



WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

**MINUTES OF THE
190th MEETING OF THE
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**March 22-24, 2022 Council Plenary
By Web Conference and Host Sites:**

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Approved by Council:

A handwritten signature in black 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)
- 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, 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 Jason Holstead, U.S. Coast Guard (USCG) (designee for Rear Adm. Matthew Sibley, commander for USCG District 14)
- Colin Brinkman, U.S. State Department

Also in attendance were Council Executive Director Kitty M. Simonds; Fred Tucher, Elena Onaga, Kristen Placek and Sarah Sheffield from NOAA Office of General Counsel Pacific Islands (GCPI); and James Lynch of the Scientific and Statistical Committee (SSC). Council member Howard Dunham (American Samoa) was absent.

Soliai opened the 190th Council meeting with a moment of silence for the Honorable Don Young who recently passed away, was one of the original authors of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and was instrumental in supporting U.S. fisheries. Soliai followed this with a prayer.

II. Approval of the 190th Agenda

The 190th meeting agenda was approved by general consent.

III. Approval of the 189th Meeting Minutes

The 189th meeting minutes were approved by general consent.

IV. Executive Director's Report

Simonds presented the executive director's report. The Council hired two new staff members: Matthew Seeley and Pauline Gebauer. The Council will consider in-person Council and SSC meetings in June 2022.

The Council Coordination Committee (CCC) held a special session Jan. 18, 2022, to discuss changes to the process of integrating Endangered Species Act (ESA) Section 7 with the MSA. Each regional fishery management council shared experiences with consultations for their fisheries and suggestions for improving coordination, communication and transparency. The Council is disappointed with the lack of progress in the ongoing ESA consultations of the Hawai'i deep-set longline, American Samoa longline, and Hawai'i and territory bottomfish fisheries. These consultations have been ongoing for three years when they were supposed to be completed in 135 days. Simonds wondered how it is possible that these consultations for the only commercial fisheries in the region would take longer than the time it took to go from a new virus discovery to populations becoming fully vaccinated.

Following the disappointing outcome of the 2021 Western and Central Pacific Fisheries Commission (WCPFC) annual meeting, the Council directed staff to develop a paper, "Waning US Influence and Impacts to Major US Pacific Tuna Fisheries within the Western and Central Pacific Ocean (WCPO): A Call for a US Government Strategic Plan." The paper calls to address greater U.S. interests and how they are tied to the prosperity of U.S. fisheries in the Pacific. The strategic plan asks for the creation of a task force with multiple federal agencies, including those in charge of national security, economic interest and food security, with the goal to advance the United States' fishery interests in the Pacific. This should lead to increasing the bigeye quota for U.S. longline fisheries to 6,500 metric tons and recognition of U.S. purse seiner vessels homeported in American Samoa as part of American Samoa's status as one of the Small Island Developing States (SIDS) at the next WCPFC meeting.

The Council participated in a U.S. listening session Feb. 21, 2022, for the pre-Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ) negotiations. The American Tunaboat Association (ATA) and the Hawaii Longline Association (HLA) asked the United States maintain positions that the regional fishery management organizations (RFMOs) are not to be undermined by BBNJ and will remain the authority regarding fisheries management. This was one of the outcomes of the negotiations, which ended March 18, 2022. In its letter to Elizabeth Kim, head of delegation, the Council requested that the United States prevent disproportionate burdens to Western Pacific fisheries and for exemptions from additional fishery closures, noting that 61% of the U.S. exclusive economic zone (EEZ) in the WCPO is closed to fisheries at any given time.

The Hawai‘i-managed Bottomfish Restricted Fishing Areas (BRFAs) were in place for 24 years. The Board of Land and Natural Resources (BLNR) opened four BRFAs in 2019 and opened the remaining eight BRFAs Feb. 25, 2022, with the condition to monitor fishing activities. The BRFAs were an area-based management strategy that lacked the proper baseline to determine if there were benefits from closures. The Hawai‘i Division of Aquatic Resources (DAR) tried to revise reporting and conducted outreach to fishermen, but the data received was still sparse and did not prove efficacy of the BRFAs. The Council applauds the fishermen for their persistence and tenacity, for fishing sustainably, for fighting for what is right for the resource and right for the fishing community. Fishermen contributed to improving the science by working together with NMFS through bottomfish fishery workshops and annual independent surveys that have been conducted over the past 14 years.

In response to the recommendation from the December 2021 Council meeting, NMFS issued an experimental fishing permit for the Hawai‘i shallow-set longline fishery March 18, 2022. This will expand the tori line work started in the deep-set longline fishery to the shallow-set fishery. This experimental fishing permit represents a collaborative effort with the Hawai‘i longliners, Council and the NMFS to improve the effectiveness of the current seabird mitigation measures. Work will begin when funding is secured for field trials.

The Hawai‘i State Legislature proposed H.B. 1988, which could prohibit the commercial sale, import harvest or export of coral products. Included in the species list are the Council’s precious corals management unit species—pink, red, bamboo and black corals. The current version of the bill would close the federal and state precious coral fisheries in Hawai‘i by only allowing harvest for noncommercial purposes. The State will report on this bill in the Hawai‘i portion of the agenda. The Council will also consider final action on the Hawai‘i precious coral annual catch limit (ACL) at this meeting and hopes that there will be discussion on how this sustainably managed fishery will be able to continue.

The Council continues to colead the CCC Equity and Environmental Justice (EEJ) Working Group with the Mid-Atlantic Fishery Management Council. The group is scheduled to deliver a report at the May CCC meeting. The Council is developing a regional Western Pacific EEJ strategy based on feedback that will be discussed during the planning framework presentation.

NOAA provided its formal Northwestern Hawaiian Islands (NWHI) sanctuary designation package to the Council chair Nov. 19, 2021. The Council has a March 31, 2022, deadline to respond. Staff will present decision points for consideration in order to make recommendations on potential fishing regulations for the sanctuary at this meeting.

Regarding the December 2021 Council meeting discussion and action on Hawaiian honu (green sea turtle) management, the Council is following up with David Hogan, U.S. State Department, to better understand how the needs of the indigenous communities of the U.S. Pacific Islands were considered at the time the Inter-American Convention for the Protection and Conservation of Sea Turtles was implemented. Staff is awaiting a response and plan to follow up with an official letter to the Biden Administration to pursue recognition of indigenous harvest within the convention. An update will be provided during the Hawai‘i section.

The Council will discuss its position on the future direction and strategies for the False Killer Whale Take Reduction Plan (FKWTRP). The False Killer Whale Take Reduction Team (FKWTRT) may meet in-person after the June Council meeting to deliberate implications from the recent weak hook study and potential modifications to the mitigation measures under the FKWTRP. Reducing the already rare FKW interactions with the Hawai‘i deep-set longline fishery is not an easy task as FKWs have learned to depredate bait and catch off longline gear. It has been nine years since the weak hooks were required under the FKWTRP.

Transshipment activities in Guam ended a year ago after the 12 U.S. purse seiners left Guam and the foreign tuna fishing vessels were required to deliver to homeports in their permitted island countries. The Guam Transshipment Taskforce was established in 2021 to explore the possibility of creating a robust transshipment industry for Guam to diversify its economy. The team is cochaired by Governor Lou Leon Guerrero and Vice Speaker Tina Muña-Barnes who will meet monthly to review and understand current laws relating to the implementation of this potential industry. A request for proposal will be released to conduct a feasibility study that could support transshipment of tuna to regional and stateside markets. Discussions were held with Senator Tammy Duckworth and the Department of Commerce to discuss port improvements, including funding necessary to make transshipping happen. Designating Guam a foreign trade zone will be useful in supporting transshipping.

Dueñas said he was looking forward to the Guam transshipment program, noting that Guam is importing 99% of its fish products. Dueñas is concerned about future restrictions with the proposed Marina Trench National Marine Sanctuary nomination, the restrictions on bottomfish and ACLs, as they are part of a draconian exercise that impacts Guam’s local community. Dueñas said he is concerned that the main issues for the Pacific Islanders are not being addressed under EEJ, which for Hawai‘i is the honu management issue, and noted that these cultural traditions have been around for more than 4,000 years. Dueñas said the only item mentioned in the report that is beneficial for Guam is transshipment.

V. Agency Reports

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Tosatto presented the PIRO report. Concurrent with implementing electronic reporting in the longline fishery, PIRO staff undertook a project to improve electronic reporting for the observer program. The update improves the timeliness of fisheries data for use by the Council and the Pacific Islands Fisheries Science Center (PIFSC). The fisheries data process goal is to complete a full year of observer data debriefed and approved by March 15 of the following year. In addition to the logbook data from fishermen, the observer program’s data are now collected electronically to increase the timeliness of the information and maintain rigor and integrity of that information. This system will help PIRO consistently meet its March 15 goal.

PIRO finalized the Guam bottomfish rebuilding plan for the Mariana Archipelago Fishery Ecosystem Plan (FEP) and proposed the American Samoa bottomfish rebuilding plan under the American Samoa FEP. The public comment period recently closed for the American Samoa rebuilding plan, and PIRO will consider public comments and anticipates finalizing the amendment in April 2022.

The Pacific Scientific Review Group met during the timeframe of this Council meeting to support NOAA's scientific efforts and Marine Mammal Protection Act decision-making.

Two of PIRO's division chiefs, Tom Graham, International Fisheries Division, and Bob Harmon, Sustainable Fisheries Division (SFD), retired at the end of December 2021. The replacement for Graham was still pending. Jarad Makaiau was selected and promoted as the new SFD chief.

Dueñas said public notices for important actions are often published in the *Federal Register* during the holidays, which on Guam run from Thanksgiving through January and include family events, cultural and religious events. He asked that the agency publish *Federal Register* notices during the summer to obtain greater public participation. Dueñas said he noticed that the *Federal Register* notice for the Guam Bottomfish Rebuilding Plan included some misinformation, but he did not have time to send in the comments due to the timing. Dueñas asked NMFS to consider the ESA consultation frontloading that the Council discussed in the past. He also requested an analysis on the data used in the biological opinions (BiOps) over time, noting that the focus used to be on species mortality but has evolved to species interactions. Dueñas thanked Tosatto for promoting Makaiau and said he is the agency's greatest asset.

Soliai congratulated Makaiau for the new appointment, noting that he was a former Council staff member and highlights the capacity the Council has built in the region.

Simonds said Makaiau got his start as the Council's librarian. Makaiau actually coordinated the Council's coral reef activities in the NWHI, Pacific Remote Island Areas (PRIA) and the territories. He led the transition from single species plans and developed the Coral Reef Ecosystem Plan, the first ecosystem plan in the nation. She said she was proud of him—smart, caring and articulated well the Council's mission and recommendations for the various projects and amendments in his kuleana.

2. Pacific Islands Fisheries Science Center

Michael Seki, PIFSC director, presented the PIFSC report. The Inouye Regional Center remained in phase one COVID-19 protocols, so most of the staff was still working remotely. He anticipates a return to the office and reintegration as a hybrid environment in the near future.

The NOAA research vessels remained in port. The NOAA Ship *Oscar Elton Sette* was scheduled to depart in late March to conduct biosampling and the ecosystem survey for its Life History Program (LHP). The NOAA Ship *Rainier* was delayed for a couple years and due to COVID-19 challenges. NOAA was evaluating daily to set the departure date. Once onsite in Guam and the CNMI, the surveys would include mapping, charting and coral reef demographics, as well as life history sampling.

PIFSC continued its effort to improve the territorial bottomfish assessments. The goal is to modernize and validate the process by which the data are collected and used. PIFSC coordinates this effort with the Western Pacific Fisheries Information Network (WPacFIN). Council and DMWR staffs convened workshops in Tutuila and Manu'a, American Samoa in February 2022. PIFSC fisheries biologists, data scientists and social scientists participated virtually. Workshop participants delivered six presentations about stock assessments related to life history, social science and data science endeavors and key data streams. The workshops

provided critical opportunities for fishers to offer local context in fishing knowledge to aid stock assessment scientists to interpret available data.

The Archipelagic Plan Team (APT) met with the Bottomfish Management Unit Species (BMUS) Working Group during its intersessional meeting to refine the BMUS list in the territories. The APT, using cluster analyses of the fisheries and available life history data, recommended that the BMUS be revised to a group of more than 10 *Etelinae* sp., the *etelis* and the *pristipomoides* species, the deep snappers in the regions. The APT recommended the shallow snappers, such as emperors and jacks, be placed on territorial fishery management plans (FMPs) affording primary management by the territorial fishery management agencies.

WPacFIN continued the multi-year process to modernize the creel survey and commercial receipt data collection systems. The program was awarded additional Fishery Information System funding to modernize the territorial database and to develop the electronic reporting applications to include the commercial receipts in creel surveys. WPacFIN will submit additional proposals in April. The team prioritized in phase one the development of a cloud-based relational database to support the integration of the legacy commercial receipt data with electronically reported data from the Sellit Logit application and to update the Sellit Logit application, itself. The Council's contract with SudoKrew, the program developers, was extended through July to enable program developers to continue to work directly with the WPacFIN team and modernize the territorial data systems.

Seki provided an overview of NOAA Next Generation Data Acquisition Plan (NG-DAP). The new NG-DAP will describe current and future data platforms, data collection methodology needs and will lay the framework for acquisition for traditional, as well as new and expanded datasets, technologies and approaches. NOAA will use the new NG-DAP for 10 to 15 years. It will include an introduction of data collection and usage within NMFS, an overview of data collection goals, gaps and priorities as described in existing NMFS strategy documents and initiatives, a description of the methodology for information gathering, analysis and recommendations for improvements, a summary of recommendations for the general characterization of near-, mid- and long-term priorities, and a discussion with input from internal and external stakeholders of how the implementation of recommendations directly improve the outputs of the science advisory process.

NOAA last undertook a data acquisition plan in 1998 and prioritized at-sea surveys and the need to acquire a new generation of fishery survey vessels. The plan identified that the new vessels meet acoustic quieting specifications, have scientific complements and support laboratories, and include oceanographic and multi-gear capabilities. Five NOAA ships were built: the *Oscar Dyson*, *Henry Bigelow*, *Pisces*, *Reuben Lasker* and *Bell M. Shimada*.

NOAA will consider climate change, ocean biochemistry, geographic shifts and emerging ocean uses such as marine energy and aquaculture as it develops the new NG-DAP. Seki said ecosystem-based fisheries management, a longtime goal, requires evolving data collection needs and integration of new technologies to support decisions to meet natural resource management and societal needs. The data and the information are essential components of the new Blue Economy, which represents a knowledge-based economy that looks to the sea not for extraction of material goods, but for data to address societal challenges and inspire solutions. NOAA envisions the NG-DAP as part of NMFS's future science enterprise and stated the need for 21st

century solutions in combination with traditional tools and platforms that address an increasingly complex ocean environment.

The vision is for NG-DAP to drive NMFS's agency-wide data collection to support functional and predictive ecosystem-based management under new and rapidly changing conditions. It will target the use of innovative strategies, such as unmanned systems and artificial intelligence, machine learning capabilities to accelerate predictive analytics of multiple large-scale datasets, and modernize fishery information collection, management and dissemination systems.

To gather input for the NG-DAP, an internal questionnaire was circulated and a series of listening sessions occurred between February and March 2022 that focused on fisheries, protected resources, ecosystems, human dimensions and the Blue Economy. These sessions will inform workshops that in turn will support final input into the NG-DAP, expected by the end of the calendar year.

Dueñas requested NOAA reinstitute the biosampling program in its previous form. The current program samples a small subset instead of sampling every species. His concern is that some of the sampled fish are not going back into the market, but rather are used for personal consumption. Dueñas noted the difference in onaga reproductive patterns between Hawai'i and Guam. He shared appreciation for the NG-DAP, noting there has been past requests for surface troll information from NOAA vessels while they transit from Hawai'i to the CNMI to sample plankton and zooplankton, and to study possible reef fish larvae connectivity. Dueñas also asked how possible radiation leakage would impact regional fisheries and wanted PIFSC to monitor that issue. He requested better connections between fishers, the community and fisheries researchers.

Soliai asked if NOAA is reconsidering data collection options for its biosampling program.

Seki said the NG-DAP is a national effort and PIFSC has taken the opportunity to make it known that the data needs for PIFSC's science are regionally specific. Biosampling is a big part of the regional needs, and Seki said it would be important for that feedback to come from the community and the stakeholders through the NG-DAP process so that it reinforces what PIFSC believes is important.

Soliai said NMFS's former biosampling program implemented in American Samoa was very successful, and invited PIFSC to have the discussion if NMFS could consider reinstating the program.

B. NOAA Office of General Counsel Pacific Islands Section

Sheffield provided the GCPI report. Regarding the litigation involving the Plaintiff Steven Hueter against NMFS and the Department of the Interior, all federal defendants filed a motion to dismiss during fall 2021. The plaintiffs were seeking enforcement violations of the ESA, National Marine Sanctuaries Act (NMSA) and the Ocean Dumping Act in a private marine area against the defendant. In February 2022, the court granted that motion and dismissed the case against federal defendants. This case is over against federal defendants, unless the plaintiffs decide to appeal.

Regarding the two 60-day Notices of Intent to Sue, one from the Conservation Council of Hawai‘i and one from the HLA, Sheffield said there were no changes from the last report. GCPI last reported NMFS continued to engage with periodic reports on the status of the various BiOps, and that the consultations were continuing.

Soliai thanked Sheffield for the Hueter federal case update, noting that it was a big issue both at the federal and local levels.

C. Enforcement

1. U.S. Coast Guard

Holstead provided the USCG report highlights. The USCG responded to 204 cases, including search and rescue, law enforcement, marine environmental protection and responses and ports, waterways and coastal security missions. The USCG cutters *Juniper* and *William Hart* participated in Operation Blue Pacific, a 40-day expeditionary patrol from the Hawaiian Islands in the South Pacific. The missions included countering transnational organized crime, such as illegal, unreported and unregulated (IUU) fishing, as well as narcotics smuggling and human trafficking. These operations continued to ensure compliance with the WCPFC's conservation and management measures, and provided resources to engage in search and rescue activities, if needed.

USCG cutter *Joseph Gerczak* conducted operations with French Armed Forces in French Polynesia to better respond to search and rescue cases. When the USCG conducts IUU fishing activities, it is also prepared for search and rescue cases. He noted U.S. fishermen are at the greatest risk of needing this assistance.

USCG conducted major repairs to navigation aids throughout the Hawaiian Islands and American Samoa. The agency conducted a channel widening operation with the U.S. Navy and the Federated States of Micronesia to ensure accessibility in the Micronesian region. USCG also partnered with Fiji's law enforcement officers and the USCG cutter *Stratton* conducted an extensive patrol throughout Oceania. The mission focused on IUU fishing to ensure that foreign-flagged vessels were in compliance with both WCPFC conventions and fishing on the high seas around Fiji and other high seas geographic pockets.

Muña-Brecht said the conservation officers within Guam's law enforcement section have been conducting more training exercises with USCG and a meeting is scheduled to further strengthen the relationship and enforcement support.

Dueñas, on behalf of the fishermen, asked if USCG could assist the local agencies in Guam to deploy fish aggregating devices (FADs), noting the deployment cost burden affects the number of FADs the community is able to deploy. Dueñas shared concern regarding possible incursions in the PRIA given the number of foreign fishing vessels active in surrounding areas. He said the USCG could look at using satellite technology to augment its enforcement capability.

Holstead said the Council requested support from USCG for setting buoys a couple years ago, so a request from an agency can initiate the process, and USCG could provide support if assets are available. Holstead noted one of the USCG buoy tenders will not be available in the coming year due to undergoing its mid-life refurbishment, which may affect the ability to

provide requested support. USCG recognized the challenges with the PRIA, and USCG enforces the current law, i.e., protecting vessels from being inside the PRIA. When USCG sees activity via satellite surrounding the PRIA, it deploys aircraft and surface vessels to protect the area.

Muña-Brecht asked when the buoy tender would be offline for maintenance.

Holstead did not know offhand and offered to follow up and respond via email.

Sword asked for a status on stationing a USCG asset in American Samoa.

Holstead said USCG headquarters uses a few processes to determine asset location, including congressional mandate, and headquarters analysis on logistical support, personnel support, the employment of the asset and its mission. The decision is made by USCG headquarters. He suggested if the Council wanted to have further discussion, then a request could be sent to the Acquisitions Office of USCG headquarters.

Soliai noted a similar previous Council request. He asked if there was an opportunity for local enforcement officers to participate in USCG patrols.

Holstead said yes, the 14th district welcomes those opportunities. He noted vessel deck space limitations on fast response cutters, less so with national security cutters. While a jurisdiction piece would have to be worked out, Holstead said generally speaking, the agency could grant an observer status for patrol, to share information similar to Guam.

2. NOAA Office of Law Enforcement

Martina Sagapolu provided the NOAA Office of Law Enforcement (OLE) report covering the period from Dec. 1, 2021, to Feb. 28, 2022. There was a high number (nine) of protected species and fisheries cases, and seven sanctuary cases. There was an increase of protected resources cases as two operations were running in parallel, one with protected resources across Hawai'i and one with Hawaiian spinner dolphins on Maui.

There was an investigation initiated together with the Hawai'i Division of Conservation and Resource Enforcement. A protected whitetip reef shark was removed from Kealakekua Bay in Hawai'i in violation of state regulations. The subject had placed the shark in a private viewing pond for tourists visiting the area. The subject was issued a state fine and the animal was returned to the sea.

The annual protected species operation commenced with noted increases in activities in Maui and Hawai'i Islands. Together with USCG and Hawai'i Division of Conservation and Resource Enforcement partners, OLE was out on the water to educate the public about the new Hawaiian spinner dolphin regulations. In the one hour that Sagapolu sat and observed, the team documented 10 violations. OLE also worked very closely with DMWR, which provided substantial support to the OLE agent and OLE officer assigned in American Samoa, since OLE was short-staffed. OLE attempted to board every foreign vessel that has landed in port and have had to consider the COVID-19 restrictions.

Sagapolu highlighted the Seafood Inspection and Monitoring Program. OLE, in coordination with DMWR, is inspecting a significant amount of tuna species landed by shipping

containers for compliance. If it identifies any IUU fishing activity, it will be forwarded to the agents for further inspection.

Protected species compliance assistance has been increased on shore and on waterways. Tour operators, swimmers, kayaks and stand-up board users attempt to interact with marine mammals. This results in a high number of violations—322 incidents over a three-month period. Sagapolu speculated that from December to March, the incidents would number approximately 500. Violators are being issued citations and the summary settlement offer is between \$100 and \$500.

Tenorio asked if the shark issue in American Samoa involved an oceanic whitetip shark or a whitetip reef shark.

Sagapolu said it was a whitetip reef shark and clarified that it occurred on the Big Island in Kealakekua Bay.

Dueñas said a regulation book would help inform the public of all these regulations. He questioned whether the 322 people intentionally violated the law, noting that on Guam sometimes a person is charged without knowing his or her action was against the law. He suggested that a warning be incorporated into OLE's procedures. Dueñas asked for a regulation booklet that included both Guam and CNMI regulations to inform the public.

Sagapolu said the 322 incidents include summary settlement offers, which is a monetary fine, as well as a written warning. She said NOAA developed the Hawaiian spinner dolphin rule over seven years. OLE, PIRO Protected Species Division, and state and territorial partners conducted community outreach over the course of those seven years. The State of Hawai'i Office of Tourism continues to air commercials and videos on incoming flights that inform the public about the spinner dolphin rule. Sagapolu said for any new fisheries rule, OLE would work with PIRO SFD prior to the issuance of a monetary fine, and after numerous attempts to gain compliance. OLE partners with CNMI's Division of Fish and Wildlife (DFW), the U.S. Department of Agriculture, Guam's Enforcement Division and Guam's Customs and Quarantine Maritime Interdiction Task Force to conduct regulatory public outreach. OLE also works with the Council to make sure that any proposed regulations are enforceable.

Sword thanked OLE for providing added support to local agencies with boarding efforts.

Sakoda asked the date of the whitetip reef shark incident at Kealakekua Bay.

Sagapolu responded it was recent, in the December 2021 timeframe.

Ramsey asked if sharing these violation numbers would be part of an outreach plan, such as through a public press release, noting high number of violations and the anticipated increase in visitor numbers. He said this would increase public awareness of consequences of protected species rule violations.

Sagapolu welcomed Council members to join outreach efforts. She noted monitoring social media for potential violations and that OLE shares the number of violations at the Council meetings, which the public are encouraged to attend. The information is also available on the NOAA website. However, OLE does not issue general press releases regarding violations.

Elizabeth O’Sullivan added that NOAA does not, as a practice issue, press releases for enforcement actions. All the enforcement section cases going back about 10 years are publicly available via the NOAA website. A press release may be viewed as punitive and if the violators are admitting liability and paying their fines, which can be high, the public is satisfied.

3. NOAA Office of General Counsel Enforcement Section

O’Sullivan presented the NOAA Office of General Counsel Enforcement Section (GCES) report. GCES issued a Notice of Violation to F/V *Lady Pauline* for fishing in the Southern Exclusion Zone (SEZ) and the penalty was assessed for \$3,500, and resolved for the early settlement offer of \$3,150. The F/V *Lanikai* was issued a Notice of Violation of fishing in a closed main Hawaiian Islands (MHI) area in violation of the MSA. The penalty was assessed for \$5,750 and GCES settled it for the early settlement offer of \$5,175. The F/V *Saint Peter* was issued a Notice of Violation of fishing in a closed MHI area in violation of the MSA. The penalty was assessed for \$7,250 and GCES settled it for the early settlement offer of \$6,525. One case involved the F/V *Gail Ann* fishing in the Johnston Atoll, which was the first case charged using the Pacific Remote Islands Marine National Monument regulations. The penalty assessed was \$23,000, and that case was resolved after a negotiated compromised settlement of \$18,000.

GCES had three Hawaiian spinner dolphin cases, of which, two were the same tour boat operator that violated the general harassment rules for dolphins. Since the violations were associated with different captains, GCES charged the incidents as two separate cases. GCES assessed a penalty for \$5,000 jointly and separately against the tour operator and the captain. They have both since been resolved by paying the full price with the early settlement allowed of \$4,500 each. GCES issued a Notice of Violation to Kona Ocean Adventures and the captain on the first spinner dolphin case for violating the new 50-yard approach rule. GCES settled all three cases together. This fine was issued at \$5,000 and was also settled for \$4,500. She believed that this was the first case under the new 50-yard approach rule.

Rice asked if swimmers off of Keauhou Bay or Kealakekua bay would be in violation of the rules if they are approached by the dolphins and take videos or pictures.

O’Sullivan said yes, the rule prohibits being within 50 yards of a spinner dolphin, so the swimmers, when they have the opportunity to do so, should move away from the dolphins.

Rice said he had seen videos of swimmers moving away and the dolphins finding them, and asked how GCES considers those interactions.

O’Sullivan said the cases prosecuted were egregious, noting that OLE uses its discretion.

Gourley asked if the longliners were blatantly fishing in the closed areas or instead fishing along the edge, and inadvertently encroached on the closed area.

O’Sullivan said each of the cases had different facts, but all are experienced owners and the MHI area has been closed for many years. She said the fleet is very cognizant and usually very compliant at not fishing in that closed area. She said each case had different rationales as to why GCES described the violation. They knew the rules and fished in the monument. O’Sullivan added that a longline set is a long set and a lot of the set was inside the closed area.

Amani asked if GCES increases the fine amounts when the same company repeats the offense as in the spinner dolphin cases.

O’Sullivan said yes. The first two spinner dolphin cases were documented close in time and with different captains, so GCES used its discretion to not pile on the violations. GCES charged those cases separately and jointly as a first case for each violation. GCES did not increase the fine for Kona Ocean Adventures for the third spinner dolphin case, although it was the same captain, since the violation was under the new rule. O’Sullivan said if Kona Ocean Adventures violates again, the fine would increase. She said GCES generally increases fines and increased the fine for the F/V *Lanikai* longline case, as a repeat offender.

Dueñas asked if GCES confiscated the catch in the PRIA incident, noting the catch can spoil.

O’Sullivan said GCES did not seize the catch, but the penalty assessed accounted for the economic benefit of the sets in the monument, as a part of the penalty policy.

Dueñas asked if the penalty would go to the Sustainable Fisheries Fund (SFF).

O’Sullivan said no, since the vessel was domestic.

Rice asked Tosatto for a status on the proposed spinner dolphin closed area.

Tosatto said the proposed rule included public comment and hearings and PIRO will begin developing a final decision on that action over the next month. Tosatto said there was a significant amount of public comment, many in support and many opposed. Those comments in the middle asked for time to evaluate the efficacy of the new approach rule or asked for other adjustments and allowances with the rule.

D. U.S. State Department

1. International Seabed Authority

This item was not taken up during the meeting.

2. U.S. State Department Report

Brinkman, Office of Marine Conservation foreign affairs officer, presented the U.S. State Department report. Brinkman said the United Nations intended to hold informal consultations of States parties to the Fish Stocks Agreement in May 2022. The meeting would focus on the ecosystem approach to fisheries management, and would prepare the parties for the U.N. Fish Stocks Agreement Review Conference, which will probably be held in 2023. He also noted the Council may be interested in the U.N. General Assembly Bottom Fishing Workshop, scheduled for August 2022.

The fourth session of the BBNJ concluded March 18, 2022, and a fifth session is expected to occur in August 2022. The United States was able to get support for several key positions. The United States continues to advocate the relevancy and jurisdiction of RFMOs. The United States’ continued position is for the BBNJ process to only recommend management

measures regarding such activities to RFMOs for their consideration, and not adopt or implement management measures. Brinkman said there appears to be a coalescence around that position.

Brinkman has been preparing for the Our Ocean Conference that the United States is cohosting in Palau in mid-April 2022. While not an official government meeting, it is the seventh part in a series of conferences the United States started in 2014. Participants are cross-sectoral and include governments, the private sector, academia and not-for-profit organizations, and there is no negotiated outcome. The participants announce tangible commitments to protect the ocean to improve the status, the health of the ocean to support sustainable fisheries and a number of areas of action. The United States has raised \$91.4 billion in pledges so far. The governors of Samoa, American Samoa, Guam and the CNMI are invited given the focus on SIDS.

Dueñas shared concern with the Our Ocean Conference in Palau being the hub of conservation and protections in the region. He noted the CNMI national marine sanctuary nomination, 50x30 marine spatial area targets, regulatory barriers such as ESA and the Marine Mammal Protection Act and asked that native Pacific Islanders be recognized under the U.S. flag. Dueñas appreciated that the territorial governors were invited, but shared the concern that access to resources was getting more limited through federal regulation. He questioned who would benefit from the conference and asked if only the nonnative people will sit at the table. Dueñas noted his and his father's military service, and asked the U.S. State Department to consider the people of the Pacific Islands, because the people are in dire need of respect. He said the Hawai'i longline fishery's quota continued to remain stagnant while China benefits from an increased quota. Dueñas asked who would benefit from the EEJ work. He equated the United States' decisions to a butterfly effect.

Simonds said many from the Council attended the first Our Oceans Conference in 2014. She thought that with the governors of the territories in attendance, they would have an opportunity to share Council discussion with other people about marine protected areas (MPAs) and sanctuaries. The main discussion will be about climate change, sustainable blue economies, MPAs, maritime security and marine pollution. She said the governors should be prepared to speak on what has happened and prevent any further closures including on the high seas. Simonds said every time a closure is proposed in the Western Pacific Region, the Council tried to make known the sustainability of the U.S fisheries and yet the closure happens. Simonds asked Brinkman for a status update on the Council's two commissioners to the WCPFC and to the South Pacific Regional Fishery Management Organization (SPRFMO).

Brinkman said there was no action yet from NOAA on those two appointments and he did not have a package to forward to the White House yet.

Simonds said she asked Tosatto and he said he would follow up with his staff.

Tosatto said there was a fumbling between the U.S. State Department and NOAA, as there was a little bit of expectation that the other office would be doing something, and in fact neither was taking action. NOAA has completed its internal preliminary vetting which included vetting of the individuals through OLE. With that internal process complete, NOAA is now pulling together information from their resumes to draft a number of letters that will take the nominations through secretarial clearance. Once the nominations clear NOAA, then they move

over to the U.S. State Department. Tosatto said NOAA would keep the U.S. State Department informed along the way.

Brinkman reiterated that the Our Oceans Conference is not a decision-making meeting, rather, organizations attend to announce initiatives that they have already planned and are putting into motion. Palau's intention is to host this conference and the United States is providing logistical support as the cohost. Palau's entire intention is to host in a place that would put a Pacific face on all of these challenges to both domestic and international ocean governance, and the United States has tried to fulfill that vision. The United States believes it is an important conference that involves a number of concerns that Dueñas raised.

Soliai asked Brinkman to confirm that the invitations went out to the governors.

Brinkman said yes.

E. U.S. Fish and Wildlife Service

Peck presented the USFWS report. He said there was no change from his last report on the Marianas Trench Monument Advisory Committee, noting the White House is still vetting the nominations. A notice of intent to develop a monument management plan for the Pacific Remote Islands Marine National Monument was published in the *Federal Register* and public comment closed in January 2022. The USFWS received several comments from different user groups. The Pacific Remote Islands Marine National Monument community group met for the first time virtually in February 2022 to talk about the planning process and provide input on the management plan. The seabird protection project on Midway Atoll was delayed for another year due to rodenticide supply chain issues. DFW replaced the existing recreational floating dock in the West Harbor Marina with the aid of USFWS Wildlife and Sport Fish Restoration Program funds.

Dueñas noted a wildlife refuge and seabird nesting area in close proximity to a firing range at Ritidian. He said he would request again that the closed area be turned back over to the government of Guam for fisher access. Dueñas noted the conflict between the firing range debris and seabird conservation as well as the refuge's limited public access hours.

Peck noted a previous letter sent by the Council that was addressed to the USFWS Director Martha Williams, but sent to the Portland, Oregon office. The Honolulu office was only recently made aware of the letter. USFWS is preparing to draft a response.

Sword asked about the USFWS capability in determining whether vessels around Rose Atoll are legally allowed to be in the vicinity.

Peck said the USFWS relies on USCG and NOAA for vessel monitoring, and other programs use satellite imagery that USFWS law enforcement tracks. He noted the monument is open to free passage and pre-COVID-19, vessels would transit from Tahiti to Samoa with Rose Atoll bring right on their path. It is tempting for vessels to pull into the lagoon and walk around the atoll. The USFWS has addressed this behavior through targeted outreach messaging that the atoll is closed to public entry and the reason. USFWS also has installed remote game cameras that captured some trespassers. Peck said the risk is the inadvertent introduction of invasive

species and since their outreach efforts two-and-a-half years ago, the USFWS has not documented any sailboat trespassers.

F. Public Comment

Dueñas provided comment as the president of the Guam Fishermen’s Cooperative Association (GFCA) requesting that NMFS’s biosampling program be reinstated on Guam the way it was previously run. Dueñas said he did not like the way it is being promoted and developed, with information being ignored by PIFSC. The biosampling program covered more than 150 different species of fish, despite common belief Guam has only 10 or 15 different skipjacks and 10 or 15 groupers. Dueñas mentioned the difference between Hawai‘i and Guam and the need to collect the life history, size frequency and catch per unit effort (CPUE) in a long time series like the Hawai‘i longline data collection efforts. He highlighted the importance of the ecosystem to the native people of Guam, and cautioned against picking and choosing the information collected from different creel and commercial datasets. Dueñas asked that PIFSC go back to the previous methods to know what Guam’s reefs are producing and what the bottomfish are doing.

G. Council Discussion and Action

Regarding the USCG agency report, the Council requested information from USCG headquarters on the determination process for homeporting a USCG cutter, such as a fast response cutter, in American Samoa, and whether USCG is considering placing one in American Samoa to support remote U.S. territories in the Pacific.

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

Regarding the USCG agency report, the Council requested USCG to provide territorial agencies with information on how they may provide assistance for the deployment of FADs.

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

Regarding OLE, the Council requested NMFS compile existing fishing regulations for each region, including Hawai‘i, American Samoa, the CNMI and Guam, and publish in a booklet form and in the appropriate language(s), for the fishing communities to use as reference to prevent unintentional violations.

Ramsey asked if it would make a difference what language was used for the booklet, i.e., English vs. a different language.

The motion was modified by general consent to add “and in the appropriate language(s).”

Tosatto said this was a large undertaking and did not believe it belonged to OLE. He recommended that the Council limit the request to NMFS. Tosatto expects that NMFS would want to partner with the Council, which is PIRO’s principal fishery management partner, to provide input. He said having OLE do this alone creates a problem where it might give a

potential violator some confidence that he or she is reading something. Tosatto said NMFS provides compliance guides for final regulations.

Dueñas said to include the language in the motion to the extent practicable and to direct the action to NMFS. He also said the local government would have to pay to include its regulations and intended this effort to focus on federal regulations.

The motion was modified by general consent to direct the request to NMFS.

Moved by Dueñas; seconded by Gourley.

Motion passed

VI. Mariana Archipelago

A. Guam

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

Muña-Brecht presented the Guam Division of Aquatic and Wildlife Resources (DAWR) report. Between October and December 2021, the agency completed all scheduled shore-based creel and participation surveys, including 18 creel and six participation surveys. The top seven species caught were mafute (emperor), guili (rudderfish), laiguan (mullet), i'e (juvenile jacks), ti'ao (juvenile goatfish), sesyun (rabbitfish) and lililok (long-nose emperor). The top gear used was hook-and-line and talaya (cast net), followed by snorkel spear. 201 fishers were encountered during this period. 30 boat-based surveys were scheduled and completed, of which 24 were boat-based and six were participation surveys. Skipjack tuna was the most-caught pelagic fish. Mahimahi and wahoo were also reported as their season just started. One Pacific blue marlin was caught during this quarter. Deepwater bottomfish catches showed onaga and yellowtail kalikali. Spearfishers were not surveyed due to catch already packed in ice, were in a rush or had already provided estimated catch weight. Trolling makes up 80% of the landings and more than 630% more than any of the other methods. Night jigging for atulai (big-eye scad) showed 438 hours, trolling 10,590 hours, bottomfish fishing 3,544 hours, and snorkel spearfishing at 1,003 hours.

The lieutenant governor's office is still working on identifying funds for the Talofoto boat ramp project. A likely source of funding is the Guam Comprehensive Economic Development Strategy, but there are also Department of the Interior funds available with application due dates in April 2022. Once funding is secured, the project will move forward.

A bid packet for the Agat Marina Dock B replacement is with the Port Authority of Guam (PAG)'s procurement and legal team and the Guam Attorney General's Office for review. PAG's procurement division will advertise the project for bids once complete. The submission and opening of bids for the Harbor of Refuge was Feb. 18, 2022, and PAG is in negotiations with the responsive bidder. Two projects for the repair of the Merizo Pier and Boat Ramp are with the Department of Public Works for bidding. DOAG will request additional funding to replace worn-out sections of the ramp, including replacement of two stolen solar lights. Assessment and repair of the projects are expected to be completed during the current fiscal year, while the ramp repair work is a two-year project, expected to be completed by February 2023.

DAWR staff has been pressure washing boat ramps at the Agaña Marina, Agat Marina and at the Merizo Pier monthly between January and March 2022, to remove algae and improve traction for boat launching and recovery.

There were three arrests between November 2021 and January 2022 for fishing in the Pati Point and Piti Bomb Holes Marine Preserves. All arrests were with spearfishers. DAWR is obtaining a purchase order for advertising to announce a public hearing regarding fishing licenses. Special permits continue to be issued during the last quarter to allow for seasonal take in the marine preserves.

Regarding the Coronavirus Aid, Relief and Economic Security (CARES) Act I fund, all \$988,000 was paid to fishers, except for a few individuals who had checks returned for typographical errors or checks that were returned to the Pacific States Marine Fisheries Commission (PSMFC) for reissuance after corrections were made. Two fishers have not yet received their checks, although they already received their W-9 forms. DAWR emailed PSMFC to request the status of returned checks, but no response has been received. The emails will be forwarded to NOAA to request the agency's assistance. An email was received from PSMFC asking for Guam's instructions and applications so they can be shared with Alaska to assist with its funding process, which is a sign the department did a good job.

Regarding the Guam Fishery Management Plan (FMP), DAWR decided on a list of 18 priority fish species. The plan's community and data subgroups will be hosting meetings with the local community to discuss the list and gather feedback, so the plan is a true community-based fisheries management plan. One community workshop is scheduled in May and another in August 2022.

The grant award and contract to purchase additional FADs was extended 180 days due to global shipping delays. New FAD deployment requisitions are with the government of Guam's General Services Agency for processing. The echo sounder attached to one of the FADs that transmitted fish biomass data for tunas that aggregate beneath went offline in February 2022. Foul weather prevented its retrieval. Five FADs, including the Agat, Facpi 1, Umatac, Number 2 and Cocos, are currently online. FADs number 5 and 6 are unconfirmed. Seventeen shallow-water mooring buoys are online. DAWR submitted a requisition to the General Services Agency in February 2022 to have more buoys with replacement components on hand ready for deployment. A DAWR staff may be assigned to replace a biologist hired by the U.S. Navy to continue work on the maintenance of fishing platforms, including the Hagatña Fishing Platform, with staff assigned to work on its maintenance. There is no update on the placement of the Fishermen's Code of Conduct placard on the platform's fascia.

Three sea turtles were reported stranded between November 2021 and February 2022. On Nov. 12, 2021, bones and scute fragments from a juvenile sea turtle were recovered by USFWS in an abandoned gillnet in the Achang Bay Marine Preserve. On Jan. 3, 2022, DAWR retrieved a hawksbill turtle Naval Base Guam reported at San Luis Beach on base. There were no external signs of the cause of death. A necropsy later found foreign matter in its gastrointestinal tract. On Jan. 8, 2022, a DAWR technician fishing on personal time located a floating, lifeless green sea turtle outside the Agat Marina channel. The turtle appeared to have sustained injuries to its head, possibly from a spear. The turtle was retrieved and is stored at the DAWR lab until biometric measurements are taken. On Jan. 22, 2022, a DAWR biologist found a green sea turtle carcass

washed up on a beach in Malojloj. The turtle was left where found to naturally decompose after photos were taken.

A young melon-headed whale was found floating nearshore in Ipan Oct. 8, 2021. A necropsy was performed at DAWR and the whale had two projectile wounds passing through the torso, one of which passed through the liver. Samples taken were sent to Hawai'i for further study.

DAWR staff had been conducting maintenance of cultural signs around selected areas, including removal of debris. A request for bid was submitted to purchase additional maintenance equipment to support this effort with the last maintenance survey done in July 2021.

Muña-Brecht, along with DAWR Deputy Chief Jason Biggs and biologist Frank Roberto, participated in a triennial aquaculture meeting held in San Diego, California from Feb. 28 to March 4, 2022. Roberto presented a proposal from funding he was awarded called Na'boka: Battling Hunger Through Community-Driven Aquaculture Projects. The team was proud of the presentation with several people asking questions about the project and wanting to mimic it in their own region. They made contacts, learned a lot of new information and saw updated technologies that can be used for aquaculture. The three received supportive comments from those representing the Saltonstall-Kennedy grant funding and the U.S. Department of Agriculture, as well as from the National Aquaculture Association, with questions about Guam's reef fish, reef fish habitat, and on getting funding to support projects based on those.

Ramsey asked about the status of rule-making for the fishing licenses.

Muña-Brecht said DAWR wants to start holding hearings soon to get the public involved. The issue of mandatory commercial licenses was brought up through the FMP's community subgroup, which is tasked with engaging fishers with questions about their perspectives on what should be included in the plan. Fishers thought there should be mandatory commercial licenses to help with reporting so that more accurate data can be collected, as they saw that more data are needed to fill the bottomfish data gaps, and suggested starting with commercial licenses and those who purchase fish commercially. Muña-Brecht said public hearings are planned to involve larger groups for a discussion on the matter.

2. Isla Informe

Amani reported a proposed \$680 million resort to be built below Two Lovers Point is drawing local criticism concerned about the already over-developed Tumon Bay. Concerns involve how the project will affect the environment, the preservation and conservation of the island's resources, and possible closure of the beach fronting the project, thus impacting fishermen's access to their traditional fishing grounds. It could also impact coral reef habitat. Phase I of the Vista Del Mar resort and residential housing project will include a 796-room hotel, a 31-story tower, a 33-story tower and a water park. It will have Tumon Bay ocean frontage and on top of the plateau behind it. Phase II includes an 88-unit condominium, parking, sports facilities and a pool. Phase III includes 50-single family dwellings with parks, playgrounds and a community center.

Amani joined DAWR on the deployment of two FADs, including the deployment of the FAD Number 3 with an echosounder attached. She recently met with The Nature Conservancy's

Javier Cuetos-Bueno, who provided the sounder, regarding the purse seine-derived technology to get more informed on the system. Together with DAWR, and support from the Council, The Nature Conservancy deployed the small echosounder attached to a FAD buoy to collect pelagic tuna biomass data and transmit that data via a satellite link. The system can identify tuna down to 110 meters (360 feet) with a 0.05 meter resolution, although the system as programmed does not identify the species of tuna beneath it. Two days after deployment, the system transmitted a tuna biomass of 2,000 pounds. It once transmitted a biomass peak of 150,000 pounds of tuna. Fishermen also stated that immediately after the FAD was deployed, pelagic fish were seen around the area. It is hoped the migration of tuna from one buoy to another and around the island becomes known with the deployment of more sounders. The Nature Conservancy is working with DAWR and the Council to develop a data-sharing framework so that access to the biomass data is easier and is shared with the fishing community. Unfortunately, the echosounder recently detached from the host FAD Number 3 and has not been recovered.

ShutUp & Fish Guam is hosting its annual mahimahi and wahoo fishing tournament March 19, 2022. On April 23, 2022, June 18, 2022, July 30, 2022, and Aug. 13, 2022, DAWR is hosting its fishing derbies for kids. On March 26, 2022, DAWR is hosting a kid's fishing clinic. And on Aug. 20, 2022, the 2nd Annual Greg D. Perez International Fishing Tournament will be held. There was also supposed to be a spearfishing competition during July or August 2022, but the actual date has not yet been determined.

The PAG opened areas within port property to allow fishing and removed most fishing requirements. It also opened the seawall for fishing and lifted the need to get a fishing license. Plans are in place to invite the community to the port's seawall and will invite food trucks to encourage people to come and enjoy the beautiful site. PAG will be installing gates to the Agaña Marina boat ramp access while repairs to the railings near the launch ramp are completed. Repair work is starting at the dry dock finger. The Apra Harbor seaplane ramp now has mooring attachments and is accessible to pleasure craft. This will help search and rescue with quicker deployment of its vessels. All these improvements are a result of work the Council had with PAG board member Judith Guthertz and former Council member Dot Harris.

Dueñas reported Council scholarship recipient Leilani Sablan, a Sea Grant biologist at the University of Guam, is joining Exploration Vessel *Nautilus* that was scheduled to visit Kingman Reef and Palmyra Atoll later in March. Sablan was also recognized for her sea turtle outreach along Andersen Air Force Base's beaches, where with her team found between 100 to 150 green sea turtles over two years. They tagged 20 turtles, 10 of which were nesting females. There are many green sea turtles along this stretch of military beach and that is where the major firing range is going to be located. Dueñas said the question is whether sea turtles will actually be protected and conserved to address all of the relevant issues, or whether protection is a buzzword to tell Chamorros they cannot eat them.

Dueñas shared an image of Roland San Gil, an old classmate who recently passed away. His family has long been terrestrial and marine users, with the family all fishing together. Dueñas said he grew up with San Gil fishing along Agaña's shoreline, and he was also a 44-year veteran of the U.S. Army who served as a helicopter pilot and later a helicopter instructor for a private company. San Gil is part of a dying breed of people. There is a need to perpetuate them and not preserve them in a jar as it is not the right way to do things. Before any action is taken to putting more impediments to fishing, Dueñas said he would like to see more encouragement

instead. Out of the San Gil family of 10, chances are only one of them will be a fisherman. Generations are being lost to things like the need for more regulations, and encouragement is needed so people can participate in a 4,000-year-old tradition.

The GFCFA new facility was initially funded for \$5 million. Another \$3 million will be from Congressman Michael San Nicolas' office. Federal interest is affecting the progress, including the U.S. Army Corps of Engineers flood zone concerns and coastal zone regarding coral reefs and habitat loss. There are more issues coming from the federal side than the local side. The GFCFA is a not-for-profit group with the fishing community as its beneficiary. There is a need to keep operations going, including sales of fuel, ice and a lot of subsistence needs of the fishermen. All are small-timers and many are more than 60 years old. The COVID-19 pandemic hit this group very hard because their families did not want them to leave the house, which made it difficult for them to go fishing even if they wanted to.

Dueñas said Guam's fuel price is almost at \$6 per gallon, and the cost of goods has increased. However, ice prices have dropped by 50% due to the poor market for ice. The limited number of small-engine mechanics on Guam also affects fishing activities, and funding is needed to educate the youth to become repair mechanics. Guam had to bring in a mechanic from Palau for diesel and bigger boats. Dueñas reported seasonality of fish appears to be behind by approximately three months, noting that mahimahi and wahoo seasons came late. The mahimahi normally come in large quantities of 10 to 15 pounds in January and start reproducing because their eggs are ripe at that time, but now they are showing up in March. He hopes mahimahi will have an extended season even though their arrival was delayed. The wahoo season was good, but everything is offset with fishermen waiting for the juvenile rabbitfish to arrive. Guam looks to seasonality because fishermen live by it. He was skeptical that fishermen could catch red-gilled emperor in abundance this time of the year, considering that the most recent three months is the roughest time of the year, and questioned the need for additional protections and fishing licenses.

Sword asked if the number of boats going fishing are increasing as COVID-19 is waning, even with the high price of fuel.

Dueñas said approximately 60% of GFCFA's members are veterans, and their benefits allow them to purchase fuel on base at about \$2 to \$3 less per gallon than outside the gates. However, their families continue to restrict their fishing activities because of the many COVID-19 variants. The GFCFA has lost more than a dozen fishermen during the pandemic period and is still a factor for the well-being of the Guam fishery. Fishermen complain about the cost of fuel at \$6 per gallon, while it is \$7 per gallon in California where gas cost includes \$2 worth of environmental regulations. In Guam it is just the cost of fuel. Dueñas said fuel prices are lower in American Samoa than in Guam, even though the gas comes from the same Singapore source.

B. CNMI

1. Arongol Falú

Gourley reported the COVID-19 situation is not going well in the CNMI, although the COVID-19 cases seem to be mild and similar to flu-like symptoms. The total documented active cases are 10,634 and 31 deaths. The travel policy has been revised and the travel bubble is ongoing. As of Feb. 8, 2022, all travelers entering into the CNMI by air or sea no longer need to

be tested. However, all travelers are required to complete a mandatory health declaration form and upload their vaccination card. Individuals who test positive will have to undergo quarantine at their respective homes for at least five days, unless medical care is required. The restrictions will continue to be loosened moving forward, despite the presence of community spread.

The gas prices have been increasing, with prices on Saipan reaching \$5.87 per gallon as of March 20, 2022, and \$7.58 per gallon in Tinian, which is likely to be affecting fishermen and trolling operations. A bag of ice has increased to \$2 from \$1.75 per bag, which has impacts on fishing because fish are stored in large coolers filled with ice due to the lack of designated brick-and-mortar buildings for fresh fish sales. The wholesale prices of fresh pelagic and bottomfish has increased by approximately \$.50 a pound with some vendors. There are a few vendors that are not increasing their prices, however this business practice will not continue for long. Spearfishermen are also trying to get a better price for their catch. The local market dynamics are very unstable and within the next month, depending on the price of gas, it may become more unstable. There have been complaints made by local island residents on the increase of fish prices, and the market is being monitored for trends.

Another issue in the CNMI is the five-year review of the Mariana Trench National Marine Sanctuary nomination. In March 2017, the Office of National Marine Sanctuaries (ONMS) officially added the Mariana Trench National Marine Sanctuary proposal to the inventory list in March 2017, but there has been no movement to advance the proposal to a sanctuary designation since. In January 2022, ONMS announced a review to determine whether to maintain the Mariana Trench proposal on its inventory list for another five years or to remove it. Currently, ONMS is requesting written public comments to focus on the relevance of the previously accepted nomination documents to NOAA's 11 evaluation criteria and for any new information that can be considered for the nomination.

Gourley reported the rollout of the communication and outreach for the review process was not going well, with limited communication occurring in the CNMI and none in Guam. The original nomination package had a required criteria for broad-based community support for a sanctuary, but there were no persons or entities from Guam in the list of organizations and people listed in support. There is also confusion within the community about the exact components that are being proposed by the proponents, Friends of the Mariana Trench, with there being a disconnect between what the opponents are reading in the nomination document and what the proponents are currently saying. This confusion has resulted in a divide within the community.

The first outreach on the review was conducted Feb. 1, 2022, when the House Natural Resources chair, Representative Sheila Babauta, led the Environmental Sustainability and Stewardship Stakeholder Meeting. During the meeting, the Friends of the Mariana Trench and ONMS gave a presentation regarding their project and a few questions were answered, but there was no discussion on exactly what was being proposed.

During the oral public comment session held Feb. 12, 2022, five people spoke on the issue (four negative and one positive), with only three minutes allotted for each commenter. Due to the lack of participation, ONMS had to end the session two hours early and also refused a commenter's request to make a second comment. There was also confusion due to two different

time periods advertised for the session. On Feb. 18, 2022, CNMI Governor Ralph DLG. Torres conducted a scoping meeting on the sanctuary nomination five-year review.

The first public comment period was from Jan. 21 to Feb. 22, 2022. There was confusion on the deadline due to the time zone not being specified, and thus it was assumed that it was Chamorro Standard Time and all comments were submitted early. At the time, 32 comments were posted in response, with more negative letters than positive. Within the positive letters, most of the support came from outside the Mariana Archipelago. There was only one government representative that was in support of the sanctuary. In total, there were seven government letters submitted, including the governor's letter, and most of the letters were against the Mariana Trench being retained on the inventory list. There was one negative outside letter. The second public comment period is currently ongoing, with a deadline of April 25, 2022. The ONMS has a virtual meeting scheduled for March 31, 2022, from noon to 3 p.m. Chamorro Standard Time. Gourley said the community expected public outreach from either ONMS or the Friends of the Mariana Trench following the first public comment period, but nothing has been done.

Muña-Brecht said Guam received late notices about the public hearing less than a week prior to the event, and the information was only received through contacts in the CNMI. On March 10, 2022, the Guam governor received an e-mail from NOAA asking if she would like to have a briefing for her and the Mayor's Council of Guam, and the governor's staff subsequently notified DOAG of that communication. DOAG responded with an interest to have a briefing, and asked if multiple briefing sessions could be held. Guam Coastal Management Office also requested a briefing. NOAA agreed to conduct a virtual meeting, and indicated they would coordinate with Guam if an in-person meeting is possible. Muña-Brecht said it is still uncertain when the briefing will take place, but anticipated it will be scheduled prior to the public hearing set for March 31, 2022.

Gourley said Guam should be aware of what is happening with the ongoing process, considering that Guam has a significant amount of the U.S. EEZ that is incorporated by the Trench Unit of the Marianas Trench Marine National Monument (MTMNM), along with a few other areas that appear to be under consideration for the sanctuary.

Amani said in regard to the fish and gas prices, 80% of the fish sold in her restaurant are locally caught, and fishermen have recently asked if she would consider raising prices at the restaurant, to which she said yes. She hoped that this type of support for fishermen is being followed by the other businesses so that fishermen can continue to fish.

Dueñas said looking back on history, there are many examples of promises not kept, including a visitor center promised 10 years ago, American Samoa's laboratory not being built, and the \$333 million that an economics professor at the University of Guam said would be available. There is an interest to preserve everything that nobody is bothering, such as the Volcanic Units in Guam that could be used for geothermal power production, but no one is considering utilizing even when the gas price is at \$6 a gallon and there is a 15% increase on power rate that will hurt the local population. He wondered why the federal government would agree in a covenant with the CNMI to lease Farallon de Medinilla and its adjacent waters if the federal government owns the waters from zero to three miles. The overall issue here is that a 4,000-year-old tradition is being undermined and the indigenous people are being told how to

live by those coming in from the outside, noting that if there is interest in seeing the areas perpetuated as protected areas, there should be appropriate compensation.

Sword recalled that there were supposed to be a population homesteading in the Northern Islands to try to open up the islands, but if the fisheries are closed, there will no longer be any incentives to do what was planned.

Gourley said based on the nomination document, the closure would be for commercial fishing ventures and not local indigenous fishing and island resident fishing, but the big effect will be on the future potential commercial fishing.

Soliai said the closures of any waters will impact any aspirations that the CNMI may have in the future with respect to commercial fisheries, so engaging the community effectively and making the right decisions will be important. Once a process is approved, it is difficult to undo them, so outreach and more engagement is needed.

Gourley said it would be up to ONMS and the Friends of the Mariana Trench to come out to the Mariana Archipelago and hold public hearings. He said despite the process being a five-year nomination review, the opposition toward the proposal is a relevant part of the review. ONMS has to show evidence that the proposed sanctuary has broad-based community support, which it currently does not appear to have.

Tosatto said while the current process is a review of the proposal put forward by the Friends of the Mariana Trench, it is an ONMS proposal, and ONMS should be the entity conducting the outreach and providing the briefings because the obligation to gain broad community support is on them, not the Friends of the Mariana Trench. He also clarified that this is not a proposal to make the monument into a sanctuary, noting that the boundaries may be different and the requirements may be different, and that this is not the same process that is ongoing for the NWHI. This is an external, publicly driven nomination that will not affect the monument, and nothing can undermine the monument proclamation, except another presidential proclamation. He also added that this is a review of the nomination and not the process that ONMS will undergo for a sanctuary designation. If the nomination was to be picked up and advanced, then the same process that the NWHI is undergoing for its sanctuary designation would be initiated with a public comment period.

Gourley agreed that the ONMS should be leading the outreach. Currently, some of the opponents are making claims about certain issues and the proponents are coming back saying it is not true. The basis of the argument is the misunderstanding of the nomination document. He also concurred with Tosatto that the monument will not be affected, but in the nomination document, the Friends of the Mariana Trench say they want to convert the water column in the Trench Unit and the Volcanic Units, which is not part of the monument, into part of the sanctuary. If that is done and followed by a prohibition of commercial fishing, then it would destroy the integrity of the monument that the community fought hard to get. The monument in the Mariana Archipelago is unique among all U.S. monuments, with a lot of the monument covering the bottom substrate and the water column purposely left out so that those waters can be fished. The proposal in the nomination document is to incorporate those waters into a sanctuary, which is not what a lot of people want.

Tosatto said the purpose of the monument is to identify objects that need to be preserved and apply a monument that is the minimum size necessary. If the vents were the objective, then the minimum size is barely the substrate around it. The water column is not needed for the preservation. The objective of the sanctuary could be very different. Key to the sanctuary designation is that the federal government did transfer the submerged lands and the waters above those submerged lands out to three miles to the CNMI a few years ago, so the CNMI has jurisdiction within three miles. If a sanctuary is designated in those waters, the management and the rules under the NMSA would apply similarly as it does in every other state.

Simonds asked if the CNMI has reached the 30% goal under the Micronesian Challenge.

Gourley said he was uncertain, but said the answer would depend on how “effective conservation” is defined. In the past, the goal was met when the calculations included the areas that Gourley and others defined as effectively conserved. However, within the Micronesian Challenge, there seem to be an attitude change where effective conservation is being defined informally as a no-take MPAs. However, he believes that the CNMI is effectively conserving and supporting sustainable use of the resources all throughout the Mariana Archipelago.

Tenorio said the main crux of the discussion regarding the Micronesian Challenge was whether existing regulations for fisheries will be included and be counted as an effective conservation. After a few discourse, it was decided that existing regulations will be included in the assessment for effective conservation.

Dueñas said many military installations are closed areas, where there is no fishing or other activities allowed. All the mitigations and protected measures that are put into place locally and federally are frightening. The 30% being proposed is a big deal, and now there is a larger animal being created to protect 50%, which is more frightening. He was glad that the CCC is taking a look at effective conservation and management efforts.

1. Department of Lands and Natural Resources / Division of Fish and Wildlife Report

Tenorio provided the DFW report for January to March 2022. The boat-based creel surveys are back to normal, but may be modified based on changes with COVID-19 restrictions. During January and February, 14 boat-based creel interviews were conducted, of which seven were trolling, five were bottomfishing, and two were hook-and-line. For the same period, 25 shore-based creel interviews were conducted, of which one was cast net, 22 were hook-and-line and two were spearfishing.

Regarding market performance, DFW collected receipts for the Commercial Purchase Data System from participating vendors, hotels and restaurants. For the period from January to March 2, 2022, an estimated 2,536 pounds of bottomfish, 2,671 pounds of reef fish, 19,841 pounds of pelagic fish and 236 pounds of miscellaneous fish were sold.

A meeting was held in February 2022 to review the revised draft Mandatory Data Recording and Reporting (MDRR) Implementation Plan. Requested changes to the plan have been made and the plan was forwarded to the appropriate party, with a response expected within the next month.

Revisions have been completed on the CNMI spend plan for the CARES Act funds, with changes made for consistency with the Consolidated Appropriations Act, the CARES Act and NOAA's guidance. The revised CNMI spend plan was submitted to PSMFC Feb. 16, 2022.

The Boating Access Program recently completed the Rota West Harbor Marina Rehabilitation Project. A ceremony was held to officially open the marina to the public. The rules and regulations for the marina have been drafted and are in review.

Six FAD systems are currently active within CNMI waters. DFW is in the process of procuring materials and services to replace the missing FAD systems and service the active ones. DFW participated in a meeting with fishermen to discuss the FAD program and consider options to reconfigure the site locations around Saipan, Tinian and Rota. This is to achieve closer and more economical areas for the local fishermen.

2. Proposed Marianas Sanctuary Nomination Discussion

Hoku Ka'aekuahiwi Pousima, policy analyst for ONMS Pacific Islands Region, provided information on the five-year review for the Mariana Trench National Marine Sanctuary nomination. The Mariana Trench was nominated as a national marine sanctuary in 2016 for its high endemism and diverse rain ecosystems; hydrothermal vents and seamounts; indigenous Chamorro and Carolinian cultures; and World War II and maritime heritage sites. The nomination was not seeking to create any fishing restrictions or other restrictive regulations. The original nomination met NOAA's 11 criteria for national significance and management consideration, and asked NOAA to consider for sanctuary designation the waters of the U.S. EEZ surrounding CNMI, including the waters of the existing monument, as well as approximately 130 seamounts not included within the monument boundaries.

The nomination was submitted in December 2016 by the Friends of the Mariana Trench, and NOAA accepted the nomination into the inventory of successful nominations in March 2017. In January 2022, a *Federal Register* notice was published for the five-year review to ensure that nominations in the inventory continued to be responsive to the four national significance criteria and the seven management considerations. Public comment is an important part of the process and a public meeting was held Feb. 12, 2022. Turnout was not as high as hoped, and an in-person meeting was not possible due to the restricted travel capabilities at the time. The initial comment period ended Feb. 22, 2022. NOAA received requests for an extension for the public comment period, which was granted and an extension of 45 days was published March 10, 2022.

The nomination was scheduled to expire March 13, 2022, five years after its acceptance into the inventory. The reopening of the public comment period meant that a decision would not be made by that deadline, so the nominators will not be required to resubmit the nomination. Based on the input provided during the first public comment period, it was decided that more time was needed for the community to provide additional input on the nomination. The additional time would also help the group work with the CNMI and Guam leadership to provide a presentation on the nomination process. A public meeting will be held March 31, 2022, and the ONMS team is working hard to ensure that the word is shared with the community. The public comment period will end April 25, 2022, after which NOAA will review the information provided. If ONMS determines that the site continues to meet NOAA's 11 criteria on national significance and management consideration, it will remain on the inventory for the next five

years. Remaining on the inventory does not guarantee that it will be a designated national marine sanctuary. Pousima presented a map showing the general area that is being considered in the nomination, noting that the actual nomination did not call for the proposed areas to be the same as the existing monument boundaries, nor did it call for any specific areas. The nomination called for community voice to determine the best areas for inclusion if the site moved into the designation process in the future.

Gourley said the cause of a lot of confusion and problems within the community may be coming from Figure 2 from the original nomination package, which has been the only document available to the community on which to base its opinions. Unlike in the map shown by Pousima, in the figure in the original nomination package, a lot of the locations have been marked as a potential sanctuary area, including the area to the east of the islands, seaward from the Trench Unit to the outer boundary of the U.S. EEZ, and covering the entire length of the archipelago and an area in the northwest. The nomination document also contained a lot of text that was anti-fishing, saying that the waters would be protected from domestic fishing.

Tenorio said there is a lot of confusion, and asked whether ONMS is referring to the letter provided by the Friends of the Mariana Trench, or what ONMS is proposing when it says “nomination.”

Pousima said ONMS is referring to the original nomination letter from the Friends of the Mariana Trench.

Tenorio asked ONMS to be clear on what it is looking at, because the nomination letter does say that there is an intent to restrict fishing, whereas the slides Pousima presented indicated that there is no intention to do so.

Muña-Brecht asked if the criteria being followed are those suggested in the nomination letter or if it will be a different criteria, noting that the clarification would make a difference on what information Guam will provide.

Pousima said it is the same criteria suggested in the nomination letter. The public comment ONMS seeks revolves around the information that may have changed since the last nomination and whether that information supports or opposes the nomination.

Muña-Brecht recalled that Guam would have to offer a consensus or an agreement to the areas being nominated, but there was no input from Guam in the initial nomination. She asked if the lack of Guam input in the original process would negate the entire nomination from including Guam’s waters.

Pousima said the areas that are proposed are not definitive and the map shown in the presentation was just the general areas within the U.S. EEZ around the CNMI and Guam.

Dueñas said there are no industrialized or high-impact fisheries in the Mariana Archipelago, and the people are very good stewards of the resource. The only people who are privileged to use these areas will be the NOAA scientists who will be on the research vessels because the Chamorro and Carolinian people will never have a vessel of that size. He said he wants to see compensation if the ocean is going to be taking away from the people. The culture of the local people are being taken away by the intervention of outside people. The 65 miles of

the U.S. EEZ around Guam was given away to the Federated States of Micronesia and the U.S. State Department was not informed of it. He said the \$333 million that was supposed to be slated for the economic development of the people of the Mariana Archipelago should be honored by ONMS. Compensation would help the local population in light of the 50% poverty level and \$6 a gallon gas price. He said the draconian exercise with the five-year review process will have a butterfly effect, and the native people will experience the impacts sooner or later.

Gourley showed the map that came from the nomination package, which notes that the red hatched areas on the east end of the U.S. EEZ could be considered as part of the sanctuary, and the yellow hatched areas are areas that can be included as part of the sanctuary. The text also notes support for no commercial fishing. Gourley explained the areas in the map that currently do not allow fishing, and areas where bottomfishing currently occur, including Zealandia Banks.

Tenorio said the names on the map are different from what the fishermen would call the spots, such as the Malaki's Reef and Pakapaka Reef, and the use of the different names from what fishermen would call them make it seem like fisheries would not be affected. In the monument nomination letter, it did not specifically say to close off the water column, however, it was inferred that it would be nice if the water column was closed so that all resources in that area can be protected. Those areas are being used by the local population for its source of income. Clarification and information is needed for the public so that it can make an informed decision to support or go against the nomination.

Pousima said the caption for the map in the nomination document reads, "Marine areas that could be included if the Sanctuary designation process looks beyond the Marianas Trench Marine National Monument Island Unit. There is no commercial fishing in any of these areas and the Friends of the Marianas Trench would advocate for the allowance of cultural and subsistence fishing, which is consistent with our Vision Statement. The underlying thought behind the nomination and proposed area is that it may look like what the map reflects; no specific locations are being proposed in the nomination." Pousima emphasized that those areas could be considered, but are not areas that are being proposed in the nomination.

Gourley said Figure 2 is still in the nomination package and if the community supports keeping the Mariana Trench on the inventory list, then this document is what will be used to push for the nomination. Although the boundaries are not specified at this point in time, the nomination package has already outlined the boundaries and that is causing the big push back from the members from the community. There is a disconnect between the nomination package and what is being shared. The issue is the future potential commercial fishing and not traditional fishing.

Sword agrees that the maps need to be clearer. What needs to be considered is what is in it for the people of the CNMI and what happens to cultural justice in the larger picture of the entire Pacific. The region already has the highest participatory closures in the whole United States, and more may be added.

Pousima said there is a better way of approaching this and improve upon the current process. The current process of gathering public comments and starting a five-year review does not seem like the most effective way. The entity is supposed to be neutral in these processes and

not advocate for either side, but rather look at the information presented and determine the outcome based on the criteria that are set.

C. Advisory Group Report and Recommendations

1. Advisory Panel

Richard Farrell, CNMI Advisory Panel (AP) vice chair, presented the AP report and recommendations.

Regarding CNMI fisheries issues, the CNMI AP opposed a national marine sanctuary in the CNMI and recommended the Council work with the AP to provide public outreach in each of the islands in the Mariana Archipelago in English, Chamorro and Carolinian.

Regarding CNMI fisheries issues, the CNMI AP recommended the Council request NMFS PIFSC provide the CNMI cluster analysis for review by the AP and DFW at the soonest possible time to expedite the process of moving forward.

Regarding the Guam fishery revision, the Guam AP recommended the Council look at restructuring the fishermen's observations to quarterly or seasonally rather than annually in order to reduce recall bias and perhaps tie it into the lunar calendar.

Regarding the MTMNM, the Guam AP recommended the Council request information on the accomplishments and unkept promises of the MTMNM in order for the fishing community to understand the need for a sanctuary prior to the end of the extended comment deadline.

2. Fishing Industry Advisory Committee

Michael Goto, Fishing Industry Advisory Committee (FIAC) chair, presented the FIAC report and recommendations.

Regarding proposed national marine sanctuary, the FIAC recommended the Council continue to keep the fishing community informed on the potential development of a national marine sanctuary in the CNMI which would overlay the existing marine national monument and may expand fishing area closures. This would allow the fishing community to understand and provide its perspectives should the future designation process proceed.

3. Non-Commercial Fishing Advisory Committee

There were no Non-Commercial Fishing Advisory Committee recommendations regarding the Mariana Archipelago.

4. Scientific and Statistical Committee

There were no SSC recommendations regarding the Mariana Archipelago.

D. Public Comment

Farrell provided comment as a community member of Tinian, CNMI, and asked if it would possible to extend the deadline for public comments until the community input can be provided through in-person meetings in the Mariana Archipelago. He also read a quote from the news article from that day that said, “There has been no in-person conversation over the proposal between Friends of the Marianas Trench, West PAC or the Governor’s Office despite the reported invitation to talk,” noting that the community is being forgotten as a source. Rota, Tinian and Pagan have not been included either, and the older generation is not as tech savvy as the younger generation in attending virtual meetings.

Dueñas provided comment as GFCA president, and said he would like to bring attention to the military firing ranges that are not being considered for any type of conservation. He provided three recommendations from the community to offset the taking of another 15 square miles of the coastal and highly pristine areas where fishing occurs frequently, and from which 20% of Guam’s fish come. The recommendations were: 1) use the FAD systems to demonstrate the boundaries of the firing range. Have it a mile beyond the range for the fishermen to have the opportunity to drive around the 15 square miles to catch some fish and to show the boundaries due to the lack of global positioning system devices. 2) NOAA and/or any other entities that are interested in sustainability of fishing in the Mariana Archipelago or Guam to talk to the Office of Economic Adjustment and provide a \$500,000 a year appropriation for a Marine Conservation Plan; and 3) access is needed for the eastern side of the island where there are no firing ranges. A \$3 million appropriation from the military defense budget due to the three access areas are on the west side and most of the waters are closed because of MPAs and military firing ranges. Life and safety are the primary issues under this condition. Dueñas said with regard to the two individuals that drowned and passed away over the weekend, and the fire department only having access to the boat ramp, they need to respond quicker to help the families who are worried about loved ones to feel more at peace.

E. Council Discussion and Action

Regarding Mariana Archipelago fisheries, the Council requested NMFS PIFSC provide the CNMI with the bottomfish cluster analysis for review by the AP and DFW at the soonest possible time to expedite the process moving forward.

The Council directed staff to work with the AP chair and vice chairs to look at restructuring the fishermen’s observation meetings and reports toward shorter timeframes to reduce recall bias.

Moved by Rice; seconded by Gourley.
Motion passed.

Regarding a proposed national marine sanctuary in the Mariana Archipelago, the Council believed that the existing MTMNM management plan should be given a chance to be implemented as it may already provide the protection that the nomination is seeking. Many of the concerns listed in the proposed sanctuary nomination, including education, research and economic development can be addressed in the current MTMNM management plan and with existing partner agencies. Fishery regulations for domestic fisheries are in place and foreign fishing is prohibited by law. If the primary concerns are regarding fisheries in the water column above the

submerged lands or outside of the current MTMNM boundaries, existing management structures, including the Council's Mariana Archipelago FEP, are able to respond to those concerns right now.

Therefore, due to the confusion that exists in the Mariana communities with respect to the five-year sanctuary review, the Council requests NOAA to remove the Mariana Trench from the inventory list and assist the nominator in developing a revised nomination package that would be properly vetted through the CNMI and Guam communities. Further, the Council requests NOAA provide the Council and fishing community with the efficacy and accomplishments of the MTMNM since its designation.

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

VII. Hawai'i Archipelago and Pacific Remote Island Areas

A. Moku Pepa

Rice reported fishing have been productive for the last few months with more than 500 pounds coming in every day, and that he was lucky enough to be one of the captains to catch a fish more than 500 pounds on a day that six fish over that size came in about a week ago. There is a program focused on putting satellite tags on spearfish and striped marlin to track their migration, and 90% of the big fish caught off Kona are being tagged and released. Private FADs continue to be a problem in Kona as they continue to keep fish 20 miles offshore rather than coming closure to shore toward the ledges. The fish pen has broken off, so that has brought more fish back to the ledges. The state FADs still are not working, and Rice said fishers on the west side of Hawai'i do not need FADs since they have their own natural FADs with all the ledges and drop offs. They continue to hope for a good summer tourist season. He reported there has been a lot of 'ahi caught during the winter, which was a positive for the small-boat fishers.

Dang reported the longline vessels received good prices on tuna and swordfish during the winter season. The swordfish season saw a dozen participants this year with good catch volume and good prices at the auction. The tuna catch rates are still low, but the prices are still good considering the low global supply, possible impacts of the pandemic and shipping logistics. Despite being spring break season, they are now seeing a waning in the prices, which may be associated with increased fuel prices that continue to affect travel and fish purchases, coupled with the inflation and rising cost of living. The Hawai'i longline fleet is priming for a strong summer as the restrictions for COVID-19 continue to lower.

Ramsey reported there was a recent study done by the University of Hawai'i that said Hawai'i is expected to receive 9.5 million visitors this year, which is 90% of the pre-COVID-19 numbers. It looks promising as it will increase the demand for seafood and stimulate the economy. At the same time, the rising cost of fuel and inflation could negatively affect both the commercial and recreational fishing fleet in the long run. Fishing tournaments for spearfishing, shoreline, kayak and small-boat fisheries continue to resume.

Ramsey also reported DAR has reopened the remaining BRFA's. He emphasized that this is an important win for fishers and a great example for fishermen to stay involved throughout the

management process. He acknowledged the work of PIFSC and DAR for their joint presentation at the BLNR meeting.

Dueñas congratulated the work of the fishing community, noting that he was impressed with the interactions between fishery managers and the fishing community.

Tosatto said the Council has had different rounds of discussions regarding private FADs, small-boat fisheries and seamount fisheries. There is currently limited federal management over these fisheries, but if the private FADs are in federal waters, then the management of it could become the purview of the Council if there is a need for management. If there is a potential need, the issue can be brought up through the advisory groups, and the Council could consider management such as defining FADs as fishing gear, registration, limits and requirements for data and placement. The starting question would therefore be whether this is a federal or state issue.

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

Bryan Ishida, commercial fisheries biologist for Hawai'i DAR, presented the State's report for November 2021 to January 2022. As of the end of the reporting period, 312 commercial marine license (CML) holders made 1,255 trips and caught 108,071 pounds of mixed deep-seven species. The season got off to a slow start in September, but the agency saw a seasonal bump in demand by the end of October. As of the end of the reporting period, catch was above what was seen in the 2019 to 2020 season, of which 44% was opakapaka, which is considered a normal proportion of opakapaka. Gindai usually represents less than 5% of total catch in any given year, but it is interesting to note that gindai is being caught at a much faster rate than what is typically seen.

The 2021 Kona crab fishing year wrapped up with 18 CMLs in 69 trips with a reported total catch of 3,946 pounds. Following the reopening of the season Sept. 1, 2021, the catch did not take off again as was seen in 2019. There has been a slight decrease in catch compared to the previous fishing year, but much higher than 2016, which was considered low.

The 2021 uku season concluded with 232 CML with 999 trips for a catch of 60,351 pounds. The 2021 season ended with catch higher than the 2020 fishing year, but lower than the 2016 to 2019 seasons.

In 2021, there were 3,264 licenses issued or renewed for a revenue of \$355,650, which was a slight increase over 2020, but still below the 10-year average in number of licenses issues. During the reporting period, one Papahānaumokuākea Marine National Monument permit was granted and one amendment to an existing monument education permit was issued. Nine current applications are under review for entry to the monument for the spring and summer 2022 season. Revisions were ongoing to the Papahānaumokuākea Marine National Monument best management practice to minimize the spread of *Chondria tumulosa*, which is an invasive algae in the NWHI. This is a joint effort by the State of Hawai'i's Monument Permit Working Group, Chondria Working Group and the Permit Coordinator's Group. Meetings were held in November 2021 and January 2022. The best management practice is anticipated to be finalized in March 2022. Additional feedback on biosecurity protocols for activities not covered in the best management practice were discussed.

In November 2021, FAD CK was reported missing. There was no activity in December. In January 2022, FADs JJ and GG were recovered. Regarding aquatic invasive species management, the State of Hawai'i submitted final comments and supplemental information to the Environmental Protection Agency regarding the Vessel Incidental Discharge Act of 2018. The State now awaits additional information from the Environmental Protection Agency and USCG regarding final standards of performance and enforcement with an unclear deadline for both.

On Feb. 25, 2022, the BLNR approved the reopening of all BRFA's, which has been closed since 2007. Registered commercial and noncommercial bottomfish vessels are now allowed to fish for deep-seven bottomfish in all previously closed BRFA's. All other regulations still stand, including the noncommercial limits and the vessel registration requirements. They saw a small increase in commercial catch and effort following the reopening of the BRFA's, although the increase cannot be attributed to the reopening.

For the 2022 legislative session, DAR did not introduce any administrative bills. However, a number of fishing related bills were introduced that DAR is tracking and provided testimony on. This includes S. 2767, which provide funds to Hawai'i DLNR to support deployment, replacement and maintenance of FADs; S. 2065, which would prohibit the possession or use of unmanned aerial vehicles on State waters for the purposes of fishing with an exception for reconnaissance purposes; and H.B. 1988, which would prohibit the sale, import or export of coral products with certain exceptions. Exceptions include the noncommercial harvest under federal permits and other special activity permits, research and education.

The application period for round 2 CARES Act funding closed Sept. 30, 2021, with 190 applications received. PSMFC was in the process of reviewing applications for eligibility. The agency has been in contact with PSMFC, but does not have an anticipated date on when the review process will be completed.

Muña-Brecht asked if the House bill on corals would exclude aquacultured coral.

Sakoda said the bill would exclude the harvest of coral for restoration or aquaculture purposes except for harvest by the states. This bill would affect their nongovernmental organization partners who might want to harvest corals for restoration and aquaculture. They will submit testimony to request an amendment to provide an exemption for DAR's partners.

Muña-Brecht said Guam was working on developing a coral aquaculture industry for reef restoration and aquarium trade. The development of this industry would lead people to be less apt to harvest from the ocean, but rather they will have private companies that are growing coral for the purposes of export.

Sakoda said the bill would not prohibit all import or sale of all coral products. It would not provide exemptions to sustainably raised aquaculture coral products. The intent of the bill is to shut down the commercial trade of any coral products in the State.

Dueñas asked if the invasive algae bloom in the NWHI was freshwater-associated or if it is an algae that is competing with the local species.

Sakoda said DAR is uncertain of the cause for the bloom, but it appeared to be a foreign invasive species. The NWHI are low-lying islands, so there is not much freshwater. Sakoda said he will get back to him if DAR's biologists have more updates.

Dueñas said he was previously approached by the former governor of Chuuk, who was asked by a Japanese scientist if Chuuk was interested in releasing freshwater along Guam's coral reef. He said it would be a great idea since it could aggregate more herbivores which could lead to a higher fish density and population.

Soliai congratulated the State of Hawai'i for opening up the BRFA's as it would provide a great incentive for fishermen.

Tosatto made a comment on the state legislature's coral bill, noting that a bill that could affect an active federal fishery could be problematic, although the fishery is currently inactive. He hoped that the right construct will be found so that federal and state management do not find themselves inconsistent in a problematic way.

Sakoda said Hawai'i's Office of the Attorney General reviewed the revisions to see if there were any legal issues. The office will continue to track the bill and flag it if there are any issues.

C. Green Turtle Management Update

Joshua DeMello, Council staff, provided an updated on green turtle management. Council staff have been in contact with the U.S. State Department to see what other avenues can be explored to allow cultural take under the existing international framework. On April 8, 2022, the Native Hawaiian Gathering Rights Association and Council staff were scheduled to present at the 2nd Annual Sea Turtle Symposium where staff will speak on the process that the Council has taken to date to explore the issue of cultural take. Council staff is also working to document the history of the traditional honu harvest fisheries.

Dueñas said he was disappointed with the impediments on the allowance of cultural take of green sea turtle through the Council process. He said he would like to have data collected on green turtle population at Andersen Air Force Base to justify the need for cultural take for Native Pacific Islanders. He said anyone can capture and kill a turtle, but the cultural value and processing of that turtle helps to perpetuate the culture and practice of the Native Pacific Islanders.

D. NWHI Proposed National Marine Sanctuary 304(a)(5) Council Response

DeMello reported on the NWHI proposed national marine sanctuary 304(a)(5) Council response. On Nov. 19, 2021, ONMS sent the Council a letter which provided the package for the 304(a)(5) process. The Council has a responsibility to provide a response to the letter by March 31, 2022, but it also has responsibility to provide regulations under Proclamation 9478. The Council at the 187th meeting recommended the goals and objectives to be accommodated for the proposed sanctuary, which included maximizing fishing opportunities, allowing resources harvested for the purpose of food and cultural connection to be taken outside of the sanctuary boundaries, affirming the MSA as the authority for fisheries, minimizing additional burdens, and prioritizing fisheries research.

Between zero and three miles in state waters in the NWHI, subsistence fishing is allowed. Between zero and 12 miles and three to 50 miles, sustenance fishing is allowed in Papahānaumokuākea Marine National Monument. In the Monument Expansion Area from 50 to 200 miles, Proclamation 9478 allows for regulated activities such as noncommercial fishing and Native Hawaiian practices. Proclamation 9478 prohibited commercial fishing, but allowed noncommercial and cultural activity to occur under federal permits and regulations. The 304(a)(5) package was sent to request the Council to draft fishery regulations in the Monument Expansion Area and noted the fishing regulations in the original monument were enough for this exercise. The fishing regulations would be evaluated against the proclamation and the proposed sanctuary goals and objectives. The Council presented to the Office of Hawaiian Affairs' Native Hawaiian Cultural Working Group on these ideas and held previous scoping sessions on the Monument Expansion Area.

The Council has the option to provide fishing regulations for the sanctuary under the 304(a)(5) process, but they were unsure if it will be for the existing boundaries or if it will include areas outside the boundaries. Commercial fishing is prohibited in federal waters of Papahānaumokuākea Marine National Monument, but if the sanctuary boundaries go beyond the monument boundaries then the Council will decide if they want to allow or prohibit commercial fishing by certain areas. If the Council decides to prohibit fishing, then it could be evaluated favorably under the proclamation and the goals and objectives.

The Council has a definition for noncommercial fishing, which includes subsistence, sustenance, recreational and traditional indigenous fishing. The Council could allow noncommercial fishing through permitting and reporting regulations with observer and vessel monitoring system requirements. The Council could look at adapting the customary exchange definition to fit a requirement that is more favorable under the evaluation. The Council was asked to consider at this meeting whether it wants to prepare fishing regulations for the sanctuary. If the Council decided to draft fishing regulations, then it would be able to provide regulations directly into the sanctuary process and under the MSA.

Gourley said there are enough areas that are closed to fishing, and the Council should develop fishing regulations under the MSA in areas that allow it in light of the uncertainty of the boundary designation.

Dueñas said this was a draconian movement that would promote that Native Hawaiians to go into the NWHI and fish, but not be able to take their catch outside of the monument. He said there was one young Hawaiian fisherman who came to a Council meeting during the monument designation who said he had the intent to take over his father's boat to continue fishing in the NWHI in the face of opposition. Dueñas said this fisherman sought to perpetuate his heritage, but was denied access to the ocean that been a part of his culture for at least a couple thousand years. He said noncommercial fishing regulations are pointless since it only benefits the rich and famous. Dueñas would like to see if the Council could allow commercial fishing in the NWHI through Native Hawaiian fishing permits to allow them to sell their fish to the communities.

Sword asked why the Pacific people continue to get punished through the closure of more fishing areas.

Tosatto said the 304(a)(5) process is under the NMSA where the objectives call for fishing regulations. The Council has the first opportunity to draft regulations. If the Council does not decide to develop fishing regulations, then the Department of Commerce, either NMFS or ONMS, through the sanctuary designation process could establish fishing regulations. He said his vote would be that the Council draft the fishing regulations for the sanctuary. If there is a call for commercial fishing or fishing regulations in the future, the 304(a)(5) process would be reinstated if future changes are indicated. This may provide the Council a future opportunity to provide updates. This would not undo any actions by the Department of Commerce unless the playing field changes in some way. The Council has the obligation under the current Monument Expansion Area to consider prohibiting commercial fishing as the Department of Commerce was directed to do so by the president with the expansion area proclamation. If the Council does not fill that obligation, then the Department of Commerce will do so.

Sakoda endorsed that the Council should move forward with proposed regulations. He said the Council should steer clear of anything that could be construed as commercial fishing. He was still unclear on the definitions of barter, trade and customary exchange. He considers the nonmarket exchange of marine resources between fishermen and community residents as barter and trade. He said the State considers expense fishermen as commercial fishermen, who are required to obtain a CML. He said the Council should draft fishing regulations without the allowance of customary exchange.

Ramsey asked if there was a way to provide clarity on the sanctuary boundary since there has been conversation of a potential overlay on fishing areas that fishermen rely on.

DeMello said if the designation boundary goes beyond the monument, then it would be clear when they go through the sanctuary designation. The process would include the development of a management plan and an environmental impact statement (EIS) with a public comment period. Hypothetically, if alternative 1 in the EIS was to prohibit commercial fishing in the monument boundaries and alternative 2 was to prohibit commercial fisheries in the monument boundaries plus Middle Bank, then the EIS would analyze the pros and cons of the two alternatives under the National Environmental Protection Act. If ONMS selected alternative 2 and the Council selected alternative 1, then the evaluation stops after the Council provides its proposed fishing regulations. If the boundary designation does change, then the Council's draft fishing regulations would go back to NMFS for discussion.

Tosatto said if there is a change in the boundary designation, then NOAA would come back to the Council saying that its original recommendation was short, or ask the Council to provide a recommendation that takes into effect the change with the boundary. He said there is reason to watch the process develop carefully. He said the process going forward does allow some back and forth between the Council, NMFS and ONMS.

Sakoda asked if the Council developed fishing regulation in the monument, whether that activity would still be subject to an entry permit issued by the Hawai'i DLNR, USFWS and NOAA.

DeMello said the entry permit would not be applicable unless the sanctuary management plan required it.

E. Specification of the Main Hawaiian Islands Deepwater Shrimp and Precious Coral Annual Catch Limits for Fishing Years 2022-2025 (Final Action)

Zach Yamada, Council staff, presented the options for the specification of the MHI deepwater shrimp and precious corals for fishing years 2022-2025. Yamada revisited the previous specifications and the best scientific information available (BSIA), and provided the most recent fishery statistics associated with catch, effort and participation and described the current data collection system and the limitations of the data.

Yamada presented two options. First is the no action alternative. Second is to respecify the previously recommended ACLs. This would result in an ACL for deepwater shrimp at 250,773 pounds and precious corals as listed below:

- Au‘au Channel - black coral - 5,512 pounds
- Makapu‘u Bed - pink coral - 2,205 pounds
- Makapu‘u Bed - bamboo coral - 551 pounds
- 180 Fathom Bank - pink coral - 489 pounds
- 180 Fathom Bank - bamboo coral - 123 pounds
- Brooks Bank - pink coral - 979 pounds
- Brooks Bank - bamboo coral - 245 pounds
- Ka‘ena Point Bed - pink coral - 148 pounds
- Ka‘ena Point Bed - bamboo coral - 37 pounds
- Keahole Bed - pink coral - 148 pounds
- Keahole Bed - bamboo coral - 37 pounds
- Precious coral in MHI exploratory area - 2,205 pounds

Yamada presented the impact analysis of the alternatives for the precious coral and deepwater shrimp fishery, noting that there no major impacts anticipated due to low participation and effort exerted in these fisheries.

Gourley said the MHI deepwater shrimp and precious coral fisheries are relatively small with limited participation and it would be good to rollover the specification under option 2.

Dueñas asked if the State’s H.B. 1988 would affect interstate commerce of corals since there is a federal law that allows and protects interstate commerce.

Tucher said he was not sure since it was still unknown what the state law would look like if the bill passed, but noted there are considerations for when NMFS actively manages a resource that the state should not put unreasonable restrictions on the ability to harvest, land and sell.

Tosatto concurred with Tucher and reiterated that the Council’s obligation to specify an ACL for deepwater shrimp and precious corals was mandatory. He also said interstate commerce generally has many protections, but those are not absolute.

Sakoda concurred with Gourley to respecify the ACLs, and noted it would be beneficial to explore new information sources to update the information on deepwater shrimp and precious corals.

F. Advisory Group Report and Recommendations

1. Advisory Panel

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

Regarding the NWHI proposed national marine sanctuary Council response, the Hawai‘i AP recommended the Council maximize fishing opportunities in the proposed NWHI sanctuary. Further, the AP encouraged the Council to consider ensuring that research fishing is allowed in the NWHI to provide a consistent evaluation of the areas resources.

Regarding specification of the MHI deepwater shrimp and precious coral ACLs for fishing year 2022-2025, the Hawai‘i AP recommended providing more focus on improving research and the understanding of the fishery dynamics. Improved data collection will allow for more informed decision-making.

2. Fishing Industry Advisory Committee

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

Regarding the proposed national marine sanctuary, the FIAC recommended the Council develop fishing regulations for the proposed NWHI sanctuary that would allow fishing to continue in as much of the sanctuary as possible. Further, the FIAC recommended the Council request NMFS to clearly identify spatial boundaries in the fishery compliance guides that include monuments and sanctuaries so fishermen clearly understand where fishing is/is not allowed.

3. Scientific and Statistical Committee

Lynch, SSC chair, presented the SSC report and recommendations.

Regarding the acceptable biological catch (ABC) for the MHI deepwater shrimp and precious corals, the SSC recommended option 2 to roll over the current ABCs to the fishing year 2022-2025. This would establish the following ABCs for the MHI deepwater shrimp and precious corals:

MUS/MUS Complex	ABC (pounds)
MHI deepwater shrimp	250,773
MHI precious corals	
Au‘au Channel - black coral	5,512
Makapu‘u Bed - pink coral	2,205
Makapu‘u Bed - bamboo coral	551
180 Fathom Bank - pink coral	489
180 Fathom Bank - bamboo coral	123
Brooks Bank - pink coral	979
Brooks Bank - bamboo coral	245
Ka‘ena Point Bed - pink coral	148
Ka‘ena Point Bed - bamboo coral	37
Keahole Bed - pink coral	148

Keahole Bed - bamboo coral	37
Precious coral in MHI exploratory area	2,205

G. Public Comment

There were no public comments.

H. Council Discussion and Action

Regarding the Hawai‘i DAR legislative report, the Council requested the NMFS PIRO regional administrator and GCPI provide facts to the State of Hawai‘i legislature to inform H.B. 1988 that proposes to prohibit the harvest, sale, import and export of coral products including the federally managed precious corals. The current language may be inconsistent with the federal regulations that allow sustainable commercial harvest of precious coral and by prohibiting the harvest and sale may shut down a sustainably managed fishery.

Sakoda said he will abstain because the state agency will provide testimony to the legislature.

*Moved by Dueñas; seconded by Sword
Motion passed with Sakoda abstaining.*

Regarding the proposed NWHI sanctuary, the Council agreed to develop fishing regulations for the proposed NWHI sanctuary and directs staff to respond to the ONMS 304(a)(5) package request with preliminarily preferred options for permitting and reporting requirements for commercial (outside current monument boundaries), noncommercial, Native Hawaiian practices and research fishing in the sanctuary boundaries. Further, the Council directed staff to develop an amendment to the Hawai‘i Archipelago FEP to analyze these fishing alternatives to be developed in parallel to the sanctuary fishing regulations.

Sakoda asked GCPI if this recommendation would conflict with the State’s Sunshine Law.

Tucher said it would not conflict with the Sunshine Law. The Council will take initial action to move forward. There are no concerns regarding procedural compliance with the MSA or Sunshine Law.

Sakoda said he will vote no with the current noncommercial fishing definition included in the draft fishing regulations.

*Moved by Dueñas; seconded by Sword
Motion passed with Sakoda opposing.*

Regarding ACLs for the MHI deepwater shrimp and precious corals, the Council recommended as final action:

- a. NMFS implement the following ACLs:**

MUS/MUS Complex	Fishing Year(s)	ACL (pounds)
MHI deepwater shrimp	2022-2025	250,773
MHI precious corals		
Au'au Channel - black coral	2022-2025	5,512
Makapu'u Bed - pink coral	2022-2025	2,205
Makapu'u Bed - bamboo coral	2022-2025	551
180 Fathom Bank - pink coral	2022-2025	489
180 Fathom Bank - bamboo coral	2022-2025	123
Brooks Bank - pink coral	2022-2025	979
Brooks Bank - bamboo coral	2022-2025	245
Ka'ena Point Bed - pink coral	2022-2025	148
Ka'ena Point Bed - bamboo coral	2022-2025	37
Keahole Bed - pink coral	2022-2025	148
Keahole Bed - bamboo coral	2022-2025	37
Precious coral in MHI exploratory area	2022-2025	2,205

- b. Implement a post-season accountability measure the Council will review catches relative to each ACL at the end of each fishing year. If NMFS and the Council determines the three-year average catch for the fishery exceeds the ACL, NMFS will reduce the ACL for that fishery in the subsequent year by the amount of the overage. As specified in each FEP as a higher performance measure, if an ACL is exceeded more than once in a four-year period, the Council will reevaluate the ACL process and adjust the system, as necessary, to improve its effectiveness.**

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.

Tosatto said he will abstain as it is an action the will come to NMFS for final decision.

*Moved by Dueñas; seconded by Sword
Motion passed with Tosatto abstaining.*

VIII. Pelagic and International Fisheries

A. 2021 American Samoa Longline Fishery Report

Keith Bigelow, PIFSC, provide the 2021 annual report for the American Samoa longline fishery. The report covered preliminary fishery statistics including participation, effort and catch. The American Samoa longline fishery has been in decline since 2007, however 2021 was an anomaly due to increases in fishing effort and catch. There are approximately 1,400 longline sets in the report submitted to the Council, but approximately 34 sets are still outstanding due to some data problems. Most all the vessels fished within the U.S. EEZ around American Samoa with similar participation and longline effort from 2020 to 2021 with target species being South Pacific albacore. Number of hooks were at 4.2 million in 2021 (up from 3.6 million in 2020) compared to an all-time high of 17 million in 2007. Approximately 39,000 albacore were landed in 2021, compared to approximately 30,000 in 2020. Regarding albacore CPUE, fishers typically like to have 12 to 13 albacore per thousand hooks. Recently, numbers were down despite an increase from 2020 to 2021 of approximately 9.2 albacore per thousand hooks. The secondary species caught is yellowfin tuna, with approximately 10,000 landed in 2021, an increase from 2020 largely due to the increase in effort. Yellowfin tuna CPUE declined slightly in 2021 to 2.4 per thousand hooks compared to 2.8 in 2020. In conclusion, there is an increase in effort despite a lack of increase in participation.

Dueñas asked how many alia vessels are now in the system participating along with the longline vessels.

Bigelow indicated there were three alias in 2020 and that it fluctuates between zero and three in a typical year. They are not a typical portion of the fishery because the larger-scale longliners are the dominant fishing effort.

Dueñas asked if there is an analysis on the catch as far as how much goes to the cannery, as well as how much catch American Samoans are providing for local consumption. In Guam, 20 or 30% of the catch goes directly into the community, either for free or for a small fee.

Bigelow said the benefit of American Samoa is it has a guaranteed market of the cannery. South Pacific albacore are landed to the cannery, while ono, yellowfin tuna and some incidental species go to the local markets.

Soliai asked if PIFSC has included any of the jigging albacore that were caught in the report, or if all the data are longline, as there was at least one vessel that went down south to jig last year.

Bigelow said the report is just for longlining. There may have been five vessels that went jigging in late 2020, but he is not sure who went in 2021. However, the Southwest Fisheries Science Center collects that data and if it is not confidential, it could be incorporated in future reports.

B. 2021 Hawai‘i Longline Fishery Report

Russell Ito, PIFSC, provided the 2021 annual report for the Hawai‘i longline fishery (deep-set and shallow-set components). The report covered fishery statistics including participation, effort, and catch. The number of vessels participating in the Hawai‘i longline fishery decreased from 147 to 146 from 2020 to 2021. There were 120 vessels that exclusively set deep for tuna throughout the year, and 18 boats switched between deep- and shallow-sets. No

vessels strictly targeted swordfish throughout the entire year. There are also approximately 12 vessels in California, most of which were vessels that had Hawai'i longline limited entry permits and fished along the way to pick up crew or conduct repairs. Only approximately six vessels included in this report fish out of California full time. There were 1,734 longline trips, which was slightly higher in 2021 compared to 2020. Of those trips, 1,675 were deep-set tuna trips and 55 were shallow-set swordfish trips, which represents a slight increasing trend. Data are available for 71 trips that were made in California, which represents approximately 4% of the total trip effort for the longline fishery.

Regarding effort, the number of sets was similar to the number of longline trips. There was an increase of approximately 1,500 to 22,700 sets from last year. Of those 22,700 sets, 22,074 were deep-sets, which represent an increase of approximately 1,300 from the previous year. There were also 665 shallow-sets targeting swordfish, which represents an increase of 204 sets from the previous year. There was a record of 63.5 million hooks set this year, an increase of 3.2 million from 2020. Of those 63.5 million hooks, 49 million were set on the high seas. There was an increase in hooks set in the U.S. EEZ (approximately 23 million hooks total). In 2021, most of the deep-set effort was higher latitudinally relative to the long-term average south of the U.S. EEZ around the MHI. For the shallow-sets, most effort occurs north of the Hawaiian Islands, in an area between outside of the U.S. EEZ off California and past the U.S. EEZ around the MHI above the Papahānaumokuākea Marine National Monument.

There were 187,000 bigeye tuna caught last year, representing a decrease of 21,000 fish from the previous year. This catch has plateaued from 2014 through 2019, followed by a more recent drop in 2020 and 2021. However, yellowfin tuna catch increased by 23,000 to 78,000 fish in 2021, so the yellowfin catch complemented the decline of bigeye tuna catch. Albacore catch went up by 3,000 fish to 12,000 albacore caught in 2021. Next to bigeye tuna, blue shark was the largest component of the longline catch at 102,000 fish, all of which were released.

There are breaks in the bigeye tuna CPUE time series because of confidentiality of separating out deep- and shallow-sets. The long-term average is approximately four fish per thousand hooks, which is down to three fish per thousand hooks observed in 2021. Overall, bigeye tuna CPUE has been on a downward trend.

The shallow-set fishery caught 60% of the swordfish and the deep-set fishery caught 40%. The highest swordfish CPUE is between 30° north latitude and 165° and 175° west longitude. Shallow-set CPUE for swordfish was 7.1 fish per thousand hooks, which is down from approximately eight fish per thousand hooks in 2020. The long term trend is decreasing because a 10-year CPUE for swordfish was almost 11 fish per thousand hooks. Typically, the first two quarters of the year for the shallow-set fishery include high swordfish CPUE. Last year, high CPUE was observed in the first and fourth quarter, with no fishing effort in the third. The CPUE declined rapidly in the second quarter of 2021, which is consistent throughout the time period.

There is a lot of variability in catch and numbers of striped marlin and spearfish with a recent decreasing trend, as well as for mahimahi, oilfish, pomfrets and moonfish. Therefore, most of the other pelagic MUS have been on a downward trend.

Rice asked if the downward trend for 2021 was impacted by the La Niña and if changing to monofilament leaders had any effect on the catches.

Ito said he heard of warm water, but not in relation to large-scale climatic events. Many fishermen noted fish were hard to come by, especially toward the end of 2021. Regarding monofilament leaders, it will be interesting to hear from the captains once they have been using the gear for at least a year.

Dueñas asked if there is available information on the size frequency of fish and if the size frequency has changed over time.

Ito said sizes are really variable. Some years include strong recruits with small fish, but it is better to go by the average size. In the report, it is clear that average size has not changed much over the long term, although the CPUE has declined.

Dueñas said the number of trips have been an issue because effort seems to be more on bigeye toward the south and swordfish in the north. La Niña might be forcing these fishermen if they are using the satellite images to fish away from prospective fishing grounds. Also, the expansion of the monument to the full 200 miles is very detrimental. He is concerned that fishermen are getting more cautious or that they are fishing beyond their zone since Ito said there was a decline on the high seas effort.

Soliai asked what percentage of boats fish on the high seas and if vessels have been experiencing issues trying to fill crews due to COVID-19 restrictions.

Ito said almost all, if not all vessels, fished on the high seas or outside of the U.S. EEZ. Regarding the crews, some boats were going to American Samoa where there was a strict lockdown in place, but overall, there were no significant crew issues. They have been able to maintain the level of labor they need to keep things going.

Sword asked if there were any issues with gear conflicts with other boats fishing around the edges, specifically outside the U.S. EEZ. Sword also asked how easy it is for the longliners to release all the sharks.

Ito said the effort south of the MHI was much higher than the average. There was discussion of fishing in the south and southwest of the islands and some of the other boats would do excursions just to get away from that conflict. There was so much effort in that particular area, it would not be surprising if there was gear overlap with other vessels. Regarding the sharks, it is supposed to be easier to cut lines off closer to the hook with the monofilament leader between the leaded swivel and the hook.

C. Investigating the Relationship Between Imports and Fish Price: Preliminary Results

This agenda item was deferred.

D. Area-Based Management Working Group Reports

1. Assessing the Population-Level Conservation Effects of Marine Protected Areas

Dan Ovando, University of Washington, presented on a recently published study on MPAs. Ovando noted MPAs cover 3 to 7% of the world's ocean, and international organizations call for 30% coverage by 2030. Although numerous studies have shown that MPAs produce conservation benefits inside their borders, many MPAs are also justified on the grounds that they confer conservation benefits to the connected populations that span beyond their borders.

A network of MPAs covering roughly 20% of the Channel Islands National Marine Sanctuary was established in 2003 with a goal of providing regional conservation and fishery benefits. Ovando and his coauthors used a spatially explicit bioeconomic simulation model and a Bayesian difference-in-difference regression to examine the conditions under which MPAs can provide population-level conservation benefits inside and outside their borders and to assess evidence of those benefits in the Channel Islands. As of 2017, the authors estimated that biomass densities of targeted finfish had a median value 81% higher inside the Channel Island MPAs than outside. However, the authors found no clear effect of these MPAs on mean total biomass densities at the population level; estimated median effect was -7% from 2015 to 2017. The simulation model showed that effect sizes of MPAs of <30% were likely to be difficult to detect (even when they were present); smaller effect sizes (which are likely to be common) were even harder to detect.

Ovando discussed the importance of assumptions when modeling the effects of MPAs in the world's oceans. He offered an example using a model from a different recent study of what would happen if all fishing was closed in the Australian EEZ. The team found that places like Seattle, China and the entire western coast of South America would see substantial benefits through these kinds of teleconnections. Ovando noted these outcomes are highly unlikely and are attributed to the assumptions at play in the model. If models are to be used to forecast where MPAs should be placed to maximize food security then it should primarily be driven by data and be robust enough to satisfy a variety of different assumptions. The main finding was that MPAs in certain areas need to be tied to the assumptions of the model and food security, not necessarily solely the available data.

Ovando noted communicating expectations and uncertainties around MPAs is critical to ensuring that MPAs are effective. The authors provide a novel assessment of the population-level effects of a large MPA network across many different species of targeted finfish, and their results offer guidance for communities charged with monitoring and adapting MPAs.

Gourley said the CNMI fought hard to limit the areas that would be no-take fishing in the MTMNM. In the CNMI, much of the monument is actually just the sea bottom with the water column being allowed for fishing under MSA regulations. But there is also a small area encompassing the three northernmost islands as no-take. Gourley asked how to evaluate the effectiveness of these MPAs.

Ovando said the bigger and more unique the protected area is, the harder that question gets, especially given how necessary it is to have a statistical control. Sometimes finding that control is too difficult or not feasible, so he is not always an advocate for pushing forward, instead, he recommends working toward the next best alternative by drafting hypotheses.

Rice asked whether any social science work goes into these models.

Ovando explained that social science and economic data are key in understanding how successful these MPAs are. But overall, not much of that data have been included in the models, as it tends to be overlooked. Moving forward, this type of work creates interesting opportunities for collaborations with the fishing and management community. This needs to be looked at not just from a total catch perspective, but in terms of profits, safety, and cultural and social aspects.

Amani said she really liked and appreciated the presentation, as it offers a different outlook on the MPAs. The U.S. territories often have new restrictions from the military and the federal government. Amani noted they are not against MPAs, but really support having a different outlook.

Muña-Brecht asked for Ovando to give this presentation to her DOAG staff, and asked how to know if the models are effective.

Ovando said he would be happy to present to DOAG staff. Regarding the effectiveness of the MPAs, Ovando noted the data for the Channel Islands example was noisy and complicated. This made it difficult to tease out what the population effect was. However, it is very clear from the data that there seemed to be more fish inside the polygons (i.e., inside those MPAs than outside).

Dueñas asked why organizations would consider including pelagic fisheries in MPAs.

Ovando said he cannot explain why organizations would consider including pelagic fisheries in MPAs. However, he said scientists need to do a better job of building pelagic ecosystems into these models. This will help to justify the reasoning and detail what the impacts are going to be for conservation and fishing based off different assumptions. Those kinds of global protected area models are still quite simple because the scale is so large, and the models tend to collapse due to all of the complexities of space, biology and nature in one biomass model. That being said, there is definitely some increased modeling work trying to do that.

Dueñas indicated there needs to be a systematic program development to identify whether it is better to develop a management regime or simply use ACLs.

Soliai requested that Ovando also provide the same presentation to DMWR staff.

Ovando agreed.

Lynch asked what the key scientific studies are that the SSC and Council should be focusing on and if there is a plan to identify those for future work.

Ovando said studies on adult dispersal rates and migration patterns, as well as what kinds of habitat are being used in space and time are going to be really important. Also, fleet dynamics and climate change are really critical when predicting how new policy will have to be developed.

Lynch said it would be a nice spin-off paper to identify those research needs for world use, not just the United States, because it seems like countries should have an interest in working together on solving these problems for food safety.

2. The Trade-off Between Biodiversity and Sustainable Fish Harvest with Area-Based Management

Ray Hilborn, University of Washington, presented on the trade-off between biodiversity and sustainable fish harvest with area-based management, based on work led by Maite Pons. This project consists of an empirical analysis of the tradeoff between target species catch and bycatch with different kinds of closure patterns. This project was a collaborative effort with approximately 15 different case studies and people in various fisheries who had access to detailed spatial data on bycatch and target species catch, and involved Council staff. Area-based management strategies are sometimes implemented to reduce the risk of increased bycatch (including protected species interactions), but often reducing effort inputs reduces bycatch, but also comes at a cost of reducing target catch. Hilborn compared static closed areas with dynamic closed area in a simulation model approach. Dynamic ocean management requires tracking where the bycatch is occurring, either in real-time or on oceanographic conditions, and moving closures in relation to predicted bycatch based on the ocean or observed ocean based on records from vessels.

There has been a movement led by environmental nongovernmental organizations to close 30% of the ocean by 2030, also known as “30x30.” However, there is uncertainty as to whether this is best suited with static closures or perhaps using a more dynamic approach to close a given portion of the ocean temporarily using real-time science in a more adaptive approach.

Both static and dynamic closures were evaluated at varying levels of proportional area closures and were treated as either a “centroid” closure or as a “mosaic” of selected area closures. Static closures are always in the same place. Dynamic closures are changed based on environmental conditions and distribution of bycatch. In one scenario, fishing effort was fixed and thus no assumptions on effort levels are made. In another scenario, fishing effort may vary, but the fishery operates up to a level of total catch for a given species.

Analyzing 15 different fisheries, the study found that under static area management, such as classic no-take marine area closures, observed bycatch could be reduced by 16%. However, under dynamic ocean management based on observed bycatch and closing the same total area but fragmented in smaller areas that can move year to year, that reduction can increase up to 57% at minimal or no loss of target catch.

Gourley said static approaches are simple and easy to regulate and thus favored by nongovernmental organizations. He wishes the dynamic approach can be more pervasive in MPA designs.

Hilborn said even MPA advocates are starting to favor dynamic approaches. Climate change is moving distributions as well so traditional approaches to MPAs may not do much.

Gourley said the sanctuary issue in the Mariana Archipelago needs to incorporate these same arguments. Advocates for no-take areas contend that because not much fishing exists in proposed areas so the fisheries will not be affected. However, distributions may change. Gourley said it is a strange argument because it completely removes any potential opportunity in the future to have commercial fisheries, and it kills a potential industry before it can even get started.

Rice said the development of MPAs seem to make people feel accomplished without any science to back up benefits.

Hilborn said the measure of success for advocating large static MPAs is not whether there is more fish in the ocean, but how much area you close and the more you close the more successful you have been.

Amani said she feels like her community is finally getting listened to and refreshing that it is coming from scientists.

Dueñas said the Council has been at the forefront of conservation for a long time. He asked if there is a comparison on the effects of closures versus limited entry or ACLs. Dueñas noted closures shut down fisheries rather than control or manage them.

Hilborn said based on the kind of movements seen for skipjack, yellowfin and bigeye tuna, a closed area would have to be of an unfounded size to increase the abundance. Hilborn and Ovando looked even to the largest MPAs, in the scale of million square kilometers, and they have no effect. The only way closed areas will help these tunas is if they are already overfished.

Sakoda asked if Hilborn has looked into the feasibility of implementing the presented dynamic ocean management approach. Sakoda said it seems like it might pose some challenges with compliance or enforcement, which might reduce the effectiveness of things like bycatch reduction.

Hilborn said adaptive and dynamic management is practiced extensively in Alaska and off the U.S. West Coast where fishing industry groups have formed cooperatives to share information about where bycatch is happening and they have gone so far as to have legal agreements that when someone working for the industry closes an area because of high bycatch, their companies and the fleets have to move.

3. SSC Working Group on Area-Based Management

Mark Fitchett provided an overview on progress of the CCC Subcommittee on Area-Based Management and the SSC Working Group on Area-Based Management. The CCC Subcommittee is expected to deliver a draft paper in May 2022 that is focusing on the Biden Administration's "America the Beautiful" initiative and taking inventory of what area closures and what management actions are effectively managing marine resources for the purpose of conservation. The purpose of the America the Beautiful initiative is to allocate 30% of lands and waters for purposes of conservation by 2030. There are eight guiding principles. The CCC subcommittee has a working definition of what conservation means in lieu of an agency-adopted definition. The subcommittee is looking at all conservation areas, from gear restricted areas, fishery closures and time-area closures, and determining which America the Beautiful principles

it follows. In some regions, such as the Western Pacific, the subcommittee would ban potentially destructive fishing gears like trawls or bottom-tending gears in all waters.

The SSC Working Group has developed an outline for a policy-informed paper to address Western Pacific Region objectives with respect to conservation, biodiversity and social/economic benefits, and reducing impacts on nontarget species. This paper is intended to drive positions for the United States regarding the America the Beautiful executive order and negotiations for BBNJ.

Gourley asked if the CCC subcommittee paper will be ready in June.

Fitchett said a draft will be available in advance of the May 2022 CCC meeting.

Gourley asked what influence the CCC likely has with defining what conservation area means.

Fitchett said the Council on Environmental Quality has not yet come up with a formal definition, but NOAA Administrator Rick Spinrad's staff has been participating in the subcommittee and has been supportive. He said he does not foresee a divergence between the CCC and NOAA because many of the MSA-led areas, which include gear-restricted areas that have an appreciable conservation benefit, are to be accounted for as effectively managed. There has not been as much interaction with the Department of the Interior to date.

Dueñas expressed concern that both BBNJ and America the Beautiful initiative will lead to more environmentalist-led closures in the Western Pacific. He said he supports the development of the CCC paper to account for existing management areas, noting the existence of catch limits, no-anchoring areas, and vessel size limits for Western Pacific fisheries. Many of the disproportionate burdens in the region are related to EEJ issues.

E. International Fisheries

1. South Pacific Regional Fishery Management Organization Annual Meeting

Brinkman discussed outcomes of the 10th meeting of SPRFMO held Jan. 24-28, 2022. The two major commercial fish species in SPRFMO are jack mackerel and jumbo flying squid. For jack mackerel there was a rollover of catch limits. For jumbo flying squid there were proposals from the European Union and China that were both responsive to advice from the SPRFMO Scientific Committee to establish precautionary fishing effort limits. Brinkman noted China came to the SPRFMO meeting with its first-ever proposal for any conservation and management measure which was for squid. This measure originated as a freeze in effort based on vessels and gross tonnage authorized as of Dec. 31, 2020, and solely applying to the three members currently with authorized squid fleets and applying to no other members. Discussions were broadened to let future fishing opportunities for other nations with reported squid catches in the past, such as the U.S. catch limits apply to jigging only for the time being. The United States also took the lead to draft a bottom fishing measure.

Duenes asked if SPRFMO looks at sardines, noting concern over the diminished size.

Brinkman said there is no sardine management in SPRFMO.

Tosatto said SPRFMO does not have sardines or anchoveta as its management unit because most catches come from inside the EEZ of South American nations and nations with coastal upwelling. SPRFMO manages the high seas only.

2. New Strategy for Addressing WCPFC Issues

Fitchett presented on the development of a new strategy for addressing WCPFC issues through a more holistic approach in response to a Council recommendation at the 189th meeting and the outcomes of the December 2021 WCPFC meeting. Council staff and representatives from U.S. tuna industries have developed an information paper that emphasizes the importance of fisheries to the Pacific Islands community and of strategic importance to U.S. national interests. This paper is called “Waning US Influence and Impacts to Major US Pacific Tuna Fisheries within the Western and Central Pacific Ocean: A Call for a US Governmental Strategic Plan.” The Department of Commerce and NOAA should not deal with these issues alone, but also work with the Department of the Interior Office of Insular and International Affairs, Homeland Security with the USCG, U.S. State Department, and the Department of Defense, noting that the successes and the prosperity of U.S. fisheries have ramifications on trade and national security.

At the last WCPFC meeting, there was a lack of progress toward an agreeable tropical tuna measure that had many benefits for U.S. fisheries. The United States was unsuccessful in putting forward its proposals to increase catch for the Hawai‘i longline fishery. American Samoa is entitled, at least, to a privilege as a SIDS per Article 30 and 43 of the convention. But on paper; this has not been put into practice. The purse seine fleet within the WCPFC that operates out of American Samoa, which are U.S.-flagged, are still subjected to a three-month FAD closure, as well as an additional two-month high seas without having at least some of the exemptions that are put in place. Competing foreign vessels, many of which are flagged as SIDS vessels, are using Article 30 as justification for exempting themselves from the FAD closure. The situation makes it harder for American Samoa vessels to operate under the U.S. flag and supply the cannery, the largest private employer in the territory. Since 2018, the U.S. purse seine fleet has declined, with an exodus of U.S.-flagged vessels going from 34 in 2018 to 13 today. The American Samoa longline fishery is also struggling to compete with foreign fisheries due to WCPFC inaction on improving a conservation and management measure for South Pacific albacore or harvest strategies.

Chinese influence is growing in the Pacific and U.S. Navy Tri-Service Strategy also notes that waning U.S. influence, either economic or political, has ramifications on the ability of free trade and national security for the United States across the Pacific. A former State Department expert once said fisheries in the Pacific Islands is much like oil in the Middle East. The Biden Administration is currently soliciting comments on an Indo-Pacific Strategy.

Simonds said a new and different strategy is needed than what is being implemented now. The Council is working closely with industry, HLA and ATA.

Gourley said the Council has an opportunity to take a lead on the initiative it drafted. Gourley said the Indo-Pacific Strategy of the United States published by the White House seems

like it should include fisheries, or at least at a minimum, natural resource management as one of the components.

Rice said the negotiations, including those in 2012 in Cairns were disastrous and the United States was pushed around. Chinese influence is growing and they seem to be making the rules.

Muña-Brecht said the United States' and Pacific Islands' roles are getting more complex. The Council should also get governors to draft letters supporting better negotiations. The U.S. State Department has to have improved negotiations, as it has tried to articulate the importance of fisheries.

Simonds said the Council has already sent letters to the Biden Administration and high level staff, but it is still in discussions with HLA and ATA.

Dueñas said he hopes Tosatto emphasizes the uniqueness of this region versus the rest of the Indo-Pacific area (in the Indo-Pacific Strategy). Dueñas said the Hawai'i fishery needs an improved quota and American Samoa fisheries should not be negatively impacted by WCPFC FAD closures. He suggested that American Samoa could set up a system of FADs in the U.S. EEZ. Dueñas asked if Howland or Baker are closed to fishing.

Simonds said it is closed inside the 50 miles, and the Council asked if some of the PRIA (Jarvis) could be opened for U.S. purse seine fisheries. The purse seiners have to fish in Kiribati waters (which neighbors Jarvis) and pay \$13,000 a day. She said while the Council did convey concerns about PRIA and the closures, there are many positives to the Biden Administration's initiatives, so the Council is taking full advantage of the opportunity.

Sword said it was disconcerting at the last WCPFC that nobody wanted to listen to the pleas of American Samoa. Locals in the islands need to talk louder on the matter. Most FADs now are biodegradable as well.

Soliai said the FAD closures present an uneven playing field for American Samoa and causing attrition of the U.S.-flagged fleet. American Samoa is not getting enough fish and Hawai'i is not getting its fair quota. Stakeholders need to get involved and need to address the recognition of American Samoa so it is entitled to WCPFC benefits for SIDS and participating territories. The issue is exactly an EEJ issue. Soliai asked Tosatto for an update on a 2015 Advance Notice of Proposed Rulemaking (ANPRM) under the WCPFC Implementation Act in which NMFS announced that it was considering proposing regulations to recognize American Samoa as a distinct purse seine fishery. No further action was taken since 2015, but it is timely to revisit this in 2022 because President Biden's 2022 Unified Agenda of Federal Regulatory and Deregulatory Actions included a potential proposed rule from NMFS on this particular issue. He said attempts to acknowledge an American Samoa purse seine fleet has been rebuffed.

Tosatto said he shared some views at the Pelagic and International Standing Committee meeting, noting that the strategy document is appreciated. He does not agree with all of it but does support its intent to bring a broader whole of government approach, much like the Indo-Pacific Strategy is looking to do with a broad pool of government effort to counter China's influence in the region. Tosatto said he is not the lead for the Indo-Pacific Strategy, but is the lead for the U.S. government's implementation of the WCPFC by the statute. To become a better

partner with many of these countries, more proactive engagement with the United States Agency for International Development efforts, countering illegal fishing, and other capacity-building are needed. NOAA and NMFS expertise has to become that partner of choice for Pacific Island nations instead of China on some of these issues. Efforts should not go toward increasing fishing capacities of Pacific Island nations. The Department of Defense is not engaged so much, but that interest is growing. Tosatto said he wants to correct some history regarding the PRIA, noting that Howland, Baker, Palmyra, Kingman Reef complexes do not have their entire U.S. EEZs closed, whereas Jarvis and Wake are fully closed. Tosatto also clarified that American Samoa is not a SIDS because it is not a state, but as a participating territory, it can participate like a SIDS. The U.S.-flagged purse seine fishery operating in the WCPFC was much different than today, operating mostly away from American Samoa. The U.S. government's position is that there is an American Samoa purse seine fishery, and there is no longer a U.S. purse seine fishery that existed shortly ago. Tosatto said opportunity was lost at the last WCPFC meeting and there was an opportunity to make gains in this regard because the United States took the advice of its advisors. Regarding the ANPRM, Tosatto said the agency is likely not advancing the rulemaking in the way it was originally intended, and said the priority is to ensure compliance with the WCPFC, noting criticism of effort limit area for purse seine as being noncompliant. He also affirmed the reliance on the South Pacific Tuna Treaty as the underlying framework for the current fishery's operation, so the rulemaking that Soliai asked about will be slightly different.

Soliai said he is glad to hear that the U.S. government is finally recognizing the American Samoa purse seine fishery. He recalled that the 2015 ANPRM mentioned a determination that NOAA was designating American Samoa as a SIDS or a participating territory, and that it was an opportune time to revisit that.

Tosatto said ANPRM likely referred to the equivalency between the SIDS and participating territory under the WCPFC context, and acknowledged there are some special provisions for participating territories. In 2015, NMFS had envisioned something that would recognize that a component of a broader U.S. fishery operated out of American Samoa and could operate under a set of rules commensurate with the role of American Samoa as a participating territory. The current reality is that all of the remaining vessels operate out of American Samoa. The intent would be to interpret the obligations under WCPFC in a way that supports the broadest standing and broadest opportunities for the American Samoa purse seine fishery.

Soliai said regardless of whether American Samoa is a SIDS or participating territory, there is still a disproportionate burden to American Samoa that needs to be alleviated. Article 43 clearly says that American Samoa is afforded the same recognition for SIDS or territorial benefits. NMFS is obligated to make these benefits realized.

Tosatto said he does not disagree but the obligations have changed.

Fitchett said Articles 30 and 43 acknowledges American Samoa as beneficiaries to the same rights as SIDS. American Samoa purse seine vessels rely on waters outside of the U.S. EEZ because American Samoa waters do not have much skipjack, being too far south and more suitable for albacore.

Dueñas expressed his concern over reflagging under the South Pacific Tuna Treaty. He suggested another subset of nations to get agreements with. The United States is still paying \$23

million to Kiribati and Cook Islands, yet the U.S.-flagged fleet is down to 13 vessels. The WCPFC and NMFS is inhibiting the island communities against MSA National Standard 8.

3. Biodiversity Beyond National Jurisdiction

Fitchett provided an update of U.S. positions and listening sessions for stakeholders regarding the negotiations for BBNJ. Area-based management issues are of principal concern for the Western Pacific Region. U.S. statements will be made on the floor and not made available in advance of the meeting. U.S. stakeholder concerns include adjacency of potential high seas closures to existing U.S. domestic closures. There was agreement that BBNJ should not undermine RFMO competency, and BBNJ would simply make recommendations on area-based management to the RFMOs. A fifth session will be held sometime in later 2022.

Gourley said it was good news BBNJ would not interfere with RFMOs.

Dueñas said he is concerned that the Forum Fisheries Agency is behind pushing more high seas closures and also with military movement, noting that 61% of the U.S. EEZ in the Western Pacific is closed to longline and purse seine fishing.

Simonds said there is no plan for high seas closures right now. Pacific Islanders were behind it some time ago, working with Pew Charitable Trusts.

Fitchett said BBNJ is not a consensus-based negotiation. There was no indication that there would be movement toward the RFMOs being pushed aside in their ability to implement the area-based management tools, so BBNJ would not be the one to actually put high sea closures into practice. It would have to go through the RFMO first.

Soliai said he would like to know what other countries are saying and what their positions are.

Brinkman said there seems to be a group coalescing around the position of deferring to RFMOs in areas where they have jurisdiction. No one party can block negotiations. But it also means less power to the United States if it objects.

F. Advisory Group Report and Recommendations

1. Advisory Panel

Ken Borja, Guam AP vice chair, presented AP recommendations.

Regarding American Samoa fisheries, the American Samoa AP recommended the Council communicate concerns to the United States regarding equity for American Samoa fisheries such as recognition by the WCPFC that American Samoa is a SIDS.

2. Fishing Industry Advisory Committee

Goto, FIAC chair, presented FIAC report and recommendations.

Regarding the Pacific Strategy, the FIAC endorsed the Pacific Strategy as presented and recommended the Council request the Permanent Advisory Committee to the WCPFC

U.S. delegation (PAC) address this strategy at its next series of meetings leading up to WCPFC subsidiary committee meetings and work in coordination with longline and purse seine fishing industries.

Regarding domestic MSA 304(i) obligations to address overfishing of WCPO silky sharks, the FIAC recommended the Council inform NMFS that no additional MSA 304(i) domestic recommendations are needed because the U.S. purse seine fleet has diminished in recent years, overfishing from international sources is increasing, and more U.S. domestic regulations would exacerbate the issue of U.S. vessels reflagging, resulting in counterproductive conservation efforts.

3. Scientific and Statistical Committee

Lynch, SSC chair, presented the SSC report and recommendations.

Regarding the Hawai‘i longline report, the SSC recommended that further work be undertaken to better understand the potential causes behind the declining trends in the catches of these commercial species, and identify whether these declines could be explained by changes within the fishery or whether they may reflect declines in these stocks.

Regarding the strategy for the WCPFC issues, the SSC recommended that U.S. delegations to WCPFC subsidiary committees coordinate to address objectives of the Pacific Strategy and to ensure that representatives of the U.S. Pacific Island Territories and Commonwealth take an active role in developing and implementing these objectives.

G. Pelagic and International Standing Committee

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

Regarding domestic MSA 304(i) obligations to address overfishing of WCPO silky sharks, the Pelagic and International Standing Committee recommended the Council inform NMFS that no additional MSA 304(i) domestic recommendations are needed because the U.S. purse seine fleet has diminished in recent years, overfishing from international sources is increasing, and more U.S. domestic regulations would exacerbate the issue of U.S. vessels reflagging, resulting in counterproductive conservation efforts.

Regarding a New Pacific Strategy, the Pelagic and International Standing Committee recommended the Council request that the PAC, working with both industry and other Pacific Island nations, to address the strategy and to develop a plan to make progress on harvest strategies at its next series of meetings in 2022.

H. Public Comment

There was no public comment.

I. Council Discussion and Action

*Regarding the Hawai‘i longline fishery reports, the Council **directed the Pelagic Plan Team to***

identify analyses or data sources that could help to better understand the potential causes behind the declining trends in the catches of some commercial species, and identify whether these declines could be explained by changes within the fishery or whether they may reflect declines in these stocks.

Moved by Rice; seconded by Dueñas.

Motion passed.

Regarding area-based management in the Western Pacific Region, the Council directed staff to write a letter to NOAA requesting it conduct studies (or allocate funding to conduct studies) on analyzing trade-offs of static fishery closures versus implementation of other fishery management tools in the Western Pacific Region. Tradeoffs should consider socioeconomics, distributions of target and nontarget species, and climate change.

Moved by Dueñas; seconded by Rice.

Motion passed.

Regarding a New Pacific Strategy, the Council endorsed the Pacific Strategy as presented and recommends that NOAA address this strategy at its next series meetings with the PAC leading up to WCPFC subsidiary committee meetings and work in coordination with longline and purse seine fishing industries to implement such a strategy.

The Council recommended that NOAA work with U.S. delegations to the WCPFC Science Committee and the Technical and Compliance Committee, well in advance of their meetings, with a goal to advance U.S. interests by developing objectives with respect to:

- a. Candidate target reference points to expedite development of harvest strategies.**
- b. Region-specific or area-based tropical tuna management objectives for longline fisheries in the next tropical tuna conservation and management measure.**
- c. Strategies to increase opportunities for and viability of the American Samoa longline and purse seine fisheries.**
- d. Ensuring that representatives of the U.S. Pacific Island Territories and Commonwealth take an active role in developing and implementing these objectives.**

The Council directed staff to write a letter to the U.S. State Department and to NOAA expressing concerns regarding the acknowledgement of American Samoa's rights as a SIDS under Articles 30 and 43 of the WCPFC Convention Text and how it relates in the context of EEJ.

The Council directed staff to respond to the Biden Administration request for information on the Indo-Pacific Strategy, reinforcing the importance of fisheries to the Pacific Islands and the uniqueness of the Pacific Islands to the Indo-Pacific as a whole.

Tosatto asked why NOAA is addressed and not NMFS, and said NMFS clearly leads the delegations so it seems odd that NOAA would work with the U.S. delegation. He thinks NMFS should be the addressee.

Simonds said the letters would go to NOAA since the Council has been working with Kelly Kryc, NOAA deputy assistant secretary for international fisheries. NMFS and PIRO would be involved.

Soliai agreed with Simonds.

Tosatto appreciated the clarification and said the PAC agenda is established by the chair and PIRO staff. NMFS will lead the delegations in the subsidiary bodies.

Dueñas said he appreciated that the discussion will be directed to higher levels in NOAA, noting the lack of attention on these issues to date.

Moved by Dueñas; seconded by Rice.

Motion passed.

Regarding domestic MSA 304(i) obligations to address overfishing of WCPO silky sharks, the Council directed staff to inform NOAA and the Department of State that no additional MSA 304(i) domestic recommendations are needed because the U.S. purse seine fleet has diminished in recent years, overfishing from international sources is increasing, and relative impacts of U.S. vessels are declining.

Tosatto said he would abstain because he will look deliberately at the Council's letter and asked that Council staff, when it forwards the response with the recommendation that it thoroughly describes the rationale for providing no additional recommendations.

Simonds said the staff is ready to send the letter and all the details and rationale are in the draft letter.

Moved by Dueñas; seconded by Sword.

Motion passed with Tosatto abstaining.

IX. Protected Species

A. False Killer Whale Hook Study Implications

Asuka Ishizaki, Council staff, presented on the considerations for developing the Council position on the implications of the weak hook study and associated next steps in preparation for the FKWTRT meeting anticipated later in 2022. Ishizaki provided a brief background on the FKWTRT and the FKWTRP, which was implemented in 2012. Prior to the 2018 in-person meeting, the Council adopted a position statement that recommended greater focus on minimizing trailing gear to provide greater impact reduction than weak hooks, did not support changes to gear or additional closures until updated FKW abundance estimates became available, and recommending consideration for removing the SEZ. The FKWTRT did not reach consensus

at the 2018 meeting for modifying the FKWTRP, and later reached consensus on nonregulatory recommendations on crew training, depredation research, post-hooking mortality and data synthesis in December 2020.

In 2021, NMFS conducted a study to evaluate the effects of the existing 4.5 mm wire diameter circle hook with a weaker 4.2 mm hook on catch and value, based on FKWTRT discussions from the 2018 meeting. Ishizaki noted the weak hook study report's mention that the FKWTRT set an economic impact threshold of 10% reduction in catch or value was incorrect, noting that the FKWTRT did not reach consensus on such threshold but did discuss reduction of less than 5% in bigeye tuna ex-vessel weight or ex-vessel monetary value of total catch. The study results indicated that while bigeye catch risk was not significantly different between the two hook types, bigeye body length and weight was significantly higher on 4.5 mm hooks and exceeding the 5% threshold for the effect on bigeye weight and associated value for target species. It is unclear whether weaker hooks would provide meaningful conservation benefit based on the study results, considering the small difference in breaking strength between the two hook types and that the number of straightened hooks were not significantly different between the two hook types. The study also used a thicker monofilament branch line than is typically used in the fishery, which caused additional practicality issues and crimp failures.

Ishizaki also provided updates on previous Council positions. To increase focus on minimizing trailing gear over weak hooks, a revision to the NMFS Serious Injury Determination Policy Directive remains a priority, as the current policy indicate that any trailing gear left in the animal and any hook in the mouth are considered serious injuries, which are equivalent to a dead animal for the purpose of evaluating impact to the population. NMFS is conducting a review of the policy directive, and Council staff sent a letter in response to an informal opportunity for input provided to the FKWTRT members in early 2022. Since the time of the Council's previous position statement, NMFS finalized the abundance estimates for the pelagic stock of FKWs, based on the 2017 U.S. EEZ-wide survey. The resulting abundance increased the estimate from approximately 1,500 animals to 2,100 animals, and increased the potential biological removal from 9.3 to 16. The latest estimates also updated the abundance from the past surveys conducted in 2002 and 2010, both of which resulted in the historical abundance estimate being revised to over 2,000 FKWs. These updated abundance estimates suggest that the FKW interactions in the Hawai'i deep-set longline fishery had not exceeded potential biological removal in the past. The SEZ closed in 2018 and 2019, and in 2021 the trigger was met but the SEZ did not close because of the process required to confirm the interactions was not completed before the end of the calendar year.

Gourley asked if the definition of serious injury that NMFS uses is a unilateral definition developed by NMFS.

Ishizaki said there is a regulatory definition for serious injury and NMFS has further interpretation on that in the form of a policy guidance.

Dueñas asked if FKWs are satellite tagged following the interactions by observers to determine their mortality rate, noting that these animals are pretty tough. He expressed his disappointment with the lack of progress that the FKWTRT has made since 2018, and said the weak hooks have not shown any type of promise. He recalled that the population estimate was approximately 400 around 10 to 15 years ago, and with the latest abundance estimates exceeding

2,000 animals, he wondered if the full picture is being considered. He wondered how much of the interactions are occurring beyond the closure areas, and noted his concerns with the assumptions regarding the impacts of trailing gear and that greater emphasis should be placed on determining whether the interactions are having a detrimental effects on their survival. He asked whether there have been additional studies on the impact of hooks and trailing gear.

Dang said while the weak hook study report noted straightened hooks were collected, not all straightened hooks were collected during the study and caused an information gap regarding the effectiveness and economic impacts of the weak hooks. The mean bigeye tuna body length and weight was significantly larger on the 4.5 mm hooks, and larger fish generally lead to higher prices. The deep-set longline fishery lands approximately 220,000 pounds of bigeye tuna per year, and with a \$52 difference per fish, the difference in revenue could amount to \$10 to 11 million. He also noted the CPUE of bigeye and yellowfin tuna were lower than average during the study, which further affected the overall value. Noting fuel price increase of 30% and bait price increase of 20 to 25% over the past year, and trip costs being high while fish prices are experiencing a downward pressure, any additional economic impacts from weaker hooks would add to the difficulties of operating under the current conditions. He recalled that early in the FKWTRT process, industry representatives had serious doubts about weak hooks being successful and providing the intended conservation benefit, or creating unintended consequences by hurting the whales more, and said their concerns remain the same a decade later. He said ingested hooks may not be as damaging as assumed, noting the case of the stranded FKW that died of old age and had five hooks in its stomach, and that reducing trailing gear should be considered as a solution. He also suggested that a strong hook study could be conducted to evaluate the effectiveness of hooks previously used to determine whether those hooks could be used again. He said the limited resources should be focused on reducing depredation through developing tools and strategies, as captains are reporting that they are experiencing more depredation than ever before, and industry believes that such focus would have the greatest impact. He also recalled that FKWTRT members acknowledged that the SEZ may not work and a closure may displace effort, but the SEZ was used as leverage for fishermen to comply with the FKWTRP measures. He asked for PIFSC to focus on depredation and interaction patterns as well as improving information on the impacts from the injuries, as that would provide the greatest potential for progress, noting that FKWs are very smart animals and adaptive.

Rice said it was interesting to see that more marlin were caught on the weaker hook than on the stronger hook, as he would have expected the opposite. For the hook to straighten out, the point of the hook has to be the only part that is embedded, whereas majority of circle hooks end up in the corner of the mouth where it will be impossible to straighten out based on information on marlin and sharks. He said the key is to cut the leader closest to the hook, as one hook in the mouth will not kill a fish, and the guidance that a whale would die from a hook left in the mouth needs to change. He noted the whales are much stronger and larger than any marlin or tuna, which are known to survive multiple hooks in their mouth and trailing gear. He also agreed with Dueñas that some satellite tagging is needed to evaluate survival after release.

Tosatto said, in response to Gourley's question of whether the serious injury determination is unilateral in nature, NMFS has a scientific review apparatus that has provided detailed and extensive input on its agency guidelines, as well as a broad national marine mammal expertise available from many sources including the Marine Mammal Commission and others charged with informing NMFS's decisions and policies. He said the guidelines are a well-

informed policy, albeit now potentially dated relevant to FKWs with some significant improvements in information.

Ishizaki said the SSC has discussed the issue of satellite tags, including in its issues paper developed in 2021. One of the challenges is with the logistics of deploying tags even with observers on board. Satellite tag deployment on FKWs necessitates permitting and training due to the method of inserting the tag into the dorsal fin, which has been the barrier to closing the significant data gap. There is a need to reverse-engineer a tagging method considering those limitations, similar to the ongoing effort between PIFSC, Wildlife Computers, and the Council to develop a vessel-side direct attachment deployment method for leatherback turtles. Ishizaki noted developing a tagging approach suitable for deployment from a longline vessel was one of the project needs highlighted by Council staff in a recent call for priorities by NMFS for the congressional appropriations for FKW research.

Dueñas said deploying ping tags on the whales and receivers on the vessels could be a less intrusive and less complicated way of tagging, allowing vessels to hear the ping coming from the whales while they are fishing.

Ramsey agreed with Rice that it is difficult to straighten a hook, as it relies on the positioning. He asked how trailing gear results in mortality of the whale.

Ishizaki said the whales' breathing tube that connects to the blow hole passes through the esophagus (goosebeak), and that there is a risk that fishing gear could become wrapped around the goosebeak. Such cases have been found in stranded bottlenose dolphins in Florida, but have not been confirmed with FKWs. She noted while gear that is cut short enough may prevent such injuries, the serious injury determination guidelines do not have a category that considers cases in which a hook is left in the mouth with a line shorter than a certain length. She referred to the Council's letter providing input on the serious injury determination review for additional details.

Rice said if the hook can be seen in the mouth, then it would work well if the line can be cut short.

B. Endangered Species Act Section 7 Mapper Overview

Dean Szumylo, Lynker, presented an overview of the ESA Section 7 Mapper tool first developed for the NMFS Greater Atlantic Regional Fisheries Office (GARFO) and more recently for the Southeast Regional Office (SERO). The tool is an interactive browser-based mapping application designed to help expedite the ESA Section 7 consultation process, and covers the entire U.S. EEZ in the Atlantic Ocean from Maine to Florida, and the Gulf of Mexico and the Caribbean Sea. Szumylo indicated that he is available to explore how a similar mapper might benefit the Western Pacific Region.

The project was conceived in response to Section 7 staff at GARFO being inundated with consultation requests that were unnecessary, inaccurate, incomplete or informed by outdated data, which extended the consultation timelines. The premise was to provide better site-specific technical guidance to action agencies to help prioritize actions that require consultations and complete the consultations in a timely manner. Several obstacles were discovered around the methods the agency used to share technical guidance on species, including deficiencies with how critical information was held, and how knowledge about listed species is remembered,

understood and interpreted by individuals within the agency. The solution that Lynker developed with NMFS was to first build the underlying data that feeds the mapper application, which help to answer the question of whether an action agency needs to consult and for which species. The data were loaded into a web map application alongside with designated critical habitat boundaries and other contextual data such as administrative boundaries or management areas. Users are able to interact with the mapper tool by selecting an area to generate a report identifying the consultation areas and a downloadable spreadsheet of the data pertaining to the consultation areas.

The implementation of the Section 7 Mapper tool in GARFO in April 2018 improved technical guidance that NMFS provides to action agencies, improved quality of incoming consultation requests, and reduced the consultation timeline from more than 30 days to less than 10 days. GARFO and SERO now have a unified database capturing the agency's current understanding of species distribution in a publicly available web application, and the action agencies and NMFS are reviewing the same data. The tool received the Department of Commerce Gold Medal Award in 2019.

Gourley asked if an action agency uses the tool and comes to a no effect determination, whether it can use the report to file a memo documenting the determination without having to coordinate with NMFS.

Szumylo said GARFO now requires the use of the mapper tool as part of the data gathering phase of the consultation, but was not sure if a self-service determination is currently allowed.

Gourley said not having to deal with NMFS could save action agency time with the overall project process. Gourley asked at what point in the Section 7 consultation process the mapper tool would be used, whether at the time of requesting a species list from NMFS or when submitting an application for consultation.

Szumylo said he believes that the tool is used at both of those points, as an initial determination to decide if formal or informal consultation needs to proceed, and to include the summary report in the consultation request.

Gourley said he is a little skeptical that the tool would save time with consultations unless NMFS would accept the mapper results as-is. He said consultations with NMFS in the Western Pacific can become overboard as the agency wants to consult on everything, making reference to an example of a CNMI shoreline revetment project in an intertidal zone that NMFS is requiring a consultation for an ESA-listed shark species. He said he would be interested in seeing whether a mapper tool could work for the region, but with some reservations, noting that local knowledge would have to be consulted. He said anything that could speed up consultations and requires less letter-writing back and forth would be a benefit, but the agencies would need to make an effort on their part to help streamline the consultations.

Szumylo said the mapper generates the species list and reduces the time needed to wait for NMFS's response for that step.

Sarah Pautzke, Lynker, said the mapper is designed to assist with situations like the CNMI revetment project example by clarifying whether certain species occur in the relevant areas, and building that nuanced information into the tool.

Gourley said if NMFS moves forward with a mapper for the region, the local biologists would play an important role in determining areas where there may or may not be ESA-listed species.

Muña-Brecht said she is cautiously optimistic that the tool would be helpful with consultations, but somewhat leery of another opportunity to solidify information about ESA-listed species that may not be up-to-date, as encountered during the coral or green turtle critical habitat designation processes. She acknowledged that the mapper would provide an opportunity to update species information.

Dueñas said he is also cautious that, while it would be a great tool to have, there may be concerns about the data that would be incorporated into the tool. He hopes that if the tool becomes available in the Pacific, that it provides scrutiny to the information included in the mapper, rather than the tool being used to impede fishery management.

Amani echoed comments from other members, noting that the tool could work if it is developed together with the local authorities and with input from local fishermen. She said with new tools, there will always be skepticism because of past experiences that have impacted fishermen.

Sword said the tool should be developed correctly so that it can help inform decision-making.

Soliai said there may be benefits to developing the mapper tool for the region provided that proper consultation and outreach is done.

Ramsey asked who is responsible for populating and updating the shape files in the database for GARFO and SERO.

Szumylo said GARFO has integrated the process of updating and maintaining the dataset into the Protected Resources Division, and the process is being developed for SERO. There is an active depository to collect feedback both on the mapper application and on the underlying data, so stakeholder feedback can be integrated into a regular data review and update process.

Ramsey asked if there is a built-in process for fishers, stakeholders or scientists to contribute to the shape files.

Szumylo said when the shape files were first developed, GARFO and SERO worked with their state partners as well as other experts from research institutions to vet and verify the best available data.

Gourley asked for Tosatto's opinion on how PIRO would incorporate this type of tool for the region's Section 7 consultations.

Tosatto said the tool is interesting, and said his staff has had interactions with Lynker about the project. PIRO will monitor the development of it as it continues to develop. He said the tool could be viable for replacing some of the information exchanges early in the consultations, but was not sure of its utility in fishery consultations.

C. Endangered Species Act Consultations for the Hawai‘i Deep-Set Longline Fishery, American Samoa Longline Fishery and Bottomfish Fisheries

Tosatto provided the ESA consultation updates and reported the ongoing consultations are estimated to be completed by spring. He said while no one is completely satisfied with the timeline over the history of the consultations, PIRO intends to wrap them up as the documents are in a format that would allow completion during the spring time with several key review steps remaining with uncertain timelines. The completion dates presented (April 2022 for the Hawai‘i deep-set longline and bottomfish consultations, and May 2022 for the American Samoa longline consultation) were estimated and not certain completion estimates. A number of factors have affected the timeline of the consultations, some of which have been internal to the agency, while some were due to the applicant seeking delays, which the Council has supported. The latest of the delays occurred with the voluntary shift to monofilament leaders and the Council’s follow-up to take action to make that mandatory. The action agency requested and the applicant agreed to the delay in the consultation as the analysis was completed, which cause NMFS to redo significant portions of the effects analysis.

The deep-set longline fishery consultation is listed to be completed first as that is the agency’s priority, and because some of the issues being worked through for the deep-set longline fishery consultations are in some ways common to the American Samoa longline fishery consultation. The priority is placed in getting a fully supported and legally sufficient draft together for the deep-set fishery, and those changes will be worked into the American Samoa fishery. The deep-set fishery consultation draft is in review with the Protected Resources Division head, and when a draft reviewed by GCPI is available, then it will be made available to the public, at which point the Council will have an opportunity to review the draft BiOp as requested under the ESA-MSA Integration Agreement. Tosatto said the exact dates of the Council’s draft review cannot be predicted yet, but once a draft is available for GCPI and action agency (PIRO SFD), he will begin to develop a more fine-tuned schedule for the Council.

The bottomfish fishery consultation is on a separate track, with different biologists working on different issues, and not as linked with the longline consultations. The bottomfish consultation will also go through the divisional review, followed by GCPI and action agency review, before a draft will be available to the public and the Council for review.

Gourley said he assumes that PIFSC reviews the draft BiOps before they are released, and asked whether PIFSC works with PIRO in developing the BiOps, or if the BiOps are developed entirely within PIRO before they are provided to PIFSC for review.

Tosatto said the BiOps are developed, drafted, reviewed and approved by PIRO following NMFS’s ESA quality control guidelines. The process does not include a step for PIFSC to review either during development or in the final stages, because PIFSC scientists are not charged with the knowledge of determining the effects and jeopardy in a way that a consulting biologist is trained within the requirements of the ESA. PIFSC involvements include

providing the supporting science as requested by PIRO, which goes along with Council-requested products that induced delays with the additional sea turtle population vulnerability assessments and the assessment to evaluate the change in leader material. PIFSC's role is completed with those inputs, and the rest of the BiOp responsibility is with PIRO.

Gourley said it appears that PIRO needs some help in completing the BiOp, but was uncertain where the bottleneck is. He said letting PIFSC and even Council staff enter the conversation at an earlier stage could be beneficial to the consulting biologists so they have a fresh look at certain issues and help speed the process along. PIFSC could serve a role to help make sure that the BSIA is used, not necessarily to make any decisions.

Tosatto said he wanted to make it crystal clear to Council members that PIRO scientists complete the BiOps. He reiterated that PIFSC scientists provide input so that the PIRO scientists can complete the BiOps. PIRO scientists are trained in addition to their basic scientific knowledge to conduct the work necessary to make the jeopardy determinations. He said there are requirements of the ESA that PIFSC scientists are not armed with to provide relevant information at the stages of incorporation inside a jeopardy determination. The better the PIFSC scientists understand the PIRO process, the better those starting inputs occur. The Council's role is at the start, in assisting the action agency in developing the information that goes into the BiOp, which PIFSC scientists also support. PIFSC's role is in the middle, supporting additional requests that the consulting biologists ask during the consultation process. In the ongoing consultations, PIFSC produced more pieces of information at the request of the applicant or the Council than what the action agency asked for up front when the consultation was reinitiated. Those information products were part of the delays, whereas some were internal, relating to capacity, numbers and ongoing other work that competed with completing the fishery BiOps. Tosatto said he does value the Council's input and the Council will have a chance to provide input to review a draft BiOp pursuant to the ESA-MSA Integration Agreement.

Gourley said the current system is not working, and there is a need to figure out where the problem is and try to fix it. The Council cannot do its work when consultations take three years to complete. He acknowledged that there have been times when the Council has asked for a pause, but said the consultations have dragged on too long.

Dueñas said he does not recall BiOps taking so long from his previous term as Council member, and that he understands that some of the delays were due to changes in what the Council was doing to manage the longline fishery. He expressed his concern with the Guam bottomfish fishery consultation and wondered why there has been a delay for three years for that fishery. He asked PIRO to give the Council a quicker response on all of the consultations as it is like having a dark cloud lingering overhead, and the Council will be the one to be criticized for not addressing interaction issues rather than PIRO. He said he appreciates that there is now a timeline for completion.

Tosatto said the bottomfish consultation has suffered some of the same internal issues as the others, largely due to PIRO's capacity to complete a number of complex opinions at the same time. The issues are very different in the bottomfish, such as the additional listings that came in the middle of the consultation, and combining the MHI bottomfish consultation with the other territory bottomfish consultations in a single consultation. He said the bottomfish consultation in

particular is pretty well advanced and in good shape, and hoped that with the final stages of review, the draft will be available during the springtime.

Sword said he is particularly concerned about the bottomfish consultation in American Samoa, and wondered if there are any ways to speed up the process, such as providing more resources.

Soliai said the issues on the timing and delay have been clearly expressed by the Council members, noting that it has been a couple of years of seeing the anticipated completion date moving, which creates a lot of uncertainty for the fishing communities. He said he can appreciate the challenges and the underlying circumstances that contribute to the delays, but there is a need to find a way forward to make sure that the Council is serving the communities the best way possible to make sure the fishing communities are not put into an uncertain situation. There have been several notice of intents to sue because of the consultations have not been completed, which adds a layer of complication. There is a need to ensure the consultations are completed under the anticipated timeline, and the goal post cannot continue to move at every Council meeting.

Simonds said she as the executive director and staff have been trying to work with PIRO staff, but there is really no communication following each Council meeting. NMFS agrees that there should be constructive coordination between the councils and the regional offices. The CCC has asked NMFS to review the ESA-MSA Policy Directive and held a meeting in January 2022 to move along the review. One of the biggest complaints from all of the councils was lack of communication. The policy directive recognizes that the Council needs advanced notice to place the review of the draft BiOp on the meeting agenda, and need time to plan for advisory body review and input in advance of the Council meeting. Council's draft BiOp review requires planning, and Simonds asked that PIRO respect the Council process, as the Council has been respecting PIRO's, so that the Council can do its job in assisting the agency complete the ESA consultations.

Dueñas supported Simonds' concerns and expressed his disappointment. He had always understood that the Council works collaboratively with PIRO to find solutions to management issues. He asked that Tosatto provide the open communication and dialogue between the Council and PIRO to pursue the idea of frontloading as a way to move forward.

Soliai also supported improvements to the communication between PIRO and the Council executive director and staff.

D. Endangered Species Act and Marine Mammal Protection Act Updates

Chelsey Young, PIRO Protected Resources Division, reported NMFS anticipates publishing the final ESA five-year review for the MHI insular FKW sometime in spring 2022. The process was initiated in October 2020 when NMFS announced initiating the review, and the final review will incorporate public comment and new information received on the species status to determine whether this distinct population segment should remain listed as endangered.

The status review process is ongoing in response to a petition to list the shortfin mako shark under the ESA, and an Extinction Risk Assessment Team composed of NMFS experts has been convened as part of the petition response. The shortfin mako shark is globally distributed, so the Extinction Risk Assessment Team members include representatives from the regional

offices and science centers, as well as from the NMFS Headquarters Office of Protected Resources, Office of Sustainable Fisheries, Highly Migratory Species Division and Office of International Affairs. The Extinction Risk Assessment Team had the first kick-off meeting in January 2022 and are scheduled to meet several more times over the next few months to make recommendations on the extinction risk.

NMFS is also in the process of developing a recovery plan for oceanic whitetip sharks, with Office of Protected Resources being the technical lead for the plan development and PIRO having substantial amount of input. A recovery plan is also in development for the 15 listed coral species across the Indo-Pacific.

For the coral critical habitat, NMFS is working to address three major topics in response to the public comments. To provide more accurate records of listed corals in the territories and marine national monuments, NMFS experts have been working with experts in the territories as well as USFWS partners to ensure they have the best available and most accurate information on the species distributions for each of the affected islands. NMFS is also developing new and more accurate maps that will show the precise locations of critical habitat, and is conducting a new economic impact analysis.

For the Hawaiian spinner dolphin time-area closures that the Council discussed at the 189th meeting in December 2021, NMFS is in the process of reviewing the public comments and new information received, and expects to make a decision in fall 2022.

Updates on the latest FKW observed interactions were also provided, noting that there were 15 observed interactions in 2021, five of which occurred inside the U.S. EEZ around Hawai'i. The inside EEZ interactions met and exceeded the SEZ trigger, but the SEZ did not close in 2021 due to the timing of observer information review. If the trigger is met again in 2022, NMFS would follow the procedures for closing the SEZ until the reopening criteria are met.

Gourley asked that NMFS invite American Samoa, Guam and the CNMI to review the coral critical habitat designations prior to the final rule being sent to the *Federal Register*. All of the affected territories have invested an enormous amount of time on the coral critical habitat issue, and he believed that it would be beneficial to PIRO and the territories to review the changes together through an informal meeting. He acknowledged that PIRO will have the final say on the final determination, but asked that a courtesy review and comment period to be provided for the territories in advance.

Tosatto said the process is ongoing, and he appreciates the effort that the territory governments and other stakeholders, academics and others have put in to move the process along. He said he could say with some confidence that those who provided input will find the outcome satisfying. However, he said the requested opportunity for an advance review of the final determination is not a step that is contemplated under the ESA, and not a step that he was willing to take at this stage.

Muña-Brecht echoed Gourley's comments that it would benefit both sides if the territories could participate in a final review before a decision is published in the *Federal Register*. She understood where the obstacles are, and said there are some changes that need to be made to the rules that govern the process. The critical habitat process seems to be an optimal

one to involve the territory entities more in the process of rule-making rather than submitting comments at the beginning and waiting to see what happens at the end.

Soliai echoed the comments from Gourley and Muña-Brecht regarding the coral critical habitat and the opportunity for advance review. He acknowledged Tosatto's comment that such a review not being allowed under the ESA, but asked that the territories' request to be taken into consideration, as something that is satisfactory to one person may not be satisfactory to another.

E. Advisory Group Report and Recommendations

1. Advisory Panel

Clay Tam, AP chair, presented the AP recommendations.

Regarding FKWs and the Hawai'i longline fishery, the Hawai'i AP does not support further regulations on the Hawai'i deep-set longline fishery, considering the impacts from depredation, latest FKW abundance estimates and the fleet's recent transition to monofilament leaders. The Hawai'i AP supports research to evaluate economic impacts of depredation on the fleet, and assessment of interaction impacts on FKW populations in light of the higher abundance estimates.

2. Fishing Industry Advisory Committee

Goto, FIAC chair, presented the FIAC recommendations.

Regarding FKW weak hook implications and FKWTRP direction, the FIAC does not support moving to weaker hooks due to the potential economic impacts and lack of clear conservation benefit, and recommends the Council to take the position that the FKWTRP focus on reducing trailing gear and solutions to reduce depredation.

The FIAC recommends the Council request NMFS PIFSC to analyze FKW interaction and depredation patterns through 2021, including estimating economic impacts from depredation, as well as the effect of SEZ closure on fishing effort and FKW interactions, and provide a presentation at the June FIAC meeting.

3. Scientific and Statistical Committee

Lynch, SSC chair, presented the SSC recommendations.

Regarding the FKW weak hook study implications, the SSC does not recommend weaker hooks to be considered for implementation. The SSC recommends that crew training be deferred on weak hooks and tie off strategies that increase stress on the animals. This would allow industry to cooperatively develop new and more effective strategies to reduce trailing gear.

The SSC also recommends the FKWTRT: 1) further develop strategies for significantly reducing trailing gear, and 2) evaluate the effectiveness of the SEZ in meeting the conservation goals of the FKWTRP.

Regarding the metasynthesis of marine turtle post-release mortality, the SSC recommends that the shallow- and deep-hooked post release mortality estimates presented above be adopted in future loggerhead BiOps.

Lynch reported SSC received a presentation from Milani Chaloupka on the metasynthesis of post-release mortality of marine turtle species that are bycaught in various fishing gears. The most informative predictors of loggerhead marine turtle post-release mortality in the metasynthesis were ocean basin (Mediterranean vs. elsewhere) and the anatomical hooking position (shallow-hooked vs. deep-hooked).

F. Public Comment

Eric Kingma, HLA, provided comments on the preparation and timing for the Hawai‘i deep-set longline fishery BiOp. HLA is supportive of the BiOp being completed and available, and wants to see it prepared in the highest quality possible and legally defensible such that it is scientifically developed and matches the impact that Hawai‘i longline fishery has on ESA-listed species. HLA is the only fishery in the nation that has the applicant status for ESA consultations largely due to the past history and involvement in the consultation process going back to the early 2000s when the courts found that a series of BiOps were prepared essentially unlawfully against the fishery. In those early cases, HLA sued NMFS and the judge found the case in HLA’s favor, expressly criticizing NMFS and its behavior on how it developed the BiOps, and HLA was awarded attorney fees and applicant status. He said HLA is looking forward to providing its critical review and input, and noted the consultation timeframe has exceeded everyone’s expectation and needs to be completed so other important work can get done. He hoped that PIRO will provide HLA as well as the Council with adequate time for review, as HLA has been patient in the process to-date, noting that HLA has had agreements since 2019 on the completion dates that have been postponed several times, with the latest agreement having been for October 2021 draft delivery.

G. Council Discussion and Action

Regarding the FKWTRP direction, the Council adopted the following positions for the 2022 FKWTRT meeting:

- a. The Council does not support adoption of weaker hooks under the FKWTRP due to the potential economic impacts and lack of clear conservation benefit.**
- b. Priority for the FKWTRP should be placed on developing strategies for reducing trailing gear and finding solutions to reduce depredation, in light of the latest FKW abundance estimates, Hawai‘i deep-set longline fishery’s transition to monofilament leaders and the impact of depredation on the fleet.**
- c. Crew training should be deferred on weak hooks and tie off strategies that increase stress on the animals to allow industry to cooperatively develop new and more effective strategies to reduce trailing gear.**
- d. The SEZ should be evaluated for its effectiveness in meeting the conservation goals of the FKWTRP.**

The Council requested PIFSC to analyze FKW interaction and depredation patterns through 2021, including estimating economic impacts from depredation, as

well as the effect of SEZ closure on fishing effort and FKW interactions, and provide a presentation at the June FIAC, SSC and Council meetings.

Dueñas said he supports the recommendation and noted he does not understand the efficacy of the SEZ closure as most of the FKW interactions took place outside of the closure.

Tosatto said he will abstain from voting on the recommendation, noting that while he is not necessarily the individual decision-maker, he is the agency's representative with respect to the outcomes of the FKWTRT process, which this recommendation feeds into. He said he would characterize his view as supportive of the recommendation, noting the hard work that went into analyzing the issue and that he understands the Council's perspectives even though he may not agree with all aspects of the recommendation.

*Moved by Dueñas; seconded by Sword.
Motion passed with Tosatto abstaining.*

Regarding ESA consultations, the Council requested PIRO to provide a timeline for Council draft BiOp review, including the amount of time Council will have for review and provide comments, to assist with planning for appropriate advisory body reviews and meeting schedules. As recognized in the NMFS Policy Directive on ESA-MSA Integration, the Council requires advanced notice to place the review of the draft BiOp on the meeting agenda, as well as time to plan for advisory bodies to review and provide advice in advance of the Council meeting.

The Council requested PIRO to ensure that the draft BiOps are based on BSIA by coordinating technical review with PIFSC.

The Council requested PIRO, in coordination with local agencies and expertise, develop the ESA Section 7 Mapper tool for the region to increase efficiency and transparency for future Section 7 consultations.

The Council requested PIRO to consider the metasynthesis on shallow- and deep-hooked loggerhead turtle post release mortality estimates in ongoing and future BiOps.

Dueñas said he is glad that PIFSC is included in the recommendation, and hoped that social scientists are also included in the discussion.

Tosatto said he acknowledges that the Council needs due time for review and that he is committed to provide as much as possible so that the review can be accommodated to the best of the Council's ability. He assured that adequate time will be provided for HLA and Council to do their reviews. Regarding the recommendation pertaining to PIFSC review of the draft BiOp, Tosatto said such a review is not possible, although the Council is free to request it and send a letter. The recommendation is not in line with NMFS's ESA quality assurance, and makes him think that he needs to invest in making the Council more informed on NMFS's process to develop a BiOp. The process is not something that requires PIFSC to determine BSIA that is used, as that is PIRO's responsibility that it takes very seriously. PIRO scientists will determine BSIA and when he signs the BiOp with GCPI input, Tosatto will be making the BSIA

determination. Tosatto will request PIFSC input with BiOp where it is best needed, so PIRO is living up to the intent of the recommendation. He said he did not have any problems with the other recommendations.

Simonds asked who determines BSIA.

Tosatto explained that the basic premise of the BSIA determination under ESA is the same as the MSA process for BSIA, in that a relevant responsible decision-maker is making that determination. Under ESA, NMFS makes the determination in a variety of ways, including when they certify the information used in the BiOp pursuant to the Information Quality Act, and through GCPI provides clearance or input on legal sufficiency of the information in terms of how it was used and written. At the end of the process, the signer of the BiOp is the one that is making the determinations.

Simonds asked if that means that Tosatto would make the BSIA determination on the BiOps.

Tosatto said as the signatory, he would make the determination with a variety of inputs, which includes PIFSC, NMFS headquarters, PIRO staff and GCPI.

Simonds asked if Tosatto confers with Tucher, GCPI, while the BiOps are in development to make sure they are legally sound.

Tosatto said yes, and the level of interaction depends on the BiOp. For easy consultations, PIRO writes the BiOp, GCPI reads it and clears it. Other consultations may require greater interaction along the way as PIRO is making structured decisions along the way. PIRO staff coordinates at different stages and different ways with GCPI. The most relevant and meaningful reviews come toward the tail end when GCPI is looking at the sufficiency of the full analyses that leads to a determination. Tucher does not necessarily provide scientific advice, but rather legal advice on sufficiency with compliance with the statutes.

Soliai asked for confirmation that PIRO is consulting with PIFSC.

Tosatto said PIRO is requesting scientific information from PIFSC that PIRO scientists need to complete the jeopardy analysis and the overall effects analysis, status of the species, and description of the effects. Much of that request PIFSC comes up front when PIRO is developing the biological assessment and scoping out the analysis framework. PIFSC will deliver those products, and PIRO staff will complete the analysis. PIRO would not necessarily go back to PIFSC unless assistance is needed on a product or an issue arises during the analysis. PIRO relied on PIFSC, other NMFS science centers, and other academic sources of information that comprise the bibliography for the BiOps. PIRO is not necessarily going back to every source and asking whether the work was used correctly, unless there is an issue.

Solia said he would assume that the various NMFS offices would be consulting on these issues and working together as they are all members of the same family.

Dueñas said for him to believe in the science, he needs to have all the scientists at the table for the BiOp. He recalled that at one point PIRO Protected Resources Division had approximately 27 staff while SFD only had approximately 10, which meant that PIRO has a lot

of Google expertise in the office. He said he would like to have on-the-ground scientists who are doing the work of interacting with fishermen and looking at real data to be part of the BiOp, and said this would support the efforts for believing the outcomes of the final BiOp, rather than impeding it. He said the inclusiveness would be better than keeping a document top secret with the person in charge.

Tosatto said is absolutely not the case. He said he cannot vote in favor of all four of the recommendations en masse, but he will not object to all en masse because he values three out of four recommendations.

Moved by Dueñas; seconded by Gourley.
Motion passed.

X. American Samoa Archipelago

A. Motu Lipoti

Soliai provided a brief update on the COVID-19 situation in American Samoa. On Feb. 22, 2022, infections from the pandemic was discovered in the community. As of March 23, 2022, there were 2,565 cases, 2,222 of which are still active and one COVID-19-related death with pre-existing conditions was announced. While the other regions had experienced the pandemic for some time, American Samoa is going through it for the first time. This week is the fifth week since the governor issued an extended emergency declaration. The government is concerned and is slowly opening operations. Businesses were allowed to open with limited schedules. DMWR is slowly easing back into normal operations with limited work hours and few employees in the office. Most field staff are again allowed to conduct their surveys. Only Manu‘a remains COVID-19 free. The seven-day trend of positivity reflects the same experienced in the U.S. mainland, Hawai‘i and the territories with the peak expected late March to mid-April 2022 with close to 500 COVID-19 cases expected daily. An average of 1,200 residents are being tested daily. The positivity rate overall to date is approximately 20 to 25%.

Sword reported there is only one Pago Pago-based alia vessel currently engaged in commercial fishing, which brings approximately 200 pounds of fish weekly for restaurants. There are alias engaging in subsistence or recreational fishing targeting yellowfin tuna now in season. Six Manu‘a-based alias are engaged mostly in bottomfish fishing, and no one is longline fishing. Most of the fleet in Manu‘a usually fish for subsistence where they sell part of their catch. None of the fish gets to Tutuila. Yellowfin tuna, rainbow runner and small blue marlin is currently being caught. The bigger blue marlins are usually around Tutuila. There are spearfishermen who fish nightly but since the COVID-19 code red designation, it has been impossible for them to sell their catch along the roadside. It has been difficult to get fresh fish locally. Trolling fishing tournaments were held prior to the COVID-19 outbreak at the end of February 2022 and Peck also organized a bottomfish fishing tournament. A five-day tournament scheduled for April 17, 2022, was cancelled due to the pandemic. The Pago Pago Game Fish Association had been active, including a catch of the biggest yellowfin tuna reported at 132 pounds, although a nonmember caught a 170-pound tuna three weeks ago. Jigging for dogtooth tuna is doing well at the outer banks with a new 67-pound record reported. A record 40-pound wahoo was also recently caught.

Starkist Samoa is back to normal operating hours. CDC staff and Congresswoman Amata Radewagen together recently visited the territory. There are no federal financial assistance programs to Starkist employees who were laid off during the pandemic code red shutdown, and there are no flights from Samoa making it difficult for the cannery to remain in operation.

Sword said the shipyard is operating but for vessels in the 100-ton range. Local longline vessels have been there but there have not been a surge of foreign longliners, according to the shipyard manager Carlos Sanchez, who also indicated that no work has been done to update the yard for purse seiners. The Department of Defense had looked at the shipyard for possible USCG deployment, but that date is unknown. This will not happen without a shipyard and hopes the American Samoa government will start moving in that direction.

The recently held American Samoa Bottomfish Data Workshop had 25 fishermen participate, a indication that there was a lot of interest. All agreed that the data used to support closures is not truthful and is not what they see when they go fishing. Most do a mixed-fishing day that includes troll and bottomfish fishing, as is done in all the other Pacific Islands. They do not see a reduction in catch. Getting the actual catch data has been a problem. With more data received, things will look better than has been suggested.

Sword provided an updated on the Alia Tele Project with the first trial vessel to be completed in September 2022 and take approximately two months to get it to Tutuila for use as a training boat. The boats will be used for training, starting with fishermen in Tutuila. Proposals will be issued requesting for people to operate the vessels, including for vessel operations in Manu'a and Swains Islands. All will have a chance to submit proposals to operate the super alia.

Soliai said he worked with Starkist management, health officials and the Federal Emergency Management Administration, to develop the plan that allowed the cannery to reopen operations. The plan dealt with the Department of the Interior with modifications with their normal operations. There has been a lot of positive COVID-19 cases at the cannery. The health department visits the cannery several times a week to address the issue. The high positivity rate is impacting the number of fish cleaners who come to work. There are approximately eight people in a typical Samoan household. For the low-income families who work for the cannery, maybe two or three work to support the extended family setting and if one is COVID-19 positive, others in the household will not be allowed to work for isolation purposes.

Regarding the data workshop with fishermen, Soliai said one key issue that came out in the Manu'a outreach was there was no data reported from Manu'a from 2009 to 2021, but the effort remained. Fishermen reported they were still fishing the data that was not being conveyed to DMWR at that time. The experience the fishermen reported is different compared to the data.

Dueñas said the he also experienced a high fishermen turn-out for a meeting when there was an issue of concern, referring to the first time in his 27 years involved with the Council and over 40 years of fishing in Guam that he saw over 60 fishermen attend a meeting in the middle of the week held at a hotel (Guam Community Consultation Workshop held in January 2020). The information and the dataset being used does not make sense to the fishermen. There needs to be greater effort by the agencies involved to not put the burden on the fishermen for filling in forms, including those online. It is hard enough spending 10 to 12 hours fishing each day. Fishermen go trolling and when it is bad, they bottom fish and back to trolling to meet the morning and

evening bites. Many fishermen are more than 55 years old and are senior citizens who are expected to upload their data using smartphones. All should have common minds to get better data and not place the burden on fishermen, the fishing community or even impose fishing licenses. The American Samoa alia fleet used to number 100, but is now down to three to five vessels. Fishing is something that can be afforded, in the heart, and something that is a tradition. Putting Western-type values on fishing dishearten cultural values. He respects there is concern for the stock but sending a hook down 900 feet does not guarantee a catch. He supports American Samoa's cannery and hopes it gets a contract with the education program. There must be recognition that there is a buildup of military presence, especially in Guam. There was talk about another submarine, a couple of ships and a carrier group in the area. That is 10,000 people that need to be fed daily. Some of American Samoa's fish can be sold to Guam and a unilateral agreement can be developed with foreign areas to supply the cannery with fish. Thailand has 20 canneries and it does not have a fishery. The economic potential in the Pacific is better than families in the United States who want to feed their families a tuna dish.

Sword added one important thing is the Pacific has the largest source of protein in the world and is the reason the continued utilization of this continues.

B. Department of Marine and Wildlife Resources Report

Domingo Ochavillo presented the DMWR report. The top species caught were near-shore grouper, stingrays, and trevally, and the top fishing gear used was rod and reel which caught more than 4,000 pounds of fish. Spear snorkel fishermen caught more than 1,000 pounds and thrownet fishermen caught 600 pounds of fish. With boat-based fisheries between July to December, the dominant fishing methods were trolling, longlining, and spearfishing. The top species caught were skipjack tuna, albacore tuna, yellowfin tuna, redlip parrotfish and lobster. Both the redlip parrotfish and lobster were by spearfishing. The Commercial Invoice Program reported 18,000 pounds of marlin, 6,000 pounds of swai, 6,000 pounds of tilapia, 5,000 pounds of wahoo, 4,000 pounds of pompano and 1,600 pounds of blue-lined surgeonfish.

Regarding the Reef and Life History Programs, the implementation of physical and medical tests for the divers to ensure they dive safely started the previous year and were completed with most divers approved for diving. Reef flat and reef slope surveys continue to be conducted. DMWR is also looking at coral disease in the reef flats and recently discovered in *Acropora*, a disease not reported before.

New population markers were developed for soldierfish, *Myripristis berndti*, the most caught soldierfish in spearfishing, to look at genetics in the Samoan Archipelago. Some evidence of genetic exchange was discovered between American Samoa and Samoa for *Acanthurus lineatus* and a parrotfish. Ochavillo said DMWR expects to find the same evidence for the parrotfish *Myripristis berndti*.

DMWR is ready to deploy FAD C, an Indian design. Current FADs were from New Zealand. A modification was needed because it was difficult to detect the FADs from a distance. The Buds & Suds Fishing Tournament was held in November 2021 with more than 1,400 pounds of fish caught. Yellowfin tuna was the top species mostly caught at South Bank.

Two DMWR staff were hired for the community-based fisheries management program, one of which was for a program supervisor. They presented to the Office of Samoan Affairs with good reception. Two more meetings were held in the villages with mayors interested in reengaging in the community-based fisheries management program.

DMWR creel staff worked with scientists on data collection prior to the data consultations in Tutuila and Manu'a in February 2022. DMWR staff also responded to a sea turtle stranding in north Tutuila.

The enforcement division conducted 11 land and six sea patrols in the last quarter of 2021. It boarded and inspected eight foreign vessels, four purse seine vessels and one fish carrier. It also conducted port checks and inspected 15 vessels, monitored 91 containers of albacore tuna and three fish bait containers at the cannery.

One initiative by the governor is food security. The DMWR director has been working with staff to develop a framework to look at how secure fish supplies are. Most fish supplied to American Samoa is from nontarget catch by longliners accounting for 40 to 50% of fish consumed in the territory.

Inshore fisheries accounted for 25 to 30% of fish consumption. There was a surge for shore-based fisheries in 2020, normal for island countries where people go fishing when there is an economic crisis. There was a COVID-19 pandemic lockdown in 2020 so the people went fishing. Imported fish from Samoa are small. Sources of seafood and fish is uncertain, especially with the decline of longlining.

DMWR was part of the NMFS Fifth Annual Collaborative Climate Science Workshop where staff presented American Samoa fishery data. The report included a year's nearshore octopus catch data with climate data and impact of sea level rise, which suggested that octopus gleaned when measured in pounds per hour is affected by sea level change. Extreme El Niño and extreme La Niña have negatively impacted octopus gleaned. High wave levels also impacted octopus gleaned. And since octopus is a delicacy in the territory, these impacts need to be addressed. Changes in sea level and wave energy will have impacts on nearshore fisheries.

The impact of COVID-19 resulted in the suspension of all DMWR activities until this week. Some information on the fisheries was lost due to staggered work schedules over the last four weeks.

Dueñas asked what method lobster is being caught in American Samoa and if octopus can be sold.

Ochavillo said regulations do not allow lobster to be speared and must be caught by hand. He said octopus can be sold in the territory.

Dueñas recalled a presentation he saw when he attended a workshop or conference in Saipan that showed a scientist working behind the American Samoa airport doing research on helping corals recover from bleaching. The scientist demonstrated that when he pumped water from the deep onto the reef flat, the corals were recovering within 24 hours, and all regained their color, and the efficacy of the project was promising. He said only the Council process look

at people's work and make recommendations to pursue them. He asked if the experiment or project which was more than 10 years ago shown in the presentation show possibilities for expansion.

Ochavillo said the project had been inactive since and there are problems with the approach. There were also challenges so no one has picked up the project since.

Sagapolu asked where the tilapia and swai fish come from, noting it relates to the Seafood Inspection and Monitoring Program which the conservation officers in coordination with the OLE are inspecting.

Ochavillo said the creel invoices were not designed to track imported frozen seafood, although there is a need to.

Sword asked if imported seafood was from Samoa or from other places, noting that restaurants serve bottomfish not indigenous to American Samoa, especially the Chinese restaurants.

Ochavillo said the fresh fish, bottomfish and spearfishing fish were from Samoa, but noted the estimate of how much fresh and frozen seafood is imported is an underestimate.

Sword asked if the containers of albacore tuna being monitored and delivered to Starkist consist of whole fish or loins.

Soliai said the bulk containers contain mostly whole albacore tuna. The last time loins were brought in was either in 2020 or early 2021.

Sword asked when the last time a bottomfish study or any fisheries study was done on Swains Island.

Ochavillo said USFWS has a project at Swains Island and DMWR will be involved in the expedition. Nothing had been done on the island for a long time.

C. Outcomes of the American Samoa Bottomfish Fisherman Data Workshop

Marlowe Sabater and Diana Kitiona, Council staff, Felipe Carvalho, PIFSC, and Ochavillo provided a report of the American Samoa Bottomfish Fisherman Data Workshop, which was part of the coordination and partnership between Council, PIFSC and DMWR in preparation for the upcoming stock assessment. This was the first data workshop ever conducted in the region and is part of the improvements in the development of the stock assessment. The data workshop for Guam will be in 2023, leading up to the benchmark assessment in 2024.

Carvalho reported the workshop was a product of many collaborators and an example of a scientific and logistical operation between fishers, DMWR, the Council and PIFSC. The last assessments used catch data for all 11 species together in a single analysis for American Samoa. For the 2023 benchmark, an alternative modeling approach will be used that focuses on the use of catch data, length, and life history for the 11 species but analyzed individually. This constitutes a major change. It is crucial to review datasets and analysis proposed to inform the

2023 benchmark stock assessment. This workshop served as an opportunity for the PIFSC stock assessment team to get advice from bottomfish fishers regarding their observations and changes to the bottomfish fishery through time that could help the team better understand the trends in the data. In the American Samoa BMUS, there are six deepwater snappers, two shallow water snappers, a grouper, an emperor and a jack. All will be assessed in 2023. A major improvement of moving the assessment models from a complex level, as was done in 2019, to a finer taxonomic resolution, meaning that special consideration needs to be given to species identification in the various datasets to be used. The 2019 assessment focused on catch data alone derived from creel surveys, size from the creel biosampling, diver surveys and life history information from laboratory analysis. The new plan will incorporate life history and size data explicitly in the model which opens to more complete models, such as stock synthesis and length only models such as length-based spawning potential ratio. This change in the modeling approach makes the deep understanding of all the data available even more crucial and highlights the importance of holding the data workshops. Two days were spent at each workshop location including six presentations from PIFSC and staff covering background information on stock assessment and data collection methods, evaluation of available data for the 2023 assessment, and social science and engagement.

Presentation slides were shared with Council staff leading up to the workshops to improve dialogue with fishers and to allow each presentation to be replicated with Samoan translation to be displayed alongside the English versions on separate screens. Consultations were conducted in Tutuila Feb. 2 to 3, 2022 and Manu'a Feb. 7 to 8, 2022. There were 12 fishermen who joined the Tutuila workshops with two who fished in the 1960s and 1970s. There was a ratio of six commercial and six noncommercial fishermen. There were 13 DMWR staff, 15 PIFSC staff and two Council staff. The turnout was low because of inclement weather, but good feedback was received from a few fishermen on how fishing was in the 1960s and 1970s. There were two breakout groups in Tutuila, in English and Samoan. DMWR staff, especially the education and outreach staff, together with Council staff facilitated the discussions.

Kitiona reported that during the breakout discussions, fishermen were posed some questions to find out more about the fishers in American Samoa and about the data, including some species-specific questions. From the Tutuila workshop, fishers identified the species *Variola louti* and *Variola albimarginata* as the same species since the coloration and morphology is the same except for the tail coloration. *Variola louti* will be a part of the BMUS. Creel surveyors who participated in the workshop said they rarely see the *Variola albimarginata* but more of the *Variola louti*. Most of the fishers reported they do not catch the large palu-malau, *Etelis boweni*, which is not a part of the BMUS. The juveniles looks the same as the *Etelis carbunculus* which fishers often reported as the same fish while both species are considered palu-malau in Tutuila. For palu'ena'ena, fishermen reported this species is still abundant from 2015 to current, as opposed to what the data are showing. It is not as common as palu-sina. Fishers disagreed with the data regarding *Pristipomoides zonatus*, or palu-ula. If a fisher was a part of the early shore-based creel survey, this species was most likely misidentified. Fishermen agreed this species cannot be caught from shore. There was a question whether fishers can identify the BMUS tafauli from other jack species, and fishers confirmed this species is easily identified by its coloration and shape of the head. For *Pristipomoides flavipinnis*, the fishers again disagreed with the data which showed there was little catch of this species before 1997 and after 2005. But fishers said they were still catching palu-sina and a decrease in catch was not noted. Fishers, who fish in Tutuila and fish around Manu'a, also disagreed with the creel survey

data with filoa-paomumu, which was often caught. The creel survey data suggested this was rarely caught around Manu'a. Regarding savane, asoama and palu-gutusaliva, all fishers agreed they are common around Tutuila and Manu'a.

Ochavillo reported the Manu'a turnout was high, with 27 people participating, including 26 fishers, five village chiefs, one mayor and four women. Five fishermen mentioned they have been fishing since the 1960s. There were also fishers from Ofu-Olesega who came to represent their fishermen. There were eight DMWR staff, two Council staff and 15 PIFSC staff online. All participants were either commercial or subsistence fishermen.

Kitiona reported the Manu'a fishermen were asked similar questions as those from Tutuila. Some questions were specific for Manu'a fishermen, including why boat-based creel surveys had not been regularly conducted in 2009. For palu-malau, the information comes from Manu'a where fishers were harvesting *Etelis boweni*, though not often. As with fishers from Tutuila, fishers reported they consider both *Etelis carbunculus* and *Etelis boweni* as palu-malau. For Filoa, fishers reported catching this species on every trip even though it was not reported in the Manu'a creel surveys, and fishers are able to identify the BMUS species using the red spot next to the fin. With velo, unlike in Tutuila, the fishers in Manu'a call this species only velo and never papa. Papa refers to the tomato grouper, noting these can be misidentified. There is *Variola albimarginata* in the data as there was in Manu'a, and the coloration is not distinguishable so fishers consider *Variola albimarginata* and *Variola louti* as the same species. Velo is still being caught despite the drop in the catch data after 2009. For palu-ena, palu-sina and palu-ula, fishers felt the data does not reflect their experience, whereby data show a decrease in catch, but fishers reported they had been catching these consistently over the years and there had not been a decrease, especially after 2009. Fisher experience matched the data for the remaining five species in the BMUS. The Manu'a fishermen had not been reported their catch data through the creel survey after 2009.

Rice asked what the future holds for the American Samoa new stock assessment and for raising the catch limits in light of the data workshops.

Carvalho said the situation in American Samoa is difficult. There is no information yet on the stock status, as the modeling efforts started with the completion of the data workshops. On the stock assessment process, the future is bright because how the science is produced is being changed with more focus on a collaborative effort. Over the past two years, over many occasions, they heard the problem is the data and there are issues with the creel survey information. Currently, they have three full-time staff looking at the creel survey to prepare for the data workshops and that is a major improvement in the stock assessment. Carvalho said PIFSC will keep the Council informed of progress before final delivery in February 2023.

Rice said PIFSC should keep fishers in American Samoa engaged, especially to keep their interest and understanding that what is needed for their stock is being worked on.

Carvalho said PIFSC wanted the workshops to be in person, but the pandemic did not allow for it. As soon as the agency allows travel, staff will visit American Samoa to meet with DMWR and the fishers.

Tenorio said he hopes similar outcomes will come about when the workshops are held in the CNMI. Regarding shore-based fish identification, he asked what species *Pristipomoides zonatus* may have been misidentified as.

Mark Nadon, PIFSC and lead for the American Samoa stock assessment, said there was a lot of mismatch between the patterns in the data versus what the fishermen were saying. A few were resolved, such as the identification of the two *Variola* species that are both locally referred to as papa. They identified where the periods of time in the creel surveys where fishers were using *Variola louti* as the single identifier for both species, and then briefly switch to *Variola albimarginata*. In 2016, both species appeared in the datasets thus showing both species were identified separately. The same for *Pristipomoides filamentosus* and *Pristipomoides flavipinnis*. Opakapaka in certain time periods are confounded with *Pristipomoides flavipinnis*. He said it was not clear what species the *Pristipomoides zonatus* could be misidentified as, but said the shore-based dataset is not a large source for the BMUS so the remaining discrepancy is not a huge impact to the assessment. Every other discrepancy was resolved at the workshop.

Tenorio said a similar situation will occur in the CNMI with the two opakapaka species. They look too similar, and the market will probably focus more on the cheaper fish.

Carvalho said the results of the workshops highlighted the importance of going through this process with stakeholders, so the plan to hold data workshops in the CNMI and Guam, hopefully in person in or after 2024.

Amani expressed appreciation with the different ways stock assessments are being looked at, especially with American Samoa and Guam's current situation. The scientists are following through with what they said they will do and work together with the fishing communities. Amani asked if Carvalho believes that American Samoa's bottomfish stock is actually being overfished or that there is overfishing after having worked with the American Samoa fishers.

Carvalho said PIFSC is committed to working with Guam and the CNMI. There is still one year to complete the American Samoa stock assessment. The process for Guam will start soon, with the assessment is due in almost two years. Regarding the stock assessment results, he said he will rely on BSIA, which is still the 2019 report. After 2023, there will be a new picture.

Tenorio asked if the CNMI will be able to join the process when the workshop is held in Guam.

Carvalho said work had not yet started to organize the events in Guam and work is being done at PIFSC first. He agreed that having the CNMI join the process will be good and will support it. The goal is to make everyone feel included and understand that it is a participatory process. The same with Guam joining the CNMI workshop process in 2025.

Dueñas requested PIFSC come to the islands and have a listening session instead of having breakout groups with fishermen, and follow Mia Iwane's social science approach of engaging with fishermen. PIFSC's outreach meeting held the Guam Hilton Hotel, which Dueñas referred to as a talking session, saw over 60 fishermen with many questions in response to the presentation on what PIFSC was working on. He preferred an approach where PIFSC listen to the fishermen to find out if the data shared is factual. He agreed that Tenorio and those from the

CNMI should be brought to Guam to listen to the concerns of the Guam fishermen. Fishermen are experienced but they have been set aside and told to be quiet and just listen. As president of the GFCA for 27 years, he knows the heart of all former members, and even those who are not. The LHP is being put into the mix but GFCA had been doing it for more than 10 years. There are 150 species in the LHP with challenges of identifying the species. GFCA has a binder of detailed photos to research and properly identify each species. He suspected that the LHP was taken away from GFCA because its data show the fish reproduce year-round and grow at twice the rate from the Great Barrier Reef. He expressed his frustration that despite the available life history data from the last 10 years and 40 years of commercial landing data, PIFSC used creel surveys for the assessment. There was mention that the GFCA does not want to share its information, but it is published yearly, showing the type of fish landed, cost and weight. The receipts belong to GFCA to pay the fishermen used to provide accuracy with fishermen. Dueñas questioned the efficacy of the creel survey, noting that he has only been surveyed twice in his 40 years of fishing. He said he is tired of mandates being imposed on fishermen, and wondered how overfishing can be going on in Guam when all of the highliners have passed away. Dueñas offered to set up a meeting with more than 60 bottom fishermen when the workshop is held in Guam, but cautioned that PIFSC staff may not be happy with their concerns. He also emphasized that the data should be all inclusive considering creel surveys, commercial landings surveys, and biosampling surveys, to create a matrix to see the efficacy or the correlation of all the numbers. Scientists should come talk to fishermen because it is not a number but a way of life. The Chamorros understand that every type of fish has a house and if one wanted to catch a certain species, they know where to find it. From Hawai'i to Guam, it is a community, and fishermen want to work together with the scientists. As a pioneer with the biosampling and LHP in Guam and having cleaned fish daily and documenting their data, his report shows the cycle, but PISFC does not look at it. He said he supports the data workshop but asked the approach be toned down with only a couple of people from PIFSC sitting down for one-on-one sessions with a recorder to transcribe what the fishermen say and incorporate those in the new report. He also asked that a social scientist who can deal with the fishing community be part of the process.

Sabater said Iwane was part of the workshop along with Danika Kleiber, PIFSC. They designed the framework to allow fishermen to provide input and do most of the talking. Breakout sessions were meant for the fishermen to express their opinions on the data and other information provided to them. The next benchmark assessment will utilize biosampling data and commercial receipt book data in addition to creel survey data. The contribution of each dataset will vary depending on the utility to the species being evaluated. The focus of the stock assessment is the federally managed unit species, only 11 in American Samoa. He thanked Dueñas for his willingness to be the conduit to bring fishermen to the table. When it is time for the community consultation with Guam fishermen, he hoped that those fishermen who participated in the January 2020 community meeting will attend. Sabater said Dueñas' suggestions will be noted so the workshops can be improved.

Soliai commended PIFSC for the first-ever consultation with local fishermen, noting that it is the first time the community and the fishermen were engaged, a step that was missing in previous stock assessments. He thanked the team for getting the process to where it is at this time. People need to be mindful of the comments and concerns shared by fishermen on the ACL, which is currently at 5,000 pounds, and how that will impact their livelihood, and he said he hopes this new stock assessment will provide clarity. There had been gaps identified that could be addressed in this current stock assessment. He requested an opportunity to review a

preliminary draft of the reports before they are finalized to provide input while the final product is drafted. It is important there is understanding where it is headed and what impacts it will have to things can be mitigated.

D. Advisory Group Report and Recommendations

1. Advisory Panel

There were no AP recommendations regarding American Samoa.

2. Fishing Industry Advisory Committee

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

Regarding CARES Act funding, the FIAC recommended the Council request NMFS to exempt the American Samoa longline fishery from CARES Act requirements described in Section 12005(b)(1)-(2), where businesses should demonstrate an economic revenue loss greater than 35% as compared to the prior five years.

The FIAC recommended the Council request NMFS and PSMFC to provide rationale for the delays in CARES Act 2 funding to the fishing community.

3. Scientific and Statistical Committee

There were no SSC recommendations regarding American Samoa.

E. Public Comment

There were no public comments.

F. Council Discussion and Action

Soliai asked for clarification on a response from Tosatto from the previous day regarding the ANPRM and the direction being taken on the 2015 ANPRM to take actions under WCPFC Convention Implementations Act. At that time, Tri-Marine, which had a cannery in the territory, applied for a special exemption from restricting vessels that operated out of American Samoa and were offloading 50% of their catch. Its petition was denied, and that was issued in the October 2015 *Federal Register* notice. It has been seven years and it is evident that the dire situation of the cannery and the economy has worsened, especially with the exodus of the U.S. vessels. In fall 2021, NMFS released an ANPRM with an unspecified date of April 2022, that said NMFS might propose regulations that mitigate adverse economic impacts of purse seine fishing restrictions in U.S. territories. Recalling Tosatto's statement from the previous day that the United States now recognizes the U.S. purse seine fleet as the American Samoa-based purse seine fleet, Soliai asked what regulations would be proposed and what NMFS is planning to do to recognize the American Samoa-based purse seine fleet as an American Samoa fleet. He is waiting for an updated economic analysis to show the impacts of the restrictions and asked for a follow-up to be coordinated with the American Samoa fishery and the cannery.

Tosatto said as a matter of course, the agency cannot commit to what is going to be proposed until it is published. There is a lot of work within the agency, including clearance at higher levels. He clarified that his statement was one of a matter of policy that the United States took in the development of its position in the WCPFC's December 2021 annual meeting. With the change in the fishery, which constricted both the number of vessels and the operation of those vessels, it is a matter of policy that the U.S. fishery operating in the WCPO can now be better characterized as the American Samoa fishery. There are a variety of options available to the agency on how to take the evolution of the fishery and look at obligations under the WCPFC and implement those also under the WCPFC. Over time, the agency had issues regarding implementation of obligations in the WCPFC in a way that all its members view as compliant, an issue they are seeking to resolve through rulemaking. Currently, they are still developing that rulemaking and is now at the front end of the process. Since the work had already begun, including the beginning of work on the clearance of preliminary steps, a consistency determination around a proposal that would separate the purse seine limits was issued, one from high seas and one for the U.S. EEZ, to clarify that the Effort Limit Area for Purse Seine (ELAPS), where those limits are combined, is no longer going to be the regulatory framework. There are other things they are considering regarding the purse seine fishery but have not advanced those to a stage where any proposals can be shared yet. In all cases, the agency will recommend actions that will be commensurate with obligations with the WCPFC, including the treatment of American Samoa within the tropical tuna measure to the extent that either specific or general provisions allow.

Soliai said the deadline may not be met on the ANPRM that was issued in April 2022 and asked Tosatto if there is a timeline on when things will start to evolve. If there is departure from the ELAPS, he asked where in this new proposal will the American Samoa-based purse seine fleet get more high seas days, if that is where it is headed.

Tosatto said if the ANPRM refers to this aspect, which is undoing the ELAPS, then he is hopeful the proposal will be out at the end of April. The development process has started with the necessary documents, including the beginning of issuing the Coastal Zone Management Act letters to the territories. The Coastal Zone Management Act shop might be seeing the documents at this time with a greater number of regulatory documents being processed. Through clearance, it could occur within 30 days and that would include modifications to separate what is now a one-effort limit, the ELAPS, into effort limits. From the WCPFC, the agency was working to seek agreement on a suite of changes within the tropical tuna measure. This would have included a commitment to implement the rule in this way and which they were hoping would come along with a greater clarification of both the role of American Samoa, as a participating territory, and what that fishery would deserve regarding the high seas days, the overall allocation on high seas for the United States, the overall allocation to American Samoa for the zones, and the overall allocation for the United States for the zone. The effort to make changes to the measure was unsuccessful and was rolled over with pre-existing conditions. Operating under pre-existing conditions, the high seas and the zone limits remains the same. This has both advantages and disadvantages.

Soliai said he did not hear anything about the FAD exemption and that is an important aspect of the discussion that should be raised. If American Samoa will benefit from the ANPRM, then the exemptions or FAD closures being granted to other Pacific Island countries or SIDS,

should also be granted to American Samoa. He acknowledged the process is still being developed and requested Tosatto put the matter on his list for consideration.

Regarding American Samoa fisheries, the Council requested NMFS to determine whether an exemption can be made for the American Samoa longline fishery from CARES Act requirements described in Sec. 12005(b)(1)-(2), where businesses should demonstrate an economic revenue loss greater than 35% as compared to the prior five-years.

The Council requested NMFS follow-up on a notice of proposed rulemaking with an unspecified date for April 2022, in which NMFS could propose regulations that mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. Pacific Island Territories and recognize that one or more of the U.S. territories have their own purse seine fisheries that are distinct from the purse seine fishery of the United States that are subject to special provisions of the WCPFC. Clarification on what kind of proposed regulations would be warranted.

[The above motion originally contained a recommendation requesting NMFS and PSMFC to provide a rationale for the delays in CARES Act 2 funding to the fishing community. This recommendation was removed on the floor. The final adopted motion is shown above.]

Dueñas said he hopes that all of the territories will be included in the consideration for the proposed rulemaking to mitigate impacts of purse seine fishing restrictions, recalling that the CNMI at one time was looking to develop a small-scale purse seine industry and if that was successful, they could provide fish for the American Samoa cannery.

Sakoda said he worked on the Hawai‘i CARES Act, and noted the requirement for a 35% revenue loss threshold was set by Congress. He did not think NMFS has the authority to exempt any fishery participant from that requirement, and said it may be more appropriate to request Congress to make the exemption.

Tosatto said NMFS does not have the authority to provide the exemption. He said it may not be a good idea to specifically call out American Samoa for exemption when both American Samoa and the State of Hawai‘i received CARES Act 2 funding. Regarding the recommendation requesting a rationale for the CARES Act 2 funding delays, he was aware that there has been a round of communication between PSMFC, NMFS headquarters, and American Samoa, but he was uncertain of the current status and was not sure what more could be provided. He believed the communication was being shared with interested stakeholders. Regarding the recommendation on the ANPRM to mitigate impacts of purse seine fishing restrictions, he said the request itself is not objectionable. However, he was not sure that he would support all recommendations as a group, and with the first recommendation potentially producing a conflict, he said he will abstain from voting on the motion.

Soliai agreed with comments made by Sakoda that the 35% revenue loss threshold is structured into the CARES Act and agreed NMFS will not be able to waive the requirement. The suggestion to ask Congress to provide the exemption is not recommended as that may be lobbying. He said it would be fine if the Council wants to keep the first recommendation, but he was not sure what NMFS can do to waive that 35% revenue loss. Regarding the CARES Act 2

funding delays, he said he failed to provide an update earlier that the distribution of checks for the first round for the subsistence fishery is in the mail. There were discrepancies with the commercial fishery applicants, and communication is ongoing between the relevant parties, including the commercial fishery applicants. The spend plan for CARES Act 2 is with the PSMFC, has not yet been approved and will not come up until the distribution of the first round has been completed. He suggested that the recommendation regarding the funding delay be removed or restructured. For the first recommendation, he suggested rewording it to request NMFS to review whether an exemption can be made.

Dueñas said he was happy with the recommendations because some people may not recognize a portion of the old MSA that designated some compensation or financial assistance in a disaster that may be encountered in the island. The CARES Act process would set up a template on how to assist the fishing communities in future disaster programs.

The motion was modified by general consent to remove the recommendation regarding the funding delay and reword the first recommendation as suggested by Soliai.

Tosatto said with the changes, he is no longer abstaining and will vote in favor of the motion.

Moved by Dueñas; seconded by Sword.
Motion passed.

Regarding the American Samoa Data Workshop, the Council requested PIFSC to closely coordinate with the Council and DMWR on the outcome of the draft 2023 assessment before it gets finalized through the Western Pacific Stock Assessment Review (WPSAR).

Moved by Sword; seconded by Dueñas.
Motion passed.

XI. Program Planning and Research

A. National Legislative Report

Gourley presented the National Legislative Report, focusing on the potential reauthorization of the MSA and the bills that were introduced. He said H.R. 59, Strengthening Fishing Communities and Increasing Flexibilities in Fisheries Management Act, and H.R. 4690, Sustaining America's Fisheries for the Future Act of 2021, have not moved forward since the March Council meeting. Due to the recent passing of Representative Don Young, it is unlikely that the bills would go anywhere in the near future. H.R. 5770, Forage Fish Conservation Act of 2021, would amend the MSA to include forage fish conservation, which could be problematic for the Councils to adopt, especially depending on how forage fish will be defined. This will require a large amount of resources to manage and the CCC is working on this issue.

B. Multivariate Analysis of the Territorial Bottomfish Management Unit Species

T. Todd Jones and Rob Ahrens, PIFSC, reported on the multivariate analysis of the territorial BMUS. Jones introduced the topic noting that the Council formed an APT working group tasked with reviewing and proposing any needed revisions to the BMUS list to ensure that the BMUS reflect the current fishery and align with the MSA and policy directives. The working group included members of PIFSC, PIRO and each of the three territorial fishery agencies. Given the territories are embarking on local, state and territory FMPs, it is important to revise the BMUS in a way that can lead to coordinated management. The 2023 benchmark stock assessment for American Samoa will be done with the current list of BMUS species in the American Samoa FEP following the WPSAR schedule.

The APT working group focused on three major items when considering the BMUS revision: MSA requirements for stocks that require conservation and management; policy directives; and 10 factors to consider when determining if a stock requires conservation and management. The group incorporated the cluster analysis led by Ahrens, as well as the life history information prepared by the group lead, Joe O'Malley, PIFSC.

The goal of the cluster analysis was to identify species that are likely to be subjected to fishing with similar pressure. The results of hierarchical clustering of boat-based creel survey data in American Samoa and Guam were presented. The cluster analysis results delineate species aggregations that are potentially experiencing similar fishing pressure to facilitate the determination of species complexes for FMPs and FEPs when used in conjunction with life history information. The final cluster results are similar to the current BMUS list.

For American Samoa, species associations are generally determined by the main gear of capture with some over-distribution as a result of mixed gear categorization. For species currently listed as BMUS, there are noticeable patterns of association that are time-period dependent. Moderate depth species (*Aprion virescens*, *Lethrinus rubrioperculatus*, and *Lutjanus kasmira*) cluster separately from the deeper species (*Aphareus rutilans*, *Caranx lugubris*, *Etelis carbunculus*, *Etelis coruscans*, *Pristipomoides flavipinnis*, *Pristipomoides zonatus*, *Pristipomoides filamentosus*, *Variola louti*). The deep species cluster is somewhat consistent with the shallow, but *Pristipomoides flavipinnis*, *Pristipomoides filamentosus* and *Variola louti* become less associated and become grouped with more moderate depth species, potentially due to a higher proportion of interviews reporting the mixed bottomfish/trolling categories. *Lutjanus gibbus*, *Sphyrna forsteri* and *Variola albimarginata* are frequently associated with some of the more moderate depth BMUS species.

For Guam, the data cluster into patterns that are similar to those from American Samoa. For the pelagic species, a cluster can be seen between offshore and nearshore across time blocks. For species currently listed as BMUS, there is a consistent cluster of deepwater species across time blocks (*Aphareus rutilans*, *Caranx lugubris*, *Etelis carbunculus*, *Etelis coruscans*, *Pristipomoides auricilla*, *Pristipomoides flavipinnis*, *Pristipomoides zonatus*, *Pristipomoides filamentosus*), though the association with *Pristipomoides seiboldii* is less apparent when using more recent data. *Caranx ignobilis* appear unassociated with any of the BMUS, falling into a mixed grouping for reef and midwaters species. *Lethrinus rubrioperculatus*, *Lutjanus kasmira*, and *Variola louti* tend to cluster together with more intermediate depth species. Notable associations with the deepwater cluster are *Seriola dumerili* and *Pristipomoides argyrogrammicus*.

Ahrens discussed the factors considered to determine whether a species should be on a federal or territorial list, based primarily on whether a federal FEP can improve or maintain the condition of that stock. This discussion was also tied to where the species' habitat is located and the association with that habitat. If most of the habitat is in Federal waters, a federal plan could have an impact on the conservation or management of that species. For species where the distinction is not as clear, considerations for whether the species' primary jurisdiction could be transferred to the territories included whether they currently exist in the federal FEP, and whether inclusion in a federal FEP could afford them the protection that is required by the MSA.

Within the proposed American Samoa BMUS lists, asoama (*Aprion virescens*), the black jack (*Caranx lugubris*), papa (*Variola louti*), filoa-paomumu (*Lethrinus rubrioperculatus*), and savane (*Lutjanus kasmira*) are to be removed from the federal FEP and included in the territorial FMP. This is a result of these species being clustered together as medium or shallow species, along with their life history traits. Additionally, with the removal of other key species, this cluster better aligns with the jurisdictional waters and where primary management should take place.

Jones also presented the American Samoa BMUS that will stay in the complex, as well as be added. Based on the hyper-cluster analysis, these fish are being caught in greater than 5% of the interviews from the creel survey. Other species clustered with these deep snapper are species such as *Etelis boweni*, two species of *Pristipomoides*, the blue banded gindai (*Pristipomoides argyrogrammicus*), and kalekale (*Pristipomoides seiboldii*). For deepwater-only snappers, there are two *Paracaesio* species, cocoa snapper (*Paracaesio stonei*) and palu-tuauli (*Paracaesio kuskarii*). Jones noted these species are not necessarily required to have individual stock assessments, nor is data to be included in a Complex Surplus Production model.

Another activity that took place with the working group and the full APT was a review with NMFS Office of Sustainable Fisheries of the ability for PIFSC stock assessors to use indicator species. Since these species have the same vulnerability to fisheries, as well as similar life histories, the APT has flexibility in having more robust data integrated into the models, or using other length-based models that do not rely on catch and effort to use some of the indicators.

After initial work by the working group, which included Brent Tibbatts from DAWR, the group was unsure if *Caranx ignobilis* was largely being caught on the banks or nearshore waters. Ahrens conducted a follow-up analysis in conjunction with testimony from the fishers, and tarakitu (*Caranx ignobilis*) was included in the list of species to be included in the territorial FMP. Other key species (*Variola louti*, *Lutjanus rubrioperculatus*, *Lutjanus kasmira*) were also proposed to be removed from the FEP and moved to primary management by the territories, as requested. The APT working group is continuing to assist on this effort.

The BMUS lists for all island areas were presented at the respective AP meetings, APT meeting, and SSC and Council meetings, where members provided input on the proposed revisions. AP members and other fishers were supportive of this separation of deep and shallow species lists, which many had been supporting in years past as the proper way to move forward. PIFSC has also completed the analysis for the CNMI and present the results at the April 2022 APT meeting. Given timing constraints, the CNMI analysis was not completed for the current Council meeting.

Muña-Brecht said they have been in constant communication with Jones and his team. Information was being prepared to share through the community subgroup meetings that will be convened by DAWR.

Dueñas said he is glad this is finally coming to fruition, as there is still misrepresentation of the data. His personal opinion is that 75% of the fishing effort is done in federal and territorial waters because of vessel size and availability to go to the outer banks, whereas 75% of the landings seem to come from federal waters. Many of the targeted species are often hard to distinguish from each other and are also highly available at the Southern Banks because the banks are 30 feet below the surface and the species composition is the same as a species along the coastal areas. Regarding specific species, many are caught quite easily in shallow or deep waters, and the fishers here have a good understanding of how to land them. He said these factors need to be incorporated into the science because that is where there is a greater segregation and aggregation of the three types of bottomfish on Guam. Regarding O'Malley's life history work, Dueñas said the science is going backwards when a beneficial LHP that would give better insight of the availability of these species and the size frequency over the years is downsized. Therefore, it seems the best available science is being ignored when there is not more community engagement, specifically with the fishermen. There needs to be more programmatic effort done with the community.

Jones said many of the things Dueñas said match up with the science and the data, as far as the separations. It is great to hear that there are similar views on how this should be handled and what the data are showing. Jones said the changes to the LHP were made following priorities in the Council's FEPs, and suggested that the Council could have the APT take a further look into some of the concerns.

Soliai shared his concerns of adding more species on to the BMUS list in the middle of the current stock assessment, which will create a lot of confusion with the fishermen and community, given the existing concerns with the current BMUS list. Any communication with respect to adding on to that list continues to be a major concern. Another concern is that not all of the deep species are on the new list. Similar to Guam, 85% of the effort or the catch in American Samoa is in territorial waters. It is very hard for the alia to get out to the banks, especially the South Bank, which is approximately 40 miles away from Tutuila. Soliai asked if the designation of overfished and overfishing would be applicable to the new BMUS list that is being proposed.

Jones said he understands the concerns of the community and said he will be coordinating with Soliai throughout the process on how best to roll out the revision. The BMUS revision process next steps will include five different working groups that will look at stock status criteria, education and outreach, and essential fish habitat, and other management components. However, if an amendment results in a new BMUS list, it would not carry the status of overfished or overfishing, as it would require a new benchmark assessment of the list.

Makaiau, PIRO (Tosatto designee), said there is a BMUS list that is currently assessed as a complex, and every single species in the current American Samoa BMUS list is designated as overfishing and overfished. Based on guidance from NMFS headquarters, if there is a new assessment that changes the status determination of individual species, the designations and status of those species would change. If a species in the current BMUS list cannot be assessed in

the new stock assessment, the stock status of those species would carry over the continued overfishing and overfished designation. If new species that are not currently on the BMUS list is added to the list and are not going to be assessed in the new assessment, those species would retain an unknown status.

Soliai requested that this guidance be provided in writing to clarify the comments about the overfished and overfishing designation in the territorial waters. He also said regarding the declining catch that was reported in the Manu‘a Islands, there was limited data between 2009-2020 despite a lot of effort in Manu‘a.

Peck asked whether a determination has been made on whether the BMUS list will be based on the creel survey or life history approach.

Jones said the analysis was a review of the current list based on the fisheries and how the fisheries operate, and the life history. This is a recommendation to revise that list to better align with the MSA and jurisdictional waters, vulnerability to the fisheries and life history. The plan is to then have working groups develop components of a possible FEP amendment for revising the BMUS, which would include looking at aspect such as the status determination criteria and essential fish habitat (EFH). Once the new BMUS list amendment is in place, then a WPSAR schedule will be set for a benchmark assessment of the new BMUS list. If written appropriately in the FEP amendment, the stock assessment team would have the flexibility to do single species, indicator species, or length-based integrated models, depending on what the data allows. It will likely be a combination of length data, catch data, effort and potentially fishery-independent surveys.

C. Options for Revising the Territorial Bottomfish Management Unit Species Complex

Sabater, Council staff, presented on the options for revising the territorial BMUS complex. The original Bottomfish FMP was approved in 1986 and considered 60 species commonly caught in the bottomfish fishery. The APT decided to limit the species to the top 20 that dominate the catch, mainly snapper, grouper, jacks and emperor species. In 2009, the Council transitioned from a species-based FMP to a FEP that reduced the list from 20 to 16 species in the Mariana Archipelago and 17 species in American Samoa. Ten years later, based on the analysis presented in the previous agenda item, the BMUS list is under consideration for another revision to reduce the Mariana Archipelago list down to 13 species and American Samoa to 11 species.

Currently, there are control rules in place through the FEP, which help define the range of the stock for the 11 species in American Samoa and 13 species in the Mariana Archipelago. Additional conservation and management measures include: the CNMI large vessel permit and reporting, gear prohibition, no setting of bottom trawls, observers on vessels when required by the PIRO regional administrator and ACLs. In terms of the application of the control rules, the current FEP already states the flexibility by which the overfishing criteria and the control rules could be applied on an individual species level within a multi-stock whenever possible. The limitation could be based on the activity of data and also what kind of control rule can be applied. When this is not possible, the Council can use an indicator species in the multi-species stock to monitor and assess one species that represents a group of species. Currently, the control

rules are applied on a single complex level, which is for the current assessment in the territories. The MSA also requires a periodic review of the FMPs, and BSIA to determine whether the stocks are appropriately identified. Over the years, changes in the fisheries have occurred that need to be reevaluated in regard to identifying whether the MUS list are still representative of the fishery. The current language provides the flexibility for the analysts to apply the control rule at that appropriate level depending on the quality and quantity of data that is available for each of the species in the complex. At the 180th meeting in October 2019, the Council recommended addressing the issues surrounding the territorial bottomfish, and directed development of an options paper for the revision of the BMUS complex in American Samoa and the Mariana Archipelago.

Changing the species in the complex triggers a revisit of the different elements of the MSA requirements in the FEPs, including status determination criteria, the ACL mechanism, EFH, bycatch or Standardized Bycatch Reporting Methodology, monitoring, and human communities. Therefore, all of this MSA work will have to come into play when changing the species list. Regarding the timeline, the information was recently presented to the APT, the APs, SSC and at the Council meeting. Stakeholder engagement will occur sometime early 2023. The APT recommended five subgroups within the APT to develop the different components of MSA to move the amendment forward. The initial action is likely to be presented in September 2023, with final action by December 2023.

Sabater presented the options for the Council's consideration. The first option was to maintain status quo, in which case the BMUS would not be refined into smaller units and remain as a diverse set of species that have a diverse set of life history characteristics. The fishery would be managed as a single fishery under a currently conservative catch projection estimate and would suppress a sector of the fishery. This also ignores what fishermen have been saying all along, that there is a separation of the deep bottom fishing from those who consider specializing in this fishery versus the shallow-water fishing, which are mostly noncommercial. This option also would not facilitate better federal and territorial coordinated management because there needs to be coordination and development of the Territorial Bottomfish FMP with the changes in the federal FEP. There would be no change in the EFH definition and species monitoring.

The second option is to revise the BMUS list based on the cluster analysis and life history synthesis. The cluster analysis provided the preliminary list and would split the shallow and deep species. The deep species would be managed under the federal FEP, while the shallow species would be designated as ecosystem components in the federal FEP, and may be picked up by a territorial FMP, which opens an opportunity for better coordinated management. All MSA requirements would be applied to either the individual species or indicator species level, including EFH, Standardized Bycatch Reporting Methodology, and the remaining ESA requirements. This is an opportunity to also apply the flexibility provision in National Standard 1 that states the application of ACLs does not need to be weight-based, but can be a rate-based approach.

Sabater presented the preliminary lists for American Samoa and Guam under consideration in option 2. All of the species are deepwater snappers, while in Guam, there are only two additions, *Etelis boweni* and the grey jobfish. With the revision of the BMUS list, EFH would need to be redefined for deepwater snappers only. This has implications for fisheries and

bycatch monitoring. Additionally, this would require support in the territories for the development of their territorial FMP.

Gourley said simplicity with the two options helps with the decision-making process.

D. Report of the Pilot Implementation of Catchit Logit

Sabater provided a report on the implementation status of Catchit Logit. Catchit Logit is part of a multi-faceted approach that the region has embarked on in improving data collection in the Western Pacific. This program went live in 2021 and a contractor conducted optimization and debugging of the app. The territorial agencies provided assistance on updating species lists to be consistent with their databases. The electronic reporting system is in the process of being transitioned to PIFSC.

As of January 2022, 138 fishers in American Samoa, 112 in Guam and 132 in the CNMI were registered in Catchit Logit. Contractors worked last year to sign up participants and follow-up on participation but those contracts ended in September 2021 with Council staff in the territories continuing the activities of quality assurance and quality control of the submitted data. Sabater presented the data collected by Catchit Logit noting the numbers of reports per month for trolling and bottomfish fishing methods for each of the island areas. Fisher reporting was consistent across the three territories but consistency in reporting decreased as the year progressed.

Fish vendor registration during the same time period saw 20 vendors registered in American Samoa, 10 in Guam and 10 in the CNMI. Reporting was less consistent between islands with a single vendor reporting in American Samoa, three in Guam, and four in the CNMI. However, CNMI's four vendors have submitted more than 2,000 reports representing the major fish retailers in Saipan. Sabater also provided a review of Catchit Logit data along with expanded creel survey data from the same time period. While the two data collection systems could not be compared directly, the analysis provided an idea of whether the expansions in the creel survey reflect the fishing seen in the Catchit Logit data.

Outreach for the program was conducted through posters and brochures distributed to tackle shops and fish vendors. Radio ads and occasional talk shows in the territories discussed the importance of data collection and a public service announcement for the program was developed and aired. Catchit Logit also had a presence on social media, Facebook, WhatsApp, and updates on the Council's website. One-on-one trainings and signups were available at fishing tournaments and the Pacific Islands Fisheries Group implemented a recognition program for those that participated in the program.

Sabater said there was a reluctance to use the application due to unfamiliarity with the smart devices provided as well as a "what is in it for us" sentiment in all areas. Areas without a mandatory regulatory framework for reporting had lukewarm support. Areas that do have mandatory reporting reported challenges with reporting electronically versus through paper logbooks, as well as enforcement and territorial agency staff support. Management of the cloud database for Catchit Logit is being transitioned to PIFSC, with the Council retaining access to the data through data-sharing agreement.

Dueñas said he supports the Catchit Logit program but asked for it to be more user-friendly. He said it is difficult for older people to utilize the smart technology and asked for an expansion to hard copies. He said GFCA tried to implement a volunteer data collection program and it was successful for three years. However, there was no interest in compiling the data. He said the resistance is there because the fishermen do not live on computers as in other places.

Amani said she was also very much in support of Catchit Logit and that the decline in participation is concerning. She said she is also trying to get fishermen that sell their fish to her restaurant to be a part of the program.

Muña-Brecht said instead of doing advertisements in newspapers, there should be ads on social media so that every time someone is on YouTube or Facebook a simplified ad for Catchit Logit would pop up.

Sword said the Council has to stay the course and keep pushing for people to participate and follow-up with the vendors and fishers to encourage participation. This could be the best data collection system in place and he said he did not want to see it go down the drain.

Rice asked about duplication of data.

Sabater said the program does not duplicate reports; rather the system upgrades the existing system to an electronic reporting program.

Soliai asked if Guam and the CNMI had mandatory catch reporting requirements.

Tenorio said the CNMI is currently working on developing the implementation plan for its mandatory catch reporting regulations.

Muña-Brecht said Guam has draft regulations for mandatory commercial reporting only. Guam is working with the community in its fisheries management plan development discussing the need for mandatory commercial reporting.

Sakoda asked what the plans are for the data being collected.

Sabater said Catchit Logit was developed to support improving the commercial data collection so it would be used for potential or existing mandatory license and reporting requirements. The dataset could then be used to compare the commercial portion of the catch with the existing creel survey to optimize the creel survey data and time series. By running both systems over a couple of years, the time series can be statistically recalculated.

Dueñas said he wanted to continue to raise his dismay in creating a mandatory license. He said he fought this on the federal level for a saltwater license and that it is not fair for Pacific Islanders to pay for something that is in their backyard. He said if such action is to take place because people do not want to do their jobs collecting data, an organization such as GFCA should be exempt because they have been providing commercial landing data from fishermen for more than 40 years. He said he was concerned about the licensing and as a Chamorro, he deserves to fish freely.

Muña-Brecht said they are not going to charge a fee for the commercial license and are tying the responsibility of having a commercial license to the business license that is required by revenue taxation.

E. Aquaculture Management Final PEIS and Future Action

Tori Spence-McConnell, regional aquaculture coordinator for the Pacific Islands Region, provided an update on the programmatic environmental impact statement (PEIS) for aquaculture in the region. The PEIS is a precursor to a potential management program and was prepared between 2017 and 2021. The draft was available for public comment between May and August of 2021 with virtual listening sessions for additional comment opportunity. The public comments were taken into account when finalizing the PEIS which is very close to publishing.

The goal of the PEIS is to provide a foundational environmental analysis, including a socioeconomic analysis, for a potential program for federal waters in the Council's management area. The alternatives outlined in the PEIS include the no action, or status quo, alternative, as well as two alternatives that outline a comprehensive management program. Both alternatives outline a limited entry one-stop-shop program for permitting, recordkeeping and reporting. The main differences between the two comprehensive programs are a difference in permit duration, species, and gear types allowed. The PEIS analyzes impacts from effluents, on ecosystem function and wild fish stocks, protected species, and habitat, as well as socioeconomic impacts.

NMFS received 160 comments on the draft PEIS in the categories of legal authorities, effluents and habitat functioning, local wild fish stocks, other marine wildlife, protected species, socioeconomic impacts and climate change. These comments will be summarized in the final PEIS, which identifies alternative 3 as the preferred alternative. After the PEIS is published, a record of decision will be published not less than 30 days after the PEIS. When that is published, the Council can decide to develop an amendment to its FEPs to develop a management program. Spence-McConnell said there will be more opportunities for public engagement throughout the rest of the process and this would not be the last time this is brought before the Council.

Rice said he would be speaking on aquaculture at the National Saltwater Recreational Fishing Summit and was appreciative of the presentation. He also asked the State of Hawai'i for their stance on aquaculture.

Sakoda said the State's position would depend on the specifics of the project, and noted the State is not against aquaculture in principle and would want to ensure a project does not have potential adverse impacts to the environment and other consider factors.

Rice said there are concerns that aquaculture structures become big FADs that take away species from the natural ledges and that affects fisheries.

Ramsey asked if there is any indication about a preference for a shorter or longer permitting duration.

Spence-McConnell said there is interest in both. She noted the disparity between 10 and 20 years and said the rationale behind the difference is that at the beginning, the ability to streamline the process and all of the other processes in aquaculture will take some time. Another consideration is that a barrier to aquaculture is the opportunity for investment and that investors

do not want to invest if there is no evidence that you can actually get a permit. Looking at other regions and other areas of the world that has aquaculture permits provides lessons learned.

Gourley asked about the status of the Council's FEP amendment for aquaculture.

DeMello said the Council took initial action to permit aquaculture in federal waters but the alternatives in the draft PEIS is different from what the Council saw before. The new alternatives are more comprehensive, and still covers the Council's intent for permitting aquaculture. He said the Council will be looking at that amendment for final action once the final PEIS is published. He noted the Council may support the preferred alternative in the PEIS as a revised preliminarily preferred alternative prior to finalizing the amendment for the Council's final action.

Gourley said it is time to revisit that amendment and move it forward.

Tosatto said the Council has made a series of recommendations and while the national picture on aquaculture has waxed and waned over the years, it has been consistently supported. The Council has been watching the national picture to clarify and consider what was appropriate in this region. He said the key issue is around the investment needed for production of aquaculture and the sense of permanence. This comes with good and reliable governance. He said it is appropriate for the Council to have a developed analysis before it makes decisions and that the next step is for the Council to identify support for the preferred alternative. To move forward, it begins with taking a hard look at this and supporting an alternative and providing feedback on what will be finalized and the Council will make a decision on.

F. Council Coordination Committee Working Group on Equity and Environmental Justice

Maria Carnevale, Council staff, presented updates on the Council's work toward EEJ in fisheries. EEJ and supporting underserved communities are a national priority set by the Biden administration. Council staff has provided feedback to contribute to this effort through round tables, outreach and engagement calls, and other initiatives. The CCC is also working on identifying the issues of EEJ in fisheries management from a national and regional perspective. Initial discussions on what the Councils can do to address these issues from an MSA perspective and the Western Pacific Region is moving forward with planning efforts for developing a regional report.

NMFS convened a National EEJ Working Group that was charged with producing a draft strategy which was anticipated to be shared at the CCC in May 2022 and be available for public review. The themes included in the draft strategy have been shared with the CCC working group and Council staff is looking at these themes as a framework to align regional objectives and guidance on moving forward. She reviewed terminology and guidance on disadvantaged communities provided through various agencies and executive orders noting that this is embedded in the Council's approach toward operationalizing EEJ.

As the Council has looked to plan and communicate on EEJ, staff has been looking at what others have been doing programmatically, how they take EEJ and tangibly put organizational plans together. There have been calls to decolonize funding as a part of distributional benefit equity and in 1991 the First National People of Color, Environmental

Leadership Summit was held in Washington, D.C., at which the 17 Principles of Environmental Justice was adopted. Based on a review of these plans, operationalizing EEJ necessitates a framework approach that examines the existing conditions to see if equity is present and repairs or mitigates the conditions where it might be lacking. This strategy for the Council to address and implement EEJ in the Western Pacific Region is being developed by staff and reviewed by the Council's advisors. The strategy will emphasize what the Council is doing and what it is going to continue to emphasize to drive more equitable outcomes in the region for fisheries management. It will also ask how the Council's work relates to the work of others and how the Council leverages collective strength and diversity of culture and thought. High level vision and input from Council members is needed in moving forward with the planning of the strategy.

Amani said this is something long awaited for all of the Pacific Island territories, noting that over the years the islands have been put in cookie-cutter situations and treated like the United States but at the same time the territories are not treated the same as U.S. citizens.

Dueñas said he hopes for a more positive outcome from the CCC.

Soliai asked about the timeline and when staff envisioned this work to start and finish.

Carnevale said the CCC working group report is in development and will be presented at the May meeting. NMFS's draft national strategy is going to be available for review over the summer. In the region, she said the work was done before so it could be done quicker or at least on a similar timeline to the high-level strategy.

Soliai said the words being used, equity, underserved communities, disadvantaged communities, has a negative impact to the U.S. territories and it is time to move it forward.

Muña-Brecht said she appreciated the language being used as it is much stronger and hopes to garner a lot more support with it.

G. Regional Communications and Outreach Report

Amy Vandehey, Council staff, presented an overview of the communication and outreach activities from December 2021 through February 2022. The overview included updates on the most recent publication of the *Pacific Islands Fishery News* newsletter, the publication of articles in the January, February and March issues of *Hawaii Fishing News*, specifically related to the lunar calendars, bottomfish restricted fishing areas, proposed fishing regulations in the Northwest Hawaiian Islands, Council social media stats, Catchit Logit and interviews on the Go Fish! radio show with Mike Buck in Hawai'i. Vandehey also highlighted that the Council is returning to in-person events in Honolulu with the first event at the Bishop Museum this weekend. The Council has a table and staff looks forward to seeing any and all stakeholders that are interested in being involved.

H. Advisory Group Report and Recommendations

1. Advisory Panel

Tam, AP chair, presented the AP recommendations.

Regarding territory BMUS revisions, the CNMI AP supported option 2 to revise the BMUS to reflect the species caught in the federal fisheries.

The Guam AP supported option 2 to revise the BMUS to reflect the species caught in the federal fisheries.

The American Samoa AP recommended the Council select option 2 to provide more flexibility in assessing the American Samoa bottomfish stock.

Regarding EEJ, the Guam AP recommended the following be included in Western Pacific EEJ planning; 1) territorial funding inequities; 2) limited access to fishing grounds due to the disproportionate marine national monument designations in the region and inaccessible U.S. military areas; and 3) the need for community assistance to more effectively comment on federal proposals, such as early community engagement, comment period timing notifications and distilling large proposals into digestible materials for public consideration.

2. Fishing Industry Advisory Committee

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

Regarding the CCC Working Group on EEJ, the FIAC recommended the Council approve the draft Western Pacific EEJ Planning Framework and directed staff to work toward implementing a Western Pacific EEJ strategy.

Regarding the Young Fishermen's Act, the FIAC recommended the Council determine the potential for utilizing the Young Fishermen's Act to support the training of the next generation of crew and marine mechanics.

Goto noted training for marine mechanics is extremely important, especially for the commercial longline fleet. It is difficult to get good engineers to get to this industry and it is going to be pivotal for the fishery in the future.

3. Archipelagic Plan Team

Jones, APT chair, presented the recommendations from the Intersessional APT meeting held Feb. 16, 2022.

Regarding the revision of the BMUS list for American Samoa and Guam, the APT recommended the following species be considered for Council approval to comprise the proposed federal BMUS in American Samoa and Guam (Table 1) and territorial BMUS (Table 2) subject to further refinement through agency and community consultation.

The APT noted these new species lists will not take into effect until the FEP amendment is completed at earliest in 2024.

The APT recommended the Council consider revising the territorial BMUS complex based on the results of the cluster analysis and life history synthesis/report, utilize the

flexibility of the current FEP control rule and apply the control rule at the appropriate level depending on the available data.

The APT recommended the Council endorse the APT working groups to provide the information to support the different sections of the BMUS revision amendment. The APT working groups and proposed members are as follows:

- Stock Status Determination Criteria (Carvalho, Nadon, Ahrens, Ochavillo, Sabater)
- Essential Fish Habitat (Parke, O'Malley, Oliver, Ahrens, Tibbatts)
- ACL and Accountability Measures using 600.310(h)(2) (Schumacher, Sabater)
- Monitoring and Bycatch (Suter, Bigelow, Ochavillo, Biggs, Villagomez)
- Fishing Communities (Kleiber, Pan, Council Island Coordinator Staff)

Table 1. Proposed BMUS under the federal FEPs in American Samoa and Guam.

American Samoa	Guam
<i>Aphareus rutilans</i>	<i>Aphareus rutilans</i>
<i>Etelis boweni</i>	<i>Etelis boweni</i>
<i>Etelis carbunculus</i>	<i>Etelis carbunculus</i>
<i>Etelis coruscans</i>	<i>Etelis coruscans</i>
<i>Pristipomoides argyrogrammicus</i>	<i>Pristipomoides argyrogrammicus</i>
<i>Pristipomoides auricilla</i>	<i>Pristipomoides auricilla</i>
<i>Pristipomoides filamentosus</i>	<i>Pristipomoides filamentosus</i>
<i>Pristipomoides flavipinnis</i>	<i>Pristipomoides flavipinnis</i>
<i>Pristipomoides seiboldii</i>	<i>Pristipomoides seiboldii</i>
<i>Pristipomoides zonatus</i>	<i>Pristipomoides zonatus</i>
<i>Pristipomoides multidentis</i>	-
<i>Paracaesio stonei</i>	-
<i>Paracaesio kuskarii</i>	-

Table 2. Proposed BMUS under the territorial FMPs in American Samoa and Guam.

American Samoa	Guam
<i>Aprion virescens</i>	<i>Aprion virescens</i>
<i>Caranx ignobilis</i>	<i>Caranx ignobilis</i>
<i>Caranx lugubris</i>	<i>Caranx lugubris</i>
<i>Variola louti</i>	<i>Variola louti</i>
<i>Lethrinus rubrioperculatus</i>	<i>Lethrinus rubrioperculatus</i>
<i>Lutjanus kasmira</i>	<i>Lutjanus kasmira</i>

4. Scientific and Statistical Committee

Lynch, SSC chair, provided the SSC report and recommendations.

Regarding the National Legislative Report, the SSC recommended that SSC members provide comments to the CCC National Legislative Working Group Paper to convey the regional

perspective on issues surrounding the new forage fish legislation, including a potential burden on the specification of the Council’s research priorities associated with setting ACLs for forage fish species.

Regarding the revision of the territorial BMUS complex, the SSC recommended option 2 to revise the BMUS list based on the cluster analysis and life history synthesis. In selecting option 2, the SSC supports the refinement of the BMUS in the federal FEPs, and the shallow-water species are moved to federal ecosystem components and recommends these species be included in the territorial FMPs. The change in the composition of the BMUS complex triggers revisions to the various MSA requirements for the MUS.

Regarding the Tier 1 WPSAR review of the EFH models, the SSC recommended Chaloupka as chair of the WPSAR panel to review the EFH models.

I. Public Comment

There was no public comment.

J. Council Discussion and Action

Regarding National Legislative Report, the Council directed staff to solicit comments from its advisers for the CCC National Legislative Working Group Paper to convey the regional perspective on issues surrounding the new forage fish legislation, including a potential burden on the specification of the Council’s research priorities associated with setting ACLs for forage fish species.

Moved by Rice; seconded by Sword.
Motion passed.

Regarding the BMUS revision, the Council selected option 2 to revise the American Samoa and Guam BMUS based on the results of the cluster analysis and the life history synthesis, utilize the flexibility of the current FEP control rule, and apply the control rule at the appropriate level depending on the available data. The American Samoa and Guam MUS are as follows:

American Samoa	Guam
<i>Aphareus rutilans</i> - palu-gutusaliva	<i>Aphareus rutilans</i> - lehi/maroobw
<i>Etelis boweni</i> - giant ehu	<i>Etelis boweni</i> - giant ehu
<i>Etelis carbunculus</i> - palu malau	<i>Etelis carbunculus</i> - buninas agaga’, falaghal moroobw
<i>Etelis coruscans</i> - palu-loa	<i>Etelis coruscans</i> - abuninas, taighulupegh
<i>Pristipomoides argyrogrammicus</i> - blue banded gindai	<i>Pristipomoides argyrogrammicus</i> -blue banded gindai
<i>Pristipomoides auricilla</i> - palu‘i‘usama, palu-ave	<i>Pristipomoides auricilla</i> - buninas, falaghal-maroobw
<i>Pristipomoides filamentosus</i> - palu-ènaèna	<i>Pristipomoides filamentosus</i> - buninas, pakapaka, falaghal-maroobw
<i>Pristipomoides flavipinnis</i> - palu-sina	<i>Pristipomoides flavipinnis</i> - buninas,

	falaghal-marooobw
<i>Pristipomoides seiboldii</i> - pink snapper (kalekale)	<i>Pristipomoides seiboldii</i> - buninas, falaghal-marooobw
<i>Pristipomoides zonatus</i> - palu-ula, palu-sega	<i>Pristipomoides zonatus</i> - buninas rayao amariyu, falaghal-marooobw
<i>Pristipomoides multidentis</i> - palu-sina-ugatele	-
<i>Paracaesio stonei</i> - cocoa snapper	-
<i>Paracaesio kusakarii</i> - palu-tuauli, mu-sina	-

The Council endorsed the APT working groups (including Council staff support) to provide the information to support the different sections of the potential BMUS revision amendment. The APT working groups and proposed members are as follows:

- a. **Stock Status Determination Criteria (Carvalho, Nadon, Ahrens, Ochavillo, Sabater, Schumacher)**
- b. **Essential Fish Habitat (Parke, O'Malley, Oliver, Ahrens, Tibbatts)**
- c. **ACL and Accountability Measures using 600.310(h)(2) (Schumacher, Sabater)**
- d. **Monitoring and Bycatch (Suter, Bigelow, Ochavillo, Biggs, Villagomez)**
- e. **Fishing Communities (Kleiber, Pan, Council Island Coordinator Staff)**

The Council directed staff to convene meetings of the APT working groups to report on progress of their respective MSA sections in preparation for the community engagement in Guam in November 2022 and American Samoa in February 2023.

Dueñas said these fish all look alike and it is difficult to differentiate between the two different types of onaga that are caught in Guam. He requested the working groups provide a preliminary report to the fishing community as the input of the fishing community should be taken into consideration to provide input on the effects on fishing.

Soliai asked about representation from the territories in the working groups.

Sabater said representatives of the community can be added but the APT did not want to burden them with being a part of all five. The territorial representatives were asked which groups they wanted to participate in.

Moved by Dueñas; seconded by Sword.
Motion passed.

Regarding the report on Catchit Logit implementation, the Council reiterated its previous recommendation encouraging the American Samoa DMWR, Guam DAWR to expedite the completion of the mandatory license and reporting regulations and for the CNMI DFW to synchronize the implementation of their regulation with the Catchit Logit data collection.

Dueñas stated that he had concerns with the Catchit Logit program as the success of the program is dependent upon the support of a coordinator to ensure data collection for the program. The program should also be expanded to allow submission of hard copy data. The second part of the recommendation demands that the local governments have a licensing requirement, which is disheartening. He asked who would enforce the provision when there is a juvenile rabbitfish run and there are 200 thrownet fishermen along the coastline. A mandatory license is also counter to the cultural values of Guam and goes against the very grain of being a Pacific Islander. Dueñas understood the need to capture information, but suggested working with the fishing community on a greater effort, such as improving the Catchit Logit program to increase participation. He asked for the part of the recommendation regarding license be removed from the recommendation and for the recommendation to concentrate on the enhancement of the Catchit Logit program.

Moved by Dueñas; seconded by Sword.
Motion passed, with Dueñas opposing.

Regarding aquaculture, the Council reviewed the draft Aquaculture Management Framework PEIS alternatives and supports NMFS publishing the final PEIS. Further, the Council supported PEIS alternative 3 as its preliminarily preferred alternative and rescinds its previously supported preliminarily preferred alternative identified at the 172nd Meeting (March 2018). Therefore, the Council directs staff to incorporate the PEIS into an omnibus aquaculture FEP amendment that includes management measures and procedures and to present the analysis of the alternatives for the Council's consideration in June.

Moved by Rice; seconded by Sword.
Motion passed.

Regarding the WPSAR Tier 1 panel review of the EFH model, the Council endorsed SSC member Milani Chaloupka as the chair of the WPSAR panel.

Moved by Rice; seconded by Sword.
Motion passed.

Regarding EEJ, the Council endorsed the Western Pacific draft EEJ planning framework and requests that staff continue to work toward developing and implementing a Western Pacific EEJ strategy that addresses regional inequities regarding fisheries management.

The Council directed staff to determine the potential for utilizing the Young Fishermen's Act to address EEJ inequities and support training of the next generation of crew and marine mechanics.

Moved by Rice; seconded by Sword.
Motion passed.

XII. Administrative Matters

A. Financial Reports

Simonds reported on the administrative multiyear expenditures for 2021 and noted \$60,000 remaining committed. Projects funded under the administrative multiyear award included Delineation of EFH, Reviewing FEP Standardized Bycatch Reporting Methodologies, Hawai‘i Longline Electronic Reporting Training and Outreach, Regulations to Support the American Samoa FMP, and Fishery Indicators and Synthesis of Data Sources for Key Incidental Pelagic MUS caught by the Hawai‘i-Based Fisheries. Simonds referred to the coral reef award ending in September 2022 and that the Council’s coral reef coordinator was available for questions. Two of the larger projects under this award included a contract with Poseidon Fisheries Research to conduct biosampling on Nenue and the Ecosystem-Based Fisheries Management Threshold for Hawai‘i Nearshore Fisheries project with Arizona State University.

Mark Mitsuyasu, Council staff, reported on the open SFF awards. SFF 9 supports the Garapan Fishing Base Area revetment project which is going through the final permitting process to move forward with construction. SFF 11 supports the Fisheries Training and Demonstration project in the CNMI and the Bottomfish Fisheries Demonstration and Training Project, and Fresh Fish Longline Pilot Project and outreach for American Samoa. SFF 12 has two projects that have been implemented which include the study for the Southern albacore fishery, which is tentative to be completed by July 2022 and the other for the Manu‘a student fishing tournament, which has been a joint effort between the local department and advisors. SFF 13 supports American Samoa and the CNMI for \$250,000 each. Projects for the CNMI include a coordinator for Bottomfish Vessel and Enforcement Vessel Operation and Maintenance Support, and Smiling Cove Dock Repair. Projects supporting American Samoa include funds for the Ice House and Installation of Reinforcing Piers for a Fuel Dock by DMWR. Funding for each territory also supports the U.S. Pacific Territories Fishery Capacity-Building Scholarship Program.

Simonds stated that going forward the SFF awards will be named by area instead of roman numerals to prevent confusion. The American Samoa SFF 2022 grant is a two-year award for \$100,000. This will support the U.S. Pacific Territories Fishery Capacity-Building Scholarship Program and a project coordinator for the Marine Conservation Plan. The CNMI SFF 2022 is for \$375,000 and \$50,000 of those funds will also be for the scholarship program and will also support the Marine Conservation Plan project coordinator. Other projects include support for data collection in Rota and Tinian and the Northern Island Mooring Pilot Project.

B. Administrative Reports

The Council provided responses to Freedom of Information Act request DOC-NOAA-2022-00387 and DOC-NOAA-2002-000457 in January. Simonds noted the 2021 Report to Congress on the regional fishery management council member’s financial interest disclosure, recusal requirements and membership apportionment was available in the Council meeting briefing materials and on the website.

C. Regional Operating Agreement Update

Mitsuyasu reported on the next revision of the Regional Operating Agreement (ROA) to Develop and Implement Fishery Management Actions, which defines roles and responsibilities of the Council, PIRO and PIFSC. Revisions included clarifying when the action team is formed,

adding the overfishing and rebuilding plans, allowing for designees to participate in pre- and post-Council meetings of the executive director, regional administrator and PIFSC director and a provision for the staff to look at the ROA annually.

Gourley, using ESA Section 7 consultations as an example, suggested adding a procedure in the ROA regarding consultation deadlines and a process to elevate issues to NMFS headquarters or a higher level office for resolution.

Tosatto said the ROA does not cover ESA Section 7 consultations and the subsidiary ESA/MSA Integration Agreement controls NMFS policy. Tosatto said he does not support conflict resolution or an elevation clause in the ROA as it would be unsuccessful in the long term and that it is irrelevant as the assistant administrator will generally refer the issue back to him to resolve with the regional players.

Dueñas said there needs to be more effort to establish a dialogue between the Council, Council staff and NMFS. Dueñas said he appreciated that Tosatto reported on why each activity is delayed and caveats he had to deal with but asked that the Council be informed of these activities and that the agreement is honored.

D. Council Family Changes

Mitsuyasu said Jenny Suter will be replacing Rebecca Walker and Ashley Tomita as the current lead for the PIFSC Fishery Monitoring Program for the APT. Ian Bertram will be added as a representative from the Fisheries, Aquaculture and Marine Ecosystems of the Pacific Community. Jenny Suter will also be added as an ex-officio member from PIFSC for the Pelagic Plan Team and Fishery Data Collection and Research Committee—Technical Committee. Anthony Cabrera Guerrero from the CNMI and Timothy Perez from Guam will be added to the FIAC. Mitsuyasu said Biggs now works for DOAG and is also on the SSC, so he will be removed from the Guam AP alternate seat.

E. Meetings and Workshops

Simonds referred members to the schedule of meetings and noted the 2nd Annual Workshop on Sea Turtle Research in the Hawaiian Island and Oceania in Honolulu would be both in-person and virtual and encouraged participation. Simonds also highlighted other upcoming events including the pre-U.N. Ocean Conference, Our Ocean Conference in Palau, and the CCC meeting in Annapolis, Maryland. The Council is also planning on in-person and hybrid meetings for SSC and Council for the remainder of the year, such as American Samoa for the September Council meeting and the Mariana Archipelago in December.

F. Standing Committee Report

Soliai reported the committee met on Monday and discussed administrative matters covered in prior agenda items. Recommendations will be included in Council discussion and action.

G. Public Comment

There were no public comments.

H. Council Discussion and Action

Regarding administrative matters, the Council endorsed the 190th Council Meeting financial and administrative reports as provided by staff.

The Council directed staff to work with NMFS to amend the 2022 ROA to include an escalation process to address issues that parties are unable to agree upon. As a part of this conflict resolution process, any one party should be afforded the ability to escalate issues to headquarters when necessary.

The Council directed staff to send a letter on behalf of the Council offering its sincere condolences to the family of the late Congressman Don Young.

Moved by Gourley; seconded by Sword.

Motion passed.

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

- **Appointed Jenny Suter as an ex-officio member to the Archipelagic and Pelagic Plan Teams and as member to the Fishery Data Collection and Research Committee—Technical Committee. Suter will replace previous WPacFIN acting supervisors Rebecca Walker and Ashley Tomita.**
- **Appointed Ian Bertram from the Fisheries, Aquaculture and Marine Ecosystems of the Pacific Community to the APT.**
- **Appointed Anthony Cabrera Guerrero from the CNMI to the FIAC.**
- **Appointed Timothy G. Perez from Guam to the FIAC.**
- **Removed Jason Biggs as an alternate member of the Guam AP.**

Moved by Gourley; seconded by Dueñas.

Motion passed.

XIII. Other Business

Soliai provided a statement on the Council's experience with the ESA consultations and the minimal communication received from PIRO staff about the BiOp status. It has been three years and the Council does not know if additional mitigation measures will need to be considered or how this will affect the process for decision-making. The ESA-MSA Integration Policy Directive recognized the Council's critical role in supporting NMFS's ability to comply with the ESA, but communication and coordination with the Councils has been lacking. Soliai emphasized how this affects the fishing communities who have faced challenges, hardship and uncertainty over the last several years, and said the communities deserve the support from NMFS leadership. The Council is here to ensure the sustainability of the region's fishery resources as mandated by the MSA. Soliai asked that PIRO respect the Council process and provide realistic timelines and meaningful dialogue so that the Council and NMFS may work together to complete these BiOps and ensure that the region's fisheries can continue to operate in compliance with ESA.

Soliai asked that the Council consider a recommendation to send a letter to Janet Coit to convey concerns with the ongoing ESA process and request assistance for the BiOps to be completed in coordination with the Council.

Tosatto referred to an earlier discussion regarding the completion of the BiOps and said some of the concerns about BiOp delays placing great uncertainty and risk are somewhat untrue. He acknowledged that ESA compliance is clearly a requirement, and said every fishery management action implemented during the course of the ongoing BiOps was documented to be compliant with ESA. Depending on the action, ESA allows the agency to certify that ESA coverage remains with the existing BiOp and Tosatto said PIRO has not held up any fishery management action due to the lack of BiOp completion. Tosatto said while he agrees that completing these BiOps is a requirement, he does not believe that a letter will have the effect that Council members might think it will on expediting the timeline. He said the BiOps are getting to the final milestones such that external pressure or assistance would not speed up the timeline. Tosatto said he is not appealing to the Council not to send the letter if the Council feels it's needed, but was setting the expectation that it would not have an impact on the outcomes. He reminded the Council that while there was a lot of debate and discussion around the Hawai'i shallow-set longline consultation that was completed in 2019, that was the first shallow-set BiOp in 20 years that has allowed the fishery to operate without ongoing litigation. Tosatto said they are doing their best to provide what is in the Council, fishery and nation's best interest.

*Regarding other business, the Council **directed staff to send a letter to Janet Coit, assistant administrator for NMFS, reiterating the Council's mission and its concerns regarding the ongoing ESA consultations, highlighting the issues related to timing, communication and coordination.***

Dueñas said the regional administrator is representative of the actual administrator and agrees with sending concerns.

Sword said he hopes the recommendation moves the process forward in the right direction.

Peck said he hopes that the letter both highlights the issues and also points out the areas that are working.

Moved by Dueñas; seconded by Gourley.

Motion passed.

XIV. Election of Officers

*Regarding Council officers, the Council **appointed the following members as its 2022 officers:***

- **Archie Soliai, chair**
- **Will Sword, American Samoa vice chair**
- **John Gourley, CNMI vice chair**
- **Manny Dueñas, Guam vice chair**
- **Roger Dang, Hawai'i vice chair**

Moved by Dueñas; seconded by Sword.
Motion passed.

Soliai noted chairs for standing committees will remain the same.

[Meeting adjourned.]