



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**MINUTES OF THE  
191th MEETING OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**June 21-23, 2022 Council Plenary  
By Web Conference and Host Site:**

**Council Office Conference Room  
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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)
- Howard Dunham (American Samoa)
- 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 Jessica McCollum, U.S. Coast Guard (USCG) (designee for Rear Adm. Michael Day, commander for USCG District 14)
- Colin Brinkman, U.S. State Department

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

Soliai opened the 191st Council meeting with a prayer.

## **II. Approval of the 191st Council Meeting Agenda**

Soliai announced that a guest presentation by Suzanne Puanani Vares-Lum, East-West Center president, will be added to day 2.

The 191st meeting agenda was approved by general consent.

## **III. Approval of the 190th Council Meeting Minutes**

The 190th meeting minutes were approved by general consent.

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

Simonds presented the executive director's report. The Council continues to hold hybrid virtual meetings and workshops from the Council's Honolulu office, and plans to hold in-person meetings for the September and December Council meetings in American Samoa and the Mariana Archipelago, respectively.

At the 190th Council meeting, the Council asked that PIRO provide a realistic timeline of review for the remaining biological opinions (BiOps) for the bottomfish fisheries, Hawai'i deep-set longline fishery (DSL), and American Samoa longline fishery (ASLL). The draft bottomfish BiOp was received June 3, 2022, and the Council will provide its review at this meeting, but the Council never received a timeline as requested. The Council's request to receive the draft by May 23, 2022, to allow sufficient time for the Advisory Panels (APs), SSC and Council to review was not met. For the remaining two BiOps, the Council has only heard that the PIRO will likely provide the DSL BiOp no later than July 2022, and the draft ASLL BiOp "should follow shortly." The Council did not receive any further information on how long it will be granted for review and whether the review would accommodate the Council's meeting schedules. At this time, the Council plans to review the DSL and ASLL draft BiOps through the September meeting cycle. However, at the SSC meeting last week, the PIRO regional administrator conveyed that the Council's draft review is still a matter of "if." To complicate matters further, Earthjustice finally filed a complaint against NMFS for the agency's failure to complete the DSL and ASLL consultations. The Council has yet to hear how this may affect its schedule for the draft BiOp review and involvement with the Reasonable and Prudent Measures (RPMs) development process.

The Council Coordination Committee (CCC) continued discussions with NMFS Headquarters on improving the Endangered Species Act (ESA)—Magnuson-Stevens Fishery Conservation and Management Act (MSA) Policy Directive, and voted to convene a working group to move forward on this effort. Our Council will co-chair the working group.

The Council maintains its momentum in getting the U.S. government to develop a new Pacific strategy as outlined in the paper adopted at the March 2022 meeting, which calls for a holistic approach to address greater U.S. interests and how they are tied to the prosperity of U.S. fisheries in the Pacific. The Council has been in contact with multiple federal agencies that include those in charge of national security, economic interests and food security. The Council also provided comment to the Biden Administration on inclusion of fisheries as a key component to a connected economy with the Pacific Islands under the new Indo-Pacific Strategy and its Indo-Pacific Economic Framework. The Assistant Secretary of Defense for Indo-Pacific Security

Affairs, Pacific Region director of the USFWS, U.S. trade representative and Deputy Assistant Secretary of State for Oceans, Fisheries and Polar Affairs (Maxine Burkett) have all responded positively to the Council's request. Burkett has served as a professor at the University Of Hawai'i's Richardson School of Law and is very familiar with the Hawai'i fishery, and committed to making strides to improve the situation for Hawai'i fisheries in the international forum.

At the May 2022 CCC meeting, NMFS unveiled its goals and objectives of a National Seafood Strategy. The continental United States competes collectively with foreign fisheries but the U.S. Pacific Territories are experiencing foreign competition firsthand. There is a need to increase U.S. quotas, reduce disproportionate burdens to our territories, and international management needs to recognize virtues of U.S. management regimes that make U.S. fisheries good stewards. The Pacific Islands gross domestic product is deeply reliant on fisheries, especially in American Samoa. The Pacific purse seine fleet has dwindled from 38 vessels in 2018 to 13 today. Therefore the National Seafood Strategy should be a part of a more holistic agenda to benefit U.S. fisheries and interests internationally and emphasize reducing both domestic and international restrictions. In American Samoa, domestic and international regulations are keeping tuna purse seiners from optimal operations and supplying the local cannery that supports the island economy. Barriers to "free" trade of domestic seafood also need to be minimized, such as removing the law on sale of billfish from Hawai'i domestically and internationally. The National Seafood Strategy should replicate U.S. Department of Agriculture (USDA) support of U.S. farms and farmers, such as through low-interest loans and seafood culinary programs. The strategy needs to include the regional fishery management councils up front in its consultations because the Fishing Industry Advisory Committees (FIACs), APs and SSCs are experts to inform the national-level strategy about regional issues and economic impacts. Fair, reciprocal and sustainable seafood trade should also focus on "leveling the playing field" for U.S. fisheries in regional fishery management organization (RFMO) negotiations, like the Western and Central Pacific Fisheries Commission (WCPFC).

The Council continues to lead on equity and environmental justice (EEJ) issues, as they inherently impact the well-being of the region's communities and where communities are living below the U.S. poverty level. Staff continues to co-lead the CCC EEJ working group that developed a report and presented to the full CCC at the May meeting. Soliai also presented at the CCC. The Council hosted an EEJ Workshop in late April 2022, which brought together indigenous Council members, AP members, NOAA staff and leaders working on EEJ issues.

NOAA provided its formal 304(a)(5) package on the Northwestern Hawaiian Islands (NWHI) Sanctuary Designation Process to the Council chair Nov. 19, 2021. The Council responded March 25, 2022, providing draft regulations to NOAA. A response was received May 26, 2022, thanking the Council for choosing to develop draft fishery regulations and looking forward to receiving final draft regulations but not providing an analysis of the Council's potential action. The Council continues to discuss timing and concerns with NOAA Office of National Marine Sanctuaries (ONMS) staff. Council staff will present options for the Council to consider and provide direction as it moves to amend its Hawai'i Archipelago and Pacific Pelagic Fishery Ecosystem Plans (FEPs) to provide additional management in the NWHI.

The Pacific Remote Islands Coalition (PRIC) proposed to further use the Antiquities Act to fully close the Pacific Remote Island Areas (PRIA), including waters 50 to 200 nautical miles



seaward of Palmyra Atoll, Kingman Reef and Howland and Baker Islands. The Pacific Remote Islands Marine National Monument (PRIMNM) and its expansion was negotiated with President Obama's chief of staff to not close all Pacific Island waters. The fisheries that are open today were carved out with President Obama. Further expansions will have multiple unintended consequences that will damage the American Samoa tuna-dependent economy, undermine U.S. efforts to balance the influence of China in the Pacific, undermine efforts for EEJ and lead to more conservation issues. This situation also exacerbates the "uneven playing field" for U.S. Pacific Island fisheries while competing with non-U.S. and heavily subsidized fisheries such as China, Japan, Taiwan and all other Asian countries.

There is no scientific evidence to support the notion that large-scale static closures have any impact on the sustainability of highly migratory species like tuna, nor are they effective for protecting biodiversity in these dynamic ecosystems in a changing ocean. On the contrary, the result of large, static area closures is a transfer of fishing effort from one place to another, oftentimes at the expense of conservation. Instead of fishing in U.S. waters where they have privileged access, these U.S.-flagged vessels will have to fish elsewhere or reflag to other nations where they will likely not support the U.S. territorial economies or be subject to U.S. conservation standards.

The U.S. Pacific Island community should not carry the full conservation burden of the country under the "America the Beautiful" initiative outlined in Executive Order (EO) 14008. This expansion would be counter to Section 219 of EO 14008 on securing an equitable future for the underserved American Samoa community and to EO 13985. EO 13985 explicitly states it is the policy of the administration to "pursue a comprehensive approach to advancing equity for all...including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality."

Council staff is developing a strategic planning session to update the five-year program plan. Staff will develop a program for the Council based on what is happening in the world and the nation. A survey soliciting comments from the Council family and other interested parties will be conducted and responses used by staff in the program review and planning session. The facilitated planning session is being scheduled for the last week of July with outcomes to be presented at the September 2022 Council meeting.

The Council will have a \$343,000 budget cut from NMFS. The Council needs these funds as they cover personnel cost for one Council staff member, the Council's capacity-building program and the contract that produces the Annual Stock Assessment and Fishery Evaluation (SAFE) Reports. These budget cuts need to be discussed.

Gourley said conservationists coming in to reverse past agreements made on the PRIA is the same as what is happening in the Mariana Archipelago with the current effort to convert the Marianas Trench National Marine Monument (MTMNM) to a marine sanctuary. People in the Mariana Archipelago fought hard to keep the water column open for fishing in the MTMNM, but conservationists now want to convert the monument to a sanctuary and suggest no fishing. He expressed concern that conservation groups will always want to destroy the efforts made to preserve the fisheries.

Dueñas asked why the BiOps are taking so long and if there has been direct dialogue between the regional administrator and the executive director. Regarding the Pacific Strategy, he hoped it includes the military because the military has its own dominance concern in the form of the Status of Forces Agreements and the U.S. State Department. Dueñas was dismayed that the U.S. State Department transferred 1,200 square miles to the Federated States of Micronesia government from Guam a few years back without any consultation. He said American Samoa should be at the forefront of the National Seafood Strategy and the South Pacific Tuna Treaty. He expressed concern for the Hawai‘i bigeye tuna quota and the longline fishery, which supplies 90% of the Hawai‘i fresh fish market. He also said regulatory setbacks such as the billfish issue and shark regulations have affected the territories. Regarding China issues, he hoped American Samoa could benefit from the removal of the 7% or 8% tariff to support its canneries. Dueñas said he was disheartened by the three-minute limit comment period on the proposed Marianas monument, noting that for Pacific Islanders, these monuments are personal and a concern for the fishing community, and the federal government should allow the community members more time to share their burden. The bigeye tuna quota for Hawai‘i should be increased because it is detrimental to the people and the cultures that depend highly on the fish, and he applauds the Council for its constant effort. Dueñas said the budget cut will prohibit the Council from doing its job.

Sword asked for a justification on the Council’s budget cut, noting that these reductions are a matter of EEJ and are impacting women the most. Sword asked what advantage a sanctuary has over a monument, noting that past promises such as establishing science centers in the territories have not materialized. American Samoa is dependent on these areas and closing them is detrimental to fisheries as it takes away fishing capacity. USCG does not have the assets to patrol the existing U.S. EEZ, let alone the new proposed closed areas. This opens the areas up to illegal foreign fishing fleets that steal American Samoa’s fish, and then sell the fish back to them. He said U.S. fishermen should be allowed to fish so that they can at least support the nation. At the WCPFC, the U.S. State Department is not doing enough to help American Samoa fishers.

Soliai said the budget cuts will impact the Council’s programs. Aside from salary to staff, one of the biggest concerns is capacity-building for the Pacific Island Territories being impacted. Taking away funding for capacity-building not only impacts the territories’ aspiring marine scientists but the territories themselves, as the local economies are dependent on the fisheries and the ocean. It has been a few years since the Council received funding for capacity-building from PIRO. There is a lot of talk about EEJ at the local and federal levels, but funding is not filtering down into the territories. Regarding the issue of the PRIMNM expansion, Soliai asked the Council to review the letter American Samoa Governor Lemanu Mauga sent to President Biden to express concern about the negative impacts on American Samoa because the areas considered for expansion are traditional fishing grounds for the purse seine feet that supply the local cannery. Any added closure to the marine national monument will push the fleet further eastward and make it less economical for the fleet to deliver the fish back to the territory for processing. This would devastate the American Samoa economy by closing the cannery down as a result of not having enough fish to process. Soliai quoted Governor Lemanu: “We respect the concerns of the State of Hawai‘i. The PRIMNM protects, preserves and enhances the waters surrounding Howard and Baker Islands, Kingman Reef and Palmyra Atoll without the need for any further expansion. Hawai‘i has a large, highly developed and diversified economy. American Samoa does not. American Samoa is highly dependent on the United States for financial assistance to

support our infrastructure, harbors, airports, hospitals and schools. If our tuna industry collapses, American Samoa will become more dependent on U.S. financial aid.”

Tosatto clarified that the amount of money the Council receives increased this year, as it has over many years. The principal funding for the Council is an appropriated amount that is provided by Congress and then divided amongst the councils by its formula, and that number has generally increased. NMFS Headquarters also augments the councils’ budget to cover unfunded mandates, and PIRO has used money appropriated to PIRO as discretionary funds to support the Council in a number of areas, which includes the amount that Simonds addressed. This year’s reduction was a result of the significant reduction to PIRO’s budget to cover national issues. The five NMFS regional offices within the Service funded a major gap in the overall agency budget, and PIRO took a significant hit overall that was much larger than the amount reduced from the Council’s budget. Regarding the \$200,000 for the protected species award, PIRO has been advising the Council for many years that the Council should consider placing the permanent protected species staff salary on to the base award appropriated by Congress, because discretionary funding is not necessarily available every year and may never return to the level of past funding. Tosatto said he agrees with some of the comments regarding capacity-building and other funds, but NMFS nationally has not yet been able to fund EEJ efforts. As with many presidential initiatives, they are words first and congressional appropriations may or may not follow presidents’ budgets. These are all issues that need to be considered in determining how best the Council might meet its budgetary needs through a larger budget discussion.

## **V. Agency Reports**

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

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

Tosatto presented the PIRO report, highlighting the Habitat Conservation Division’s work with the territories on their Coral Reef Fishery Management Plan (FMP), with technical support from the Pacific Islands Fisheries Science Center (PIFSC). Additionally, there were a number of rule-makings both in Sustainable Fisheries Division and International Fisheries Division relevant to implementing MSA and WCPFC obligations. The 2021 annual quota for bigeye tuna had an overage, and PIRO is working on a timely proposed rule to reduce the 2022 quota, as the quota is projected to be met by August or September 2022.

Gourley noted NMFS’s plan to convene a Marianas Trench Monument Advisory Council (MTMAC) meeting once members are appointed to solicit input on the draft management plan and the environmental assessment (EA) before the plan is finalized. Gourley requested that NMFS and USFWS reopen the period for public comments on the draft management plan and the EA once MTMAC is reconstituted, which would allow the MTMAC to actually interact with the communities. The Council previously made this request, but it was not allowed.

Muña-Brecht noted that the final rule for coral critical habitat has not been issued. She recently received a presentation from a former NASA scientist who now works with the University of Miami and is collaborating with Dr. Romina King at the University of Guam. With funding provided partially from Guam’s Coral Reef Conservation Program, the NASA scientist created a technology for fluid lensing mapping for coral that can identify depth and what is in the water. It has greatly improved the territorial agency’s ability to understand the surrounding

aquatic environment. She wondered if there is an opportunity to revisit issues such as the coral critical habitat to incorporate the latest available science now that there is greater certainty with what is in Guam's waters.

Tosatto said PIRO is working to finalize the decision on coral critical habitat, but it is predecisional until the decision is made. Best information available is used up to the point that PIRO makes those decisions, but Tosatto did not see the need to pause the critical habitat designation based on the new information provided by Muña-Brecht regarding the maps. Going forward after critical habitat designation is finalized, information from the new maps could be useful in consultations, and NMFS could reconsider the designated areas at any point in the future based on improved information.

Muña-Brecht expressed concern that it may take an extensive amount of time to revisit and consider removal of designation from an area that is needed for project implementation. Rather than waiting for a redesignation that may take years, she said she hopes that the new information can be incorporated into the decision-making process for the final rule.

Tosatto encouraged Muña-Brecht to share the mapping information. He also clarified that critical habitat designations do not stop any actions, and is a process to consult on the impacts of the action. If adverse impacts are anticipated, those should be prevented, minimized or mitigated.

Amani echoed Muña-Brecht's points, noting that Council members always talk about the best available science and data.

Dueñas said Guam has always requested an observer membership on the MTMAC so that the community knows what is being planned for the territories, noting that Guam is still part of the Marianas Trench Unit despite the U.S. government giving away the deepest part of the trench to the Federated States of Micronesia. It is disheartening that when it comes to capacity building for the local people, the request is often ignored.

Gourley said he wants to see the coral critical habitat designation done right the first time, noting that critical habitat was proposed for nearly all nearshore submerged lands. He said it would be ridiculous to do the final rule then expect NMFS to come back and redo it, noting that it took three years to get the draft bottomfish BiOp. Gourley disagreed with Tosatto's point that critical habitat and associated consultations do not stop projects. He provided an example of a community request to pave an existing coral road to the Bird Island Sanctuary in Rota, for which USFWS put up multiple roadblocks during the ESA consultation to the point that the CNMI gave up on the project.

Sword asked what PIRO is doing to improve American Samoa's bottomfish situation given the problems with Catchit Logit and whether PIRO has any funding to help improve the data collection. He also asked what is being done to reach out to other countries for the next WCPFC initiatives.

Tosatto said NMFS is investing in data improvements across the region, and PIRO's contributions include jointly supporting projects that are executed for fishery-dependent and fishery-independent data collection through PIFSC. Much of these improvement efforts have been communicated through the data committees. Regarding the WCPFC, negotiation has always been made problematic due to the unique situation with the South Pacific Tuna Treaty.

Both the WCPFC and that treaty directly benefit the purse seine fishery, so it is hard to separate or place priority on one or the other.

Soliai asked if there are any updates on the South Pacific Tuna Treaty discussions, and if the U.S. government has heard back from Pacific Islands Forum Fisheries Agency (FFA) on the proposal that was made the previous month.

Tosatto said Brinkman will likely provide an update on that on the second day of the meeting. However, PIRO has heard that the senior administration officials that went to Fiji a couple of weeks ago did engage with FFA and had encouraging news around their accommodating discussion and the treaty remains open for negotiation. PIRO took that as a positive sign.

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

Michael Seki, PIFSC director, presented the PIFSC report. PIFSC staff started coming back into the office in April 2022, but reintegration efforts were paused because of a local peak in COVID-19 cases. Fieldwork operations are continuing, although there have been some COVID-19 challenges as work has gone along. The NOAA ship *Rainier* is currently operating in Maug in the northern-most part of the Mariana Archipelago, where scientists continue to collect information and monitor the coral reefs. The NOAA ship *Oscar Elton Sette* departed the previous week for the bigeye tuna oceanography survey, but has since returned due to a COVID-19 outbreak onboard. COVID-19 has impacted the operations not only in the sense of the disease, but the ability to staff and maintain qualified, able-bodied seamen to conduct the operations that are required on these ships. PIFSC field camps in the NWHI are continuing their work.

PIFSC continues its efforts to improve the territorial bottomfish assessments. The NOAA Technical Memorandum for the territorial creel survey expansion algorithm was finalized, incorporating the outcome of the Center of Independent Experts review that the SSC and Council heard about at the March 2022 meeting. PIFSC stock assessment analysts started the Guam bottomfish management unit species (BMUS) data exploration to evaluate and clarify all available data for the 13 BMUS species in Guam leading up to the 2024 benchmark stock assessment. The data evaluation report will be generated and used for the Guam Data Workshop scheduled for early 2023, and the Division of Aquatic and Wildlife Resources (DAWR) designated Brett Tibbitts and Michael Dueñas as points of contact for this effort. PIFSC Fisheries Research and Monitoring Division (FRMD) is providing scientific support for the potential BMUS stock assessment complex refinement, and completed the CNMI analysis, which will be presented later in the agenda and will be incorporated into the PIFSC internal report. Phase II of transition of the commercial receipt book to Sellit Logit started in April 2022 and is anticipated to be completed at the end of August. This phase includes the completion of the cloud database system and refinement of the data entry portal. PIFSC will ask partner agencies to help test the data entry interface to check for bugs and gather inputs on the user experience. PIFSC will provide training for the territorial agency staff with service trainers for their respective jurisdictions.

PIFSC Life History Program staff completed a draft Technical Memorandum on the Territorial Life History Sample Inventory, a compendium of all life history samples collected

and archived by PIFSC from 2009 to present, including samples that were analyzed and published in peer review literature and species currently worked on by interested parties such as the University of Guam. The document includes species summaries for 13 BMUS species in the Mariana Archipelago, 11 BMUS species in American Samoa and several ecosystem component species (ECS). This is a good resource for FRMD partners who may be interested in knowing what samples are available for various projects to support fisheries management like the Territorial Coral Reef FMP development.

The Life History Program research projects around the Hawaiian Islands were the first surveys of the year on the NOAA ship *Oscar Elton Sette*. The goals were to: 1) look at opakapaka and the carbon-14 age validation; 2) look at opakapaka juvenile habitat using juvenile opakapaka microchemistry to develop an environmental map that may delineate specific nursery grounds the fish are using in the Hawaiian Islands; and 3) collect samples to examine the impact of gonad preservation conditions on maturity estimates, and to improve the approaches used for reproductive studies.

PIFSC developed an uku statistical essential fish habitat (EFH) modeling framework employing a combination of insitu density data enhanced by various satellite datasets to estimate the species abundance in shallow main Hawaiian Islands (MHI) waters. The statistical and EFH modeling framework can predict the localized changes and distribution of target species density in relation to relevant dynamic environmental variables, which would then be used as a proxy for species abundance. The study will be subject to a Tier 1 Western Pacific Stock Assessment Review (WPSAR) review process scheduled July 12-14, 2022.

PIFSC researchers in the Protected Species Division and FRMD, in close collaboration with the Pacific Islands Regional Observer Program (PIROP) implemented a loggerhead post-hooking satellite-tagged deployment project to gather updated movement data to inform contemporary models such as the protected species Ensemble Random Forest model. The efforts included a tag deployment training module for fishery observers and deployment of satellite tag kits for loggerhead turtles. To date, 20 satellite tags have been deployed on loggerhead turtles caught in the Hawai'i shallow-set longline fishery, more than 25 observers have been trained on the deployment of satellite tags and 94% of the shallow-set longline fishing trips included a trained observer and a satellite-tagging kit. Research and development of tag head and anchor designs to safely implant satellite tags in leatherback turtle carapaces are also ongoing.

PIFSC Protected Species Division highlighted the results of the population research and enhancement efforts from the past year, including reaching a milestone of the Hawaiian monk seal population estimate exceeding 1,500 in more than two decades. The 2021 population estimate was 1,570, which was a considerable increase from the most recent estimate of 1,435 in 2019. Positive trends were seen throughout four of the six population sites in the NWHI. Despite some unfortunate losses of seals to human-related causes, the population growth in the MHI appears to remain strong.

Tenorio said in the past, territory staff was able to participate in some of the PIFSC surveys conducted in the Northern Islands of the CNMI, which was useful for staff to gain experience, and transfer information from the federal to the local side. Such an arrangement was not possible for the ongoing survey given the COVID-19 situation, but Tenorio said he hopes territory staff will have opportunities to participate in these surveys in the future.

Dueñas said he has always requested that PIFSC conduct surface trawl surveys when the research vessels transit from Hawai‘i to the Mariana Archipelago to determine whether juvenile reef fish in the Mariana Archipelago originate from other places. He said he has continuously been disappointed with the biosampling program, noting that researchers are taking parts of the fish (i.e., eyes) that are important to buyers in local markets and the life history sampling of fish that go to market should be less intrusive. Regarding stock assessments, Dueñas said the scientists need to come out and visit with the community.

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

Placek presented the GCPI report. Litigation involving the Conservation Council of Hawai‘i v. NMFS was filed in federal court in the District of Hawai‘i May 17, 2022. The plaintiffs, Conservation Council of Hawai‘i and Mike Nakachi, represented by Earthjustice assert violations of the ESA and Administrative Procedure Act regarding NMFS’s failure to complete formal consultations on the effects of the Hawai‘i deep-set and American Samoa longline fisheries on the ESA-listed oceanic whitetip shark (OWT). These consultations have been pending since 2018 and 2019 and plaintiffs submitted a notice of intent (NOI) to sue in 2019 and filed a complaint in May 2022. Plaintiffs seek a declaration that NMFS has violated the ESA and Administrative Procedure Act, and an order compelling NMFS to complete the BiOps in 90 days plus attorneys’ fees. NMFS is due to respond to this complaint by July 19, 2022.

Regarding *Wille v. Raimondo*, filed in the District of Maryland, the plaintiffs are three Hawai‘i residents represented by Pacific Legal Foundation who assert violations of the U.S. Constitution regarding NMFS’s promulgation of a rule permitting approach within 50 yards of Hawai‘i spinner dolphins. Plaintiffs assert this rule was not issued by an official who possesses rule-making authority in violation of the appointments clause of the Constitution. Plaintiffs seek a declaration that the rule violates the appointments clause, an injunction setting aside the rule and setting aside NOAA’s and NMFS’s delegations of authority. The deadline for NMFS’s response was extended from June 10 to July 22, 2022.

The Center for Biological Diversity (CBD) submitted an NOI June 15, 2022, alleging violations of the ESA concerning NMFS’s failure to finalize critical habitat designations for ESA-listed corals within one year of the agency’s proposed designations. CBD filed a lawsuit in 2019 against NMFS for failing to designate critical habitat for these corals and in 2020 the parties entered into an agreement by which NMFS agreed to publish proposed critical habitat designations, which it did in November 2020, and these are the proposed designations that have not yet been finalized.

Finally, there were no updates on an NOI submitted by the Hawaii Longline Association (HLA) regarding the timely completion of the Hawai‘i DSLL consultation, which is still pending.

Gourley asked if it is possible for the CBD and NMFS to come to an informal agreement to extend the NOI for the coral critical habitat past 90 days in order for NMFS to do a proper assessment for the designation of critical habitat.

Placek clarified that the NOI is a 60-day NOI, so it is not yet a complaint filed in federal court. Whether CBD and NMFS could come to an agreement if a complaint is filed would be

part of the litigation strategy that cannot be discussed in a public forum. She said information on the substance of the NOI is available on the CBD's website.

Soliai asked how the lawsuit on ESA consultations may impact the BiOps and the release of the draft BiOp.

Placek said the response to the complaint is due on the July 19, 2022, so that is not a date by which the BiOps need to be completed. She deferred to Tosatto on PIRO's progress on the BiOps.

Tosatto said PIRO continues to make timely progress with the consultations, intends to engage with the applicant and move these through the final stages of development as quickly as possible with the anticipation that PIRO will be presenting final BiOps later in the summer or early fall. PIRO expects the deep-set BiOp to be advanced, and then apply the resolution of issues into the American Samoa BiOp so that the analyses are consistent.

Soliai requested Tosatto to provide further clarification on the possible impacts of the litigation when the discussion comes up again later in the agenda, noting that he hopes the lawsuit is not going to cause further delays for the BiOps that have taken three to four years so far.

## **C. Enforcement**

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

McCullum presented the USCG report. Rear Admiral Michael Day relieved Rear Admiral Matthew Sibley as commander of the USCG 14th District at the Change of Command Ceremony held June 10, 2022. During the period since the March 2022 Council meeting, the USCG responded to 181 cases consisting of search and rescue, law enforcement, marine environmental protection and response, ports, waterways and coastal security missions. USCG cutter *Munro* conducted a patrol with Fijian shipriders resulting in six bilateral boardings enforcing Fiji's fisheries laws. The crew of USCG cutter *Munro* visited the Port of Suva in Fiji, April 20-24, 2022, as part of Operation Blue Pacific. USCG cutter *Myrtle Hazard* recently helped fill an operational presence by conducting maritime surveillance to detect illegal, unreported and unregulated fishing (IUU) in the northern Solomon Islands. The cutter was in Fiji's EEZ for approximately 29 hours and conducted one observation report.

Dueñas asked if there is still heavy monitoring in the PRIA, noting the heavy foreign fishing effort around the area and wondering if some foreign vessels may be turning off their vessel monitoring system.

McCullum said USCG is monitoring in the PRIA and the agency is doing as many patrols as it can.

Sword said American Samoa needs a cutter or at least a patrol boat to provide presence for patrolling in that region of the South Pacific.

Soliai said this Council has made several recommendations in years past to the USCG requesting a cutter be stationed in American Samoa because of the remoteness and that the



reliance on New Zealand is not very practical for the area. There have been several incidents over the years where the response was not swift due to safety reasons. On May 23, 2022, an alia vessel capsized with four people onboard. An Emergency Position Indicating Radio Beacon (EPIRB) signal was picked up by New Zealand, and that communication went through several independent, privately owned vessels within the area before a helicopter from one of the Western Pacific purse seiners was dispatched and located the alia vessel 11 miles offshore. In those conditions, the community sees the urgent need for safety reasons to have a USCG assets in the area. Soliai also called attention to suspected illegal fishing in the EEZ around American Samoa based on Global Fishing Watch information, which further emphasizes the need for having USCG assets in American Samoa.

McCollum said the decision to station an asset in American Samoa is with USCG Headquarters, and she would verify the status of the request for reporting back at the September Council meeting.

Dueñas asked if there was a follow up to the last request by Guam for assistance from USCG buoy tenders to help deploy fish aggregating devices (FADs) in the Mariana Archipelago.

McCollum did not have any information at this time, but said she will follow up.

Muña-Brecht said the territorial agency sent an email request regarding the buoy tenders, and USCG responded that it has exercises through December, but the agency is able to assist if more detailed information is provided. DOAG is now working on providing the information as there are two buoys that are being shipped and three more in the procurement process. Once the final specifications are available, that information will be shared with USCG.

Dunham said he towed in the alia vessel that capsized, which took all night until the next day. Dunham thanked USCG for ensuring vessels have EPIRB due to the necessary safety measures and precautions.

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

Martina Sagapolu, Assistant Director for Pacific Islands Division, provided the NOAA Office of Law Enforcement (OLE) report. The statistics from March 1, 2022, show there were 281 incidents, complaints, patrols and investigations, the majority of which were protected species investigations. OLE recorded 91 boardings/investigations and four sanctuary cases.

OLE completed an investigation involving a recreational vessel that was inside the Fagatele Bay inside the American Samoa National Marine Sanctuary with its fishing gear not properly stowed, and the case is currently before the GCPI and final disposition is forthcoming. OLE completed an investigation on a case of a longline vessel that failed to make the required notification prior to entering the Papahānaumokuākea Marine National Monument (PMNM), and OLE issued a summary settlement of \$1,000. OLE also had significant numbers of resettlements issued for dolphin harassment cases.

A lot of the Port State Measures Agreement boarding of a foreign-flagged longline fishing vessel and outreach events have been occurring throughout the territories. OLE is finding there are a significant amount of tuna species that are landed in American Samoa and are being

exported immediately. OLE has an active investigation looking into some of these products that are not making their way to the canneries but are tunas of interest, such as bigeye and yellowfin.

OLE continues to work collaboratively with Hawai'i Division of Conservation and Resources Enforcement (HI DOCARE) partners, and has assigned a permanent vessel asset. Officers both on land and sea are addressing the significant complaints relating to dolphin harassment and other protected species that frequent the outer islands. OLE also has a partnership with the Hawai'i Marine Education and Research Center in Miloli'i Village on Hawai'i Island, and is conducting joint education outreach efforts with Marine Education and Research Center, OLE and HI DOCARE.

Sagapolu ensured the partners in Guam that OLE positions are being filled, noting that John Evangelista is coming to Guam soon. During the absence of personnel in Guam, OLE will be rotating officers and agents who provide coverage both in Guam and the CNMI. OLE indicated it is also doing a lot of joint at-sea boardings and patrols interacting with many users, as well as the commercial fishermen.

OLE also participated in a four-day virtual meeting of the WCPFC Monitoring, Control and Surveillance Working Group, where a lot of great discussions took place for addressing IUU issues in the Western and Central Pacific. OLE will start sending personnel to Honiara to engage with the Pacific Island countries and to monitor the fleet.

Rice asked what is happening on the closure areas for spinner dolphins.

Tosatto said the public comment period on the proposed rule has ended and PIRO is assessing those public comments and will develop the next step in that rule-making action. There is no statutory timeline since this is a discretionary rule under the Marine Mammal Protection Act (MMPA). PIRO received a good amount of comments, both for and in opposition to the time-area closures.

Dueñas asked for a poster or document that reflects the CNMI regulations because some of the Guam vessels are going up to the CNMI and they need to know the regulations.

Sword asked if OLE could elaborate on what is happening to the transfer of fish from American Samoa by the two foreign fishing vessels.

Sagapolu said the details cannot be shared because of an active investigation, but noted that it relates to offloads that were coming in and had no documentation relating to where it originated from, how it was acquired, landed and exported.

Sword asked whether it is a violation if someone put a warehouse on the waterfront and there were foreign fishing vessels coming in for packing and transporting from American Samoa to markets in the United States.

Sagapolu said as long as the vessels have the import/export permits to do so, the fish that is landed can be tied to where it was caught, and that it was caught lawfully, then there would not be an issue.

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

Elizabeth O’Sullivan provided the NOAA General Counsel Enforcement Section report. There were four cases of dolphin harassment under the MMPA, which have been a focus recently for OLE, particularly on the Big Island and O’ahu. The case involving *Sunlight on Water* was a Notice of Violation and Assessment for marine mammal harassment, and was charge \$18,750 for three separate days with the same captain and by the same tour entity. An individual was also charged for marine mammal harassment, but issued a written warning. Two Kona Ocean Adventures cases associated with the same captain have been settled for 9,000. A third case with Kona Ocean Adventures against another captain was settled for \$4,500. A case was *Trident* on O’ahu was a swim-with-a-dolphin vessel event in which the company used underwater scooters, and a Notice of Violation and Assessment was issued for \$3,000 for charges of harassing dolphins. All but one spinner dolphin case were under the old MMPA harassment rules, whereas one of the Kona Ocean Adventures case was charged and settled under the new 50-yard rule. One case was to the longline fishery, in which fishing vessel *Sea Moon I* was charged under the MSA for failure to fish in accordance with seabird mitigation, and a written warning was issued.

Rice asked how the dolphin cases were being charged (e.g., through patrols).

O’Sullivan said OLE has an agent full-time on Hawai‘i Island, and partners with HI DOCARE for patrols. Spinner dolphins tend to rest near shore and the tour boats often drive within the swimming areas and unload people, such that some cases have been prosecuted by HI DOCARE or OLE agents taking a video on their phones from shore. She said the 50-yard rule has slowed people down, and she expected the harassment behavior to stop as a result of the prosecuted cases.

Rice asked how enforcement deals with cases where spinner dolphins come up to the swimmers.

Sagapolu said OLE recognizes that the activities cited are due to officers and agents monitoring activities being present early in the morning on the beach. The animals exhibit certain behavioral patterns along with the swimmers. OLE communicates regularly with PIRO Protected Resources Division (PRD) staff, and certain behaviors that they determined are concerning are the ones that have been issued resettlements.

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

Mark Fitchett, Council staff, provided highlights from the U.S. State Department report on Brinkman’s behalf, including the South Pacific Tuna Treaty Proposal for the Pacific Remote Island Marine National Monument (PRIMNM), and some U.N. meetings. The delegation has focused its negotiations on specifying terms for fishing access for U.S. vessels for 2023 and beyond, making targeted updates based on what it has learned from implementing the treaty in prior years. The delegation seeks to negotiate a new economic assistance agreement to replace the current agreement, which will expire in June 2023. Through these negotiations, the Pacific Islands parties have focused on receiving a firm commitment from the U.S. government that would increase the assistance provided from \$21 million per year to \$60 million per year, or risk having some or all of the Pacific Island Parties initiate the process to withdraw from the South Pacific Tuna Treaty altogether. This was detailed in a letter dated June 13, 2022. Several days prior, Assistant Secretary Monica Medina received a letter from the the Fijian minister of

fisheries of the FFA Committee reiterating the Pacific Island Parties' request that the U.S. government's contribution under the South Pacific Tuna Treaty be increased to \$60 million per year. The United States is considering how to respond to triple the economic assistance provided to the region through its mechanism.

President Biden received a proposal May 31, 2022, from the PRIC to expand and rename the PRIMNM. Members of the PRIC met with heads of agencies to discuss the proposal during Capitol Hill Ocean Week held during the week of June 6, 2022. U.S. government attendees were Council on Environmental Quality (CEQ) Chair Brenda Mallory, Deputy Director for Climate and Environment Jane Lubchenco, Assistant Secretary for Fish and and Wildlife and Parks Shannon Estenoz, NOAA Administrator Richard Spinrad and Medina from the U.S. State Department. The PRIC proposed to expand the boundaries of two island areas in the PRIMNM from 50 to 200 miles from shore. The proposal is supported by several groups, including 23 indigenous peoples from Hawai'i and Guam, seven community organizations and Congressman Ed Case of Hawai'i .

At the Our Oceans Conference in April 2022, the United States announced it will launch an interagency working group on naming practices of future marine national monuments and national marine sanctuaries with particular emphasis on the PRIA. This renaming process would establish a new name for the PRIMNM reflecting the area's significance within Pacific Island cultures and is supported by Native Hawaiian and other Pacific Island peoples.

The U.S. State Department report also included a list of postponed U.N. agreements, an update on the Marine Biodiversity of Areas Beyond National Jurisdiction and the U.N. Ocean Conference.

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

Peck provided the USFWS report. The Ecological Services, Pacific Islands Refuges and Monument Offices are working to propose critical habitat on land for green sea turtle nesting and basking. The proposed critical habitat is not expected to affect fisheries in the Pacific, as critical habitat is a conservation tool that only affects federal agency activities, and the USFWS proposed critical habitat is only on land. Public outreach meetings are expected in spring and summer 2023. Peck referred Council members to his report for updates on the MTMAC status and activities in the CNMI associated with World Ocean Day in June.

Gourley asked what the limit is for USFWS jurisdiction for the green turtle critical habitat designation for sandy beaches in the Mariana Archipelago, or how far inland critical habitat may be designated.

Peck suggested that Gourley reach out to the contact person listed in the USWFS report (Lasha-Lynn Salbosa) for details on the designation. How far inland the designation would occur is based on the species requirements considering the habitat the species needs either for nesting or basking, which varies by the geography.

Gourley said he hopes USFWS would coordinate with CNMI DFW and Division of Public lands, which manages the sandy beaches, as well as the Coastal Zone Management Program.

Tosatto said PIRO expects green turtle critical habitat to be designated jointly by USFWS and NMFS covering the terrestrial and marine areas. There is a species component to the agreement that USFWS and NMFS make when they comanage a species over a terrestrial and marine range. The agencies define what critical habitat means and generally act jointly so the designation would be one federal designation that both agencies would manage. There are also several species that NMFS manages alone with a terrestrial component to the habitat, such as for the Hawaiian monk seal.

Muña-Brecht asked if the lands being affected for critical habitat include private lands, noting that a lot of the sea turtle nesting sites on Guam are on private and military lands.

Tosatto said the ESA does not include all U.S. land and waters, and that the USFWS may work out issues with private landholders in terms of critical habitat designation on land. Regarding Department of Defense lands and activities in waters, ESA allows for exemptions for National Security and other ongoing activities such as natural resource management plans that can lead to the exclusion of areas under military control.

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

There were no public comments.

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

*Regarding the USCG assets in the South Pacific, the Council **directed staff to send a letter to the USCG requesting it consider stationing a fast response cutter in American Samoa to support U.S. coastal security, national and international fishery patrols, search and rescue and national defense.***

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

### **VI. Mariana Archipelago**

#### **A. Guam**

##### **1. Department of Agriculture / Division of Aquatic and Wildlife Resource Report**

Muña-Brecht presented the DAWR report. Between January and March 2022, the agency completed all 24 creel surveys scheduled, including 18 creel surveys and six participation surveys. There are currently no vendors in Guam able to conduct aerial surveys. The top seven shore-based harvested species based on weight were ti'ao (juvenile goatfish), sesyon (rabbitfish), mafuti (snapper) and tarakito (jack). The top fishing methods and number of fishers encountered were hook-and-line with 113 fishers using 127 gears, followed by talaya (cast net) and snorkel spear. The total number of fishermen and gear observed were 188 fishers using 201 gears. DAWR completed all scheduled boat-based surveys, with 24 boat-based and six participation surveys. The top species caught was skipjack tuna, attributed to commercial trolling. It was mahimahi season, so landings increased, and wahoo, yellowfin and marlin followed. Deepwater fishing continued to be a significant boat-based method used with landings of ehu, onaga and

yellowtail kalekale exceeding all the shallow bottomfish and reef fish species caught. Boat-based participation, effort and landings are dependent on the availability of fish stocks and weather conditions. Trolling made up 80% of the landings due to the commercial fishing activity. Atulai (bigeye scad) night jigging was intercepted but was minimal this quarter.

The Port Authority of Guam (PAG) is in the procurement phase regarding the Agat Marina Dock B replacement. The bid package was released March 18, 2022, and closed May 5, 2022. \$500,000 was allocated from the Sport Fish Restoration Program for this project. The dock will solely be for recreational boaters. DAWR, PAG and federal aid staff met in April 2022 and discussed the Harbor of Refuge project's high construction cost primarily due to the ongoing military buildup making it necessary to scale down some of the work to fit available funds. Regarding the Merizo Pier and Boat Ramp project, DAWR staff conducted a preliminary site visit with prospective contractors June 7, 2022, and bids were submitted June 16, 2022, to replace the 25-year-old worn ramp. Department of Public Works will submit a request for proposals for prospective contractors while the scope of work is being finalized. PAG awarded a contract to repair the Agat Marina walkway, and a preconstruction meeting was held April 6, 2022. \$40,000 of the project's \$80,000 budget is from the Sport Fish Restoration Program.

Regarding enforcement, four arrests comprised nine males and one female for fishing in the marine preserves between April 2022 to current. DAWR obtained a purchase order to advertise public meetings to hear community input about fishing licenses before it moves forward with the process. Special permits were issued to allow seasonal take in the marine preserves of atulai (bigeye scad), i'e (juvenile jack), ti'ao (juvenile goatfish) and mañahak (juvenile rabbitfish).

DAWR, together with NOAA, participated in a hybrid workshop hosted by The Nature Conservancy, June 1-2 and June 7-9, 2022, aimed at having conversations using FishPath as a decision-making tool in the development of Guam's first FMP. The workshop involved various stakeholders to help identify available local appropriated management options to incorporate into the FMP. DAWR will meet soon to discuss how to move forward with the results and inputs from the workshop. Additional FMP outreach community meetings will be held to listen to local fishers. DAWR is also planning a workshop to discuss the nonfishery section of the plan which will include an ecosystem approach to the FMP.

The grant award to contract additional FAD system purchases was extended from 150 to 180 days due to shipping delays. One FAD system arrived and two of the new designs are awaiting shipment to Guam. Contract packets to deploy eight FAD systems and purchase nine more during the current fiscal year have been submitted for processing. Discussions with the USCG to assist with deployment is ongoing. There are plans to replace the detached echo sounder that was deployed with FAD No. 3, as well as deploy eight more on hand, pending the USFWS's permit and approval. DAWR submitted a request for quote on shallow-water mooring buoys to the General Services Administration and is awaiting the purchase order for deployment.

DAWR staff's encounters with sea turtles with fibropapillomatosis tumors increased. Between February and June 2022, three stranded turtles were reported. In March 2022, one dead turtle was removed from the Achang Marine Preserve near the Manell Channel, and a necropsy revealed more than 20 tumors on its body. Samples were taken and sent to Thierry Work, USGS National Wildlife Health Center Honolulu Field Station, for further testing. Another dead green

sea turtle was found April 19, 2022. With the assistance of conservation officers, DAWR Biologist C.J. Cayanan removed the turtle body and conducted a necropsy. She took 20 tumor samples and sent them to Honolulu. A tagged dead hawksbill turtle was retrieved from inner Apra Harbor and disposed at the DAWR compound.

DAWR is working with the Guam Visitors Bureau to update cultural signs along the Tumon Bay Marine Preserve and with a vendor to replace signs elsewhere around the island. DAWR is looking at incorporating this project under its fisheries education and outreach funding so the project will have a coordinator.

DAWR will receive close to 800 groupers (gadao) raised in Palau as part of an aquaculture project called Agradesi Gadao based in Honolulu. 250 fishes will be tagged and released in the marine preserves and will be a part of a project with the DAWR Kid's Derbies participants to see if they will be recaptured in the same areas. 500 fishes will be released into non-marine preserve areas.

DAWR and DOAG were awarded \$113,000 in federal funds from the Pacific States Marine Fisheries Commission to import 1,000 giant clams. The agencies will work with southern villages to create village-owned clam farms and community-based management to provide training to the youth to become Hima (giant clam) Ambassadors. They will be recruited from the villages to lead the management projects in their areas. A two-year grant extension was given to get all the permits and clearances needed, including EFH and Section 106.

DAWR was awarded a \$500,000 competitive grant from USFWS to create an island-wide passive acoustic receiver. The project will include importing, tagging and releasing 500 bumphead parrotfish into marine protected areas (MPAs). The receivers, together with input from anglers, will track fish movement around the island and help to examine habitat usage patterns. This species is a culturally important icon of healthy reefs and will become the focal point to bring interested parties, stakeholders and users together to participate and learn adaptive management.

DAWR was awarded \$435,000 to work with the Hawai'i Institute of Marine Biology and the local fishing community to conduct a shark interaction study. DAWR staff will use acoustic telemetry to monitor shark visits to fishing sites and analyze patterns to identify predictable periods of low shark presence when depredation will naturally be at its lowest and periods where fishing should be avoided due to high shark abundance. Staff will develop the information collected into simple shark avoidance guidelines based on location, time, moon phases and seasons.

Tenorio asked if the tuhong (bumphead parrotfish) will be released into the MPAs and what primary fishing method will be used.

Muña-Brecht said tuhong will primarily be released into the MPAs, but only half of the gadao will be resleased in those areas. No catch method was determined but a collaboration with the anglers to study the fish movements will be done.

Amani asked if there will be restrictions on catching the fish being studied.

Muña-Brecht said these projects will be used to demonstrate to the grantors that if there was success with engaging the communities, then it will open more funding to increase the size of the projects.

Sword asked if there will be new boat ramps installed and whether DAWR does a lot of washing down of the ramps to prevent injuries from people slipping.

Muña-Brecht said no new boat ramps are being installed but that the proposed Talofoto Boat Ramp project is in the process of securing final funding. On the ramp maintenance, there have been reports of people slipping, including a truck which slid into the water recently, which necessitates the monthly pressure washing.

Ramsey asked if the grouper to be brought in is naturally occurring around Guam and whether fishermen will be allowed to catch the grouper and bumphead parrotfish.

Muña-Brecht said it is a combination of both and that they can be caught.

Sakoda asked where the bumphead parrotfish originate and about the size of the fish. He noted he has seen groupers at the Oceanic Institute of Hawai'i Pacific University and Waikiki Aquarium but has not heard if bumphead parrotfish are being cultured in Hawai'i as they are not native to the area.

Muña-Brecht said she does not know the size of the bumphead parrotfish. Both the bumphead parrotfish and groupers originate from Palau. The groupers were part of an aquaculture experiment to optimize their farm conditions.

Dueñas noted the bumphead parrotfish consume five tons of coral a year. As land issues are not being addressed, the fish will starve. In Hawai'i, rei is wreaking havoc on the ecosystem. Introducing carnivorous groupers will decimate other fish. He suggested introducing herbivores to get rid of algal blooms. A reconsideration on restocking bumphead parrotfish and groupers is needed, as it will affect the population of all fish species on the reefs. They are called bumphead parrotfish because they crush the coral to eat it. Don Kobayashi, PIFSC, has done an extensive report concluding that bumphead parrotfish should not be listed as endangered. He also asked how the hawksbill turtle died, noting that there are sponges in areas where it was found, which is its diet. Hawksbill turtles are not traditionally harvested in Guam and to the Chamorros, are known to be ciguatoxic.

Muña-Brecht said bumphead parrotfish bite the surface of coral and the estimate of eating five tons of coral each year is correct, but on the high end for the species with large bumphead parrotfish. They eat turf algae and a combination of other algae on the coral surface. They graze the algae which in turn stimulates coral growth, and are considered ecosystem engineers and the tenders of the reef. A healthy fish stock is an indicator of healthy reef stock and diversity. On the hawksbill turtle, Muña-Brecht said it was so badly decomposed that DAWR was unable to determine the cause of death.

## **2. Isla Informe**



Amani reported on several fishing events, including the ShutUp and Fish First Annual Females-only Fishing Derby, the ShutUp and Fish Father's Day Fishing Derby, DAWR Kid's Fishing Derby and the 2nd Annual Greg D. Perez International Sportfishing Tournament. Fishing in the PAG property was opened after being closed for some time. All fishing permit requirements and all types of fishing methods are now allowed.

Amani reported on EEJ issues, highlighting Guam's compounded restrictions of fishing in place, including marine preserves, monuments, firing ranges and coral critical habitat. Guam's five marine preserves were established in 1997 and take up approximately 10% of Guam's coastline. Sasa Bay Marine Preserve and Gab Gab area inside Naval Base Guam also have fishing restrictions, especially spearfishing. A shooting range located atop Orote Peninsula on the Navy base prohibits all fishing, diving and water sports activities below. The range is above one of Guam's best dive and fishing spots. The Ritidian Marine Firing Range is located near a wildlife preserve area and a historical burial site, in proximity to Guam's northern aquifer and primary source of fresh water. There is fear that the range can contaminate or pollute the water source and prohibit fishing in one of the best spots and one of the most beautiful beaches in Guam. Fishing restrictions are also present in the monuments along with possible restrictions or closures in the critical coral reef habitats. Guam is a U.S. territory whose residents are U.S. citizens yet are not treated as such. They are unable to vote for the same people who put the restrictions upon the population.

Guam's COVID-19 restrictions are being lifted, including the removal of mandatory mask-wearing. Social gatherings up to 250 people indoors and outdoors are now allowed. As of May 13, 2022, Guam had 49,465 COVID-19 cases and 362 deaths. Travel to and from Guam is open and quarantine is no longer mandatory.

Dueñas added to the Isla Informe and said American Samoa should always be at the forefront of the discussion with the CCC, the National Seafood Strategy and the South Pacific Tuna Treaty. The American Samoa longline industry should be included in the treaty as it needs help with access. He is concerned about the Hawai'i bigeye tuna quota, the longline and fresh fish markets and suggested the industry not to be like Guam because Hawai'i's fishery supports 90% of the local fresh fish market, while Guam imports 99% of its fish.

Regarding shark regulations that affect the territories, Guam lost a \$100 million industry because the shark finning rules kept changing for the foreign boats. Taiwan, which does not harvest sharks, takes the shark meat home to use in fish cakes. With the China tariff issue, American Samoa can benefit from the 7% to 8% tariff removed to support the canneries. With increased military presence in the Pacific, there will be many ships that will need food, noting an aircraft carrier has 5,000 people on board.

On the monument, Dueñas noted public comments were limited to three minutes. Dueñas said it is disheartening for Pacific Islanders who are not being allowed to share their thoughts. The monuments are personal and are a concern to the fishing community. To the 1% of fish harvested in the Mariana Archipelago, it is quite imperative the federal government allow more time to share the burden. Responding to a deep-sea mining proponent that mining will be conducted, it will be difficult and will require a lot of permits. If oil cannot be pumped out of the ground in the United States, manganese mining will be even more difficult from under the ocean.

Regarding the WCPFC, he suggested the U.S. bigeye tuna quota be increased because it is detrimental to the people and cultures that live in the islands that depend heavily on fish.

Guam's fuel price is almost at \$6.50 per gallon and continuing to rise, while the national average is approximately \$5.05 per gallon. Visitors from Rota and Saipan are now gassing up at the Guam Fishermen's Cooperative Association (GFCA) because fuel is \$2 to \$3 per gallon cheaper. The GFCA decided to forego all profits derived from fuel sales when these boats come because they are suffering due to the high fuel prices.

The GFCA recently received a \$3 million infusion for its new facility and work is being done with the USDA Rural Development to access the funds. The mitigation from the federal government on flood zone, local government regulations and other issues along the GFCA's coastline is detrimental to the project's progress and costs the GFCA \$350 per square foot.

Dueñas is also seeking solutions with the military to address impacts of its proposed firing range on the fishing community. One example is to mark boundaries in the ocean with buoys or FADs, so fishermen know to stay out of this area on their way to fishing grounds. There is between three to 50 square miles of traditional fishing grounds not being addressed. Safety is the main concern. People have been lost at sea and families mourn because there is no body to bury. He understands and respects conservation efforts, but there are predators that are also taking human life.

Regarding the territorial FMP, he suggested Muña-Brecht work with the Office of Economic Adjustment (renamed the Office of Local Defense Community Cooperation) to provide \$500,000 to develop the Marine Conservation Plan, which also benefits environmental concerns and addresses the needs of the fishing or boating community.

Dueñas honored several notable fishermen who passed away recently, including Paul Shimizu, Samoan Joe, originally from American Samoa, and Tommy Perez. He also recognized Peter Wilson, originally from Maui and author of the book *Aku*, which chronicles his work in Guam working with military explosive ordnance staff to blast an opening on the reef off Tumon Bay to allow for water circulation. The Agaña Boat Basin was the starting point to Guam's pelagic fishery after Wilson blasted an opening in the reef to access the open ocean where for 400 years, local people were denied access to the ocean. The freedom of being a fisherman in the Pacific is being molded into something that is not the Guam culture. Fishermen from when he first started 28 years ago with the GFCA no longer exist. Dueñas called for a moment of silence for the people who passed away.

## **B. Commonwealth of the Northern Mariana Islands**

### **1. Arongol Falú**

Gourley reported COVID-19 cases have been low since around April, and operations have mostly gone back to normal with the exception of the majority of the restaurants being closed and the hotel vacancy levels being high. The travel bubble is ongoing and the restrictions coming into the CNMI are not as stringent as before, which has resulted in an uptick in South Korean tourists visiting the islands. This shows that the islands' tourism industry is slowly picking back up.

The regular unleaded gasoline price is approximately \$6.57 and premium is approximately \$7.00 on Saipan. In Tinian and Rota, regular unleaded is \$8.04 a gallon and \$11.02 a gallon for diesel. These prices are affecting the fishing industry, especially for the trollers. The price for a bag of ice also increased from \$1.75 to \$2, which is notable because there are no brick-and-mortar fish stores on the islands and fishermen use coolers filled with ice to sell fish on the side of the road. The wholesale of fresh pelagic and bottomfish is increasing by \$0.50 for some vendors, with retail prices also starting to increase. Some fish markets in Saipan are beginning to sell a pound of tuna for \$4 to \$6 a pound in Rota.

In Tinian, there is a contractor with a large number of guest workers which is resulting in an increase in reef fishing activity. This combined with the \$8 gasoline prices may be a potential cause for concern. The local market dynamics are still unstable.

The MTMNM was added to the ONMS inventory of sites for potential national marine sanctuary designation in March 2017 during the Trump Administration and the nomination package expired in March 2022. The ONMS conducted two public hearings regarding this matter and the first public comment period (30 days) ended in February 2022 and the second public comment period (45 days) ended April 25, 2022. 62 comments have been submitted through the ONMS web portal. There has been no notification on whether the agency will retain or remove the MTMNM from the inventory.

A number of CNMI and Guam government officials and offices sent letters in opposition to the MTMNM nomination, including the CNMI governor, CNMI lieutenant governor, Senator Teresita Santos, mayors of Rota, Tinian and the Northern Islands, Special Assistant for Military Affairs Glenna Palacios, CNMI DLNR Secretary Tony Benavente, Department of Public Lands Secretary Sixto Igisomar, Division of Fish and Wildlife (DFW) Director Manny Pangelinan, the executive director of the Chamorro and Carolinian Language Policy Commission, the president of the United Carolinian Association and DOAG Director Muña-Brecht. There was no support for the government during the second comment period. However, during the first comment period, two letters from the government in support of the sanctuary were submitted: one from Congressman Kilili Sablan and another from CNMI House Representative Sheila Babauta, who is also the chairwoman for the Friends of the Mariana Trench.

Gourley said every nomination for the sanctuary should start at the community level, but currently, there is no community support. Guam was also not involved in the original development process. The nominations of the sanctuaries are supposed to meet 11 criteria for national significance and management considerations. Many of the criteria requirements have not been met. If the nomination status is retained, Gourley said pushback from both the CNMI and Guam is anticipated.

Dueñas asked if it is beneficial to have CNMI vessels come to Guam, noting that he provides fuel to a boat from Rota twice a week and a boat from Saipan once a week. He asked how the fishery operations are still alive considering the high gas prices, which has hampered fishing activities in Guam.

Gourley said he did not know what is happening exactly, but speculated that the markets are taking a hit by trying to maintain the sale of fish levels.

Tenorio said there will be another increase if the highline fishermen start asking for higher prices from the vendors. In the past when gas prices increased and if the vendor refused to increase the buying price, the fishermen have tried to sell to another vendor who is willing to purchase at a higher cost.

Sword said fuel prices are also up in American Samoa. He asked what kind of actions the CNMI community is planning to take to protest if the Sanctuary nomination is retained, noting that the CNMI congressional representative is in support of maintaining the nomination and may have more leverage being in Washington D.C. closer to the seat of power than the local leaders.

Gourley said he did not know yet, but the process may begin with the governor's office forming an ad hoc committee meeting to review what actions are available, after which a decision would most likely ensue. He said the previous sanctuary process was not handled in a proper manner.

Amani said fishermen from Guam and the CNMI are not aware of the meetings on the sanctuary and monuments. She said there has to be a better way to get the information out to the people so they can be more involved with the decisions. As a restaurant owner who buys fresh fish from all the vendors, Amani said she can confirm that the prices have gone up, and said buyers need to support the local fishermen and accept the increased prices of their fish.

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

Tenorio provided the DFW report for March to May 2022. Boat-based creel surveys are performed regularly and DFW is currently recruiting for field staff to address the staffing capacity. During this reporting period, 42 interviews were conducted, of which 18 were trolling, 16 were bottomfishing, four were spearfishing and four were hook-and-line fishing. For the shore-based creel survey, 20 interviews were conducted, of which one was cast net, 17 were hook-and-line fishing and two were spearfishing. The overall activities were fairly slow.

Receipts were collected from participating vendors, hotels and restaurants through the Commercial Purchase Data System. An estimated 8,444 pounds of bottomfish, 7,392 pounds of reef fish, 40,240 pounds of pelagic fish, 230 pounds of invertebrates and 157 pounds of miscellaneous fish were sold. Fuel prices continue to rise in the CNMI, and fish prices are anticipated to increase to mitigate the burden on fishermen and their fuel consumption.

A notice was issued May 16, 2022, on Coronavirus Aid, Relief and Economic Security (CARES) Act 2, informing the public of the availability of the second round of funds. Application disbursement began May 18, 2022, and the last day for submission was June 16, 2022. Applications are currently being received by the CNMI Office of Grants Management. The availability of applications was a concern, with both Tinian and Rota running out of forms. Another concern was that nonfishers were also applying for this program.

Regarding the Boating Access Program, repair efforts have moved toward the Tinian Marina with the recent completion of the Rota Harbor Marina. The Boating Access Program manager is working with the Public Assistance Office representatives on replacing the docking system within the Tinian Marina. An as-built plan and its scope of work has been completed and

is pending approval by the DFW director. After it is approved, it will be sent to the Public Assistance Office for bidding and announcement.

Regarding the survey activities on Rota and Sasanhaya Bay Fish Reserve, information on fish species, size composition and abundance were collected. Also collected at each service site were the salinity, connectivity and pH data. The information is currently being reviewed.

Dueñas asked if there were any archival tag recoveries in the CNMI, noting two recent skipjack tuna tag recoveries on Guam that originated from the Marshall Islands and Japan.

Tenorio said no reports were made regarding tagged fish from those areas.

Dueñas said it is interesting for Guam to get one from the northern part of the ocean and another from the southern part, which show that skipjack intersect in the Mariana Archipelago. He said this is why he is asking PIFSC to develop a trawl program to determine whether the fish are coming from the Marshalls and if they are contaminated with nuclear waste.

Sword asked if there were any problems with the Catchit Logit program and who is conducting the maintenance on the system.

Tenorio said the system is still new and the program is working through the glitches.

Floyd Masga, Council contractor, said the Catchit Logit program is still being maintained by the Council office. Maintenance is ongoing for registration and recruiting, as well as review and approving the data collected by venders and fishers. If the fishers cannot log in, staff in the CNMI will call them in and provide a new password, as well as check the device being used.

### **3. Commonwealth of the Northern Mariana Islands Bottomfish Cluster Analysis**

Rob Ahrens reported on the hierarchical cluster analysis for the CNMI that was conducted by the Archipelagic Plan Team (APT) to inform the revision of the BMUS list in the FEP, and to help coordinate actions on the territorial FMP. The boat-based interviews were used to understand species associations and which species could be subjected to similar fishing pressures. The cluster analysis was performed on three time periods: 2010 to present, 2000 to 2010 and all data since 2000.

The results showed a clustering of the deepwater species, similar to the Guam analysis. 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. The cluster analysis results for the shore-based interviews show that there are *Lutjanus kasmira* and *L. lugubris*, the jack, showing up on the surveys.

Ahrens reviewed the criteria that the APT considered for aligning the BMUS list in the FEP with the recommendations from the MSA, which includes whether the stock is caught in the fishery, whether the FEP can improve or maintain the condition of the stock, and the extent to which the fishery adequately manages the species.

The APT's recommended BMUS list for the CNMI resulting from the analysis is consistent with what was proposed for Guam. The list includes a realignment of the BMUS list for the federal FEP, as well as the suggested species list that would be covered under a territorial FMP. The proposed federal BMUS list includes existing deepwater species with the addition of *Etelis boweni* and *Pristipomoides argyrogrammicus*.

Based on the APT deliberations, the life history characteristics and the habitat used by these species should align closely. The jacks, as well as *Variola louti*, *Lethrinus rubrioperculatus* and *Lutjanus kasmira* are recommended for coverage under a territorial FMP. APT will work closely with the territorial agencies in the development of the FMPs to make sure the criteria are met so that comanagement can occur with the territories for these species. There is also an opportunity to include the deepwater species on a territorial FMP and work toward a careful comanagement of the species.

Dueñas asked that the common names are attached to the scientific names so it is clear which species are being discussed.

Ahrens asked which common name would be preferred.

Dueñas said the common name used by the fishermen in the affected island should be used.

Tenorio asked what percentage the blue-lined gindai is represented in the catch.

Ahrens said the catch is not insignificant but not as much as the other species, with catch being lower in recent years.

Gourley asked if there is a concern with creating a choke species when including species that do not dominate the catch in the fishery in the BMUS, as has happened with East Coast fishery management issues.

Ahrens said the less abundant fish species will be harder to collect information on, and he would defer to the stock assessment scientists to make the decision on the best way to assess those species. Within the MSA, there is the ability to manage as a species complex or to use indicator species of that complex. The APT prefers to see these species in a complex because they tend to be captured together and experience similar fishing pressures, same habitat and life histories, and thus the data-rich species can be used as indicator species for the whole complex.

Gourley asked what the benefit is for including the species that are not caught as often and are unlikely to have species-specific life history information as part of the BMUS.

Ahrens said the MSA guidelines suggest that species that are at risk of being overfished or are experiencing overfishing, or are captured in a fishery should be covered under a FMP.

Including the less frequently captured species in the BMUS list provides a more complete coverage of the deepwater group that is captured in the fishery.

Dueñas said there are some concerns depending on the analysis due to some fishing practices that are taking place. There should be a stronger analysis being done on the fishermen and not just the harvest because depending on the fishermen, they will target only a certain species of fish, but will be drifting in different depths and zones.

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

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

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

*Regarding the CNMI BMUS cluster analysis, the CNMI AP supported the cluster analysis as presented and recommended the Council revise the CNMI BMUS accordingly.*

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

There were no FIAC recommendations regarding the Mariana Archipelago.

#### **3. Non-Commercial Fishery Advisory Committee**

There were no Non-Commercial Fishery Advisory Committee (NCFAC) recommendations regarding the Mariana Archipelago.

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

Lynch, SSC chair, presented the SSC recommendations.

*Regarding the CNMI bottomfish cluster analysis, the SSC recommended that the results of the CNMI bottomfish cluster analysis are utilized to revise the BMUS list.*

### **D. Public Comment**

There were no public comments.

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

*Regarding the CNMI BMUS hierarchical cluster analysis, the Council **endorsed the proposed BMUS list for the CNMI and recommends the preliminary list be considered by the previously established APT MSA subgroup in the development of the MSA-required sections for the FEP amendment associated with the BMUS revisions, and also consider:***

- a. *Pristipomoides argyrogrammicus* (blue-lined gindai) comprises a small percentage of the overall catch.**
- b. *Etelis bowenii* (giant ehu) is a newly identified species and difficult to distinguish between *Etelis carbunculus* (ehu).**

**The Council requested NMFS PIFSC further analyze the preliminary list of species on the relative historical catch to determine species predominance in the deep complex.**

<b>Federal FEP</b>	<b>Federal ECS/Territorial FMP</b>
<i>Aphareus rutilans</i> (lehi/maroobw)	<i>Caranx ignobilis</i> (tarakitu/etam)
<i>Etelis bowenii</i> (giant ehū)	<i>Caranx lugubris</i> (tarakiton attelong, orong)
<i>Etelis carbunculus</i> (buninas agaga, falaghal moroobw)	<i>Variola louti</i> (bueli, bwele)
<i>Etelis coruscans</i> (abuninas, taighulupegh)	<i>Lethrinus rubrioperculatus</i> (mafuti, atigh)
<i>Pristipomoides argyrogrammicus</i> (blue-lined gindai)	<i>Lutjanus kasmira</i> (funai, saas)
<i>Pristipomoides auricilla</i> (buninas, falaghal-maroobw)	
<i>Pristipomoides filamentosus</i> (buninas, pakapaka, falaghal-maroobw)	
<i>Pristipomoides flavipinnis</i> (buninas, falaghal-maroobw)	
<i>Pristipomoides seiboldii</i> (buninas, falaghal-maroobw)	
<i>Pristipomoides zonatus</i> (buninas rayao amariyu, falaghal maroobw)	

Dueñas said he would like to request for common names be added onto the final document.

Council staff said the common names and Chamorro names are included.

Moved by Dueñas; seconded by Sword.

Motion passed.

## **VII. American Samoa Archipelago**

### **A. Motu Lipoti**

Sword provided an update on American Samoa fisheries. He highlighted challenges faced by the StarKist cannery, including low fish supply, lower purse seine price of skipjack tuna combined with higher fuel price, and labor shortage for unloading contractors impacting operations. When the purse seine vessels arrive during the stevedores' shift, the vessels will be offloaded, but the vessels must unload on their own if they arrive after the contractors' work shifts.

The Tautai O Samoa Longline and Fishing Association has been active, and one of its vessels recently travelled to the southern oceans. Following a recent election, new officers are Krista Haleck-Cory as president, Anthony Feliciano as vice president, Edgar Feliciano as



secretary, Jeff Maustacas as treasurer and Carlos Sanchez as the business development officer. The group is thankful for the Large Vessel Prohibited Area but half of them do not go fishing.

On local fisheries, catch of skipjack tuna appears to be declining, whereas catch of juvenile yellowfin tunas has increased. Commercial alia fishing is almost nonexistent. Alia fisherman Elvin “Eo” Mokoma still has boats but lost his master fisherman, and higher fuel costs are making it hard for him to go fishing. Small interclub tournaments were held earlier in the year, but there have been no fishing tournaments over the past few months due to the COVID-19 Omicron variant outbreak.

Work on the Malalooa dock extension supported by the Council has started. The Malalooa floating docks remain unusable. The new boat ramp in Pago Pago is also unusable because the contractor has not fixed the issue of the low end of the ramp being above the mean low tide level, resulting in boats unable to float the boat when launching.

The American Samoa Department of Commerce is moving forward with the first boat of the four super alias being built in Washington State by Armstrong Consolidated. The vessel is expected to be in American Samoa in February 2023. There has been limited information on the next phase of the program, which will be training to get the first boat operational.

The shipyard has serviced longliner vessels, and three vessels from Samoa, one of which is an interisland ferry that does a lot of commerce between Samoa and American Samoa. The goal to service larger vessels such as purse seiners and the USCG cutters at the shipyard has yet to be accomplished, since it requires upgrades that cost between \$15 to \$30 million. When complete, the cradle will measure 10 feet by 65 feet wide and a weight capacity of 3,000 tons. The USCG cutter that will be repaired at the shipyard is the *Sentinel 154* that weighs 400 tons.

Peck, speaking as the New Pago Pago Gamefishing Association president, reported fishing has been light with boats either being maintained or crews traveling. There have been a few catch-and-release marlin and some wahoo at one time.

Sword reported the CARES Act funding is now entering Phase 2. With Phase 1, there were around 225 subsistence fishers approved as a result of the vetting process, out of the more than 1,000 people who applied for the funding. The spend plan for the second round has been finalized and should be complete within a month.

Regular unleaded gasoline was \$5.16 per gallon in April 2022, and has since increased to \$5.60 per gallon. Diesel was \$5.60 per gallon in April and has increased to \$5.89 per gallon. The gasoline highway tax was lifted for fishermen, reducing the price to \$5.30 per gallon. The cost of ice has risen 25% per bag.

Regarding safety, there were two recent fatalities from people who were swept into the water, one of which was at the net yard. These are different from the two fatalities a few months prior in the Aunu‘u crossing. Water had been rough on the south side of the island, especially since April 2022. More boat ramps may be needed on the east and west sides.

Dueñas asked if anyone reported a tuna tag from the the Pacific Community (SPC) programs, noting two tags had been recovered in Guam over the past year.

Sword and Soliai said they have not heard of any tags on tunas.

Soliai commended Carlos Sanchez and the shipyard team for their work turning the shipyard around over the last year since the current administration took over and servicing many local longliners.

Regarding the CARES Act, Soliai added the first round of subsistence relief payments were mailed in April 2022. The commercial relief payments have not yet been received, although the Pacific States Marine Fisheries Commission sent them out and they should arrive within the next week. DAWR received notice that the round 2 applications will soon be opened since NOAA has endorsed the spend plan and are bundling up a few more items. Once that is signed off, the public outreach will begin.

Dunham said he interviewed a lot of reef fishermen who told him they fished during and before the pandemic, but have not received help from the CARES Act despite having licenses and submitting their data. He asked if these fishermen may be eligible for CARES Act funds even if they fished before or during the pandemic in 2020.

Soliai suggested that the fishermen go to the DMWR office and discuss the matter with the staff.

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

Domingo Ochavillo presented the DMWR report. In 2021, the Community-Based Fisheries Management Program made significant steps after being revived. The program was introduced to the Office of Samoan Affairs where it received positive response, and several villages are waiting to participate. Several community visits have taken place, with villages expressing positive responses to the program's objectives of developing management plans for the community so they can manage their coral reefs and fisheries.

DMWR is undertaking an effort to understand how climate and weather patterns such as La Niña affect the tuna and nearshore fisheries. The current state of the weather is under a La Niña phase with mild conditions, increased rainfall, trade winds and ocean currents, which may be favorable for the tuna fisheries.

Regarding shore-based subsistence fisheries during the first quarter of 2022, yellowfin goatfish (i'asina), was the most-caught fish due to the recruits being near shore and targeted as a cultural fry. Other top species caught included blue-banded surgeonfish, trevally and nearshore grouper. For gear used, rod-and-reel was the highest, followed by spear snorkel, traditional enu traps (used for catching yellowfin goatfish) and gillnets.

Regarding boat-based fisheries between October 2021 and March 2022, skipjack was the top at 80,000 pounds for the alia and pelagic fisheries, followed by albacore tuna. From the commercial receipts, wahoo and marlin were the top species reported. Bottomfishing effort was low, with 640 pounds reported over the past six months. The redgill emperor, the only BMUS reported, had the highest amount of catch, with other species reported including the gray jobfish, tomato grouper and humpback snapper. The low fishery participation was due to the lingering

effects of COVID-19-related social restrictions. Commercial receipt data also show low commerce in bottomfishing, with assorted bottomfish (flower snapper, ruby snapper and longtail snapper) being the top species reported.

Spearfishing effort was higher than bottomfishing. Based on creel survey data, parrotfish stocks top what the local fishery targeted, followed by surgeonfish. Giant clams make up the fifth highest reported by weight. Spiny lobster is an important species caught by spearfishing. Commercial receipts for spearfishing show parrotfish as having the highest sales, followed by octopus, blue-banded surgeonfish, squid, lobster and unicornfish.

DMWR is undertaking a project to look at the connectivity of fish stocks in American Samoa and Samoa using genetic analysis on three coral reef species. For this quarter, genetic data were processed for *Myripristis berndti*, which is similar to the surgeonfish that is highly targeted in both jurisdictions. Fin clip samples were collected from Tutuila, Savai'i and Upolu, and sent to a molecular lab for processing. The data show that there is a single genetic stock of *Myripristis berndti* in the Samoan Archipelago.

A FishPath training workshop was held for DMWR staff May 23-27, 2022. FishPath is a software support system used to diagnose and assess fisheries, and identify management options, especially in data-limited fisheries. The next step is fishery management workshops scheduled for September 2022.

Enforcement staff members boarded and inspected longline and purse seine vessels. They also monitored containers, conducted land and sea patrols, and gave citations. One of the citations was for selling catch without a commercial fishing license. DMWR responded to two sea turtle strandings at Lyon's Park and also held whale response training with NOAA officers.

DMWR has also been working with the StarKist cannery to look at fish receipts. The governor requires the cannery to provide data on how much fish are being received and processed. Data from 2018 to 2021 showed a 25% drop in fish being processed in 2021 due to the limited number of work shifts, and many of the purse seiners offloading their catch in the Eastern Pacific. A taskforce will be organized to examine the government's data for American Samoa food and fish security. DMWR is in the forefront of looking at fish sources. Approximately 40-50% of fish being consumed in the territory is nontarget fish caught by longliners, 25-30% is comprised of nearshore fisheries, and imported fish from Samoa is a small portion but highly underestimated. The next step is to analyze what kind of threats all these fisheries are facing, then develop draft policies to ensure there is consistent availability of fish to the territory.

Tenorio asked for clarification that the nontarget species caught by the longline fishery are consumed by people on the island.

Ochavillo confirmed and said the customer receipt book data show this is a significant source of fish for the territory.

Dueñas asked how much of the consumed fish come from purse seiners or from those other than the longliners.

Ochavillo said he does not know but is actively trying to see if the island also gets nontarget fish from the purse seiners, which would require working with federal partner agencies to see if the data are available. There was work done by Graham Piling and colleagues at SPC that showed nontarget fish from the purse seiners was a significant source for the other Pacific Island countries.

Sword said the nontarget fish are stored in onboard freezers and are given away before their next departure.

Soliai said DMWR recognizes that data gaps exist, some of which were highlighted in Sagapolu's report, and is working in coordination with local agencies to fill in the gaps so that fish origin is known and to ensure there is no IUU fish coming from foreign longliners. Soliai emphasized the need to look at the whole Samoan archipelago to manage the American Samoa BMUS through a holistic approach, and ensure that any impacts that happens to the territory is not happening in Samoa. Based on Ochavillo's report from the previous meeting, Samoa is catching 50,000 pounds or more of the BMUS species, while limited data have constrained American Samoa for decades.

Dueñas asked whether the dry dock system is a rail or a floating system.

Sword said it was a rail system designed by Crandall Dry Dock from New England in the early 1980s.

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

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

There were no AP recommendations regarding American Samoa.

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

There were no FIAC recommendations regarding American Samoa.

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

There were no SSC recommendations regarding American Samoa.

### **D. Public Comment**

Local business owner and fish buyer Nate Ilaoa suggested another attempt to engage fishermen and vendors through a refresher course during one of the local tournaments would be a start to get wider use of the Catchit Logit and Sellit Logit apps to improve data collection. The COVID-19 lockdowns made things difficult. Fishing was limited, stores restricted operating hours and the government workforce was ordered to stay home. As things reopen, now will be a good time to re-engage the fishermen and vendors already registered with the app to make sure all the login and password credentials remain current. The app remains operational. The local longline fleet gets vilified when there is talk of fish supply flooding the territory, but from the vendor's perspective, it usually has a ready supply of fish. The commercial receipt book program

is mandatory so getting the vendors to start using the Sellit Logit functionality of the app will show where the fish are coming from, including fish in the many coolers coming by air from Samoa.

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

*Regarding American Samoa fisheries issues, the Council requested the relevant federal agencies, including NMFS and USCG, work toward reducing burdens from economic uncertainty posed by increasing Chinese influence in the region around American Samoa, reducing potential incursions of distant-water fishing vessels within the U.S. EEZ around American Samoa, and increasing USCG presence to ensure safety at sea. These issues are directly related to National Standards 6 and 10.*

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

## **VIII. Protected Species**

### **A. False Killer Whale Interaction and Depredation Analysis**

Asuka Ishizaki provided an update on the false killer whale (FKW) interaction analysis that the Council requested at the March 2022 meeting as a result of the discussions on preparing for the False Killer Whale Take Reduction Team (FKWTRT) meeting that is expected to happen later in 2022. The Council requested an analysis of interaction and depredation patterns through 2021, including estimating economic impacts from depredation, as well as the effects of the Southern Exclusion Zone closure on fishing effort and interactions. The analysis is intended to help the Council further prepare for the FKWTRT meeting, which has yet to be scheduled. PIFSC has initiated the analysis in response to the Council recommendation, and presented the progress to the FIAC and the SSC at their respective June 2022 meetings, and the Council is expected to receive a full briefing at the September 2022 meeting when the analysis is complete. FIAC and SSC made some recommendations on the analysis. In conducting the analysis, PIFSC is also coordinating with PIRO PRD, and PRD has requested that the full analysis results be first presented to the FKWTRT rather than to the Council. In response, Council staff has requested that PRD consider convening a FKWTRT webinar in advance of the September 2022 meeting, if the full FKWTRT meeting is not held before September, so that the Council can receive the analysis presentation at its September meeting.

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

#### **1. Consultation updates**

Tosatto reported the bottomfish fishery consultation is in Council review, and will be finalized as quickly as possible, likely in July 2022 after PIRO receives comments from the Council. Details of the bottomfish draft BiOp were discussed under the next agenda item.

The consultations for the Hawai‘i deep-set and American Samoa longline fisheries are in advanced stages of review. The preliminary review of the Hawai‘i DSLL consultation has been

completed after it was updated to reflect the regulatory structure prohibiting wire leaders in the fishery and to incorporate PIFSC's analysis of the impacts of that regulatory change. PIRO will soon engage with HLA, which is an applicant to the consultation, as required by the ESA. Following HLA review, PIRO will produce an updated draft BiOp that will be cleared through GCPI. Tosatto acknowledged the Council's request for a review opportunity under the ESA-MSA Integration Policy Directive, but indicated he could not say at this time whether or when the review opportunity may be provided due to the ongoing litigation for which NMFS is still developing its overall strategy for the completion of the BiOps. He indicated he will keep the Council informed as NMFS works through the litigation.

The American Samoa longline BiOp is equally advanced and at a preliminary draft stage. This BiOp has lagged behind the Hawai'i DSLR BiOp because the issues are similar and PIRO is interested in making sure that the analyses in both of the BiOps are consistent to the extent possible. As the Hawai'i DSLR BiOp is being finalized, PIRO expects to update the American Samoa longline BiOp quickly and to follow the Hawai'i DSLR BiOp by approximately 30 days.

Tosatto indicated the completion dates presented (August 2022 for the Hawai'i DSLR and September 2022 for the American Samoa longline) could be possible if the HLA review process is completed quickly, but subject to change as the review process continues.

Gourley asked how the litigation would affect the completion of the BiOps and the time the Council will be provided for review, noting concerns that the Council may not have sufficient time to review the draft BiOps or may be left out of the process.

Tosatto said the litigation is outside of the deliberative process to complete the BiOps, which the agency is moving as quickly as it can. NMFS will follow the ESA-MSA Integration Policy Directive, which may or may not allow the Council an opportunity to review. Tosatto acknowledged the risk and vulnerability due to the lack of ESA coverage for the species subject to the lawsuit, but there is no court-ordered action at this time.

Gourley said a lawsuit was filed because the BiOps have been ongoing for a long time, and that it would be unacceptable if the Council is not given appropriate time to review the draft BiOps for such important fisheries. He requested that the draft BiOps be provided to the Council at least three weeks before the September 2022 SSC meeting.

Tosatto said he can guarantee that he would act consistently with NMFS's ESA-MSA Integration Policy Directive.

Dueñas expressed concern that the Council is not being engaged in the consultation, and wondered if the BiOps are taking so long because PIRO is trying to find jeopardy using outdated documents. He said if PRD is not engaging Council staff in the consultations because it is understaffed, then it should ask for assistance from NMFS Headquarters.

Soliai reminded Tosatto about the request from the American Samoa longline industry representatives to review the draft BiOp. The delays in the consultations create a lot of uncertainties with the fisheries, which is causing concern. Soliai asked what the risk is to the fisheries caused by the consultation delays. He also asked if it is NMFS's policy to delay ESA consultations for four years, noting Tosatto indicated NMFS would comply with its policy directive.

Tosatto said it is unfair to say that the BiOps have been ongoing for four years when PIRO has been accommodating the requests of the Council and HLA to delay, and has been acting according to the law in a timely way. He acknowledged that there are risks, but PIRO has maintained compliance with the ESA throughout these delays, with the exception of the newly listed species that previously did not have any consultations. He agreed that there is uncertainty within the fisheries while consultations are ongoing, in terms of whether jeopardy will be determined and whether Reasonable and Prudent Alternatives (RPAs) need to be developed. Tosatto said technically the Hawai'i DSLL consultation is approximately 200-and-some days old because the clock was reset when the action was changed to include the regulatory change on wire leaders. He reiterated that PIRO cannot say at this time whether it can provide the Council with the review opportunity, which is discretionary under the ESA-MSA Integration Policy Directive. Tosatto deferred to GCPI on the risk posed by the lawsuit.

Tucher said GCPI has been in touch with the Department of Justice and is furnishing advice to NMFS, the details of which cannot be disclosed in a public session. He indicated that he could provide some assessment of legal risk associated with the ongoing litigation to Council members in a closed session.

Soliai said the Council would welcome the opportunity for a closed session.

Soliai asked if PIFSC plays a role in the review of the BiOps and the consultation.

Tosatto said PIFSC provides scientific information for the consultations at PIRO's request or through the course of staff's normal duties. For complex BiOps, PIRO has a team of consulting biologists drafting the analysis based on a large amount of scientific information. PIFSC has produced a number of informational reports that the consulting biologists have requested, including information from the PIROP, assessments by different divisions or genetics information from the Southwest Fisheries Science Center. At the later stages, PIRO relies on a review by its ESA specialists for quality review steps by the PRD assistant regional administrator and GCPI for legal sufficiency. Upon completion of their reviews and signing of the BiOp documents, it is NMFS's view that the best scientific and commercial information available has been used. At the later stages of review, if there is a need to consult with the sources of the scientific information, which could include PIFSC, PIRO could ask the researcher if the information was used correctly.

Simonds said the ESA-MSA Integration Policy Directive recognizes the unique role that the councils play in the consultation process because of the open and public process for developing fishery management actions and the restricted authority NMFS has to modify the Council's FMPs and regulations. The policy directive specifically recognizes the Council's role in developing RPMs or RPAs, and the time needed for the Council to schedule a review of the draft BiOps for its meeting. She noted that despite this recognition, it is not being followed in the region.

Dang said all would recognize and can appreciate the fact that the Council is important to the process, and requested Tosatto to use his discretionary authority to provide the Council with a draft review opportunity in addition to providing that opportunity to HLA.

Simonds said when the American Samoa longline vessel owners requested NMFS for an opportunity to review the draft BiOp, Tosatto did say he would provide them a limited review opportunity. She asked Tosatto to confirm that has not changed.

Tosatto acknowledged the request, and said there is a difference under the ESA for an applicant and a nonapplicant. He said at the time of the request, he communicated that he expected to provide that review opportunity to the American Samoa longline vessel owners, and as time approaches, he would coordinate that as he is able. Notwithstanding the lack of no policy or law that guides a draft review opportunity by the American Samoa longline vessel owners, unlike for HLA or the Council, Tosatto indicated that his intent is the same as for the Council, in that he would provide the opportunity if he is able to do so consistent with NMFS's need to complete the BiOp. If he is able to provide the opportunity to the Council, he expected the opportunity would also be provided to the American Samoa longline vessel owners.

[Tucher provided a confidential briefing on the litigation CCH v. NMFS, alleging the failure to complete timely ESA consultations for the longline fisheries' impacts to OWTs. The closed session began at 8:30 a.m. HST, June 22, 2022, and concluded at 9:10 a.m. HST. Minutes of the briefing are maintained in a confidential appendix.]

## **2. Review of the draft bottomfish biological opinion**

Tosatto provided an overview of the draft BiOp for the bottomfish fisheries, which he characterized as a straightforward consultation demonstrating that the fisheries have a limited impact on the ESA-listed species. The bottomfish consultations were reinitiated following the critical habitat designation for the MHI insular FKWs, as well as the new ESA listings of the giant manta ray, chambered nautilus and OWT, and the consultations for all four archipelagic areas were batched into a single BiOp.

Most issues considered in the draft BiOp, including vessel strikes and vessel noise, were considered to be discountable for all species. Interactions with bottomfish fishing gear were also found to be discountable for chambered nautilus and giant manta ray in all archipelagic areas, and interactions with fishing gear was also found to be discountable for OWT in the American Samoa bottomfish fisheries. For the MHI, Guam and CNMI bottomfish fisheries, the best commercial and scientific data indicated that captures in each of the fisheries was low, at two, one and four interactions over five years, respectively. An estimated 25% post-hooking mortality rate was used in the analysis, based on the high end of estimates from studies in similar types of fisheries, which resulted in an estimate of one mortality per five years in each of the bottomfish fisheries. This level of impact was found to be very small compared to the population estimate, and the draft BiOp concluded that the bottomfish fisheries are not likely to jeopardize the OWT. The estimated number of interactions and mortalities for each fishery was used as the reinitiation triggers.

The draft BiOp included a RPM that requires NMFS to monitor the take of threatened species. Tosatto noted an argument could be made that NMFS does not have RPMs available to it because the OWT is a threatened species with no ESA 4(d) protections, and that NMFS will be reviewing this issue as it finalizes the BiOp. The draft BiOp also includes conservation recommendations to correctly identify OWTs, and to improve methods used to record bycatch.



Dueñas said the Council should be involved in the consultation process and document review. The SSC raised the concern that this document should not have taken three years to develop. Dueñas said he hoped that PIFSC can provide its take on these documents, and wondered if the continuous delay of the longline BiOps was because NMFS is hoping to find a jeopardy determination. He asked for a final deadline for when the Council can expect to see the draft longline BiOps for review.

Tosatto said he understands the Council is waiting for the DSLL BiOp, and noted that the opportunity for the Council to review the draft bottomfish BiOp is now. He said PIFSC and the rest of the NMFS science centers are not ESA-consulting biologists, but rather conduct research that supports all of NMFS across the country. For the bottomfish BiOp, PIFSC contributes very little to the research on giant manta rays, and to some extent to the research on OWTs. He said what consulting biologists do to draft BiOps is different than what PIFSC researchers do, and that a Population Vulnerability Assessment is not a jeopardy determination but can be used by the consulting biologist to form an opinion of the fisheries impacts. While the ESA sets a deadline of 135 days to complete consultations, Tosatto did not think that anyone in NMFS thinks that 135 days is an adequate statutory timeline for most fishery consultations.

Gourley said fishermen in the Mariana Archipelago are not familiar with identifying sharks to species, so the data used are likely questionable. In the Mariana Archipelago, fishermen use common sense to minimize interactions with sharks by moving to another area when shark depredation occurs.

Ishizaki, Council staff, provided an overview of the Council's review of the draft bottomfish BiOp, noting the draft was received June 3, 2022, just four days before the first AP meeting. The Council had requested that the draft be provided no later than May 23, 2022, to allow sufficient time for review in advance of the AP, SSC and Council meetings. In the limited time available for review, the AP was asked to focus on any concerns regarding the RPMs, terms and conditions, and conservation recommendations, and the SSC formed a working group to facilitate review focusing on scientific matters related to the conclusions and the RPMs.

Clay Tam, AP chair, presented the recommendations from the AP's review of the draft bottomfish BiOp.

*Regarding the draft bottomfish BiOp review*, the American Samoa AP concurred with the draft BiOp finding that the impacts from AS bottomfish are likely to be minimal and recommends the Council request NMFS, in implementing the conservation recommendations, work with fishermen on ways to incentivize, rather than penalize, reporting of OWT.

The Guam AP concurred that OWT interactions are rare in the bottomfish fishery and members are not aware of any recent encounters in the fishery.

The Guam AP recommended that any efforts for reporting and monitoring should not be duplicative and include findings from the recent genetic studies that concluded that OWTs are not the cause of depredation.

The CNMI AP concurred with the draft BiOp's conclusion that the CNMI bottomfish fishery has minimal impacts on the OWTs.

The Hawai‘i AP recommended the Council provide the following considerations and findings to PRD:

- The AP concurred that OWT interactions in the bottomfish fishery are rare, noting that OWTs are relatively easy to identify for fishermen. OWTs are not seen on bottomfish fishing grounds and experienced bottomfish fishermen have not observed OWT interactions. These fishermen experiences are further supported by the lack of OWT catch records during the bottomfish cooperative research surveys.
- The AP noted concerns for the draft RPM language regarding “observed and estimated take.” Any expansion method applied to available data to estimate OWT interaction levels should be developed in consultation with fishermen to review assumptions used in such methods.
- The BiOp should consider shark tagging data from Hawai‘i , including recent research led by Melanie Hutchinson at PIFSC. The AP noted concerns that the post-hooking mortality estimate of 25% in the draft BiOp is not based on Hawai‘i fishery data and is not data specific to OWTs.

Lynch, SSC Chair, presented the SSC’s review of the draft bottomfish BiOp. The SSC formed a working group to facilitate review of the draft bottomfish BiOp during the meeting due to the limited time available for members to review the draft in advance. In general, SSC members expressed concern about the time and resources spent on this consultation, which evaluates the impact of an extremely low level of OWT interactions in the bottomfish fisheries.

The SSC adopted the working group report and recommended the Council consider the following comments in its response to the draft BiOp:

- The BiOp clearly shows there is no jeopardy associated with the bottomfish fisheries in the CNMI, Guam and MHI. The proposed RPM for the bottomfish fisheries does not minimize the impacts of the bottomfish fisheries, and the previously stated impacts are immeasurable with respect to OWTs. The expected level of impact is orders of magnitude smaller than the estimated uncertainty in the population estimates. Therefore, the SSC suggested that RPMs are neither reasonable nor prudent for this species.
- Overall, the SSC supported the draft BiOp finding of no jeopardy. The SSC recommends that monitoring of OWT interactions be integrated into existing programs and at the discretion of the action agency. It does not seem feasible to design an independent monitoring program to detect an extremely rare event (one shark mortality anticipated every five years). The SSC recognized that there are uncertainties associated with available data on potential OWT interactions in the bottomfish fisheries, but noted that interaction risk is nevertheless extremely low in these fisheries.
- The SSC also provided a couple of specific comments regarding the need to update the fishery descriptions in the draft BiOps, as well as a need for better species identification to distinguish between OWTs and other shark species.

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

## **1. National Updates (Serious Injury Determination Policy; Guidelines for Assessing Marine Mammal Stock Assessment Reports updates)**

Ishizaki reported Council staff had requested NMFS Headquarters staff to provide updates on two national issues, specifically on the Serious Injury Determination Policy and the Guidelines for Assessing Marine Mammal Stock Assessment Reports. Headquarters staff was not available to provide a briefing to the Council, but did provide a briefing on the Serious Injury Determination Policy revision at the SSC meeting the week prior. NMFS is still in the progress of reviewing the policy, and has identified some topics that may warrant revisions, including the issue of categorizing injuries related to hooks in the mouth that the Council had previously discussed. Details of how that criteria will change is still unknown, and the SSC provided additional input on the matter. Council staff had also provided input on the policy review in January 2022.

## **2. Regional Updates**

Elena Duke, PRD, reported NMFS published the five-year review of the MHI insular FKW distinct population segment (DPS), which incorporated relevant information received during a public comment period in October 2020, and determined that the population should remain listed as endangered.

The Extinction Risk Assessment Team, convened in response to the petition to list shortfin mako sharks under the ESA, completed its task of making recommendations to the NMFS Office of Protected Resources and the status review is undergoing preliminary internal review.

NMFS continues to gather expert opinions on the draft recovery criteria and recovery actions for the coral recovery plan. The draft recovery plan is expected to be available for public review in early 2024. NMFS addressed public comments on the coral critical habitat proposal, including issues related to the records of listed corals, determination of islands and depth ranges, specific delineation and economic impacts analysis.

A NMFS internal working group developed a three-part recovery plan (including the Recovery Status Review, Recovery Plan and Recovery Implementation Strategy) for the three humpback whale DPSs that occur in U.S. waters. Of the three DPSs, the Western North Pacific DPS is the only one that occurs in the region.

Duke provided updates on the latest FKW observed interactions in the Hawai'i DSLL, noting that there have been four interactions to date, one of which occurred inside the EEZ that resulted in a serious injury determination. NMFS plans to convene a FKWTRT meeting in late August or September 2022. Duke presented a list of projects funded out of the FY2022 Congressional appropriations for FKW research, which included acoustic monitoring of the longline fleet; assessing health and survival for FKWs with evidence of a priori fishery interactions; examining foraging behavior of MHI insular FKWs to inform depredation strategies; examining interaction rates between pelagic FKWs and longline fisheries using telemetry data; augmenting FKW abundance with towed array datasets; and FKWTRT meeting and facilitation.

Gourley said he would like to see NMFS consider the latest mapping data from University of Guam that Muña-Brecht referred to earlier in the meeting in advance of issuing the coral critical habitat final rule. He reiterated a previous request that NMFS afford a courtesy review of the draft final rule prior to publication to the governments of American Samoa, Guam and the CNMI. Gourley also said he did not realize NMFS was doing the green turtle critical habitat designation concurrently with the USFWS, and asked whether public outreach and proposed rule issuance will be coordinated between the two agencies. He requested that USFWS and NMFS provide presentations at the September 2022 Council meeting to explain how the process will work with NMFS designating critical habitat in water and USFWS designating it on land, and encouraged the agencies not to make the same mistakes made with the coral critical habitat in terms of their engagement with the Mariana Archipelago governments. Gourley asked for confirmation that the critical habitat was only for green turtles, and why critical habitat was not being considered for hawksbill turtles.

Duke said it was her understanding that critical habitat is only being considered for green turtles, and said she did not know why hawksbill turtle critical habitat was not being considered.

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

### **1. Advisory Panel**

The AP recommendations pertained to the draft bottomfish BiOp review and were presented under agenda item B.2 above.

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

Mike Goto, FIAC chair, provided the recommendations.

*Regarding the FKW interaction and depredation analyses*, the FIAC recommended the Council request PIFSC consider the following in the analysis:

- a. foreign fishing effort on the high seas.
- b. effect of effort concentration on depredation risk.

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

The SSC recommendations pertaining to the draft bottomfish BiOp review were presented under agenda item B.2 above.

Craig Severance, SSC member, presented the remaining recommendations.

*Regarding the status of the DSLL and ASLL consultations*, the SSC recommended the Council coordinate with NMFS to ensure that it receives an opportunity to review the draft DSLL and ASLL BiOps, and request that the SSC receive the drafts at least three weeks in advance of its meeting to ensure sufficient time to review.

Severance reported the SSC received a presentation from Ahrens, PIFSC, on the preliminary results of an analysis to evaluate interaction and depredation patterns between the pelagic fishing industry and FKW using the protected species Ensemble Random Forest model.

*Regarding the FKW Interaction and Depredation Analysis*, the SSC recommended PIFSC consider the following in the ongoing analysis:

- Explore whether the closeness of other vessels affects the model-based estimates on interactions and whether a specific vessel in that cluster appears to be the main attractor for FKWs.
- Use a simulation-based exploration of the potential effect of spatial and/or temporal data structure on the model's ability to identify potentially informative predictors of FKW interaction rates.

Severance reported the SSC received a presentation from Kristy Long, NMFS Office of Protected Resources, and Amanda Bradford, PIFSC, on the review of the NMFS Serious Injury Determination Policy (i.e., process for distinguishing serious from nonserious injury of marine mammals). NMFS initiated the review in 2017, and the revised directives for serious injury determination are expected to be proposed this summer and finalized by the 2022-23 winter for the 2023 Stock Assessment Report cycle. Based on the review, NMFS has identified several substantive topics that warrant a revision of the procedural directive associated with the policy, including issues related to clarifying criteria associated with some small cetacean injury categories (including those involving lip- and mouth-hookings). The SSC noted most observations of cetaceans with trailing gear from a hook in the lip or mouth are currently recorded as a serious injury, while 40% of the observed 2021 FKW interactions in the Hawai'i DSLL had hooks or the crimp immediately above the hook visible.

*Regarding the NMFS Serious Injury Determination Policy update*, the SSC recommended that NMFS Office of Protected Resources/PIFSC consider hook type (e.g., circle- versus J-hooks, stainless versus other materials) as part of the criteria determining serious injury for mouth- or lip-hooked FKWs, noting the Hawai'i longline fishery exclusively uses circle hooks, which are most likely to result in lip hooking.

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

There were no public comments.

#### **F. Council Discussion and Action**

*Regarding the Hawai'i deep-set and American Samoa longline draft BiOps*, the Council **requested NMFS to coordinate with the Council on the development of any RPMs/RPAs in advance of the draft BiOp release as soon as possible, consistent with the ESA-MSA Integration Policy Directive, and to ensure that the Council receives an opportunity to review the draft DSLL and ASLL BiOps. The Council further requested NMFS ensure that the American Samoa longline industry representatives receive an opportunity to review the draft ASLL BiOp, as previously requested.**

**The Council requested PIRO to provide the draft DSLL and ASLL BiOps no later than Aug. 22, 2022 (three weeks before the next SSC meeting), to facilitate review of the drafts through the September Council and associated meetings.**

**The Council directed staff to coordinate review of the draft DSLL and ASLL BiOps through the AP and SSC meetings in advance of the September Council meeting.**

Dueñas requested the draft BiOps be provided to the Council prior to the September 2022 meeting, especially for the ASLL, so that the information can be shared with the affected community in American Samoa and the Council can hear its concerns in-person.

Moved by Dueñas; seconded by Sword.  
Motion passed.

*Regarding the bottomfish draft BiOp, the Council directed staff to send comments to PIRO in response to the review of the draft BiOp, incorporating the recommendations from the AP, SSC and the Council. The Council concurred with the draft BiOp finding that the impacts from the Hawai‘i, Guam, CNMI and American Samoa bottomfish fisheries are extremely low, and recommended NMFS remove the draft RPM and associated terms and conditions because they are not necessary due to the lack of take prohibitions on OWTs and the draft RPM would not minimize impacts.*

Gourley thanked the AP and SSC for their review of the draft BiOp and endorsed their recommendations, noting that their review helped with the Council’s questions and discussions. He added that he supports the need for species identification workshops, and said the RPM could be removed so that the fishermen are not penalized before they know how to identify the sharks.

Tosatto concurred with Gourley’s comments, appreciating the recommendations and the work of the AP, SSC and Council. He said he would abstain from voting on this recommendation mostly as a matter of the record as the recommendations are directed at PIRO.

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

*Regarding FKW interaction and depredation analyses, the Council requested NMFS PIFSC consider the following in the ongoing analysis:*

- a. **Foreign fishing effort on the high seas.**
- b. **Effect of effort concentration on depredation risk, including whether the closeness of other vessels affects the model-based estimates on interactions and whether a specific vessel in that cluster appears to be the main attractor for FKWs.**
- c. **Use a simulation-based exploration of the potential effect of spatial and/or temporal data structure on the models’ ability to identify potentially informative predictors of FKW interaction rates.**

Moved by Dueñas; seconded by Sword.  
Motion passed.

*Regarding coral critical habitat, the Council reiterated its previous recommendation requesting NMFS to provide an opportunity to American Samoa, the CNMI and Guam to review the draft final rule and to provide a joint briefing for the three territories prior to finalizing the rule. The Council further requested that NMFS*

**consider the latest mapping data from University of Guam to ensure that the critical habitat designation is based on the best available scientific information.**

Moved by Dueñas; seconded by Sword.

Motion passed.

**Regarding the green turtle critical habitat, the Council requested USFWS and NMFS to provide a presentation at the September Council meeting on the ongoing development of the green turtle critical habitat proposal. The Council further requested that USFWS and NMFS coordinate with the territory governments in the development of the proposed rule.**

Dueñas said his concern is that a major military production is being constructed on one of the green turtle nesting areas in Guam, and wondered how that issue would be addressed. He said he was baffled by the critical habitat designation process considering that the people of Guam cannot eat turtle but the military can impact them, but said he would like to see the recommendation move forward.

Moved by Dueñas; seconded by Sword.

Motion passed.

**Regarding the Serious Injury Determination Policy revision, the Council endorsed the SSC recommendation and requested NMFS to consider hook type as part of the criteria determining serious injury for mouth- or lip-hooked FKWs.**

Moved by Dueñas; seconded by Sword.

Motion passed.

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

There were no public comments on nonagenda items.

## **X. Pelagic and International Fisheries**

### **A. 2023 U.S. Territorial Bigeye Tuna Catch/Effort Limit and Allocation Specifications (Final Action)**

Fitchett presented on a final action for specifying the 2023 longline bigeye tuna catch and allocation limit for the U.S. Pacific Territories. The specification framework was established in 2014 under Amendment 7 of the Pacific Pelagic FEP, which authorized U.S. Participating Territories to assign and allocate a portion of their catch limit to U.S.-flagged longline vessels through specified fishing agreements, which are in turn used to fund projects under the territory's Marine Conservation Plan.

The WCPFC U.S. longline bigeye catch limit under conservation and management measure (CMM) 2021-01 is 3,554 metric tons (mt) and is scheduled to expire after the 2023 fishing year with a new stock assessment. Total purse seine fisheries catches, which are predominantly juvenile and smaller bigeye tuna, were approximately 70,000 mt in 2020. The longline fisheries, which primarily catch adult bigeye tuna, had a total estimated catch of

approximately 56,000 mt in 2020. Potential U.S. impact on total catch in the WCPFC, including specified fishing agreements, is less than 5%.

In 2019, the fishery was closed prior to the new year because only two territorial specified fishing agreements were made. Since then, the Council has recommended allowing up to three agreements for fishing years 2020, 2021 and 2022, but up to 1,500-mt transfer per territory and limiting total allocations to 3,000 mt. This arrangement kept environmental impacts consistent with prior years and allowed flexibility for the fishery to maintain operations throughout the year if only two agreements could be made.

Fitchett presented options under consideration for Council action. Option 1 was no action—do not specify catch limits or allocation limits. Option 2 would specify a 2,000-mt catch limit for the U.S. Participating Territories, and total allocation limits of up to 3,000 mt, which would maintain impacts at a level consistent with recent years. Under option 2, the Council could opt to specify allocation limits at 1,000 mt per territory or maintain the status quo of allowing transfers of up to 1,500 mt and capping total transfers at 3,000 mt. Option 3 would allow some flexibility to specify upwards toward 2,000-mt catch and allocation limits, recognizing that some of the territories do not have longline fisheries, and would provide them with an opportunity to expand the total catches.

All options and subalternatives are analyzed in the existing 2019 EA and in subsequent supplemental EAs or information reports. Keeping the Hawai‘i fishery operating throughout the year maintains food security for Hawai‘i, but also maintains market confidence and infrastructure for the U.S. Territories. U.S.- and Hawai‘i-harvested local supply of fish should be exceeding imports, so there needs to be an import-export balance. Beyond 2023, there is hope for a new CMM for tropical tunas that may allow an increase in catch for the Hawai‘i longline fishery. The Council is expecting a BiOp on the Hawai‘i DSL, which will provide new information on ESA issues. The Council will need to develop a new EA and new analyses and subsequent administrative processing to consider any new action that has not been previously analyzed, including a multi-year specification and removing the requirement to specify a catch limit for the territories.

Rice asked if Guam’s ability to negotiate or be included in specified fishing agreements is eliminated by any machinations of option 2.

Fitchett said the agreements hinge on the ability for Guam and U.S. vessels to develop specified fishing agreements. Guam and HLA are discussing agreements and HLA has stated it is open to working with the Guam government.

Rice asked if under the 3,000 mt total allocation limit Guam can still take part in the allocation if HLA and the Guam government came to an agreement.

Simonds said yes and that HLA approaches each territory each year and the Council can look into increasing the total amount of transfers.

Dueñas asked about Pacific Insular Area Fishery Agreements (PIAFAs) and if there was a possibility for a PIAFA in the Mariana Archipelago. Dueñas said millions of dollars of potential fishery development funding have been lost due to the inability of the U.S. State Department and Guam government to secure fishing opportunities and of Guam’s inability to



negotiate a specified fishing agreement. Guam has not participated in these territorial agreements for some time. Dueñas also said there was an overage in 2021, despite the agreements. Dueñas said he is concerned that the United States provides a lot of nursery grounds for fish to the PRIA and no fishing zones at the expense of U.S. fishermen. Dueñas also said he does not understand how Japan can get a 25% increase for bluefin tuna on a stock that is overfished while the United States cannot get a well-negotiated catch limit at the WCPFC. Dueñas pointed out the U.S. fishery is a fresh fish ice fishery unlike the competing fisheries. Dueñas said all the major federal agencies need to work together internationally, including national defense, which seems to be a priority.

Simonds said a PIAFA cannot happen unless the governor requests it. The PIAFA also requires 100% observer coverage. Luen Thai has been interested in fishing in CNMI waters. It has the largest EEZ of the territories, and CNMI is close to where Luen Thai has vessels in the Marshalls Islands or the Federated States of Micronesia. NOAA lawyers would need to review something like this or research/experimental fishing. Simonds said much of Dueñas' comments were relevant to the Pacific Strategy that Council staff developed and was shared with the applicable agencies. The Council has received positive responses from these agencies so far.

Fitchett said the overages and underages in catch reporting are result of transparent monitoring and that catch reporting is improving with electronic reporting. Overages and underages in catch reporting will be reduced with electronic reporting and allocating catches from the United States to the territories on a timely basis will be improved. The United States is not penalized, but overages result in reductions from the catch limit the following year.

Dueñas asked if paper logbooks are still being processed, because he recalls from the Technical and Compliance Committee meetings years ago that there were boxes of unprocessed logbooks.

Fitchett said the United States is much quicker at responding and providing its annual catch and the veracity of reporting for the United States is higher than anybody else. Overages and underages are not an issue of mismanagement, but due to the fact that the United States was using paper logbooks and predicting when to begin allocations of catch from the United States to territories.

Simonds said this Council has made all of these recommendations for the last 10 years but the negotiators have not been able to get the job done for the United States.

Muña-Brecht said the governor of Guam gave assurances the territory will participate in an agreement.

Soliai said the sub-option that would allow territories to transfer up to 1,500 mt is important because if one of the territories opts out of signing an agreement, it would not jeopardize the opportunities for the other territories. Soliai also pointed out other countries do not have close to the amount of catch needed to reach their limits. U.S. negotiators have not ensured a fair catch limit for U.S. fisheries.

Sword said the United States goes backwards in WCPFC negotiations. Now Pacific Island nations are asking the United States for \$60 million per year. Meanwhile Indonesia does not use its WCPFC quota and the United States seems to be losing fishing access.

Soliai asked what the aggregated total of China's catch is, aside from its 8,724-mt limit.

Fitchett said he would have to do some research to include all Chinese catch, noting these data presented come from Technical and Compliance Committee reports. China's tropical tuna focus has been in purse seine fisheries and longline fisheries are focused on albacore. There is also a 500-mt transfer from Japan to China.

Simonds asked if that reported catch needs 500 mt added to it.

Fitchett said total catch would be closer to 9,200 mt, but some of that may be attributed to Japan since it was a transfer.

Dueñas said he thought China reported 20,000 mt.

Soliai asked if charter arrangements need to be factored into it.

Fitchett said the number was total tuna imports or catches, not specific to bigeye tuna.

Dueñas said in the past, there was 1.2 million tons of tuna and tuna-like species harvested and Guam only harvested 50 mt of tuna and tuna-like species. Purse seine fisheries have also ventured into ultra-low freezing and the Indian Ocean is venturing into gassed tuna. He is concerned these fisheries are not regulated well enough. Meanwhile the United States is a well-regulated fishery that is not being adequately defended.

## **B. Council Coordination Committee Subcommittee Report on Area-Based Management**

Fitchett presented the CCC Area-Based Management (ABM) Subcommittee report prepared for the May 2022 CCC meeting. The subcommittee was created to take inventory of existing managed areas and track how they achieve "America the Beautiful" principles to account toward the "30 x 30" initiative's goal of conserving 30% of the ocean by 2030. At its May 2022 meeting, the CCC discussed how existing ABM implementations satisfy America the Beautiful principles toward being fully protective for purposes of conservation. The subcommittee offered a proposed definition of conservation and "conservation area." The CCC requested NOAA convene a meeting with CEQ and CCC subcommittee representatives to discuss the draft report in time to be used in development and deliberation of the definition of conservation. The CCC also requested NMFS provide funding to complete the subcommittee's geographic information system work.

The CCC ABM Subcommittee identified candidate conservation areas in each fishery management council jurisdiction. These areas were identified for ecosystem conservation, year-round fishery management, or seasonal fishery management or "other" nonpermanent management. The Western Pacific Region, which has the largest jurisdiction at 1,692,082 square nautical miles (nm<sup>2</sup>), has approximately 61% of its waters (1,032,825 nm<sup>2</sup>) satisfying these criteria. 53% (947,004 nm<sup>2</sup>) of the region is permanently protected, mostly through marine national monuments. Western Pacific regional protections correspond to 29.1% of all U.S. marine waters under fishery council jurisdiction according to the subcommittee report, and 27% based on an article published in 2022 in the *Frontiers in Marine Science* by Jenna Sullivan-Stack

and coauthors. More than 90% of highly or fully protected areas are in the Pacific region, according to that study.

Fitchett said the Council will discuss in the Hawai‘i section a PRIC proposal to expand the no-take areas of the PRIMNM to the entire U.S. EEZ around the PRIA.

Rice said the charts provided are very striking and that it is clear the Western Pacific is carrying most of the burden of EEZs closed to fishing.

Ramsey asked if the definition of protection in the Sullivan-Stack et al. (2022) study was different than that in the CCC report, and if the graphics from the study would look different if the CCC criteria were used.

Fitchett said possibly, noting that the Sullivan-Stack et al. (2022) study defines protection as minimal extraction activities including fishing. The CCC subcommittee took issue with the idea that protection and fishing sustainably are mutually exclusive, as the study’s definition does not take into consideration that fisheries are managed to minimize impacts on sensitive habitats and minimize bycatch without closing fisheries by design of the MSA. The CCC subcommittee is interested in optimizing yield and developing the blue economy, creating jobs and serving ecosystem function while having a low impact on bycatch species and habitats. Because the Pacific monuments are large and have strict prohibitions, by any definition, the Western Pacific Region carries more than its share of the America the Beautiful burden.

Sword asked how the graphic will change if the proposed expansion to the PRIMNM is implemented.

Soliai said the PRIMNM expansion proposal will be discussed the next day. What is important for the Council is the numbers based on the CCC report show that up to 61% of the Western Pacific has some form of fishing prohibitions. He suggested that the Council make a recommendation to send communication to the president and CEQ noting that the Western Pacific Region already fulfilled that 30x30 requirement based on America the Beautiful’s eight principles.

Muña-Brecht asked if the graphics presented could be useful in leveraging for more funding.

Fitchett said these could be shared with members along with other information.

Simonds said there have been requests for funding for this initiative as well as for the EEJ issues. Janet Coit has agreed to share funding from NMFS to the councils for that as well.

Dueñas said in the past there was an effort to establish an MPA registry, and his concern at the time was whether an area could be removed from the list if the management regime changed. In Guam, there is the Micronesian Challenge to preserve 30% of waters, but closures due to military actions are not considered to satisfy the goal. Dueñas asked if these closed areas would qualify for the 30x30 goal under the America the Beautiful initiative.

Gourley said there is an opportunity to move forward with the CCC efforts and support that the CCC subcommittee definition of conservation to be sent to the CEQ for consideration

and suggest that the agency not designate any America the Beautiful conservation areas without a National Environmental Policy Act (NEPA)-like review. Top-down approaches such as monument designations need to be avoided.

## **C. International Fisheries**

### **1. Western and Central Pacific Fisheries Commission U.S. Permanent Advisory Committee**

Fitchett reported on the U.S. Permanent Advisory Committee to the WCPFC (PAC), which met June 8, 2022. Main topics included: 1) tropical tunas and the Pacific Strategy; 2) harvest strategies; and 3) the proposal to expand the PRIMNM. South Pacific albacore was also discussed noting that the current CMM does not cover the entire South Pacific, but there has been some roadblocks on developing provisions that would limit fishing effort in Region 1 and 2 of the stock assessment. The albacore stock assessment in the region around American Samoa (Region 2) showed the greatest level of depletion, which is a concern because the American Samoa fishery has been struggling to perform even though the stock assessment has the fishery well above the limit reference point and is not experiencing overfishing. The Council provided its letters and documents on the proposed Pacific Strategy calling for a holistic inter-agency approach to negotiating for U.S. fisheries. The PAC also discussed a need for harvest strategy progress to maintain Marine Stewardship Council certifications. Harvest strategies are expected for skipjack tuna and South Pacific albacore. The PAC discussed a letter from Earthjustice on OWTs and the need for the United States to take more action on mitigating the overfishing impact on OWTs.

Fitchett also provided an overview of agenda items expected at the WCPFC Science Committee in August 2020, including upcoming stock assessments for skipjack tuna and North Pacific striped marlin, and priorities for management analyses. Two harvest strategies of interest that will be presented at the WCPFC Science Committee meeting are skipjack tuna and South Pacific albacore. The mixed fisheries (purse seine and longline) management strategy evaluation is expected to be a priority in 2024.

### **2. International Seabed Authority Updates**

Gregory O'Brien, U.S. State Department, presented on activities related to the International Seabed Authority (ISA). The second part of the ISA annual session will convene in Kingston, Jamaica at the ISA Headquarters July 18-29, 2022. The most active area of interest for exploration activities is in the Clarion-Clipperton Zone southeast of Hawai'i and west of Mexico. The mineral resource of interest there is polymetallic nodules sitting on the seabed surface. Nauru last year activated a process within the convention framework that requires the ISA council to complete its work on developing mining regulations within two years, at which point a member state is able to submit an application for a mining contract to the authority for the ISA council's consideration. A regulatory framework is expected by July 2023.

A key part of ISA negotiations are exploitation regulations, accompanied with the environmental impact assessment process and the inclusion of stakeholders in that process. There is broad support among delegations for strong requirements, consideration of stakeholder inputs and meaningful resolution of stakeholder concerns. The ISA's competence extends to the seabed area beyond the U.S. continental shelf of the Mariana Archipelago. Japan, Korea and China have

contracts for exploration in the area around the Mariana Archipelago. O'Brien explained that it is very difficult to see a near-term scenario of any actual mining activity occurring around the Mariana Archipelago, especially given the state of scientific understanding of the environment and biodiversity in the area. The draft regulations also include a requirement for a regional environmental management plan to be in place before any applications for exploitation contracts can be considered. A NOAA legal advisor and policy expert also serve on the U.S. delegation.

A main area of concern in any potential regulatory framework is to ensure that all stakeholders have awareness and a reasonable opportunity to participate in the development of the regulatory framework. This includes the ability to provide comment on the draft regulations as they are being developed and a requirement that comments submitted are evaluated by the ISA council. A likely requirement for a prospective contractor will be to conduct an environmental impact assessment. This assessment should include all possible stakeholders with provisions for the stakeholders to provide comments to that prospective contractor that must be evaluated and taken into account in the application. The ISA faces a number of impediments to its effectiveness, including its location (in Jamaica), the number of staff within the Secretariat and efficient digital resources.

Rice asked if the impacts on fish populations have been evaluated.

O'Brien said so far only exploration activities are underway, and there has not been actual mining or mineral exploitation activity yet. The data that the contractors collect are required to be shared among the member states and other participants in the ISA to establish the environmental baseline for areas that may be subject to mining activities in the future. The ISA envisions that one requirement to obtain the mining contract will be an environmental impact assessment and environmental impact statement to consider all reasonably possible impacts, including potential impacts on fish stocks and fishing activities.

Gourley asked if it is possible to get copies of the contracts from Japan, Korea and China, if there is interest to do some exploration in the area of the Mariana Archipelago.

O'Brien said the contract is not accessible, but each contract has standard terms and provisions that are publicly accessible. Their exploration areas should already be depicted generally on the ISA website.

Gourley asked how ISA may define "reasonable" when it comes to ISA addressing impacts to fishing.

O'Brien said the potential impacts on fish stocks would be addressed through the EA process. The contractor will also be required (in its application for a mining contract) to describe the other potentially affected activities within the prospective area of mining. Regarding fishing activities, the prospective contractor will need to have some engagement either with fishing industry groups or a particular RFMO.

Dueñas asked what regulatory entity of the United States would allow seabed mining, and whether oil exploration is allowed through ISA.

O'Brien said there is no U.S. company licensed by any U.S. government agency to mine in areas beyond U.S. jurisdiction. The United States is not a party of the U.N. Convention to the

Law of the Sea and would need to become a party in order to partake. If this happens, licensing and monitoring would likely fall on NOAA or the Bureau for Ocean Energy Management, or a combination of both agencies. Under current law, NOAA has authority to license U.S. companies to explore for polymetallic nodules in the Clarion-Clipperton Zone area, but other mineral sources are not covered.

Dueñas said part of the argument to support marine sanctuaries is the harvesting and exploration of the seabed. Oil and mineral exploration is ongoing in Palau, which is much shallower than the Mariana Archipelago. This activity is unlikely in the Mariana Archipelago because it is too deep.

### **3. 7th Our Ocean Conference**

Brinkman gave an overview of the 7th Our Ocean Conference, held April 13-14, 2022, in Palau, cohosted by the Republic of Palau and the United States. The conference closed with more than 400 commitments worth more than \$16 billion across the six issue areas of the conference. U.S. announcements, which numbered more than 100, worth more than \$2.6 billion are available on a public website along with all of the global announcements. Brinkman said a fact sheet on the Our Ocean Conference should be released soon and sent to Council staff when available. The U.S. Department of Labor made 16 announcements in the sustainable fisheries section, which had 60 announcements worth almost \$680 million. Some new initiatives were announced by the United States that were designed specifically for the conference, including a number of initiatives related to green shipping corridors and decarbonization of the shipping sector. The National Coastal Resilience Fund and other long-standing programs continued receiving support.

Gourley asked if any commitments were related to the Mariana Islands.

Brinkman said he can do a search and send to Gourley.

Dueñas asked if Guam will be getting any of the monies committed, noting the governor participated in the conference.

Brinkman said he was not sure if the Guam governor made it to the conference, and said he did not recall any commitments involving funds for work in Guam.

### **4. IATTC Science Advisory Committee**

Steve Teo, Southwest Fisheries Science Center, presented on outcomes of the IATTC Science Advisory Committee. An interim stock assessment for skipjack tuna, the first of its kind for the Eastern Pacific, may be used to guide management advice at the IATTC annual meeting. The stock is likely not overfished, but has a stock status associated with high uncertainty. Skipjack are known to be more productive than bigeye tuna and subject to the same fisheries and hence the same susceptibility. If the status of bigeye tuna is healthy, the skipjack status would follow as being healthy. The assessment was based on a longline catch per unit effort (CPUE) index from Japan and an index based on echo-sounders from FADs, as well as size data from the main fisheries. Teo provided an individual vessel limit scheme update on bigeye tuna caught in purse seine fisheries targeting skipjack. The individual vessel limit scheme was set to reduce

bigeye tuna catch in purse seine fisheries and an accountability measure on individual vessels was put in place to reduce fishing days if there is an overage of bigeye catch by those vessels.

The North Pacific albacore management strategy evaluation process has progressed significantly—effort limits and catch limits for management of the stock may be needed once a biomass threshold is breached. Harvest control rules were presented based on changes in fishing pressure relative to stock biomass. Most management strategy evaluation outputs had a high probability of reaching management objectives. NMFS West Coast Regional Office staff has also discussed the proposed harvest strategies and the harvest control rule with the Pacific Fishery Management Council and its Highly Migratory Species Advisory Subpanel and the Management Team.

Teo presented the results from a South Pacific mahimahi stock assessment, noting its sensitivity to recruitment with high natural mortality and intrinsic growth driving abundance fluctuations. Current harvest levels are sustainable, but with large uncertainty. The United States believes that the appropriate role of the IATTC is to support the efforts of individual members on these assessments rather than taking the lead. The United States suggested a Science Advisory Committee recommendation to consider the appropriate role of the IATTC in the assessment and management of mahimahi in the Eastern Pacific Ocean, but it was rejected by the other parties. The United States does not consider mahimahi to be a tuna-like species, but as a species caught in association with tuna. Based on the Antigua Convention, the United States believes that the species should be considered a secondary nontarget species for the IATTC. Furthermore, most fishing for mahimahi occurs in the EEZs of IATTC members, so there is no evidence to suggest that mahimahi is best assessed and managed on an Eastern Pacific Ocean-wide basis.

Soliai asked if there is any connection between the mahimahi in Hawai‘i and the Pacific and those in the IATTC area.

Teo said there would be some overlap.

Dueñas asked if the cold fronts are driving the latitudinal movement of mahimahi populations in the Eastern Pacific Ocean as it is observed from Japan to the Mariana Archipelago.

Teo said there is not enough research on mahimahi in the Eastern Pacific to provide that understanding.

## **5. Pacific Islands Climate Change Planning and Stakeholder Engagement**

Simon Nicol, SPC, presented group’s efforts to account for climate change and engage stakeholders in the Pacific Islands. SPC and several Pacific Island nations have participated in a Green Climate Fund Regional Tuna Initiative and other projects sponsored through the Global Environment Facility. One is an extension of the Common Oceans Project, which is undertaking a global evaluation of the projected changes in tuna distribution and abundance for the equatorial species of skipjack, yellowfin and bigeye, with the intent of trying to understand what the likely changes in supply chains may be from a global perspective. Another project is a further extension of an Oceanic Fisheries Management Project run by the FFA that will lead to higher resolution projections of tuna distribution chains in the Western and Central Pacific Ocean. This

project will also evaluate impacts on bycatch and some of the food security species, including a number of the billfish and species such as mahimahi.

The Green Climate Fund Project that the Pacific Islands countries are putting forward has to do with adapting tuna-dependent economies to the climate change. This project involves increasing access to tuna for domestic consumption and developing better projections that can fit into a management strategy evaluation to develop adaptation options available for governments to build some greater resilience. These initiatives provide a wealth of information to assist involved Pacific Island economies and communities in preparation of shifting tuna distributions due to climate change. This initiative could inform future problems as well as future opportunities with respect to tuna fisheries. The U.S. Pacific Territories do not qualify for the Green Climate Fund, but oversight and scoping work could be inclusive of the territories. SPC has also been engaging with stakeholders on addressing climate change throughout the Pacific Islands.

Muña-Brecht said she would like to further combine intergovernmental efforts of a Climate Change Resilience Commission with the work Nicol presented.

Soliai also said he would like American Samoa's efforts on climate change resilience to be shared with SPC.

Nicol said there is an emphasized opportunity to collaborate on a climate plan, as described in Phoebe Woodworth-Jefcoats' presentation.

Soliai said territorial agencies should meet with SPC and Council staff to discuss these endeavors.

Gourley also said there was a need to move forward with the territories together with SPC.

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

### **1. Advisory Panel**

Clay Tam, AP chair, presented the AP report and recommendations.

*Regarding the 2023 U.S. territorial bigeye tuna catch/effort limit and allocation specifications, the American Samoa AP recommended the Council select option 2, allowing transfers of up to 1,500 mt from any territory to U.S.-flagged longline vessels with total transfers not to exceed 3,000 mt. This is consistent with specifications from 2020-2022.*

The Guam AP recommended the Council select option 2 subalternative B, allowing transfers of up to 1,000 mt from any participating territory to U.S.-flagged longline vessels. This alternative promoted an equal share amongst the territories.

The CNMI AP recommended the Council select option 2 to retain the status quo regarding the quota transfer arrangement of up to 1,500 mt per territory with total transfers not to exceed 3,000 mt.



*Regarding 30x30*, the Hawai‘i AP recommended that the Council inform NOAA and CEQ that the Western Pacific Region has met the 30x30 objectives of the America the Beautiful Initiative from EO 14008 with its existing marine managed areas (e.g., marine national monuments, sanctuaries, etc.). Further closures to fishing access would conflict with “Securing Environmental Justice” Provisions in EO 14008 (Section 219) and EO 13985.

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

Josh DeMello, Council staff, presented the FIAC report and recommendations.

*Regarding 2023 U.S. Participating Territory bigeye specifications*, the FIAC recommended the Council set a catch limit of 2,000 mt for each U.S. Participating Territory, with a 1,500 mt transfer limit from any U.S. Participating Territory to U.S. vessels permitted under the FEP and operating under approved specified fishing agreements; and limiting total transfers to 3,000 mt.

*Regarding WCPFC tropical tuna management*, the FIAC recommended the Council request the U.S. delegation to the WCPFC investigate the potential impacts and influence of foreign distant-water fisheries in catch attributions to small island developing states (SIDS).

Dueñas asked if the FIAC discussed increasing the Hawai‘i longline fishery bigeye catch limit.

Fitchett said every year the Council works with PIRO to use information available to discern how much increase the Hawai‘i fishery could have without breaching any risks, and those increases have been upward of about 3,000 mt. He also said the current fishery has 145 vessels and is a limited-entry fishery of up to 164.

Simonds said the allocation totals from the territories to the U.S. longline fishery need to be evaluated once a new NEPA analysis is developed.

Dueñas said he would like to see the U.S. longline catch limit for the Hawai‘i longline fishery increased so that the U.S. catch can stand alone even without receiving allocation from the territories.

## **3. Pelagic Plan Team**

There were no Pelagic Plan Team (PPT) recommendations regarding pelagic and international fisheries.

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

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

*Regarding ABM and a proposed expansion of the PRIMNM*, the SSC recommended that the Council request a comprehensive evaluation of the unintended consequences, including social and economic impacts, of a proposed expansion of the PRIMNM (and any further fishery closures, including those proclaimed through the Antiquities Act) be conducted

and evaluated through a transparent and public process prior to implementation of any expansion.

The SSC recommended that Council staff present to the PAC the need for a comprehensive evaluation of the unintended consequences, including social and economic impacts, of a proposed expansion of the PRIMNM (and any further fishery closures, including those proclaimed through the Antiquities Act) be conducted and evaluated through a transparent and public process prior to implementation of any expansion.

#### **E. Pelagic and International Standing Committee**

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

*Regarding the proposal to expand the PRIMNM*, the Pelagic and International Standing Committee recommended the Council express concerns to relevant federal agencies regarding the proposal on U.S. fisheries and unintended negative consequences related to U.S. territorial economies and conservation. The Council should also convey these concerns to the U.S. territorial governors.

*Regarding 2023 U.S. Participating Territory bigeye specifications*, the Pelagic and International Standing Committee recommends the Council set a catch limit of 2,000 mt for each U.S. Participating Territory, with a transfer limit up to 1,500 mt from any U.S. Participating Territory to U.S. vessels permitted under the FEP and operating under approved specified fishing agreements; and limiting total transfers to 3,000 mt.

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

There were no public comments.

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

*Regarding 2023 U.S. Participating Territory bigeye specifications*, the Council **recommended setting a catch limit of 2,000 mt for each U.S. Participating Territory, with a transfer limit up to 1,500 mt from any U.S. Participating Territory to U.S. vessels permitted under the FEP and operating under approved specified fishing agreements; and limiting total transfers to 3,000 mt.**

**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.**

Muña-Brecht asked if the recommendation can be changed to total transfers of 4,500 mt, noting that the higher total limit may still leave an opportunity for Guam if both the CNMI and American Samoa want to participate and they transfer their maximum allotment.

Simonds said increasing the total allocations can be done, but additional steps including NEPA analyses would be necessary. For this year, territories can all get 1,000 mt if they all find agreement and there is still an opportunity for Guam. The Council could make a recommendation to review in the next year to increase total transfers to 4,500 mt.

Muña-Brecht requested that the Council also take up such a recommendation.

Tosatto said he would not support a recommendation to increase total transfers to 4,500 mt at this time, noting that the Council's deliberation so far and the Pelagic and International Standing Committee and FIAC recommendations have been to limit total transfers to 3,000 mt. If the Council wanted to increase total transfers, then the process to recommend this action would need to restart.

Simonds clarified that the recommendation for increasing total transfer to 4,500 mt would be for the future, not for this year, and will be drafted separately to be taken up later in the discussion.

Dueñas said he was comfortable with this recommendation and the future proposed recommendation as discussed. Dueñas said in the past, the Council had kept 1,000 mt per territory from being caught as a conservation effort.

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

**Regarding ABM, the Council directed staff to write a letter to CEQ, asking that implementation of the America the Beautiful include NEPA analyses (or at least the same vigor of effects analyses that fisheries management actions have) and include the consultation of affected state and territorial governors.**

**The Council requested NMFS and CEQ adopt the definition of "conservation area" from the CCC ABM Subcommittee.**

**The Council directed staff to inform NOAA, CEQ and the president of the United States that the Western Pacific Region has met the 30x30 objectives of the America the Beautiful Initiative from EO 14008 with its existing marine managed areas (e.g., marine national monuments, sanctuaries, etc.). Further closures to fishing access would conflict with "Securing Environmental Justice" provisions in EO 14008 (Section 219) and EO 13985.**

Dueñas asked if all management actions, including the 50-foot vessel exclusion area around Guam, was accounted for as an ABM zone.

Fitchett said yes.

Moved by Dueñas; seconded by Sword.

Motion passed.

*Regarding the South Pacific Tuna Treaty and the United States commitments to the 7th Our Ocean Conference, the Council directed staff to write a letter to the U.S. State Department and NOAA inquiring on the expected benefits to the United States and its fisheries, specifically Hawai‘i and the U.S. Pacific Territories, by new U.S. commitments to the South Pacific Tuna Treaty and the 7th Our Ocean Conference.*

Tosatto clarified the participation of the U.S. State Department and NOAA at Our Oceans Conference, not NMFS.

The motion was amended by general consent to change NMFS to NOAA.

Moved by Dueñas; seconded by Sword.

Motion passed.

*Regarding the U.S. delegation and its priorities to the WCPFC, the Council directed staff to develop, distribute and prepare arrangements for a WCPFC longline management workshop with the objectives: 1) discuss tradeoffs of zone-based management versus catch-based management; 2) privileges for fisheries with high compliance and monitoring histories; and 3) find common ground between the U.S. Hawai‘i -based longline fisheries and those fisheries within the FFA.*

**The Council requested NMFS develop its priorities going into the next PAC meeting under a larger “Pacific Strategy.”**

**The Council requested the U.S. delegation to the WCPFC investigate the potential impacts and influence of foreign distant-water fisheries in catch attributions to SIDS.**

**The Council directed staff to present to the PAC the need for a comprehensive evaluation of the unintended consequences, including social and economic impacts, of a proposed expansion of the PRIMNM (and any further fishery closures, including those proclaimed through the Antiquities Act) be conducted and evaluated through a transparent and public process prior to implementation of any expansion.**

Moved by Dueñas; seconded by Sword.

Motion passed.

*Regarding future longline bigeye catch and allocation limits for the United States and U.S. Participating Territories, the Council requested that NMFS and any relevant federal agencies explore doubling the U.S. longline catch limit for bigeye tuna, and to report back to the Council at its September 2022 meeting.*

**The Council requested staff and PIRO to explore increasing allocation limits for future catch and allocation limit specifications to 4,500 mt total transfers, and to report back to the Council at its September 2022 meeting.**

Gourley said he was not sure if there was enough of another fishery to warrant increasing potential allocations or catches attributed to the territories and may lead to perception issues.

Tosatto said the United States has argued for several years at the WCPFC to increase its catches. He believes that the management scheme needs to evolve from one that is improperly constraining the longline fisheries while not constraining the purse seine fisheries taking juvenile bigeye tuna in the region. The United States has made the argument that a higher catch limit or increased allocations would come from a fishery operating in an area with the minimal impact on the stock.

Dueñas said he has similar reservations as Gourley, but supports the recommendation because he does not foresee the United States doubling its catch limit in the future anytime soon.

Sword said it is better to use or increase fishing opportunities, else they can be lost.

Simonds said there is a need to see how much catches are being attributed to SIDS by other fisheries among total catches of bigeye tuna.

Fitchett said total longline catches in the last year were about 56,000 mt. Under the status quo, purse seine catches and increases from 56,000 mt to 72,000 mt would be an increase of 16,000 mt total catch without breaching any conservation risks.

Simonds said increasing U.S. catches would have no conservation impact.

Onaga clarified there is a need to explore impacts, rather than prioritize the action of increasing catches.

Muña-Brecht was concerned that “explore” is weaker than “prioritize” increasing total transfers.

Onaga said “explore” would be appropriate language for both recommendations, considering comments by members on perception and concerns of further impacts as presented that need to be analyzed.

Simonds said it would be better to explore and report back to the Council at the September 2022 meeting on possible feasibility of increasing total transfers and their impacts on the environment.

The second recommendation was amended by general consent to change “prioritize” to “explore,” and to add the clause for reporting back to the September 2022 Council meeting.

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

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

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

Gourley presented the National Legislative Report, noting that not much was happening due to various elections. Fisheries legislation had stalled in the House of Representatives after the passing of Representative Don Young of Alaska, who was instrumental in addressing the concerns of the fishing communities through the MSA.

One bill that continues to be discussed is the Forage Fish Conservation Act of 2021, which the CCC has also discussed extensively at its meetings. Some issues will need to be worked out on a regional basis if this bill is to be seriously considered. Gourley said he worked with Council staff to develop a regional perspective on forage fish for inclusion in the CCC's legislative working paper.

### **B. National Standard 2-Related Issues**

#### **1. Review of Western Pacific Stock Assessment Review Terms of Reference for Uku Essential Fish Habitat**

Fitchett, Council staff, presented on the WPSAR terms of reference for the evaluation of potential new designations for uku EFH. He provided background on EFH habitat and the differences between the levels of data availability, noting that level one data are based on presence/absence of a species while level two data includes presence/absence data as well as density.

The WPSAR panel will evaluate whether the data used in the reports were applied appropriately for the species and habitat and if it is sufficient for the analyses brought forward. The panel will also review whether the models developed to designate uku EFH are reliable and whether decision points and parameters were reasonably chosen. Other terms of reference included: the primary source of uncertainty is documented or presented; the models for EFH are reasonably satisfied and make sense in delineating boundaries; and the results can be used to address the management goals stated in the FEP. Should the panel decide that any of these issues are not met, the panel would make recommendations to not use results of the models and instead provide an alternative.

Gourley asked if the models being evaluated had removed areas that are not EFH from the analyses.

Fitchett said both models include all areas delineated as EFH and the results of the WPSAR will determine if there were areas removed or not removed that should be in the analyses.

#### **2. Review of Regional Best Scientific Information Available Framework**

Brett Schumacher, PIRO Sustainable Fisheries Division, reported on the Regional Best Scientific Information Available (BSIA) Framework. The MSA mandates federal fishery management decisions based on BSIA and National Standard 2 provides a list of criteria for

objectivity and peer review use when evaluating the scientific basis of stock status determinations and catch recommendations. NMFS developed the National Procedural Directives to provide guidance as MSA does not describe specific steps in establishing what BSIA is. The Procedural Directives were meant to complement the MSA and National Standard 2 as well as another directive that deals specifically with stock status determinations. The Procedural Directives provide a general framework for the BSIA process and identifies steps and roles for determining BSIA that is used as a basis for stock status determinations and other management decisions.

In response to the National Procedural Directives, PIRO, PIFSC and the Council developed a draft Regional BSIA Framework. Although it is ultimately the responsibility of NMFS to make the official stock status determinations, this regional framework recognizes the role of the Council in this process.

The regional framework follows the Procedural Directives closely in that WPSAR reviews are central to the BSIA process for domestic stock assessments, meaning the regional BSIA framework overlaps with and references the WPSAR framework using similar language. The regional BSIA framework document describes the process for domestic and international fisheries separately, key points in the process where the quality of scientific information as BSIA can be confirmed, and the roles of each organization.

In the framework, after the WPSAR review, PIFSC records the final stock assessments into the NMFS Species Information System and then drafts a BSIA memo. The completion of both parts indicates the assessment provides information that is consistent with BSIA. The SSC evaluates the information and asserts that it is using BSIA when it makes recommendations to the Council. PIRO is involved toward the end of the process when the management decisions are finalized and will certify that rule-making is consistent with BSIA.

Schumacher said stock assessments and other science products developed for international fisheries are not subject to the WPSAR process, but are reviewed and accepted by the scientific committee of a regional fishery management council. However, NMFS is still required to make a determination whether the assessment represents BSIA. Prior to that determination, the SSC is provided an opportunity to comment. PIRO would also provide a status determination memo and Council notification if needed.

Fitchett reported Council comments were integrated into the framework and noted that the process is ongoing. GCPI will need to review the framework and there is an opportunity to continue the dialogue in revising and finalizing the framework. The next step for the group is to review the 2016 WPSAR framework to determine if it can be expanded to include other scientific products, not just stock assessments.

Soliai thanked the group for incorporating the Council's comments into the new framework. While the Council was initially not engaged in the development of the framework, which is contrary to the Procedural Directives that were referenced, it is very fortunate that NMFS allowed comments from the Council. He said in the next phase, NMFS could consider if the agency's definition of the region includes the regional fishery management councils, as it is important that the Council stays engaged in that whole process.

### **3. Revisiting Best Scientific Information Available and Western Pacific Stock Assessment Review Framework**

This agenda item was addressed with the previous agenda item.

#### **C. Review of the Pacific Islands Regional Action Plan to Implement the NOAA Fisheries Climate Science Strategy in 2022-2024**

Woodworth-Jefcoats, PIFSC climate science point of contact, provided an overview of the second phase of the Pacific Islands Regional Action Plan (PIRAP 2.0). The first phase of the action plan was released in 2016 and covered fiscal years 2017-2021. PIRAP 2.0 will cover fiscal years 2022-2024 and the draft was published for public comment (deadline July 29, 2022).

The NOAA Fisheries Climate Science Strategy developed a network of regional plans in each region to effectively address climate change. Even though each of these plans is tailored to the regions, all of the plans address the seven climate science strategy objectives. PIRAP 2.0 was drafted to address the objectives by PIFSC, PIRO and Council staffs under guidance from NMFS Office of Science and Technology.

PIRAP 2.0 was built from lessons learned from the first phase and those projects that were still underway or ongoing were carried over to phase two. Authors worked in small groups to create a list of action items that were grouped into five themes, including baselines and shifting distributions; impacts to life history and biology; ecosystems, habitats and humans; regional coordination and operations; and external partnerships and resources. These five themes include action items with specific, quantifiable, time-bound metrics to gauge the progress of achieving goals. Each metric includes a point of contact from PIFSC, PIRO and the Council.

#### **D. 2021 Annual Stock Assessment and Fishery Evaluation Report**

##### **1. Archipelagic Report Overview and Highlights**

Thomas Remington, Lynker, presented highlights of the 2021 Archipelagic Annual SAFE Reports.

In American Samoa, total estimated catch of BMUS declined from 15,000 pounds a few years ago to just 2,200 pounds in 2021. Along with the decrease in catch was a decrease in trips and gear hours relative to the historical 10- and 20-year average, leading to a decrease in CPUE per trip and pounds per gear hour. Many of the priority ECS identified by the local agency are harvested by shore-based fishing methods.

The CNMI experienced a substantial increase in BMUS catch of nearly 75,000 pounds in 2021 that was commensurate with an increase in effort and trips. However, there was a decrease in pounds per gear hour relative to the 10-year average and a small increase in pounds per trip relative to the 20-year average. All priority ECS also exceeded their historical averages.

Guam saw a similar increase in total BMUS catch in 2021 to more than 54,000 pounds, a near all-time high. There were also an increased number of trips and gear hours relative to the historical averages as well as an increase in CPUE. He said the priority ECS had mixed trends that could be due to how data are collected or reported.



In Hawai‘i, the deep-seven bottomfish fishery experienced a slight increase in trips and catch driven by increases in onaga and ehu. The uku fishery also experienced an increase in catch but not in CPUE. There was a decrease in trips and catch for crustaceans, but an increase in the number of licenses with a high CPUE for Kona crab relative to historical averages.

Fisher observations provided by the Council’s AP, as well as an annual fisher observation summit held by fishermen and supported by PIFSC staff, were also included in the SAFE reports. These observations included strong and different currents, La Niña trade winds, increased shark depredation and high fuel prices. The socioeconomics section reported on the fuel prices for each of the island areas going up substantially and that trip costs increased in both American Samoa and Guam. The CNMI had an increase in pounds of bottomfish sold, revenue, fish prices and fishing trip costs. There was a slight decrease in the amount of Hawai‘i deep-seven bottomfish sold, but an increase in revenue likely due to the increase in average price per pound. Hawai‘i’s uku and crustacean fisheries both saw an increase in pounds sold and revenue, but were still below the 10-year average.

The Archipelagic Annual SAFE Reports also included a section on protected species and oceanic and climate indicators. There were not many protected species considerations for the 2021 archipelagic SAFE reports, but the bottomfish BiOp will be included in the 2022 reports. The climate indicators section includes information on increases in atmosphere carbon dioxide, decrease in oceanic pH, prevailing La Niña conditions, a negative Pacific Decadal Oscillation, and slight increases in sea surface temperature around most of the archipelagos. There were an average number of tropical storms, variable precipitation and a lower basin-wide sea level in the west. In the future, the APT will improve the report with updates on marine planning, an improved bycatch description and by incorporating noncommercial modules.

Dueñas said the GFCA has been supplying PIFSC with data for more than 40 years. He said information is not reported in the annual SAFE reports because it is legally confidential but would like PIFSC to develop a report that can be reviewed by the Council based on the GFCA data. These data are not shared with the Guam DAWR because of the lack of support or incentives for the fishermen.

Soliai said although sea level rise is low in the Western Pacific compared to Eastern or Central Pacific, another report has indicated that American Samoa is facing a much higher subsidence rate than anywhere else, at 5 to 6% higher than the global rate.

## **2. Pelagic Report Overview and Highlights**

Remington presented on the 2021 Pelagic Annual SAFE Report focused on pelagic management unit species (PMUS). The report included catch and effort from pelagic fisheries in American Samoa, the CNMI, Guam, Hawai‘i and international fisheries.

American Samoa longline and troll fisheries were consistent from 2020 to 2021 with 11 longline vessels active and increased pelagic effort. There was an increase in total PMUS landings in 2021 to about 2.3 million pounds driven by increases in albacore and yellowfin tuna. In the CNMI, there was a decrease in total troll trips and the charter fishery remained inactive. The total estimated catch in the CNMI increased, however, to about 689,000 pounds driven by increases of skipjack and yellowfin tuna. Guam trolling effort showed a slight increase with the charter fisheries rebounding. There was a large increase in total catch in Guam to more than

850,000 pounds, mainly driven by skipjack and yellowfin tuna. Nontuna species saw a slight decline from Guam trolling vessels.

The Hawai'i DSLL vessels remained at the same number but had a slight increase in number of trips. The shallow-set fishery had an increase in vessels and increase in trips. The increase may be explained by the shallow-set longline fishery having not been impeded by regulations or COVID-19 for the first time in four years. Total catch from the Hawai'i longline fishery increased in 2021 driven by the catch of tuna. The annual SAFE reports also include bycatch tables from the federal logbooks as well as the PIROP estimates.

Total tuna catches in the Pacific ranged from 2.9 to 3.7 million mt, a slight decrease in 2020 from a 2019 all-time high. In 2021, RFMOs produced stock assessments for South Pacific albacore and Pacific blue marlin. Both assessments indicated that there is no overfishing occurring and that they are not overfished.

Fisher observations on pelagic species varied by island area but noted that there were many new entrants to the fisheries that may be negatively impacting CPUE. There was also increased fish flow through informal channels reported and that the fishers continue to adapt to the pandemic impacts, such as decreases in demand and high expenses.

The ASLL fishery had an increase in revenue in the midst of a decrease in albacore price. The Hawai'i longline fishery experienced a rebound in revenue from 2020 to 2021 by about \$40 million likely due to the large increase in fish prices. The average trip cost for a DSLL trip was more than \$26,000 and \$37,000 for a shallow-set longline trip. In the CNMI there was a large increase in pounds sold, and revenue nearly doubled, while fish price was stable due to the large increase in catch. However, trip cost also greatly increased so a lot of that revenue was likely going to the fishing expenses. There was also an increase in revenue for nonlongline pelagic species in Hawai'i due to an increase in fish prices, but it was still lower than the decadal average. Hawai'i trolling and handline trip costs also increased in 2021. Commercial data for Guam and American Samoa troll fisheries were not disclosed.

The protected species module of the annual SAFE report includes tracking of leatherback and loggerhead trip interactions as well as the voluntary transition of leader material by the Hawai'i longline industry. Additional climate indicators are provided in the pelagic SAFE report including sea surface temperature and temperature at depth. There was an increase in sea surface temperature in 2021 and a decline in temperature at depth over time. The pelagic SAFE report also tracks frontal zones which are used by pelagic species for foraging and migration. The North Pacific Subtropical Front was north of average and average to the east, and the Transition Zone Chlorophyll Front was slightly north of average along the center. Other indicators such as median phytoplankton size was within historical average and fish community size structure for tuna and swordfish were slightly larger than average.

Dueñas reiterated that the GFCA numbers should be included in the analysis to better understand if there is correlation between the commercial and the creel data collection. He said fishing the past two years has been crazy with wahoo and marlin showing up in the middle of what is normally mahimahi season but not the actual mahimahi. He does not know if the cause is climate change or cyclical weather patterns but knows that the seasons are all messed up.

## **E. Report on National Saltwater Recreational Fishing Summit**

Russell Dunn, NMFS National Policy Advisory for Recreational Fisheries, provided a report on the National Saltwater Recreational Fisheries Summit and other projects. The summit was held in late March 2022 in Arlington, Virginia with 175 participants in-person and another 90 attending online each day. The agenda topics included climate resilient fisheries, recreational data collection, balancing ocean uses, management flexibility and optimum yield. Participants from the Council included Ramsey, Rice and DeMello.

The climate session provided an overview of the state of climate science, angler experiences and perspectives on the water. This included what anglers are seeing as well as their concerns and the importance of habitat to climate resilient fisheries. Anglers reported changes on the water are becoming very obvious in many places and that the impacts that fishermen and others are seeing are different in different places. Some areas are gaining new opportunities as new species move in while others are seeing increased water quality issues and more frequent and more severe weather impacting shore side infrastructure that impacts ability to access fisheries. There was a broad concern that the pace of change in some areas is exceeding the ability of the management and science processes to adapt to those changes. There was interest in accelerating the regulatory and scientific process and increasing their nimbleness to be able to respond to climate-driven and other changes, as well as traditional engagement of climate issues, in terms of education, but also in terms of anglers being interested in providing additional data to help understand and forecast.

The summit provided discussion on angler experiences with wind energy facilities or aquaculture facilities, as well as their experiences with the process of permitting and monitoring of those projects. There were concerns about impact to target species from construction and operations both in the short- and long-term and about a lack of comprehensive baseline understanding, which would diminish to understand the changes and ability to monitor over time. The anglers noted that there is a lack of data, specifically location-type data, needed for planning and development of those sites for the private sector portion of the recreational fishing community. There was substantial interest in being engaged early and often, nearly at every stage of project, site and design, permitting development and decommissioning, to make sure that angler voices are heard.

Just about every session came back to data issues and a common understanding of the recreational data collection systems, how those data are then used in both monitoring and assessments, and how to improve public confidence in the federal data. Dunn said participants felt that the data are being used beyond their capability. For example, data programs such as the Marine Recreational Information Program (MRIP) were designed to provide regional annual estimates but are being used for in-season management and undermining the trust in anglers. Anglers are also frustrated that their concerns are not heard or addressed and that climate change is adding to the uncertainty in the data. There is interest in more, better, timely and precise recreational fishery-dependent data and more fishery-independent data. There was also frustration about how to incorporate angler collected data into the federal system and assessments. Public engagement on data collection and how it is used is missing from federal projects and the key is to find balance between better data and anglers' willingness to accept the burden of what that means.

The discussion included the Council's ability to utilize management flexibility and the potential for optimum yield to guide fisheries management. There was support but flexibility

means different things to different people. There were concerns about understanding the risks of moving toward flexible, less traditional approaches as well as increasing the speed and responsiveness of management. Participants at the summit wanted to make sure that they incorporated backstops to avoid excessive risks so they do not end up paying the next year for a speedy response that occurred in the current year. Flexibility versus stability was discussed where private anglers were interested in maximizing days on the water or bag limits, whereas charter businesses were interested in stability and predictability. The definition of optimum is exceedingly variable and varies by region, fishery and individual angler. However, there was an agreement about the need for additional human dimensions information, understanding angler motivations and socioeconomic impacts. There was real concern about leaving fish in the water being seen as failing to achieve maximum sustainable yield, which opens up the possibility, in some instances, that quota may be shifted from one sector to another.

There is a website outlining what happened at the summit and a couple of very basic follow-through steps. A final report will be provided at the end of June and agency response will be published with actions to be initiated over the next 10 to 12 months. There will also be a review of the Saltwater Recreational Fishing Policy to address gaps identified at the summit, like climate change, and will be available for public comment from the councils in the latter half of 2022. NMFS is working to enhance collaboration with anglers and fishing communities to protect and restore habitats including funding a project in Hawai‘i. The Hawai‘i Fish Habitat Partnership and Kuleana Coral Reefs will be working with local anglers and other community members to restore coral reefs by transplanting coral fragments, creating artificial reefs and restoring dislodged colonies.

Rice said his presentation at the summit showed how different fishing is in Hawai‘i with the aquaculture cages and ledges in the islands as compared to structures and a continental shelf in other parts of the United States.

Ramsey said the whole experience was eye-opening for him from the beginning as the agenda came together and quickly realizing that each region was unique, making it difficult to address nationwide challenges and fishery interests. When the summit actually happened, there were lots of commonalities between regions on the very high-level topics, but there were other things that did not fit very well with each region. In the Western Pacific Region, the fishery is more noncommercial than recreational because things are very different and it was recognized and called out at the summit.

Gourley said a big difference is that in the Western Pacific, fishermen do not play with their fish.

## **F. Equity and Environmental Justice**

### **1. Update on Council Coordination Committee Working Group on Equity and Environmental Justice**

Zachary Yamada, Council staff, provided an update on the CCC working group on EEJ. At its May 2022 meeting, the CCC approved the motion to establish an EEJ working group to develop a terms of reference, as well as a workshop and publish a peer-reviewed journal article. The working group is guided by the policies and directives, including EOs, recently provided by the current administration. Although MSA does not explicitly mention EEJ, there are different

features to MSA that relate to EEJ. This includes MSA’s requirement to have a transparent and collaborative process in the development of the FMPs and FEPs and enhancing the participation of effective communities and populations. This also includes the roles of the National Standards, tribal and indigenous people and their requirement for fair representations of Council and AP memberships to provide a balanced representation across various interests in geographical areas. He said while some challenges exist for advancing EEJ, all councils are beginning to capture their issues and considerations in their work and working to understand and advance EEJ in the context of federal fisheries management through a collaborative approach.

Yamada said through the CCC and NOAA, the Council has opportunities to set the collective tone on EEJ through the MSA.

## **2. Report on Council Equity and Environmental Justice and Fisheries Management Workshop**

Yamada presented on regional EEJ planning activities and a workshop held by the Council. In late April 2022, the Council held a workshop that brought together indigenous Council members, AP members and NMFS regional staff and leaders who are working on EEJ issues across the region. While EEJ has always been a priority for the Council, the workshop looked to capitalize on the Biden Administration’s EEJ directives.

Workshop participants discussed how EEJ integrates with the Council's work and focused on four tools of organizational change: fund, empower, implement and advocate. The structure of the workshop included a panel discussion, breakout groups and plenary activities that were documented through notes and a live scribe. The workshop identified outreach and education, building local capacity, fostering the bottom-up approach, funding community impact, collaborating with local agencies and supporting self-governance as EEJ issues that the Council will need to address. Moving forward, the Council will capture the dialogue into a draft EEJ strategy, remaining steadfast to continue as a voice for the community in the federal process and respect cultural values within decision-making.

## **3. Report on National Marine Fisheries Service Draft Equity and Environmental Justice Strategy**

Danika Kleiber, PIFSC social scientist and co-chair of the NMFS EEJ Working Group, provided a presentation on the NMFS draft EEJ Strategy. The National Strategy is a framework to guide the incorporation of EEJ into the agency’s daily activities, which will require a step-down implementation planned at the regional level. The strategy is a jumping off point and will need input from communities on the strategy and implementation; taken together, the purpose is to remove barriers to EEJ and promote equity in all that NMFS does. The strategy was developed through a working group and preliminary community input and was released for public comment, due Aug. 31, 2022, for finalization in November and the subsequent development of regional implementation plans in early 2023.

She provided a history of federal actions to address environmental justice in minority and low-income populations, noting there is a renewed interest with recent EOs. New efforts, such as advancing racial equity and support for underserved communities through the federal government and tackling the climate crisis at home and abroad with a focus on environmental justice, were included in 2021 EOs that reinvigorated the interest in this topic. Beyond these

presidential orders, NMFS knows from experience that EEJ is integral to responsible governance.

The strategy defined equity as the consistent and systematic fair, just and impartial treatment of all individuals, including underserved communities that have been historically denied such treatment. The strategy also defined environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, gender, national origin or income, with respect to the development, implementation and enforcement of environmental laws, regulations and policies including, but not limited to, equitable protection from environmental and health hazards. The equitable access to decision-making processes and equitable opportunities for disadvantaged communities that have been historically marginalized is very important to NMFS.

The term “underserved communities” is defined as those communities that have been systematically denied a full participation, economic, social and civic life. Underserved communities in the Western Pacific Region include women and girls, people of color, indigenous people, including Pacific Islanders, Asian Americans, LGBTQ+ persons, people in rural areas, religious minorities and people otherwise adversely affected by persistent poverty or inequality. Kleiber reviewed the barriers that NMFS faces to incorporating EEJ, including an unawareness of underserved communities. NMFS has not fully identified the underserved communities that are impacted by its work and the agency’s needs cannot be documented or addressed without recognition of underserved communities. NMFS also faces structural barriers, such as laws and policies, as well as access barriers, such as language or meeting venues and times, that prevent equitable access to NOAA services. More subtle barriers, such as government processes that are counter to the cultural decision-making and allocation practices, exist as government systems are often difficult to navigate and can require special knowledge. The complexity of accessing federal services can actually inhibit stakeholders to even attempt it.

Other gaps deal with internal issues, including a gap in expertise and a gap in representation. The gaps include a lack of expertise in cultural literacy, language and geographies, as well as the lack of representation in the NMFS work force. This can lead to a lack of awareness and the potential for an unconscious bias toward what is familiar. Kleiber said NMFS has a renewed focus on meaningful engagement with underserved communities and provided questions for the Council to consider in providing input.

Soliai said EEJ is a very important subject to the Council members from the Pacific because they represent that community of underserved and marginalized people that this strategy should be addressing. It is very important that NMFS engage communities in person. Some of these Pacific peoples have a hierarchy within the community that will have some members feeling intimidated if they are mixed in with chiefs and others with higher ranks. It is important to engage not only the underserved communities, but different stakeholders and holding a webinar or in an online setting is not going to be effective, especially when talking about this new strategy that is going to set the path forward for the Council and for the Pacific communities. The approach that is most effective comes from the bottom-up, versus top-down.

Kleiber said she appreciated the suggestion for in-person meetings and for smaller meetings with different groups. She asked for suggestions for people to contact and make smaller meetings and different groups to include all those voices.

Simonds said Council staff is able to assist her efforts to get people to come to the meetings in the Mariana Archipelago.

Dueñas said his general concern is that the exchange and dialogue would be conducted like previous federal meetings where participants were only allowed three minutes to share their concerns. He said he expects a more extensive dialogue and exercise and looked forward to participating.

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

Amy Vandehey, Council staff, reported on the Council’s communications and outreach activities from March through May 2022. The spring 2022 publication of the *Pacific Islands Fishery News* quarterly newsletter is available on the website and included articles on the new Pacific strategy to advance U.S. fishing interests, EEJ activities and updates on Sustainable Fishery Fund projects in the CNMI and American Samoa. The Council continued to provide articles to the *Hawaii Fishing News*, focusing on topics including smart FADs, introduction of Hawai‘i AP members, shark depredation signals and catch data from fisheries that have commercial marine licenses (CMLs), and local fishing communities. The *Western Pacific Region Status of the Fisheries 2020-21* was completed and available on the website. It gives highlights from the annual SAFE reports and lists all administrative actions for those years.

Regional initiatives included partnerships in the CNMI with Tasi to Table. Council staff also coordinated Catchit Logit training with the CNMI DFW staff. In Guam, Council staff focused on the continued promotion of the “Open Ocean Fishing in the Mariana Archipelago” documentary funded by the Council and directed by Judy Amesbury from the Guam AP.

In Hawai‘i, Council staff provided outreach at Bishop Museum’s Science and Sustainability Festival in May, a guest lecture to the Marine Conservation Biology course at Hawai‘i Pacific University, a presentation to Kapolei High School’s marine science classes and continued outreach on the Go Fish! with Mike Buck radio program.

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

### **1. Social Science Planning Committee**

Severance, Social Science Planning Committee (SSPC) chair, presented the SSPC report and recommendations.

*Regarding the 2021 Annual SAFE Reports*, the SSPC endorsed the proposed changes to the SAFE report socioeconomic modules presented by Hospital. SSPC agreed that creating a separate environmental justice section could be beneficial to highlight the important topic and to make it more visible. SSPC also agreed that noncommercial section could be included as a subsection of the socioeconomic module, and calling attention to the mixed nature of noncommercial fisheries in the region.

The SSPC recommended including the fisher observations from the quarterly AP meetings into the executive summary version of the data reports for the SAFE report. SSPC recommended that the working group continue to work with Clay Tam and

Council staff to prepare for the 2022 report data collection, including consideration for recording the sessions to aid in accurately capturing the observations.

*Regarding EEJ*, the SSPC formed a working group to provide feedback on Council planning efforts and related documents with respect to EEJ. Members are: Severance, Debra Cabrera and Kirsten Leong.

*Regarding the Social Science Strategic Plan*, the SSPC recommended that the Council fill the social science staff position.

The SSPC reiterated its previous recommendation to add SSPC members from American Samoa and the CNMI.

*Regarding research priorities*, the SSPC identified existing research priority HC2.1.1 (Support studies to expand understanding of ecosystem service valuation (non-market values; non-economic considerations), human well-being (seafood safety, security), equity and gender issues, and other intangible benefits) as a high priority item to address ongoing EEJ initiatives.

## **2. Fishery Data Collection and Research Committee**

DeMello, Council staff, presented the Fishery Data Collection and Research Committee (FDCRC) report and recommendations.

*Regarding Hawai‘i data*, the FDCRC recommended the Council direct staff to work with DAR staff on developing an appropriate outreach targeting fishermen on the importance of accurate reporting to reduce underreporting.

The FDCRC recommended the Council request DAR to include uku in its review of commercial data discrepancies.

*Regarding the MRIP Regional Implementation Plan*, the FDCRC established a working group of PIFSC FMRD staff, territorial resource management agency staff, and Council staff to review the outcomes of the territorial creel survey evaluation by PIFSC FRMD and utilize the results to refine the MRIP Regional Implementation Plan following the territorial visits in summer 2022 for inclusion into the MRIP Regional Implementation Plan. The FDCRC further recommends the Council work with the State of Hawai‘i to revise the MRIP Regional Implementation Plan to reflect its phased-in approach to Hawai‘i Marine Recreational Fishing Survey improvements.

*Regarding territorial data-sharing agreements*, the FDCRC recommended the Council review the territorial data sharing agreements with GCPI and the territorial resource management agencies to facilitate endorsement.

*Regarding territorial relationships with SPC*, the FDCRC recommended the Council assist the territories with identifying what SPC services and opportunities are available to the territories to help achieve territorial data and research goals.



*Regarding the Pacific Islands region territorial scholarships, the FDCRC recommended the Council provide a survey to the territorial agencies to assess the capacity needs for future scholarship solicitations and evaluations.*

### **3. Advisory Panel**

Ken Borja, Guam AP vice chair, presented the AP report and recommendations.

*Regarding EEJ, the American Samoa AP recommended the Council request relevant federal agencies, including NMFS and the USCG, to work toward reducing burdens from economic uncertainty posed by increasing Chinese influence in the region around American Samoa, reduce potential incursions of distant-water fishing vessels within the U.S. EEZ around American Samoa, and increase USCG presence to ensure safety at sea. These issues are directly related to National Standards 6 and 10.*

The Guam AP recommended the Council request NMFS prioritize funding to support territory-based agency staff as well as for cooperative research projects to improve the understanding of the Guam bottomfish fishery.

The CNMI AP recommended that when the EEJ workshops come to the CNMI, to invite the AP members and communities from all the islands to the island hosting the event to participate in the discussion.

*Regarding BMUS, the Guam AP recommended the Council request NMFS take a closer look at the BMUS estimates for the 2021 Annual SAFE Report with the fishing community to determine the cause of the above average landings.*

The Guam AP recommended the Council request a report and presentation from NMFS PIFSC on the expansion model for the BMUS catch estimates.

### **4. Fishing Industry Advisory Committee**

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

*Regarding the Young Fisherman's Development Act, the FIAC recommended the Council request NOAA allocate more funding for training and development associated with the Young Fisherman's Development Act.*

The FIAC recommended the Council request Sea Grant facilitate a steering committee to inform Young Fisherman's Development Act-related surveys and work.

### **5. Archipelagic Plan Team**

T. Todd Jones, APT chair, presented the APT report and recommendations.

*Regarding American Samoa and Guam BMUS catch, the APT recommended the Council request PIFSC, DAWR, DMWR and the Guam and American Samoa APs review the reported increase and decrease, respectively, of total estimated BMUS landings in 2021 to*

determine whether the values are statistical and/or operational anomalies associated with data collection or if the values are indicative of the actual 2021 BMUS fishery performance.

Jones reported following the APT meeting, the Guam values were reviewed by a working group of PIFSC, Council staff and territorial agency staff, and the final estimate was verified with greater effort in 2021 than in previous years. For the American Samoa values, PIFSC, DMWR and the American Samoa Alia Fishing Association also met to review the data and verified the estimates for 2021.

*Regarding the bycatch reporting improvements in the SAFE reports*, the APT endorsed the current bycatch tables, noting that fisher-reported data may be biased downward, and recommends adding a separate table to describe the type of bycatch (e.g., a top-10 ranked species list and/or top 90 percentile) that comprises the number released for nontarget species in the archipelagic bycatch tables.

The APT formed a working group comprised of Keith Bigelow, Brad Gough, Matt Seeley, Brian Ishida and Remington to address the development of the top-10 ranked species and/or top 90 percentile list approach and the issue of reporting nontarget species bycatch for MUS fisheries that are targeted by multiple gear types (e.g., uku in the MHI).

*Regarding the territorial noncommercial fisheries module to be included in the SAFE reports*, the APT recommended the following members: Marc Nadon, Danika Kleiber, Ashley Tomita and Keith Bigelow, finalize the configuration and content for the territorial noncommercial modules, based on the commercial catch summarization procedure presented to the APT, at the upcoming intersessional meeting for incorporation in the 2022 Annual SAFE Reports.

The APT recommended the following members: Bryan Ishida and Paul Murakawa, and Remington work with Hongguang Ma and Thomas Ogawa in the development of the Hawai'i noncommercial module utilizing a similar approach as the NOAA Saltwater Recreational Fisheries Snapshot for Western Pacific noncommercial fisheries.

*Regarding the estimation of total catch*, the APT recommended the Council request PIFSC to continue the development of scripts that would enable consistency between the catch time series used in stock assessment and the annual SAFE reports to improve the monitoring of catch relative to implemented annual catch limits.

*Regarding the management of ECS*, the APT recommended the PIFSC Ecosystem Sciences Division coordinate with the Council in the planning of the Ecosystem-Based Fisheries Management (EBFM) Workshop, incorporating the management of ECS as a thematic area. The APT notes that providing separate data streams together to inform the status of ECS in the context of EBFM would be useful to support the territorial management process. Further, the APT recommends PIFSC Ecosystem Sciences Division invite staff from NMFS Office of Sustainable Fisheries to provide guidance on the National Standard 1 provision for designating and managing ECS as part of the workshop in combination with provisions of National Standard 1 criteria 10.

Regarding the aquaculture management framework alternatives, the APT endorsed alternative 3, which includes an expanded scope for the management framework, but notes concerns regarding the proposed 20-year duration for issued permits, nonnative species, and ensuring there are appropriate monitoring plans implemented. However, the APT notes that at least a portion of these appropriate monitoring plans will be implicit through the permitting process.

Regarding the MHI uku EFH modeling approaches, the APT recommended the Council endorse both modeling approaches to formulate the habitat module of the SAFE report noting concerns regarding the limitations of the data inputs. The modules should include qualitative information to supplement the model results. PIFSC and Council should work toward improving the data inputs (i.e., seasonal pattern to distribution and spawning aggregation) and include commercial fishery data and size frequency data in future EFH modeling work.

Regarding the alternatives for the NWHI fishing regulations, the APT deferred the development of recommendations until the ONMS provides explicit boundaries for the proposed sanctuary relative to the PMNM. When the sanctuary boundaries are further defined, the APT will revisit this topic at a future meeting.

Regarding the CNMI BMUS hierarchical cluster analysis, the APT recommended the Council endorse the proposed BMUS list for the CNMI and include this BMUS list for consideration by the previously established APT MSA subgroup in the development of their MSA requirement sections for the FEP amendment associated with the BMUS revisions.

<b>Federal FEP</b>	<b>Federal ECS/Territorial FMP</b>
<i>Aphareus rutilans</i>	<i>Caranx ignobilis</i>
<i>Etelis bowenii</i>	<i>Caranx lugubris</i>
<i>Etelis carbunculus</i>	<i>Variola louti</i>
<i>Etelis coruscans</i>	<i>Lethrinus rubrioperculatus</i>
<i>Pristipomoides argyrogrammicus</i>	<i>Lutjanus kasmira</i>
<i>Pristipomoides auricilla</i>	
<i>Pristipomoides filamentosus</i>	
<i>Pristipomoides flavipinnis</i>	
<i>Pristipomoides seiboldii</i>	
<i>Pristipomoides zonatus</i>	

## 6. Pelagic Plan Team

Jones, APT chair, presented the PPT report and recommendations.

*Regarding the calculation of total estimated revenue and average fish price for Hawai‘i pelagic fisheries,* the PPT formed a working group composed of PIFSC Social Ecological and Economic Systems and Hawai‘i DAR staffs to investigate calculations for average price of Hawai‘i PMUS by nonlongline gear types and make recommendations for presenting this info in future SAFE reports.

*Regarding noncommercial data reporting in the annual pelagic SAFE report,* the PPT requested the APT include PPT members and associated Council staff in development of noncommercial pelagic catch summarization procedures, as endorsed by the APT. The PPT will defer development of a noncommercial data module until it is consistent with the APT.

*Regarding the calculation of total estimated bycatch in nonlongline Hawai‘i pelagic fisheries,* the PPT expanded the existing bycatch working group composed of PIFSC, PIRO and Council staffs to include Hawai‘i DAR staff, working in coordination with an APT working group, to generate bycatch tables for the 2022 Annual SAFE Report for Hawai‘i nonlongline pelagic fisheries consistent with the Hawai‘i bycatch tables in the archipelagic SAFE report, noting any associated uncertainties and to provide appropriate narratives associated with bycatch estimates for these fisheries.

*Regarding bycatch estimates reported in the annual pelagic SAFE report,* the PPT requested the existing bycatch working group to address the development of the top-10 ranked species and/or top 90 percentile list approach for the longline observer bycatch data, consistent with the APT.

*Regarding the aquaculture management framework alternatives,* the PPT endorsed alternative 3, which includes an expanded scope for the management framework, consistent with the APT recommendation, inclusive of its concerns regarding the duration of the permits and the implementation of appropriate monitoring plans.

*Regarding the alternatives for the NWHI fishing regulations,* the PPT deferred the development of recommendations until the ONMS provides explicit boundaries for the proposed sanctuary relative to the PMNM. When the sanctuary boundaries are further defined, the PPT will revisit this topic at a future meeting.

## **7. Scientific and Statistical Committee**

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

*Regarding the WPSAR terms of reference for uku EFH,* the SSC endorsed the WPSAR terms of reference for uku EFH.

*Regarding the review of the PIRAP to implement the NMFS Climate Science Strategy in 2022-2024,* the SSC recommended the Council consider including the following comments in its response letter to NMFS on the draft PIRAP:

- Include studies that have a retroactive perspective on various baselines (e.g., studies using otolith chemistry, etc.).
- Emphasize the need for community engagement to be an integral part of PIRAP 2.0.

- Shifting distributions will likely mean some current target species will move out of range of local fleets, but new species might appear. Focus should be given on how the management system will account for this and provide opportunities for exploitation of newly available species.
- The discussion on community impacts could be strengthened with explicit reference to social and economic impact assessment required for management actions.
- Building local capacity for data collecting, monitoring and interpretation is especially critical for Guam, American Samoa and the CNMI.
- Shifting distributions and subsurface/sea surface temperatures are key factors that need to be addressed within the draft PIRAP.

*Regarding the 2021 Archipelagic Annual SAFE Reports and recommendations, the SSC endorsed the archipelagic report recommendations, which includes a discussion of the 2021 Guam values that were reviewed by a working group (PIFSC, Council and territorial agency staffs). As a result of the review, the final Guam catch estimate was verified showing greater effort in 2021 than previous years.*

The SSC endorsed the pelagic report recommendations.

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

There was no public comment.

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

*Regarding the 2021 Annual SAFE Reports, the Council endorsed the Archipelagic and Pelagic Annual SAFE Reports and directs staff to finalize the report for publication.*

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

*Regarding the management of ECS, the Council recommended NMFS PIFSC include the Council in the coordination and planning of the EBFM Workshop and requests the incorporation of “management of ECS” as a thematic area.*

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

*Regarding data coordination and research, the Council directed staff to work with state and territory agencies to develop appropriate outreach materials for fishermen on the importance of accurate reporting to reduce underreporting.*

**The Council recommended Hawai‘i DAR include uku in its review of commercial data discrepancies similar to what is done for bottomfish.**

**The Council approved the FDCRC working group of PIFSC FRMD, territorial resource management agency and Council staffs to review the outcomes of the territorial creel survey evaluation by PIFSC FRMD and utilize the results to refine**

**the MRIP Regional Implementation Plan following the territorial visits in summer 2022. The Council further directed staff to work with the State of Hawai'i to revise the MRIP Regional Implementation Plan to reflect its phased-in approach to Hawai'i Marine Recreational Fishing Survey improvements.**

**The Council directed staff to review the expiring territorial data sharing agreements with GCPI and the territorial resource management agencies to facilitate endorsement of new agreements.**

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

**Regarding EEJ, the Council directed staff to provide comments on the NMFS draft EEJ Strategy including input received from the Council and its advisory bodies identifying long-standing EEJ issues in the U.S. Pacific Islands.**

**The Council requested the CCC working group consider holding an EEJ workshop and include terms of reference, and publish a peer-reviewed journal article on their work.**

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

**Regarding the uku WPSAR, the Council endorsed the SSC's recommendation to approve the terms of reference for uku EFH and directs staff to initiate the review.**

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

**Regarding the NMFS Climate Strategy, the Council directed staff to provide NMFS PIFSC with comments on the PIRAP and include comments received from its advisory bodies.**

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

**Regarding Mariana Archipelago bottomfish, the Council directed Council staff to work with NMFS PIFSC and the fishing communities of the Mariana Archipelago to review the 2021 catch estimates, the creel survey expansion model, and potential changes to the BMUS list.**

**The Council requested NMFS PIFSC prioritizes funding cooperative research projects in partnership with territory-based agency staff to improve the understanding of the Guam bottomfish fishery.**

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

*Regarding the Young Fisherman's Development Act, the Council requested NOAA allocate more funding for training and development associated with the Young Fisherman's Development Act.*

**The Council requested Hawai'i Sea Grant to facilitate a steering committee that includes the fishing industry to inform related surveys and work to implement the Young Fisherman's Development Act.**

Dueñas asked for a summary of the Young Fishermen's Development Act.

Fitchett provided an overview of the Act as passed by Congress, which enacted a new program to supplement and facilitate new entries into fisheries across the country.

Dueñas said this was talked about for 10 to 15 years and he was glad it has come to fruition.

Soliai asked for clarification on whether the steering committee would include the fishing industry for the entire Western Pacific or just Hawai'i.

Fitchett said a request was made for more funding for all areas but that Hawai'i Sea Grant would be the recipient and would work within its jurisdiction.

Tenorio asked if the Hawai'i Sea Grant program was separate from the University of Guam Sea Grant program.

Fitchett said yes.

Tenorio said the University of Guam Sea Grant should be included so they can assist with the effort.

Soliai suggested taking up the University of Guam Sea Grant as a separate recommendation.

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

***Regarding the Young Fisherman's Development Act, the Council requested University of Guam Sea Grant to facilitate a steering committee that includes the fishing industry to inform related surveys and work to implement the Young Fisherman's Development Act.***

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

***Regarding SPC, the Council requested U.S. Pacific Territorial agencies and directs Council staff, to participate in coordination with SPC staff and its Technical and Advisory Committee on integrating with SPC regional climate change initiatives, Green Climate Fund Regional Tuna Initiative and associated stakeholder engagement.***

Moved by Dueñas; seconded by Sword.  
Motion passed.

Regarding commercial data for Guam fisheries, the Council **requested PIFSC FRMD provide the Council the commercial data received from the GFCA. These data would not be published in the SAFE reports as governed by the confidentiality rules but could be utilized by the Council in understanding the fishery performance trends for Guam.**

Moved by Dueñas; seconded by Sword.  
Motion passed.

Regarding foreign fish in domestic markets, the Council **directed staff to investigate the amount of foreign fish entering into the American Samoa market not including the fish that go to the StarKist cannery; and for NMFS OLE to provide more information on two foreign fishing vessels that had misreported catch at the September 2022 Council meeting, if possible.**

Tosatto said OLE would likely not comment on ongoing investigations.

Simonds said OLE provided a report on this investigation earlier in the meeting.

Tosatto said leakage of under-reported catch from foreign fishing vessels transshipping has been both beneficial and problematic by augmenting food security but also undercutting local catch. He was not sure if NOAA tracks foreign-landed fish so that could be problematic. He agreed that the issue is worth requesting that NOAA investigate to better understand foreign fish entering the American Samoa market.

Simonds suggested changing the recommendation language from “requests NOAA provide” to “directs staff to investigate.”

Dueñas and Sword agreed to the change.

Fitchett clarified that the request to OLE is pertaining to two foreign fishing vessels that misreported catch, so the recommendation could be further amended to request that OLE provide an update on information for those two vessels, rather than on the ongoing investigation.

Dueñas and Sword agreed to the change.

Dueñas said there had been legitimate leakage in Guam in the past but the community worked with the foreign operators to ensure that mahimahi and wahoo was not part of that leakage. However, with the loss of the foreign fleet transshipping from Guam, the fresh fish market for tuna, swordfish and marlin is no longer viable and most of those fish are imported.

Moved by Dueñas; seconded by Sword.  
Motion passed.

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



## **A. Moku Pepa**

Ramsey reported Hawai‘i experienced spikes in COVID-19 cases in January 2022 as well as around graduation season, but the restrictions did not return with the spike in cases. There was good Western Pacific representation at the 2022 National Saltwater Recreational Fisheries Summit including Tosatto, Seki, Keith Kamikawa, DeMello, Rice and Ramsey. He also reported on two new oio (bonefish) record holders, as well as a 1,168-pound marlin that won the 2022 Hanapa‘a Shootout.

Dang reported the market conditions for the industry have been soft and expected to remain soft for the duration of the summer season. The lack of tourists from Asian countries may be adding to the downward pressure as domestic tourists prefer white fish over red fish. Restaurants reported increased food and operating costs across the board and fresh local fish is one of the first items to come off the menu when restaurants try to control food costs. Vessel catch production was reported as okay, but the pressures from the operating costs are steering the development of their fishing strategy and plans. For example, vessels are out at sea for longer durations to catch enough fish to ensure they cover their costs. The Hawai‘i longline fishery expects to complete its Marine Stewardship Council certification process in September 2022.

Rice reported a majority of charter operations in Kona raised their prices in response to increased fuel cost, but bookings for charters have remained consistent. He said 2022 will be a good year of fishing as the tunas have showed up, noting that one boat caught four ahi within three miles of the harbor. The increased fuel cost has affected the weekend warriors and noncommercial fishers. If they are not able to catch enough fish to cover their cost, their wives are not letting them go fishing as much as they would like to. The price of tuna has not been good for Kona, and he concurred with Dang that without the Asian tourists there is a higher demand for white fish. The small-boat fishers are targeting mahimahi and ono more since they are getting better prices than tuna.

Soliai asked Dang what was the average trip length for the Hawai‘i longline fleet.

Dang said the fleet’s boats average around 25 days port-to-port, of which four to five days is transit, 15 days fishing, and three to five days transit back to port. He has seen some boats in the last few weeks stretching over the 30-day mark as they were trying to catch more fish to get a return.

Soliai said it would be interesting to see how increased fuel cost will impact fishing effort.

Rice said Kona’s only fuel dock raised its prices, and highway diesel is currently cheaper at Costco, cheaper than diesel sold at the harbor, which is not supposed to happen. His fuel cost increased from \$1,000 a day to \$1,400 a day.

Gourley asked if there was a price point of gas that would put the charter-boat fishermen out of business.

Rice said increased fuel cost may put the owner-operators out of business, but not the absentee owners who have deep pockets. He said fuel cost exceeding \$7 a gallon could trigger the owner-operators to close their businesses.

## **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 February 2022 to April 2022. As of the end of the reporting period, 364 CML holders made 1,737 trips and caught 156,211 pounds of mixed deep-seven species. The season got off to a slow start in September, but the agency saw that the catch was above where the fishery was in the last two seasons. For the remainder of the season, the agency does not expect to see significant increases in the catch as deep-seven fishers will switch to other competing fisheries. As of the end of the reporting period, catch was above numbers seen in 2020-2021; 50% was opakapaka, which is considered a normal proportion of opakapaka.

As of the end of April, eight CML holders made 22 trips for Kona crab and reported total catch of 670 pounds, which is lower than the past five seasons. He said this may be one of the lowest recorded commercial catch on record, which could be a result of weather conditions, increased fuel cost or competing prices for other species. Part of this decrease in catch could be correlated with the no-take of females. DAR is currently looking to allow the take of female Kona crabs.

As of the end of April 2022, 114 CML holders made 299 trips and caught 17,540 pounds of uku. The fishing year to-date was similar to 2019, 2020 and 2021. Peak catch was observed between May and June, but shark depredation, weather conditions and competing fisheries will decide where the fishery could end in terms of total catch for the current fishing year. He said he expects that uku fishers will see good prices based on data reported through DAR dealer reports.

As of the end of the reporting period, 1,113 licenses were issued or renewed for a revenue of \$162,300, which was a slight increase over 2020, but still below the 10-year average in number of licenses issues. During the reporting period, one PMNM permit was granted and issued in April 2022. There was one amendment to an existing education permit, as well as one research permit requested and submitted for review for the April Board of Land and Natural Resources meeting. One conservation and management permit request was submitted for review at the May Board meeting. Six current applications are under review for entry to the monument for the next application period. Revisions were ongoing to the PMNM 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 February, March and April 2022. The best management practice was finalized in April 2022. Additional feedback on biosecurity protocols for activities not covered in the best management practice were discussed.

In February 2022, two FADs were reported missing and nine FADs were replaced. In January 2022, FADs X was reported missing. 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.

For the 2022 legislative session, the Hawai‘i State Legislature passed three fishing-related bills, Senate Bill (SB) 2767, SB2065, and House Bill (HB) 1653. SB2767 provides \$350,000 in funding to Hawai‘i DLNR to support the deployment, replacement and maintenance of FADs. SB2065 prohibits the possession or use of unmanned aerial vehicles on, in or near State marine waters for purposes of fishing, unless permitted by DAR. HB1653 strengthens penalties for

violations of aquatic resources laws and established a tiered administrative fine system. Governor David Ige signed SB2767 and HB1653 into law June 8, 2022.

Regarding the CARES Act funding, the 290 Hawai'i fishery participants who applied continue to wait for disbursement of funds. Applicants will be notified with updates.

Rice said DAR could use the funding from SB2767 to consider and test different FAD designs that would include structure under the existing FADs off the Kona coast. He said Kona does not experience the same wind and current conditions similar to the other island areas and the FADs in this areas are not productive.

Sakoda said to change the designs of the FADs, DAR would need to go through a NEPA review and get it approved before launching a new design. DAR is looking at redesigning some of the FADs to make them more durable, but the agency does not expect to use this fund to significantly alter the design of the FAD.

Dang asked if there is an estimated date for the distribution of the CARES Act Round 2 funding and why there has been a delay.

Sakoda said DAR does not have an estimated time frame and when it is provided one, the date keeps getting pushed back. Following conversations with the Pacific States Marine Fisheries Commission, there were other states that were still developing their applications. The Commission has prioritized getting the application out to give those fishers time to fill out their applications. Once it finishes those applications, DAR expects to receive CARES Act 2 funds to distribute.

Muña-Brecht asked if she could receive and review DAR's stony coral tissue loss disease plan since Guam has been dealing with that issue.

Ishida said he could provide what DAR has and put her in contact with the people developing that plan.

Soliai said he would also like a copy of the plan, noting that American Samoa has developed an Invasive Species Action Plan that will be finalized soon. Soliai said the territory is remote, but not isolated from those types of issues.

Dueñas asked about the progress of eradicating roi, an invasive species.

Ishida said the issues related to roi are ongoing. Although it does have a bad reputation for ciguatera, there is a small niche market for roi. Aside from fishing tournaments that target roi, Ishida said there has not been much progress in eradicating the species.

### **C. Green Turtle Management Update**

Ishizaki, Council staff, provided an update on the green turtle management. The Council had directed the staff to follow up on management of green sea turtle and requested that the Biden Administration explore ways that could allow harvest under the existing framework of the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC). A letter was sent to the Administration in advance of the IAC's Conference of the Parties held in Panama City, June 15-17, 2022. She said staff intends to follow up with the U.S. delegation on green sea turtle management and for future IAC meetings.

Sakoda asked how often the IAC convenes.

Ishizaki said the IAC typically meets every other year, but the timing has shifted due to the COVID-19 pandemic. The IAC also has committees that meet between the Conference of the Parties.

Simonds said the Council expects a report from the U.S. State Department on the results of the meeting and she will provide that report to the members.

Dueñas said he would like to see greater avenues on how to address the cultural take of green sea turtles in relation to ESA, MMPA, international management and national management.

#### **D. Proposed Northwestern Hawaiian Islands Fishing Regulations (Initial Action)**

DeMello, Council staff, presented the options for fishing regulations in the proposed NWHI sanctuary. At its 190th meeting, the Council agreed to develop fishing regulations for the proposed NWHI sanctuary and directed 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. These recommendations were provided to the ONMS for its consideration. The Council further 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.

DeMello provided the alternatives for regulating fishing activities to fulfill responsibilities under Proclamation 9478 which included: 1) no action; 2) prohibit commercial and permit noncommercial fishing within the Monument Expansion Area (MEA); or 3) prohibit commercial and noncommercial fishing in the MEA. Under alternative 2, fishing for research and native Hawaiian practices would be included as noncommercial fishing and it would allow for fish to be taken back from the MEA, provided that it does not enter commerce through sale, barter or trade.

The Council conducted public scoping for management regulations for the MEA in 2016, where attendees expressed concerns for allowing research fishing and determining whether charter fishing was considered noncommercial. The advisory groups said the Council should maximize fishing opportunities and provide for fishing access and cultural connections to the NWHI.

Rice asked if it was correct that if someone does fish in the monument zone, he or she would have to eat it there and not bring it back.

DeMello said it would apply for the current PMNM inside the 50-nautical-mile zone, but the Council's action would apply to the area outside of PMNM from 50 to 200 nautical miles.

Rice asked for confirmation that alternative 2 under this action would prohibit commercial fishing but would allow boats to bring fish back to the MHI as long as it does not enter commerce.

DeMello said yes.

Sakoda asked if a monument permit is currently required to enter the MEA.

DeMello said the management plan has not been developed and it will be up to the monument managers to decide.

Sakoda said as a clarification, details of alternative 2 would still need to be worked out, such as deciding which noncommercial fishing would and would not be allowed. He asked if it would still be possible to consider allowing only certain gear types or requiring that certain species need to be consumed within the monument area as part of alternative 2.

DeMello said the Council could direct staff to look at those details.

Dueñas said fishing in the Western Pacific is a tragedy of the commons. The people who are impacted are those with cultures and traditions centered around those resources. He said he wanted to understand the difference in concept between preservation and perpetuation. Preservation is what they have in the Smithsonian museums where they display Native American, Hawaiian and Chamorro artifacts. He would like to see a greater perpetuation of their traditional experiences. In the Pacific Islands, they have been modernized to eat less fish and more steak, corned beef, spam and mutton flaps. They all have health issues, and he cares that the Hawaiians are able to perpetuate their culture and not become a preserved pickle in a jar.

Soliai concurred with Dueñas and said it is important to preserve those cultural and traditional practices.

Sword said this is an opportunity to get the Pacific Islanders back into fishing. There is a need to perpetuate their cultures and allow them the opportunity to go fishing.

Amani asked when management will stop placing restrictions on island people, noting that island style and island life is all about fishing and centered around fishing. As gas prices continue to rise and more fishing restrictions are established, they may not be able to fish anymore. Pacific Islanders are not eating fish and they cannot afford it.

Muña-Brecht asked what the purpose of the expansion of the NWHI monument is and whom it is serving. If it was meant for the native people, she questioned why they are required to go through an approval process just to be able to fish in their own waters while others from outside places are able to access these areas to look at all of the pretty fish in the ocean. She said it is absurd and laughable in the face of EEJ for the native Hawaiian people.

Rice said he agrees with Muña-Brecht's comments and said the whole boundary of the monument is surrounded by foreign vessels who are taking advantage of the overflow of the monument. They also do not know how many IUU foreign vessels are going in and out of the monument and compete with the Hawai'i longline fleet. She asked the domestic fleet is being penalized when the foreign fleets are not.

Sakoda said he agreed with what was said and it is important to allow native Hawaiians to continue their traditional practices in the NWHI. Under the current monument there are permits to allow native Hawaiians to practice their traditions and he does not want to see that

excluded from the expansion area. But at the same time, there is nontraditional fishing that the State wants to ensure that it regulates. There is a need to preserve traditional native Hawaiian practices, but the Council should minimize impacts from non-Hawaiian noncommercial fishing practices. This could include restricting certain fishing gear types and practices.

Dueñas said he understands the monument expansion process. He said they caught two fish with tags from the Eastern Micronesia and Eastern Japan where they found that those fish were able to grow a substantial amount within four months. When entertaining the conversation of expanding a monument area, he asked for whom they are conserving the area. He said if there are foreign fleets surrounding the PRIA and EEZs, they are only saving it for the foreign fleets as they are not allowing U.S. vessels to go fish and tag fish as an example. Dueñas is concerned about efforts to continue expansion of the existing monument; they are restricting their own fleets and allowing the foreign fleets who are not regulated and controlled in their efforts.

Rice said he and others have tagged more than 70 tunas in Palmyra, and he would be interested to see where those tagged fish are caught again.

Soliai said those tagged fish might be caught by Chinese-flagged vessels.

#### **E. Pacific Remote Islands Coalition's Proposal to Expand the Marine National Monument**

Fitchett provided an overview of PRIC's proposal to expand the monument area around Palmyra Atoll and Kingman Reef, and Howland and Baker Islands from 50 to 200 nautical miles offshore. The expansion of the PRIMNM would make it the largest MPA in the world with the purpose of protecting biodiversity.

Based on the CCC's ABM Subcommittee report, 54% of U.S. waters in the Pacific are protected or closed through marine national monuments. The expansion of this monument would further close off fishing access in the PRIA, which serve as an important access for some U.S. fisheries. The expansion of the PRIMNM would negatively impact the American Samoa economy as the cannery, the largest employer, is reliant on U.S.-flagged purse seine fishery, which has declined from 38 to 13 vessels in recent years. The purse seine fisheries are managed through a seasonal balance of FAD sets and fishing efforts inside and outside corresponding EEZs. These closures may also have unintended consequences such as redistribution of fishing effort and transferred effects, it is unclear if they are capable of addressing biodiversity.

Soliai said the Council should make note that Governor Ige and Congressman Case from Hawai'i sent their letters of support for the expansion. Governor Lemanu Mauga of American Samoa provided a letter in opposition to the expansion of the monument. The position of Governor Lemanu's letter was clear on the position that American Samoa takes with respect to the impact the expansion will have on the territory and its fishing industry. The American Samoa economy is highly dependent on the tuna industry and any impact to the sustainably fished supply to the local cannery will devastate the economy. The expansion of the PRIMNM will only impact the U.S. fleet and it will not have much impact within the international arena as those fleets continue to fish on the borders of the U.S. EEZ. Soliai said the WCPFC is a management body that provides guidelines to prevent disproportionate burdens that are carried on any of these Pacific Islands, and American Samoa has been identified as one of the territories that carry a disproportionate burden. Soliai said Howland and Baker Islands are closer to American Samoa

than to Hawai‘i, and the territory would like to be consulted on the potential impacts of these types of closures and proposals.

Soliai said the PRIC, respectfully, have low experience in management of highly migratory species or tuna fisheries. He welcomes the colatition to observe the international meetings such as the WCPFC, especially when these issues are discussed. The more the United States shoots itself in the foot, the more it helps its friends from the east. The Council members have all seen the maps where the foreign fleets fish and the United States continues to support their fisheries by shutting down its domestic fleet. The Council members all understand what the benefits of conservation are, but there needs to be science to support the PRIC’s proposal. Based on no scientific evidence, American Samoa will stand in opposition to the PRIC’s proposal.

Sword said he is saddened by the lack of aloha for American Samoa’s underserved communities. There is a saying in Samoan that if you do not have forward thinking, then you do not include your family. With any action or decision, he said it is important to consult one’s neighbors and Pacific brothers and sisters. Without that process, the aloha spirit is lost. The decrease in U.S.-flagged purse seine vessels has threatened the livelihood in American Samoa with the decrease of fish that enters Pago Pago. If the PRIC succeeds in the expansion of the monument, he wondered if the coalition will pay for the loss of jobs in American Samoa and loss of fishing boats that cannot go fishing. The United States has lost a lot of fishing area, especially in the Western Pacific. Sword said the PRIC should revisit its aloha spirit and come up with a solution that will have less impact on the underserved communities in the Western Pacific.

Dueñas said the PRIC should look at the composition of the employees in the American Samoa cannery. A majority of the employees are native Samoan people, and he asked why the coalition would want to take those jobs away from them. He said hates to use the phrase underserved communities, but he believes it is malarkey to be the sacrificial lamb for conservation in the United States. He questioned how the Pacific people can have equity when they are continuously burdened by the implications of ESA and MMPA. He said the Alaskan native communities own a percentage of their fishery and are still able to harvest whales and seals, but the Pacific Islanders are still not recognized by the United States and are being deprived of their culture. Dueñas loves the Council process since it affords communities the opportunity to share what they feel and their thoughts. Dueñas said one can take the person out of Guam, but cannot take Guam out of that person. He said the PRIC should sit with them at their dinner table, barbecue or their church meetings to understand what it means to be a Chamorro and what it means to be Hawaiian. He is tired of being denied the opportunity as a Pacific Islander and a person of culture as they all have value in the ocean as it is a part of their culture. Dueñas said China has 20,000 mt of bigeye quota through the shared agreements, and Hawai‘i continues to struggle with getting a higher quota.

Gourley said the PRIA are part of the United States and they should all be able to weigh in on their opinions on how those waters should be managed. He was interested in providing a public comment on how he does not support the monument process through the use of the Antiquities Act. He said the monument process is a top-down decision through the White House and not required to go through the NEPA process. He understands the decision-making process is political and depends on how much political capital the president has to use. The monument process bypasses the courtesy of the affected communities, and is an unfunded mandate as they found out through the MTMNM. The Mariana Archipelago was promised a USCG cutter that

would patrol 24 hours a day, but learned there was no extra money allocated for extra enforcement. He said there is more concern about who has the largest monument rather than about the purposes of the monument. Gourley said he does not understand how indigenous people can group together and run to the federal government requesting them to take over their waters and require a permitting process for them to practice activities they have done for thousands of years. Gourley provided a quote by Supreme Court Chief Justice John Roberts who said, “The law used to protect the marine areas was initially crafted to protect historical tribal ruins with the provisions of protecting the smallest area necessary for the subjects.” The Northeast Canyons and the Seamounts Marine National Monument encompass more than 5,000 square miles of the Northern Atlantic Ocean waters. Chief Justice Roberts said the Northeast Canyons and Seamounts Marine National Monument at issue in this case demonstrates how far the United States has come from indigenous pottery.

Gourley said the Antiquities Act of 1906 serves to allow the president to take federal lands, and protect them and the resources that occur on these lands. In his opinion, it has been abused to now be marine conservation. He said there has been a possibility that there will be a lawsuit on the creation of marine monuments with the purpose of marine conservation. There is no need for that with MSA in effect. The MSA should usurp the Antiquities Act.

Amani said the U.S. Pacific Territories have been treated like second-class citizens. The federal government tries to take their land, their waters and everything they can take. She said monuments should be kept on land where people can observe them. Through the Antiquities Act, the federal government has taken away their livelihood and food. Amani said the reason why she joined the Council was to stand up for their places and what they believe in so they can keep fishing and have fish on the table. All of the islands took care of each other throughout the COVID-19 pandemic. Amani said they will not roll over anymore, and if it continues to happen then they will just ignore the rules and go rogue. The Pacific Islanders have a lot of pride and they will follow through with that.

Rice said he and Ed Ebisui were in the room when President Obama sent a group of people to consult with them on the establishment of the NWHI monument. He and Ebisui both understood that the decision had already been made and the group was just sent to say that the government did talk to them. He agrees with Gourley’s statement that it is a top-down decision.

Soliai said if President Biden does consider this proposal, then it will be contrary to the EO 13985 to advance EEJ for underserved communities. Under EO 14008, the Western Pacific has satisfied this initiative. Soliai said he understands that the PRIC has met with U.S. government officials in Washington, D.C. during Capitol Hill Ocean Week to discuss its proposal, but the Council made a similar request to the U.S. State Department to meet so the agency can hear the Council’s point of view with respect to this issue. The Council has not received a confirmation, but hopes it will happen soon.

Muña-Brecht asked if there is a time frame on when the decision will be made.

Simonds said there are no deadlines or timelines and the president can make the announcement at any time. She said once it heard about this proposal, the Council sent a memo to Medina requesting that it be treated the same as the PRIC. She has heard back from Maxine Berkett, who is the fisheries person under Medina, indicating that CEQ and NOAA are in charge



of this request. Following this conversation, the Council sent a memo to NOAA Administrator Richard Spinrad and the head of CEQ with the same request. Simonds said if this is imminent, then fishing industries, governments, governors of the territories and everybody else should have an opportunity to be heard.

Muña-Brecht asked if each of the territories' governors should send a letter expressing their opinion.

Simonds said it would be useful and it has been done in the past.

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

### **1. Advisory Panel**

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

*Regarding the proposed NWHI fishing regulations*, the Hawai'i AP continued to recommend the Council push for maximizing fishing opportunities in the NWHI and to recommend research by NOAA in the area be conducted in the NWHI to determine if the closed area conservation objectives are being achieved.

Kualii said the AP feels that more protection does not afford more protection than what the monument already protects.

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

Council staff presented the FIAC report and recommendations.

*Regarding U.S. Navy Notice of Hazardous Operations*, the FIAC recommended the Council send a letter to the U.S. Navy asking: 1) that impacts of these operations on fishing be evaluated and considered; 2) requesting open communication with the Council with regard to these periodic operations; 3) clarification of whether foreign vessels are also asked to move from these areas; and 4) that these exercises be conducted in areas where fisheries are already prohibited, including the marine national monuments.

### **3. Non-Commercial Fishery Advisory Committee**

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

*Regarding NWHI fishing regulations*, the NCFAC recommended the Council be practical in its decision for fishing regulations in the NWHI as the area is far from the MHI and requires a large amount of fuel.

*Regarding noncommercial data collection*, the NCFAC recommended the Council to continue its outreach and education efforts for data collection needs and the importance of data.

*Regarding EEJ*, the NCFAC recommended the Council continue its efforts on honu (green sea turtle) harvest and present its results to the advisory groups.

#### 4. Scientific and Statistical Committee

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

##### G. Public Comment

Tammy Harp, indigenous fisher, provided public comment. She said as a native aboriginal, her ancestors’ perspective in the pae ‘aina (Hawai‘i Archipelago) has been that there is no need for the kala (dollar) or the written word. Her ancestors lived, loved and fought. Harp said there were two kapu (rules) that resulted in death when broken. This includes Kanawai Mamalahoe (splintered paddle law) and fishing seasons. She said she prefers the use of MPAs over MSA since one is to protect and the other is to mismanage. Harp said she wanted to protect these areas due to the negative impacts caused by different ethnic mentalities on how to harvest marine resources. Commercialism of their marine resources, whether it is through fishing or land-based tourism has dwindled their resource to be managed unsustainably. Harp said ecosystem-based fisheries management has failed the Hawaiian as exemplified through the black coral fishery in the MHI and NWHI.

##### H. Council Discussion and Action

*Regarding NWHI fishing regulations, the Council directed staff to continue developing options for prohibiting commercial fishing and permitting noncommercial fishing (which would include fishing under Native Hawaiian practices and research) in the MEA for initial action by the Council in September.*

**The Council directed staff to send a letter to ONMS noting the need for increased communication and the confusion in the sanctuary designation process. The Council further recommended including the following requests to ONMS for the proposed NWHI national marine sanctuary:**

- a. Restrict the proposed sanctuary boundaries to current PMNM and MEA boundaries to honor the previous agreement made with the fishing community;**
- b. Formally incorporate cooperative research where fishing is conducted along with scientists in the monuments and proposed sanctuary to provide additional value to assessing stocks across the entire Hawai‘i archipelago; and**
- c. Define the native Hawaiian practices that include fishing within the sanctuary to be considered noncommercial fishing.**

Tosatto said he was confused on why the Council was not adopting a preliminary preferred alternative, noting that the Council should continue making process on a clock that supports a NOAA decision. Based on the discussion, it appeared that the Council will go with alternative 2 that would prohibit commercial fishing and permit noncommercial fishing which will include additional considerations for how to treat native Hawaiian practices and cooperative research. He said these considerations can be worked out during the process, but the wording of the recommendation says that the Council is just kicking the can. He would like to demonstrate the actual process and take a preliminary preferred alternative and develop the package for prohibiting commercial fishing and permitting noncommercial fishing. Regarding the second

recommendation, Tosatto said the Council appears to be asking ONMS to do something in its proposal that the Council may not want the agency to do, and suggested amending the recommendation to reframe items a-c.

DeMello said the second recommendation would go beyond discussion as this was a request from ONMS to provide them in writing. Regarding the first recommendation, he said it is up to the Council to decide what to do. Council staff is working with PIRO SFD staff to develop a timeline where deadlines are met so the Council will have a transmittal package ready for final action.

Tosatto said recommendation reads as if the Council is asking ONMS to formally incorporate cooperative research and define native Hawaiian practices into the sanctuary designation. He said he would prefer to keep those items in the Council's hands through the fishing regulations, and suggested recrafting the recommendation to ask ONMS to improve communication to avoid confusion or to clarify the sanctuary designation process.

Simonds suggested the Council come back to the recommendation at a later time.

[When this recommendation was revisited, Rice requested withdrawing the motion, to which there were no objections.]

Moved by Rice; seconded by Sword.  
Motion withdrawn.

*Regarding NWHI fishing regulations, **the Council preliminarily supported alternative 2, prohibiting commercial fishing and permitting noncommercial fishing in the MEA and directed staff to continue analysis of the options to work out the details of the alternatives for initial action in September.***

**The Council directed staff to send a letter to NOAA ONMS noting the need for improved communication to clarify the confusion in the sanctuary designation process. The Council further recommended including requests to clarify the following issues regarding the sanctuary proposal:**

- a. Limiting the proposed sanctuary boundaries to current PMNM and MEA boundaries to honor the previous agreement made with the Kaua'i fishing community;**
- b. Incorporating cooperative research, where fishing is conducted along with scientists, in the monuments and proposed sanctuary to provide additional value to assessing stocks across the entire Hawai'i archipelago; and**
- c. Approaches to address Native Hawaiian practices that include fishing within the proposed sanctuary, including considering them along with other noncommercial fishing.**

Sakoda said he would like work with Council staff on ideas that the State of Hawai'i has for details on the alternatives, such as considering allowable methods for noncommercial fishing, catch limits, and reporting requirements associated with any permits.

Soliai encouraged Sakoda to work with staff.

Dueñas said he endorses the idea of affording the flexibility to the indigenous people of Hawai‘i the opportunity for some activity in the expansion area.

Moved by Rice; seconded by Sword.

Motion passed.

*Regarding green sea turtles (honu), the Council directed staff to follow-up on the recent IAC meeting and continue exploring avenues to harvest honu and provide updates as appropriate.*

Moved by Dueñas; seconded by Sword.

Motion passed.

*Regarding U.S. Navy Notice of Hazardous Operations, the Council directed staff to send a letter to the U.S. Navy requesting naval exercises be conducted in areas where fisheries are already prohibited, including the marine national monuments, to avoid impacting the fishing community.*

Sakoda said he was concerned with asking the U.S. Navy to fire missiles into the monument and would like to understand the process for notifying fishers. He said the Council could have staff provide a presentation to better understand these activities.

Dueñas said he supports this motion as this is an issue among the people who are familiar with the military exercises in the Western Pacific and that joint exercises with other nations are becoming more common. Dueñas said the Mariana testing and training is a major concern for Guam as the military are firing torpedoes at the Southern Seamount, which is a major fishing ground where more than 50% of the territory’s fish is harvested.

Moved by Dueñas; seconded by Sword

Motion passed.

*Regarding the proposal to expand the PRIMNM, the Council directed staff to write a letter to the president of the United States, requesting a comprehensive evaluation of the unintended consequences, including social and economic impacts, of a proposed expansion of the PRIMNM (and any further fishery closures, including those proclaimed through the Antiquities Act) be conducted and evaluated through a transparent and public process prior to implementation of any expansion.*

**The Council directed staff to write letters to U.S. territorial governors regarding the proposal’s impacts on U.S. fisheries and unintended negative consequences related to U.S. territorial economies and conservation.**

Moved by Dueñas; seconded by Sword

Motion passed.

### **XIII. Administrative Matters**

## **A. Financial Reports**

Simonds reported the 2021 administrative grant has been expended and the Council is on track for the 2022 budget up to May 31. The Council is currently reviewing the budget to compare costs for hybrid or in-person meetings for the remaining of the year. Simonds referred to the Coral Reef, Turtle and Sustainable Fishery Fund grants in the briefing materials and said staff was available for questions.

Dueñas inquired about the \$340,000 cut from the budget, noting that many of the beneficiaries of those funds are female, including the protected species staff and education grantees.

Simonds said the Council received the explanation from NMFS that reductions were required throughout the agency's divisions and the Council has asked Headquarters to help the region support the SAFE report coordinator, the capacity-building scholarship program and the summer high school course. The request also includes support for the protected species coordinator as the administrative budget has been used to cover personnel and fringe needed for that position.

Dueñas stated concerns that he did not see a budgetary cut on a national level and noted an increase last year. He asked for the justification for reducing the Council budget.

Tosatto said funds were provided in addition to the Council's appropriated amount of money for commitments over the years and were reduced and then absorbed within the broader NMFS budget. PIRO is severely under-funded in the PIROP budget line, which is the main augmentation for the sea turtle funding. The core fishery research and management line was reduced by around \$700,000 and Tosatto said he no longer had the discretionary funds available to provide to the Council. Tosatto said he needed the \$200,000 that was going to the Council to instead go toward the \$2 million shortfall from the agency to cover what he needed for the PIROP. Tosatto recommended that the Council include the requested activities into the Council's base award as discretionary funds are always at risk of not being available.

Soliai noted the importance of continuing funding and prioritizing capacity-building in the territories, as the opportunities in Hawai'i and the U.S. mainland outweigh the options available back home.

## **B. Administrative Reports**

Regarding staff changes, Simonds reported Marlowe Sabater is now employed by PIFSC and continuing the same work he did with the Council. Maria Carnevale is no longer with the Council and previously handled several large projects under NEPA and EEJ. The Council is also actively recruiting for the American Samoa coordinator position and several others. Simonds said recruitment has been challenging during COVID-19.

The annual audit for 2021 began in May and will conclude Sept. 30, 2022.

Simonds reported on plans to review the Council's programs this summer and identify what the Council needs to eliminate or reduce that are outside of the administrative budget.

Two of the current Council members decided not to reapply for a second term. The Council will be having two new members and Simonds inquired when NMFS will be providing a report on that.

Tosatto said the announcement will likely be June 27, 2022.

### **C. Council Coordination Committee Meeting Report**

Soliai reported the CCC met May 17-19, 2022, in Annapolis and representatives from the Council included himself, Sword and Simonds. The CCC recommended NMFS postpone further development of the Council Governance Policy until after the East Coast Climate Change Scenario Planning Initiative is completed.

Soliai also highlighted the importance of EEJ to the Council and reported on the working group that was created at the CCC level. Soliai said the CCC EEJ Working Group should consider developing a terms of reference, hold more workshop and publish a peer-reviewed journal article on their work and referred to the briefing materials for the full CCC report and outcomes.

### **D. Council Family Changes**

Mark Mitsuyasu, Council staff, reported this is the last year of the current AP's four-year term and staff is looking for Council recommendations to solicit for new advisors for the January 2023 to December 2026 four-year term. The Council will be removing Wayne Pangelinan and Leonard Yamada from the NCFAC. Reka Domokos Boyer will be removed and Tye Kindinger and Sabater will be added to the APT. Hutchinson and Keith Bigelow will be removed and Reka Domokos Boyer and Emily Crigler will be added to the PPT.

Soliai asked when the communication will go out regarding the AP member composition.

Mitsuyasu replied that the package will be sent out as soon as possible so that applications will be available for Council consideration in September.

### **E. Meetings and Workshops**

Simonds reported on upcoming meetings of interest. Simonds noted that the Council hopes to hear the NMFS final report on EEJ at the October CCC meeting and that the Council plans to send a letter commenting on the presentation. The Council Member Ongoing Development training will be held in November 2022 in Denver, Colorado. Simonds asked for volunteers as the Council can send three members to this meeting, which involves continuing training about ecosystem approaches. The 2023 CCC meeting will be hosted by the Gulf of Mexico Fishery Management Council and will be tentatively held in Louisiana or Florida.

### **F. Standing Committee Report**

Soliai referred members to the report in their briefing materials and highlighted the discussion on the Regional Operating Agreement and asked staff to provide an update.

Mitsuyasu summarized the report provided at the last Council meeting which included revisions that were made based on the work done with PIRO and PIFSC. The Council asked staff to include a clause for the Resolution of Disagreements. Standard language was provided by GCPI and was incorporated into a new Item 6 that was highlighted and distributed.

Soliai noted that past commitments were made to American Samoa and the CNMI in support of establishing marine national monument centers such as a marine science center for American Samoa and a visitor center for the CNMI and these promises were not kept.

Dueñas said he would like the executive director to work with PIRO administration, especially regarding BiOps, so the Council can move forward with action items rather than be sidetracked.

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

There were no public comments.

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

*Regarding administrative matters, the Council endorsed the 191st Council meeting financial and administrative reports as provided by staff.*

**The Council endorsed the amended language to Regional Operating Agreement include an elevation provision to resolve issues should parties not be able to reach agreement at an operational level.**

**The Council directed staff to send a letter to the regional administrator requesting a report on the status of PIRO's budget at each Council meeting.**

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

*Regarding Council family changes, the Council directed staff to solicit for AP members for selection by the Council in September 2022 for the January 2023 to December 2026 term.*

**The Council makes the following changes to its advisory bodies:**

- **Retired Wayne Pangelinan and Leonard Yamada from its NCFAC.**
- **Moved Reka Domokos Boyer (PIFSC) from the APT to the PPT.**
- **Appointed Tye Kindinger and Marlowe Sabater (PIFSC) to the APT.**
- **Retired Melanie Hutchinson and Keith Bigelow from the PPT.**
- **Appointed Emily Crigler (PIFSC) to the PPT.**

*Moved by Dueñas; seconded by Sword.*

*Motion passed.*

*Regarding funding, the Council directed staff to send a letter to the NMFS assistant administrator requesting funding be restored to support long standing Council/NMFS programs (e.g., protected species, SAFE report coordinator,*

**territorial science, scholarship/fellowship program, and high school fisheries summer courses) and to provide funding for Council activities to address new unfunded administrative initiatives related to EEJ, climate change, ABM, National Seafood Strategy and other national priorities.**

Moved by Dueñas; seconded by Sword.

Motion passed.

**Regarding commitment to the U.S. territories, the Council directed staff to review past commitments made to American Samoa and the CNMI in support of establishing marine national monuments, including the science center for American Samoa and visitor center for the CNMI, and send a letter to NOAA and USFWS requesting the status of these commitments.**

Moved by Dueñas; seconded by Sword.

Motion passed.

#### **XIV. Other Business**

The resolutions recognizing and appreciating the contributions and service for Amani and Dunham were presented.

No other business.

[Meeting adjourned.]