



WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

**MINUTES OF THE
188th MEETING OF THE
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**October 19, 2021
By Web Conference and Host Sites:**

Tedi of Samoa Building Suite 208B, Fagatogo Village, American Samoa

Cliff Pointe, 304 W. O'Brien Drive, Hagatña, Guam

BRI Building Suite 205, Kopa Di Oru St. Garapan, Saipan,
Commonwealth of the Northern Mariana Islands

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 Remarks

Taotasi Archie Soliai opened the 188th Council meeting with a prayer. Soliai thanked Council members and the American Samoa governor for reviewing the proposed action.

II. Governor's Opening Remarks

Lemanu Mauga, governor of American Samoa, provided the opening remarks. Mauga said American Samoa is well known for its hospitality, local environment and beaches. The Council is working hard to manage marine resources in the federal waters around American Samoa for the purpose of conservation for humanity, and Mauga thanked the Council for its effort. Mauga said that the Council should not give in to the status quo or give up working towards a better solution. Mauga quoted Thomas Edison saying, "I have not failed; I have found 10,000 ways it won't work."

Mauga expressed concern about the impending action for American Samoa bottomfish fishing and how the action could impact the American Samoa way of life. Bottomfish fishing is a vital part of American Samoan culture and everyday life for residents. Fishing brings food to families, and anything that prevents fishing prevents life and tradition. The 2015 American Samoa bottomfish stock assessment indicated a healthy bottomfish stock in American Samoa, but the 2019 stock assessment surprisingly determined that the stock is overfished and experiencing overfishing. Mauga found the change in stock status difficult to digest, noting that the only thing that changed over the years was the decline of the fishing community. The COVID-19 pandemic created stress in the fishing community, and additional regulations on fishing would create more stress. Mauga urged the Council to delay action on the bottomfish rebuilding plan so that the American Samoa government could further review the data and their collection. American Samoan biologists say that the bottomfish stock is healthy and want to reach out to fishers to get a better understanding. Bottomfish fishing is cultural fishing since little goes to market and the American Samoa community consumes the remaining bottomfish. The American Samoa bottomfish fishery is in decline since most boats need repair and have high operational costs. Mauga said the Council and American Samoa should work together to ensure that bycatch summaries are consistent with the standardized bycatch reporting methodology. American Samoa needs to reach out to neighboring island nations since the fish stocks are likely shared and managers may need to consider this accordingly. The Pacific Islands Fisheries

Science Center (PIFSC) will complete the next stock assessment soon, and Mauga reiterated his request for the Council and the National Marine Fisheries Service (NMFS) to delay the rulemaking process until the upcoming stock assessment is available next year. American Samoa staff is ready to assist the Council and NMFS in the next stock assessment. Mauga said that a delayed decision is a human life in this world because fishing gives meaning to their life. Mauga suggested that, if the Council decides to control the American Samoa human population, then the Council should recommend 5,000 pounds of catch per year for each species in the complex until PIFSC finalizes the next stock assessment. Mauga thanked the Council on behalf of American Samoa to be able to share the government's concerns.

Soliai thanked the governor for his opening remarks, noting that he sees the value that the governor put onto this sensitive issue.

Simonds (a Polynesian of Hawaiian descent) addressed the governor as Seu'tatia (title bestowed on her by the chiefs of Aunu'u). She commented that she misses traveling to American Samoa, the cradle of Polynesian civilization. In response to the governor's concerns about the reduction in bottomfish catches and the determination that the fishery is overfished and in an overfishing condition, Simonds described the basic difficulty in our region—and that is melding western ways with Pacific Island cultures. Pacific Islanders continue to live their culture. Our Pacific Island communities need to have an understanding of the different and changing ways in which the federal government develops stock assessments—currently the annual catch limit (ACL) basically depends on fisher reports. Over the years, the Council tried nonregulatory ways to report information and is still working toward that goal. The Council is faced with a decision that is not right. Simonds hopes the governor and his administration understand that the Council will continue to work hard to support appropriate management changes that lead to increasing the ACL, regardless of the decision made today. An ACL of 5,000 pounds is wrong. One of the changes that the other territories are considering is that the territories be exempt from ACLs. The Council will continue to discuss ACL exemptions with the territories. Simonds noted the last time the Council visited American Samoa in 2019, bottomfishing was great. Members were therefore surprised at the results of the recent stock assessment. Simonds also noted the governor's remarks at the fiafia (following bottomfish fishing) that he was the baggage handler for Simonds and Claire Pomele (former Port Director) when traveling to certain Pacific meetings.

Mauga thanked Simonds for her comments and said he remembers hosting meetings in American Samoa. Mauga thanked Simonds and the Council members for their support. Mauga said that American Samoa is not trying to stop conservation but is asking for a fair evaluation of the decision. Mauga said he researched and spoke to scientists in American Samoa, and local managers need to emphasize stock assessments that drive the decision-making process going forward. Mauga said that the ocean is life as it has been in the past, and most fishers in American Samoa use fish for food rather than commercially. Mauga thanked the Council for fighting for the people of American Samoa and he hopes that American Samoa will host a future Council meeting soon.

Simonds thanked the governor.

Soliai made a comment in the Samoan language and thanked the governor for speaking. Soliai invited the governor to stay and listen to the upcoming meeting discussion.

III. Approval of the 188th Agenda

The 188th meeting agenda was approved by general consent.

IV. Council Member Introductions

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

- Taotasi Archie Soliai, chair (American Samoa) and American Samoa DMWR
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Manny Dueñas, vice chair (Guam)
- Howard Dunham, vice chair (American Samoa)
- Roger Dang, vice chair (Hawai‘i)
- Monique Amani (Guam)
- McGrew Rice (CNMI)

- 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)
- Michael Tosatto, NMFS Pacific Islands Regional Office (PIRO)
- Brian Peck, U.S. Fish and Wildlife Service (USFWS)

Also in attendance were Council Executive Director Kitty Simonds; Kristen Placek, from NOAA Office of General Counsel Pacific Islands (GCPI); and the Scientific and Statistical Committee (SSC) Chair James Lynch. Council member Matthew Ramsey (Hawai'i), Rebecca Wintering, U.S. Department of State, and Jason Holstead, U.S. Coast Guard, were absent.

V. American Samoa Territorial Bottomfish Fishery Management Plan

Domingo Ochavillo, American Samoa DMWR, presented on the American Samoa Territorial Bottomfish Fishery Management Plan (FMP). DMWR is developing an FMP because the agency has a mandate to manage marine resources, and the territorial FMP will complement the Council's FMP. Based on meetings with fishers, the fishers want to retain the bottomfish management unit species (BMUS) list as species to manage under the territorial FMP. Currently, the only management measures for BMUS are ACLs and some closed areas, and an impending issue is the low ACL associated with the upcoming rebuilding plan.

The Council and DMWR conducted consultation meetings to prepare for the draft FMP, and DMWR reviewed other management plans in the South Pacific and considered relevant data and the local action strategy for American Samoa fisheries. The FMP scope covers the 11 BMUS in territorial waters for recreational, subsistence and commercial fisheries, and the vision of the FMP is to ensure a healthy marine ecosystem with sustainable fisheries for the people and future generations of American Samoa. Issues include the data-limited situation that is driving the low proposed ACLs, a limited understanding of the ecology of BMUS, a limited awareness of the

fishing community of fishery-related issues, the need for research and monitoring, community involvement and economic information, and enhancing collaborative work.

The four themes within the draft FMP are fishery, biological, social and management. Each theme has its own goals and objectives, such as reviewing the bottomfish creel data collection programs under the fishery theme, identifying habitats and assemblages under the biological theme, conducting more outreach under the social theme and developing potential management measures under the management theme. Some proposed management measures for the FMP include mandatory reporting, licensing, dealer licensing shift to an electronic platform, vessel registration and notification to DMWR before trips, seasonal closures, catch-based management and size limits. Implementation would involve monitoring, data review, enforcement, outreach and fostering partnerships. DMWR will work with its partners to organize a review committee for the FMP and may release the draft FMP for public comment late 2021.

Soliai said the current FMP is a draft that DMWR will finalize after proper vetting.

Muña-Brecht said that some of the components of the American Samoa Territorial Bottomfish FMP are similar to what Guam is pursuing for incorporation into their territorial FMP. Muña-Brecht said she would like to continue to share information and work together with DMWR through the development process to support one another.

Soliai agreed.

Dueñas commended Ochavillo for the work of DMWR. Dueñas said that he is concerned with the impending ACL for American Samoa bottomfish under the rebuilding plan. Dueñas said he wants to see continued development of the Catchit Logit app, but the Council should provide a hard copy of data collection forms for fishers that are not technologically savvy. The expansion of American Samoa creel survey data should include Catchit Logit information as a modification. Dueñas said he likes the life history data collection project since it gives fishery managers better data and information about the survivability of species. Dueñas said he recalls a document that stated PIFSC offered a laboratory to expand American Samoa's life history program in the past. Dueñas said that 1,000 experiments can support a conclusion, but it takes one experiment to negate that conclusion. The Council should perform social outreach to ensure the fishers properly represent their data.

Soliai he has been looking through the archives for the communication on PIFSC's offer for a life history laboratory, and asked Council members to share it if they find it.

Tosatto asked about the anticipated timeline for finalizing and implementing the FMP. Tosatto presumed that finalization must be a year or two away, based on some of the timed activities that Ochavillo presented. Knowing the timeline would allow PIRO to estimate when they will see impacts of the FMP commensurate with PIRO's federal actions.

Soliai said he is hopeful that DMWR will have a complete draft by the end of 2021 and will finalize the FMP by the first quarter of 2022 after vetting.

VI. American Samoa Bottomfish Rebuilding Plan (Final Action)

Marlowe Sabater, Council staff, presented the alternatives for the American Samoa Bottomfish Rebuilding Plan. The Council deferred taking action at its 187th meeting so that the American Samoa governor could further review the proposed action. The alternatives did not change from those presented at the 187th meeting in September 2021, and Sabater highlighted that since June 2021, the Council and NMFS added consideration of 2020 catch values, included alternative 4, included analysis considering scenarios where the American Samoa government both does and does not implement complementary management and added emphasis on impacts from the action to cultural fishing.

Alternative 1, the status quo, would implement an ACL for American Samoa BMUS at 13,000 pounds, the same as the current interim action, with an in-season accountability measure (AM) to close the fishery in federal waters if the fishery exceeds the ACL, which would require in-season monitoring of catch and DMWR to timely transmit data into the PIFSC database so PIFSC can conduct a pulse check of how much data exist during the year for expansion.

Alternative 2 would implement an ACL of 1,500 pounds, the same in-season AM as alternative 1 and a higher performance standard to close the fishery would be implemented in federal waters for the duration of the rebuilding plan if the fishery exceeds the ACL in any year of the rebuilding plan until NMFS implements a coordinated management measure to control catch at a level that would allow for rebuilding within statutory requirements. Alternative 3 would implement a moratorium on catching and retaining BMUS in federal waters with no in-season AM. Alternative 4 would implement an ACL of 5,000 pounds, the highest level of annual catch

that would allow American Samoa BMUS to rebuild within 10 years, alongside the same in-season AM and performance standard as alternative 1.

The effectiveness of the proposed alternatives in rebuilding the American Samoa BMUS stock complex depends on the implementation of complementary management by the American Samoa government with the federal action. In terms of the National Environmental Policy Act impact analysis, alternative 3 will generally have the greatest negative impact to the fishing community, while producing the largest positive impact to the BMUS stock complex, especially if the American Samoa government implements complementary management.

Rice asked for confirmation that catch reporting is not mandatory in American Samoa.

Soliai confirmed that reporting is not mandatory for the fishermen and only mandatory for vendors.

Rice said if the Council selects an alternative other than alternative 1, the Council will have more difficulty in encouraging fishers to report their catch because they may feel that management penalizes them for reporting.

Sabater said the Council will have to consider the issue of fishers not wanting to report catch. The action will result in decreased cooperation from fishers because of the imposed limits. The Council will try to conduct outreach with the fishers to explain the situation.

Rice said it will be more difficult for scientists to develop an accurate assessment if fishers do not report their catch appropriately.

Muña-Brecht asked what factors determine the revenue decreases for fishers under the action assuming no complementary management.

Sabater said the Council estimated revenue decreases in the absence of complementary management based on the fact that only 15% of BMUS habitat in American Samoa occurs in federal waters. If federal waters close, the maximum reduction in catch would be 15% if one assumes that the location of bottomfish habitat is proportionate to fishery activity.

Muña-Brecht, regarding environmental justice, said that the Council needs to have further conversation about exempting the territories from ACLs given that it is not environmental justice

to apply the same process to alia fishers and other small-boat fishers. Additionally, the impact of small-boat fishers in the Pacific Islands is nowhere near the impacts of mainland fishers.

Soliai said having ACLs seems like environmental injustice.

Dueñas said that he is familiar with the fisheries in the territorial waters of American Samoa from when he was in American Samoa. Ten years ago, one alia was operational, and fishers were trying to establish a fish market at the harbor. Dueñas said the Council and NMFS should not have difficulty assessing the catch level of the fishers. The assessment exercise should incorporate life history program data, and fishery managers should identify nursery areas for management species. In Guam, fishers identified a couple of nursery areas for onaga and the fishers advised to keep away from the areas. Managers should not impose anything mandatory for fishers since much of the fishing in the Pacific Islands is cultural. Dueñas said he would feel disheartened to enforce terms of reference on Pacific Island fishers to conform to western standards.

Sword asked GCPI what would happen if the Council does not take action until PIFSC completes the next stock assessment, as requested by the American Samoa governor. He noted that even with considerations for National Standard 8 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), some community voices have a problem with the scientific information available.

Placek said that if the Council fails to submit a rebuilding plan within the two-year timeframe after the notification of the overfished status, then the Secretary of Commerce (i.e., NMFS) is required to implement its own plan within nine months under MSA 304(e)(5).

Sword said the response from GCPI is no different from the previous Council deliberation, despite the governor's comments.

Soliai asked Tosatto if fishers could still harvest non-BMUS after the fishery closes since BMUS comprise only approximately 40% of total bottomfish fishing.

Tosatto said that in general, fishers would have to comply with the regulations of the rebuilding plan, which would likely prohibit the retention of the BMUS. If the Council and

NMFS craft the final regulations in that way, rather than prohibiting the use of bottomfish fishing gear, the prohibition would be on only BMUS.

Soliai asked if NMFS would consider regulatory discards as bycatch if they resulted from the closure of the fishery after the fishers exceed the ACL.

Tosatto said that regulatory discards would occur if the regulations prohibit the retention of the BMUS, and NMFS would use information on regulatory discards as part of the data collected. The existence of regulatory discards is an unfortunate outcome of many rebuilding plans. Tosatto said NMFS needs action and draft regulations from the Council before he can supply a more specific answer. NMFS can prevent regulatory discards if needed, but NMFS could also prohibit the use of bottomfish fishing gear in federal waters rather than the retention of BMUS.

Sword said that PIFSC plans to work with DMWR and the community for the next stock assessment through data workshops. Sword asked Tosatto if NMFS would remove the rebuilding plan based on the best scientific information available if the next stock assessment results in a more optimistic stock status.

Tosatto said that PIFSC will do an assessment, and NMFS would make determinations based on those results. If the status changes from overfished to not overfished, the rebuilding plan can end because NMFS would demonstrate that the stock is not overfished. Ending the rebuilding plan would require regulatory work. The Council would receive the determination of the change in stock status and take appropriate management measures. If the BMUS stock complex remains overfished or if overfishing continues, the Council needs to act appropriately. The MSA requires the Council to examine the rebuilding plan every two years to see if the rebuilding plan is likely to meet its objectives. If the rebuilding plan is not likely to meet its objectives, the rebuilding plan needs to change.

Sword asked if the managers could begin examining the rebuilding plan sooner than the two-year timeframe since studies take time. Sword asked if such studies would be complete within two years.

Tosatto said that when NMFS produced the 2019 stock assessment knowing the state of available information, NMFS did not see the priority to immediately rerun the assessment. The assessment was good and included the best available information. PIFSC's investment to improve the information used in the stock assessment will take time, and PIFSC will complete the next assessment with improved information. Tosatto said he has high confidence in the PIFSC Stock Assessment Program to investigate the use of the available information in the next stock assessment and to hear the community's concerns so that they can produce an assessment in which everyone has confidence. The current stock assessment is the best available science right now, but NMFS does want to improve the information used as inputs.

Sword asked if NMFS could divide the BMUS stock complex into deep- and shallow-water species during the next assessment since there is a difference between the two for local fishers.

Tosatto said that the decision to split the BMUS stock complex is up to the Council, which designates MUS and complexes while coordinating with PIFSC based on available science. PIFSC is responsive to the Council's needs. If the Council wants to pursue different management, then the Council needs to work with PIFSC so that the stock assessment is the best that the agency can provide.

Dunham said the decrease in catch associated with the rebuilding plan will have a large impact on the community that relies on bottomfish. The result of the stock assessment is due to how PIFSC handled the data and is a man-made issue that NMFS could classify as a fishery disaster under MSA Section 312. Dunham asked if Tosatto agrees and if bottomfish fishers would be able to apply for relief due to the fishery disaster.

Tosatto said Dunham's question is difficult to answer since the circumstance is uncertain. The Council has not taken action, so NMFS cannot determine if the situation is a fishery disaster. Tosatto said that American Samoa, the Council and NMFS may want to consider looking at fishery disaster statutory requirements, but he does not agree prior to Council action.

Dunham said the solution to any problem is to make the fishers happy.

Soliai said he appreciates the work that NMFS has put forth for the next stock assessment. Soliai said he understands that Tosatto cannot give direct answers until the Council takes action. Soliai asked what happens next if, hypothetically, the next assessment changes the status determination for American Samoa BMUS.

Tosatto said the Council can comment on the NMFS process. The regulatory process would implement the rebuilding plan, and if the assessment results in a change to status determination, the regulations would be in place until NMFS removes them. NMFS can remove regulations quickly, but the process still requires Council action. The Council would have to deliberate an appropriate ACL if NMFS removes the overfishing-based ACL.

Rice, considering the governor's remarks, asked what would happen if territorial waters do not close even if there is a federal closure.

Tosatto said, hypothetically, the Council takes action, establishes a rebuilding plan and sets an ACL to end overfishing. In that sequence of events, the AM that NMFS implements needs to achieve rebuilding. The fishery could get lucky with catch remaining low or catch could be high and the implemented regulations would guide the process. The Council must review the rebuilding plan every two years, so the Council would need to evaluate whether its measures are adequate to ensure rebuilding will occur within 10 years. If there is information that adequate progress is not occurring, the Council must take action, and regulations require Secretarial action if Council does not take action. The process must monitor towards rebuilding, which can happen with an assessment changing status determination, on the expected timeline or ahead of the timeline with good circumstances.

Rice said that he believes American Samoa would not close territorial waters since the governor wished for the Council to delay action until the next assessment.

Tosatto said the governor's position is meaningful, but the Council's obligation is a statutory requirement. Tosatto said that he appreciates the complex nature of the fishery being both in territorial and federal waters, but American Samoa BMUS are a federal resource that NMFS needs to manage in a cooperative manner that is sensitive to cultural issues. The analysis of environmental justice is not new, being a National Environmental Policy Act obligation. The Western Pacific Region has statutes for special circumstances for communities, and while NMFS

will be as open minded as possible regarding these opportunities, requirements for overfished stocks are among the strictest in the MSA. Tosatto said he appreciates the Biden Administration's emphasis on equity for underserved communities. When there is guidance and opportunities available, it could be helpful, but NMFS has not yet found the opportunity to match the rebuilding circumstance.

Dueñas asked if the model PIFSC used for the 2019 stock assessment is old or new.

Sabater said the Bayesian model in the 2019 assessment is similar to what PIFSC uses for deep-seven bottomfish in Hawai'i. Compared to the 2015 assessment for American Samoa bottomfish, the 2019 assessment focused on the filtering of the data and what PIFSC considers a bottomfish trip. Otherwise, the model is the same type of surplus production model.

Dueñas asked if PIFSC did any work to correlate the results between the two models to determine an average result. After the next stock assessment, there will be three models but no true answer to the question of stock status. Dueñas said that the idea of equity is another box created around Pacific Island communities, and the models PIFSC use are a detriment to the survivability of Pacific Islanders. PIFSC should input the data into both models to see if there is a large difference in the results. In two years, the Council wants American Samoa to be in a better situation, but Dueñas said that both models are ugly and conjectured. PIFSC needs to look at the one "wrong" that came out of the situation instead of the thousand "rights."

Sabater said that PIFSC will conduct data workshops with DMWR and fishers as a part of the process for the next stock assessment. Part of the workshop discussion would be an evaluation of the other datasets after discussion with the fishers to determine what models PIFSC can use, so the assessment development process will change.

Soliai said he reiterates the request he made at the last Council meeting to emphasize the importance of in-person workshops, as the workshop scheduled for November is virtual.

VII. Public Comment

Captain Wally Thompson, American Samoa commercial fisher, spoke from his experience of living in American Samoa since 1969, being involved with many government projects and commercial fishing for 11 years. He said that bottomfish used to be exported to

Hawai‘i, which was a lucrative market, but only a select few could do the job. NOAA used to bring a research vessel to American Samoa to explore territorial waters. Thompson spoke to the captain and crew of the research vessel, who said that the traps set on the East Bank were completely full. The crew of the research vessel also said American Samoa has a virgin fishery for shrimp, but there are not many vessels in American Samoa with the capability, such as a crane to retrieve the traps, to fish for shrimp. Thompson spoke with the navigator of the research vessel, who said there are several pinnacles around American Samoa that fishers have yet to exploit. The dory program in American Samoa collected a lot of data, but overfishing of some of the seamount banks prevented additional commercial fishing. DMWR told the dories to each fish in a different area and to not stay in one pinnacle for too long. Thompson said American Samoa cannot support a commercial fishery, but upcoming projects, like the super alia, could help. A key to successful fishing operations in American Samoa is the export market, where fishers could send fish to the Hawai‘i auction. Exporting could help fishers make a good living in American Samoa. Quality controlled fish will be important to establish a good market. Thompson stressed that fishers and fishery managers need to watch American Samoa fisheries closely.

Tony Langkilde, American Samoa Department of Commerce, commented that he was a Council member in the 1980s and has fished commercially, exporting fish to Hawai‘i and Washington. Langkilde agreed with the governor in asking the Council and NMFS to defer action on the rebuilding plan. The super alia project that Langkilde manages received funding and will allow fishers to extend their range to 200 miles from shore. The American Samoa Archipelago has narrow, deep shelves that promote high yields but are difficult to monitor. Regarding the collection of accurate data, there are lots of fish on the outer banks that fishers are not targeting and there are no data from the outer banks. Langkilde expressed confusion that the data include the outer banks, despite there being no good data from these areas. The super alia project may allow fishers to reach these banks, collect data and allow managers to monitor the stocks.

Timothy Jones, resident of American Samoa for 30 years, commented that he was a commercial bottomfish fisher before becoming a longline fisher for tuna. Jones believes that the data that PIFSC used to determine the BMUS stock complex as overfished is flawed. Jones said that PIFSC counts fish harvested by fishers but not fish taken by sharks. American Samoa fishers

are observing an influx of sharks over the past five to six years. Fishers used to expect to lose a few fish to sharks, but currently, fishers are in a race to land their fish. Sharks can deplete 20 to 40% of catch. Jones said he does not know where the sharks came from, but a natural event is occurring with a war zone beneath the water. The predators are diminishing bottomfish numbers, but eventually, the sharks will have less nourishment and will breed less. In a few years, the shark population will decline and the bottomfish population will rebound. Jones said he does not believe that a handful of fishers are overfishing billions of square feet of fishable waters. The Council and NMFS are using the available data to punish fishers, who will be victims of the rebuilding plan action. Jones said he agrees with Governor Mauga that the Council needs to postpone action. Jones said he also agrees that bottomfish stocks are low, but the Council and NMFS need to consider depredated fish. The fishery managers know about the fish population, but are not aware of the shark populations. The fishers are not the perpetrators. Jones said he is unhappy to hear that the focus of the problem is the fishers since fishers are not the problem.

VIII. Council Discussion and Recommendations

*Regarding the American Samoa Bottomfish Rebuilding Plan, the Council **acknowledged the significant challenges that the bottomfish community faces with the potential implementation of the rebuilding plan measures. These actions may also affect the local government's attempt to develop the fishery through federally funded alia boat building.***

However, the Council has an obligation to rebuild the overfished stock and end overfishing immediately in compliance with the requirements of the MSA and the American Samoa Archipelago Fishery Ecosystem Plan.

Therefore, the Council recommended as a final action:

- a) Alternative 4 that implements an ACL of 5,000 pounds. This level of catch would rebuild the stock to B_{MSY} in 10 years (T_{target}), assuming American Samoa implements complementary measures in territorial waters. The T_{min} and T_{max} are eight and 10 years, respectively. The ACL shall provide the highest level of catch to rebuild the stock in the shortest time possible and is associated with a 27% risk of overfishing, and takes into account the status and biology of the**

stock, the needs of fishing communities and interaction of the stock within the marine ecosystem consistent with MSA §304(e)(3) and 304(e)(4). In addressing the needs of the fishing community, alternative 4 provides the highest level of catch to support cultural fishing in American Samoa.

- b) An in-season accountability measure would track the catch relative to the ACL and close federal waters once the ACL is projected to be reached. Catches from both federal and territorial waters would be counted towards the ACL.**
- c) Additionally, the Council recommended a higher performance standard in which, if the ACL is exceeded during any fishing year over the course of the rebuilding plan, NMFS would close the fishery in federal waters until a coordinated management approach is developed that ensures catch in both federal and territorial waters can be maintained at levels that allow the stock to rebuild.**

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 Council staff to work with NMFS to complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, the Council authorizes the executive director and the chair to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council the executive director and the chair are authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.

Dueñas said he supports the recommendation with reservations, as he is concerned about an ACL of 5,000 pounds for both territorial and federal waters given that Hawai'i fishers in American Samoa were able to catch more than 500 pounds during an exploratory fishing trip. At that rate, fishers could reach the ACL in 10 fishing days. There are more funerals, holidays and cultural ceremonies in American Samoa than in the Mariana Archipelago. Dueñas said that he would hate to be in Soliai's shoes when he tells fishers to stop catching bottomfish for their

festivities. Dueñas said that he is also concerned about the dietary and cultural habits of the fishing community, and he has reservations about the health and welfare of the American Samoa community.

Sword supported Dueñas's comments and said that people in American Samoa will have to start eating species caught by other fisheries. Sword said that the action will be a heartbreaking revelation to bottomfish fishers when NMFS implements the rebuilding plan.

Dunham said he echoes the comments by Dueñas and Sword, and said that it is difficult to tell fishers what is happening with the rebuilding plan because they are not educated about what the Council is considering to specify the ACL.

Soliai said he appreciates the comments and concerns regarding the sadness American Samoa fishers face in the rebuilding plan. Soliai said that the fishing community will suffer because of the sins of the father, referring to what happened in the past. The Council and American Samoa fishing community are in the current situation because of what did not happen prior.

Tosatto said that he is abstaining from voting since the action is a final action that will come to him for approval.

Peck asked if the limitations of the rebuilding plan apply only to the 11 BMUS.

Sabater confirmed.

Dueñas asked for clarification that NMFS would prohibit all harvest of all bottomfish or only a certain group of fish species.

Sabater said that the action pertains only to the 11 BMUS in American Samoa. According to DMWR, the BMUS comprise approximately 40 to 50% of all bottomfish caught. The remaining portion of bottomfish catch is other species harvested with bottomfish fishing gear.

Moved by Sword; seconded by Dunham.

Motion passed with Tosatto abstaining.

Regarding the American Samoa Territorial Bottomfish FMP, the Council directed staff to work with DMWR to initiate dialogue and information exchange with the Ministry of Agriculture and Fisheries in Samoa on the management and data sharing for the bottomfish fisheries.

Tosatto said that he knows there are appropriate regional frameworks in place to have the dialogue, and he wants to ensure that the Council follows appropriate diplomatic procedures for making agreements with a foreign country, which is the purview of the U.S. Department of State.

Simonds said that the three territories are voting members at the Pacific Community (SPC). SPC has done work for the territories in the past, and the Council supported the work by SPC for the territories. Simonds said she does not think the Council recommendation is a diplomatic action, but the Council and territories would be working together with SPC, who complete stock assessments, among other items.

Tosatto said he agrees, but he made the comment because of the nature of the recommendation being to the Ministry of Agriculture and Fisheries in Samoa and not SPC. Tosatto said he knows the Council will follow the regional framework.

Moved by Sword; seconded by Dunham.

Motion passed.

IX. Other Business

There was no other business.