vessels, the association requested that the Council and DMWR look at supporting a fuel subsidy program with the remaining funding.

Makaiau said NMFS will be abstaining from the third recommendation regarding restoration of funding.

Moved by Dueñas; seconded by Sword.
Motion passed with Makaiau abstaining.

Regarding fisheries development, the Council directed staff to initiate the review and update of the PRIA MCP for Council review at its March 2023 meeting.

The Council directed staff to work with the territories to explore options to allow foreign fishing within the U.S. EEZ.

Moved by Guthertz; seconded by Sword.

Motion passed.

XVI. Other Business

Soliai read the letter from American Samoa Governor Mauga to Malloy, which provided comments on the proposed rule to change the way that fishing days by U.S.-flagged purse seiners are limited in application of the Convention and Management of Highly Migratory Fish Stocks in the Central and Western Pacific Ocean. Governor Mauga concluded the letter with a request to NMFS for an exemption to high seas limits for vessels based in America Samoa. Soliai said the letter would be distributed electronically.

[Meeting adjourned.]