



WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

**MINUTES OF THE
194th MEETING OF THE
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

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**March 27-28, 2023 Council Plenary
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Coral Tree Ave.
Saipan, Commonwealth of the Northern Mariana Islands
(808) 522-8220**

**March 30-31, 2023 Council Plenary
Micronesia Ballroom
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Approved by Council:

A handwritten signature in blue ink, which appears to read "John Gourley". The signature is written over a horizontal line.

John Gourley, 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:

- John Gourley, chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Roger Dang, vice chair (Hawai‘i)
- Manny Dueñas, vice chair (Guam)
- Will Sword, vice chair (American Samoa)
- Sylvan Igisomar, vice chair (CNMI) and CNMI Department of Lands and Natural Resources (CNMI DLNR)
- Judith Guthertz (Guam)
- Shaelene Kamaka‘ala (Hawai‘i)
- Matthew Ramsey (Hawai‘i)
- McGrew Rice (CNMI)
- Sarah Malloy, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)
- Taotasi Archie Soliai, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Chelsa Muña, Guam Department of Agriculture (DOAG)
- David Sakoda, Hawai‘i Department of Land and Natural Resources (Hawai‘i DLNR) (designee for Dawn Chang)
- LCDR Jessica McCollum (designee for Rear Adm. Michael Day, commander for U.S. Coast Guard [USCG] District 14)
- Brian Peck, U.S. Fish and Wildlife Service (USFWS)

Also in attendance were Council Executive Director Kitty Simonds; Fred Tucher and Sarah Sheffield from NOAA General Counsel Pacific Islands (GCPI); Frank Villagomez and Frank Camacho, Scientific and Statistical Committee (SSC) representatives. Colin Brinkman, U.S. State Department was absent.

II. Opening Protocol

The Refaluwasch Cultural Club from Marianas High School performed cultural dances for the Council for the opening protocol. The dances included the Pescadore, which demonstrates

how fishermen depend on their fishing skills to provide for their families and the Masse Bi, which highlights how Carolinians should come together to keep their culture alive.

III. Opening Remarks: The Honorable Arnold Palacios, Governor of the CNMI

Gourley introduced the Honorable Arnold I. Palacios, Governor, 10th Governor of the CNMI, who was previously the Lieutenant Governor from January 2019 to January 2023. Palacios also served as Senate president during the 20th CNMI Legislature from January 2017 to January 2019 and was Senate vice president during the 19th CNMI Legislature. Palacios served four terms in the CNMI House of Representatives and served as the speaker of the House during the 16th CNMI legislature. Palacios attended Mt. Carmel School, graduated from Portland State University with a bachelor of science in business administration/management. The high point of Palacios's service to the CNMI was as Division of Fish and Wildlife (DFW) and DLNR secretary, where he served as the Council chair.

Palacios welcomed the Council to Saipan. He said has had the opportunities and privilege to have served in the Council in different capacities. He started engaging with the Council as a CNMI DLNR staff working for Western Pacific Fisheries Information Network (WPacFIN) and later as the director of DFW. He continued to engage in the Council process as he served in various capacities in CNMI's Executive and Legislative branches, and became the Council chair for two years. In his years of service on the Council, there were times when a proposal from the Council or a federal agency was sensitive and controversial in the island communities and caused a lot of consternation with the federal agencies. The answer to these controversies is communication, and respect for each other, what the community represents and for the federal and regulatory agencies.

Palacios mentioned a social media post by Congresswoman Radewagen regarding her thoughts on President Biden's consideration of expanding the Pacific Remote Islands Marine National Monument (PRIMNM) by establishing a sanctuary. This expansion should have been communicated to American Samoa, the Council and the other jurisdictions that would feel the impacts. Those discussions should be lengthy because the boats that are currently fishing within the carved out areas in the Pacific Remote Island Areas (PRIA), which were fishing areas created by the Obama Administration specifically for the fishermen, go to American Samoa canneries. American Samoa's primary economic driver is the cannery and major fishery, so a sanctuary designation will impact that community.

Palacios recounted a meeting with John Podesta prior to the 2014 expansion of the PRIMNM, which occurred during his Council chairmanship. After Simonds, Sean Martin and the scientists presented their justification for considering carving out part of the PRIA to allow for fishing, Podesta asked who the Chair was. Palacios raised his hand, and Podesta asked Palacios what he thought. Recognizing that the argument for keeping some areas open to fishing was not going to be won by the scientific information, Palacios made an appeal to Podesta that the policies made in Washington D.C. can have profound impacts on small communities, and if the policy to close all of the PRIA to fishing was implemented, it would take away \$10,000 to \$12,000 of income from families that work at the cannery in American Samoa. The American Samoa representative at the meeting made a similar case. Palacios said he was surprised and glad that the Obama Administration considered and made the accommodations to carve out fishing areas in the PRIA. Now 10 to 12 years since that meeting, the region is dealing with the same

question. Palacios said it is important that the communities in Guam, American Samoa, Hawai'i and the CNMI ask again for engagement in the decision-making process.

The CNMI was blindsided with the proposal to make the Marianas Trench Marine National Monument (MTMNM) into a sanctuary last year. However, the CNMI had been down this road before, engaged with NOAA, and was able to put a pause to the proposal at the time. For the recent proposal, Palacios sent a letter saying he still opposes the proposal and mentioned the need to discuss what this proposal will do to local communities. Palacios said he is not opposed to any conservation or management measures, but wants consideration of the consequences of these decisions to CNMI communities.

The coral critical habitat designation was another example of a decision that would have been really difficult for small-island communities to deal with, as the CNMI continues to build infrastructure and the increased processes would have been difficult and at times expensive. Some people would also argue the validity of the information leading to the designation. Palacios said it is about good communication with each other.

Palacios had the opportunity and the privilege to attend a Senate Congressional Hearing in February 2023, where one of the biggest questions posed was about illegal, unreported and unregulated (IUU) fishing. The People's Republic of China fleets have spread out in the Pacific area, and there are illegal, unregistered, unidentified vessels fishing in waters in the Pacific. Palacios recently submitted a letter to the Senator who had asked about IUU concerns at the hearing. Palacios and the other two territory governors continue to support the efforts and policies of the Council to bring in more assets from the federal government to either American Samoa or Guam, as the tensions with China continues to rise in our region.

A related issue is the military buildups in Guam and the CNMI. DOD will be likely issuing a revised environmental impact statement (EIS) for the Commonwealth Joint Military Training Exercises in Tinian and surrounding waters in the near future, and those activities will have an impact on local communities and especially the fishing community on Saipan and Tinian. The CNMI will review the EIS and will ask the Council and Pacific Islands Fisheries Science Center (PIFSC) scientists to help the CNMI with the review. National defense is front and center to everything the United States does, but that does not mean that the CNMI cannot give the documents the review that it requires.

Soliai congratulated Palacios for becoming governor, and thanked him for his support on issues of key importance to American Samoa. The CNMI and American Samoa have in common the culture of respect, which Soliai said he tries to convey to the federal partners and their policy-making in the Capitol. It is important that the territories stand together to address international challenges such as IUU, as well as internally with U.S. national policies that impact the region and territories' sustainability and fragile economies to make sure they remain protected. Having the support from the governors of the CNMI and Guam to stand together with the governor of American Samoa in a united front is important in addressing those concerns.

Dueñas said it takes a lot to be a leader, and having known Palacios for many years, he has the heart of a leader. Dueñas said there are two components to being a great leader in the Mariana Archipelago. One is to have the heart for its people, and the second is to be a graduate

of Father Dueñas Memorial School because that is where all leaders have come from in the Mariana Archipelago. Dueñas said he is proud to be associated with the leadership of Palacios.

IV. Approval of the 194th CM Agenda

The 194th meeting agenda was approved by general consent.

V. Approval of the 193rd CM Meeting Minutes

The 193rd meeting minutes was approved by general consent.

VI. Executive Director’s Report

Simonds presented the executive director’s report. She congratulated Palacios, a friend since the 1980s and former Council chair, who is now the esteemed governor of the CNMI. The Council last met in Saipan in October 2018 and witnessed Typhoon Yutu, after which the USCG delivered the Council members to Guam where the meeting continued.

Simonds provided an overview of the major agenda items for the CNMI portion of the 194th Council meeting, which was scheduled to include agency reports, protected species and the Hawai‘i Archipelago. She also announced the Fishers Forum to be held in the evening of the first day, with the theme “All About Bottomfish in the Mariana Islands.” The Hawai‘i Archipelago and PRIA section includes an action item on fishing regulations to allow noncommercial and subsistence fishing in the Papahānaumokuākea Marine National Monument (PMNM) from 50 to 200 miles.

Simonds highlighted two important Executive Orders (EOs) signed by President Biden; one advancing racial equity and support for underserved communities through the federal government, and the second advancing equity, justice and opportunity for Asian Americans, Native Hawaiians and Pacific Islanders. When these EOs were first established, the Council communicated the Western Pacific Region’s issues to the president’s assistant for domestic policy. The issues included limited capacity, differences in communication, lack of funding opportunities, regional representations, appropriateness of policy in the regulations, and underutilized mechanisms. Another issue highlighted was institutional structures, and in particular top-down approaches, where the U.S. Pacific is bearing the brunt of achieving national conservation targets, as well as coral critical habitat designation when U.S. waters in the region represent less than 1% of the range of the Endangered Species Act (ESA)-listed species. The lack of advocates for underserved communities at the very top widens the gap in equity for Pacific Islanders. Simonds reiterated the last comment included in the letter, which is that the Council is not necessarily looking for more from the Administration, but asking for different. She shared a quote from one of the Council members, “A rising tide lifts all boats, but many of the boats in our region are canoes and they work a little differently.”

VII. Agency Reports

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Malloy presented the PIRO report. Regarding rulemakings, PIRO will soon publish the 2023 specification limit of 2,000 metric tons (mt) of longline-caught bigeye tuna (BET) each for Guam, American Samoa and the CNMI. As in years past, those jurisdiction would then be able to transfer up to 1,500 mt each, for up to 3,000 mt to the U.S. longline fishery.

PIRO and PIFSC continue to provide technical assistance to American Samoa, Guam and Hawai'i to develop Coral Reef Fishery Management Plans (FMPs) for nearshore coral reef resources. For American Samoa, PIRO and PIFSC are providing Management Strategy Evaluations for various options for coral reef management.

A draft report from the October 2022 Ecosystem-Based Fishery Management (EBFM) Workshop has been completed.

Successful outcomes at the 19th Meeting of the Western and Central Pacific Fisheries Commission (WCPFC) and the South Pacific Regional Fishery Management Organization (SPRFMO) meeting in February 2023 included a prohibition on wire leader and shark lines for longline vessels operating within 20 degrees of the equator. In addition to reducing longline impacts to shark populations, it brought the other nations in line with requirements that the U.S. vessels already are have incorporated. Additionally, a standing agenda item on climate change has been implemented for all future meetings.

The False Killer Whale Take Reduction Team (FKWTRT) was scheduled to meet concurrently with this Council meeting to develop recommendations to reduce mortality and serious injury (MSI) of false killer whales (FKWs) in the longline fishery.

Regarding critical habitat designations, PIRO has worked with partners to try to explain the impacts and to walk through what critical habitat consultations would look like and how they might differ from those associated with the listed species.

Lastly, regarding sustainable fisheries, PIRO hosted a detailee in conjunction with PIFSC to provide a roadmap for the implementation of electronic monitoring (EM) in the region.

Dueñas asked if PIRO has a position in advising the president on the ongoing setting of monuments into sanctuaries in the PRIA. Dueñas was concerned that the region seems to be at odds on this issue.

Malloy indicated that PIRO harnessed much of the work that the Council did when the PRIMNM was created to understand the issues. All of that information and the region's concerns were conveyed to multiple people including the NMFS assistant administrator, the NOAA National Ocean Service (NOS) administrator and the NOAA front office. However, the president did ultimately make the decision to start the sanctuary designation process. Malloy noted a silver lining that because it is a sanctuary designation process, there is the opportunity for public comment.

Dueñas expanded on the issue and noted that a public comment period is not going to do enough to support the native people of the Pacific Islands. Dueñas said it is very sad that these monuments are affecting indigenous people that have been using the waters for 2,000 – 4,000 years and that Pacific Islanders deserve a greater sensitivity in the way things are done in the region. He expressed concern that the three-minute rule typically used for public hearings is

incompatible with the communication approach common in the Pacific Islands cultures and disenfranchises the people. He asked NMFS to provide more support on issues that the Council requests for its assistance, noting examples of increasing the tuna quota for U.S. vessels at the WCPFC. He also expressed concern that USFWS has failed to recover species like turtles in the last 50 years when the Council is forced to create a rebuilding plan in two years with a 10-year rebuilding timeline, and noted his interest in raising sea turtles to keep his culture of harvesting and eating turtle alive. He said if turtle farms were created 50 years ago, then every jurisdiction would have had 20 to 30 turtles a year that it could use to perpetuate its culture.

Simonds asked about the appointments of Council commissioners to SPRFMO and WCPFC.

Malloy noted that the status of the appointments is still at the U.S. State Department and under consideration.

Rice noted that the region maintains all pelagic fish stocks, but is not maintaining the “stock” of U.S. fishermen. There has been a steady decline of U.S. fishermen for the past few decades. If management and the structure do not change, more owners and operators will start to go out of business.

Muña supported Dueñas’s comment about having local people raise turtles. If the region is going to impose restrictions like the green sea turtle on islanders, then give islanders the opportunity to help the species recover and who better than the people who live with them.

Soliai echoed comments by other members on the expansion of the PRIA sanctuary. The public comment process is very important, but the region needs to acknowledge and say that public comment most often does not necessarily mean consultation. Therefore, as the region reviews the process, it needs to consult the territories and not simply check a box that they have been consulted due to the public comment period. Soliai noted that Congresswoman Radewagen hit it right on the nose with the comments in her letter to the secretary of commerce and also in the hearing in Foreign Affairs that the process is “conservation by confiscation without consultation.” American Samoa is hopeful that it can have a dialogue to ensure that there are ways to meet those obligations or the president's mandates with respect to this expansion. Soliai asked for an update on the rule-making process for the Effort Limit Area for Purse Seine (ELAPS) that was issued in 2022 and an update on the proposed coral critical habitat.

Malloy noted PIRO is moving forward on the ELAPS rule-making and acknowledged it is an important piece in consideration of the lead-up to the next WCPFC and the tropical tuna measure. Regarding the proposed coral critical habitat, there will be either a final rule or a new proposed rule that will occur late spring or early summer.

Soliai added that the ELAPS proposed rulemaking along with the expansion of the PRIA is essentially annihilation of the tuna industry, specifically for the purse seiners that support the economy in American Samoa. All the federal policy and federal action that is hurting this industry is going to significantly hurt American Samoa. He said American Samoa will continue the fight, although he was not sure what else could be done to get U.S. policymakers in Washington D.C. to hear the pleas with respect to those decisions. He said American Samoa will have comment letters forthcoming on the sanctuary issue, which will be shared with PIRO and the Council.

Simonds said one of the concerns with ELAPS is the uncertainty with what the political capital is on agreeing to ELAPS. She asked what the status is with NOAA working on a document to make the distinction for the American Samoa fleet.

Malloy said she hopes American Samoa feels confident in the approach to have PIRO continue partnering with American Samoa in working through the WCPFC to identify an American Samoa-affiliated purse seine fleet. This would ensure that that fleet would not be subject to high seas restrictions on fishing days and will have full access to the U.S. exclusive economic zone (EEZ). Malloy is hoping that strategy does a number of different things, including providing an incentive for purse seine vessels to affiliate with American Samoa and continue to provide the cannery with the resources that it needs to exist.

Solai said the governor sent a letter to PIRO indicating the United States should regulate the U.S.-flagged purse seiners based in American Samoa as a Small Island Developing States (SIDS) fleet. The response letter addressed many concerns but did not touch on the designation as a SIDS fleet.

Dueñas emphasized the importance of ensuring public comments run the entire duration of the planned comment session.

Sword echoed Solai's comments on the importance of communicating with the community regarding the PRIA monument and sanctuary expansion.

Guthertz echoed Dueñas's statements and added that comment periods for specific actions need to allow all members of the public to comment. The Pacific Islanders are already disadvantaged for public meetings due to the time change for meetings hosted on the mainland.

Malloy added that the next step in the sanctuary designation process is a notice of intent to consider the sanctuary. PIRO will work with the NOS and the Office of National Marine Sanctuaries (ONMS) to ensure the Council is involved in the process in an appropriate and timely manner.

2. Pacific Islands Fisheries Science Center

Tia Brown, acting PIFSC director, provided the agency's report. Through continued efforts to improve the stock assessment process, the PIFSC Fisheries Research and Monitoring Division (FRMD) worked in partnership with the Council and Guam DOAG Division of Aquatic and Wildlife Resources (DAWR), to convene the first Bottomfish Management Unit Species (BMUS) Data Workshop in Guam in January 2023. The workshop is the first step in an 18-month process to prepare the final Stock Assessment Report, which will drive fisheries management decisions. The continued community engagement is meant to enhance transparency in the science that PIFSC generates, foster collaboration and partnerships in the region and facilitate information exchange and understanding of the information available from the perspective of the fishing communities.

The new draft benchmark assessment for the American Samoa BMUS was subject to the Western Pacific Stock Assessment Review (WPSAR) regional peer review process in February 2023. The WPSAR panel was chaired by SSC member Erik Franklin, and had two additional panel members from the Center of Independent Experts, Patrick Cordue and Joseph Powers. The

draft benchmark assessment was presented to the panel, along with other background materials. There were a couple of caveats that came out of the review, but every single piece of the terms of reference that was presented was accepted by the WPSAR reviewers.

FRMD staff has continued efforts to deploy tablets for electronic reporting in the American Samoa longline (ASLL) fleet. As of February 2023, PIFSC has successfully deployed nine of the 11 tablets on the currently active vessels in American Samoa. Version 2 of the Sellit Logit app will be going live in March 2023 with some updates to core functionality, such as querying, adding, editing and deleted purchase reports. The Amazon Web Services account ownership has now shifted from the Council to the WPacFIN.

The Life History Program (LHP) is continuing to work with some international partners to improve striped marlin, swordfish and blue marlin stock assessments by leading research to improve the life history through the International Billfish Biological Sampling Program. LHP staff had been collaborating with the PIR Observer Program and the Hawai‘i longline fishery to collect samples of swordfish, striped marlin and blue marlin for the last 16 months. Samples have been collected from 120 unique fishing trips and nearly 500 individuals. An additional 1,129 samples were collected across the North Pacific through collaborative efforts with Japan and Taiwan.

There is particular interest in understanding the status and trends of the Western Pacific leatherback turtle population due to its declining trend and because this population interacts with the major commercial fisheries, including the longline fisheries in the Western Pacific. The Solomon Islands host nesting grounds for the Western Pacific population of leatherback turtles. Alexander Gaos, PIFSC, spent 10 days in the Solomon Islands in December 2022 working with local and national stakeholders to focus on turtle conversation and research efforts.

The RICHARD (*Rainier* Integrates Charting, Hydrography, and Reef Demographics) Survey is currently in American Samoa conducting research over the reefs and slopes surrounding the islands and the PRIA. During the mission, NOAA ship *Rainier* will be in and out of port. It will deploy four small boats, 28-feet each, two of which will work to map the nearshore areas and two of which will work to support diver surveys in the areas. In addition to the nautical charts from the mapping component, there will be coral surveys that will continue the 22-year dataset on the National Coral Reef Monitoring Program.

Dueñas expressed concern related to the establishment of essential fish habitat (EFH) through stock assessments and the use of spawning potential ratios. He said more mapping needs to be conducted to denote areas that are actually “essential” for fish growth and development, as the current EFH designations are too broad. Related to spawning potential ratios, Dueñas said more work needs to be done on the life history and reproduction associated with bottomfish. Dueñas said in his experience cleaning fish through the Guam Fishermen’s Cooperative Association (GFCA), fish show signs of reproduction throughout the year, indicating that the fish around Guam are very prolific. He said other factors like land-based impacts to species abundance and fish-to-prey ratio also need be considered in the stock assessments. He also expressed concern about the pattern of not considering all the facts before making a determination, noting examples of shutting down the Northwestern Hawaiian Islands (NWHI) lobster fishery and the overfished condition for American Samoa bottomfish fishery. Dueñas also asked why Guam and the CNMI are treated separately in stock assessments and not as a single

archipelago. He also asked how PIFSC could help Guam create a turtle nursery program, and said he hopes PIFSC and PIRO will work with USFWS to do something that holds cultural meaning and tradition for Pacific Islanders. Dueñas also expressed concern that increasing catch per unit effort (CPUE) is interpreted as a declining stock when it comes to ESA and Marine Mammal Protection Act (MMPA).

Brown said she could not comment on the turtle hatchery, but noted it is a fascinating idea that the people in Guam will likely do what they can to push forward. Regarding coral and habitat monitoring, the National Coral Reef Program conducts surveys in different areas on a three-year cycle. COVID-19 drastically impacted PIFSC's ability to engage the local fishers and scientists to participate in the cruises, but the intent is to reach out and partner with the communities for the next cruise scheduled for 2025.

Soliai expressed appreciation for the bottomfish WPSAR that was conducted in American Samoa. The assessment process was a prime example of what consultation really means, as it is important not only to receive information and review the assessment, but having the review of the assessment done with key stakeholders at the table.

Gourley said he attended the Guam BMUS workshop and thought it went very well with good participation by the public.

B. NOAA Office of General Counsel Pacific Islands Section

Sheffield provided the GCPI report. The *Wille v. Raimondo* filed in the District of Maryland in March 2022 by three Hawai'i residents challenges NMFS's 2021 rule prohibiting the approach of Hawaiian spinner dolphins on the ground that it violates the Appointments Clause of the U.S. Constitution. Plaintiffs argue that an official possessing rulemaking authority did not issue the rule. During summer 2022, NOAA Administrator Spinrad ratified the rule, and the defendants filed a motion to dismiss the rule on the grounds that the ratification cured any potential Appointment Clause deficiencies. Briefing on this motion concluded in September 2022 and a hearing was held March 8, 2023. The court declined to decide the question of whether the ratification cured any alleged Appointment Clause deficiencies with the rule at the motion to dismiss stage and ordered the parties to address this question with summary judgment briefs. Defendants filed an answer to plaintiff's complaint March 22, 2023, and summary judgment briefing on this issue will likely begin in May 2023.

On Feb. 22, 2023, the Conservation Council of Hawai'i and Michael Nakachi filed a complaint in the federal district court in Hawai'i for alleged violations of the ESA. Specifically, the plaintiffs allege that NMFS has failed to complete the required ESA Section 7 Consultation for the American Samoa and Hawai'i deep-set longline (DSL) fisheries on multiple listed species. The plaintiffs seek declaratory relief and an order compelling NMFS to complete these consultations within 90 days. The plaintiffs sent a Notice of Intent to Sue (NOI) in September 2022 and NMFS responded by letter in November 2022 stating that it anticipated completing these consultations in spring 2023. Defendants' deadline to respond to plaintiffs' complaint was April 28, 2023.

There were also two NOIs. The first was from the Center for Biological Diversity on NMFS's denial of its petition to promulgate ESA Section 4(d) regulations for the newly listed corals. There are no updates on that NOI. The second was the Territory of American Samoa's

NOI if NMFS finalizes the portions of its ELAPS rule. The only update was that NMFS sent a letter in response to the Territory of American Samoa in January 2023.

C. Enforcement

1. U.S. Coast Guard

McCollum provided the USCG report. Since the December 2022 Council meeting, USCG District 14 responded to 208 cases consisting of search and rescue, law enforcement, marine environmental protection and response and ports, waterways and coastal security missions. The USCG Cutter *William Hart* conducted an extended patrol in January and February 2023 supporting partners in Oceania by enacting bilateral law enforcement agreements. These agreements enable the United States to act on behalf of partners to combat illicit maritime activity and strengthen international security operations. The cutters also conducted community relation events and aids to navigation operations in the Pago Pago Harbor. Additionally, the Cutter *Oliver Henry* conducted a week-long deployment to the Federated States of Micronesia in support of Operation Rematau, which was an operation to counter illegal fishing and strengthening partnerships with local island communities of several Yap outer island atolls. Another operation included USCG Forces Micronesia/Sector Guam conducting a search and rescue exercise in Chuuk State from Feb. 20-23, 2023. During this operation, 27 members from various agencies were able to attend, including the Chuuk Department of Public Safety, Disaster Emergency Operations Center, Fire Division and the Municipal Police.

Guthertz commended the USCG for its work in the region and discussed a story in the Guam newspaper about USCG assisting the Federated States of Micronesia in policing its waters from foreign fishing vessels in a joint patrol-type arrangement. She was glad to see USCG extending its efforts to assist the neighboring islands, noting problems with foreign fishing vessels attempting to come into Guam.

Rice requested McCollum look into staffing at the USCG office in Kona because phone calls to the office continue to go unanswered.

McCollum indicated she would look into the matter.

Dueñas commended the USCG for its work in the Mariana Archipelago and expressed appreciation for its assistance in the search for a diver who was lost at sea. Dueñas asked if the removal of USCG assets from the Mariana Archipelago and concentration of those assets in Hawai‘i affected the enforceability of the EEZ. He also asked if there is a monitoring system for non-U.S. vessels that sit just outside the U.S. EEZ boundary, which he thought should be a part of the vessel monitoring system. Dueñas added that there needs to be aids to navigation program in the Agat Marina.

McCollum said there are no cutters stationed in the CNMI, but fast response cutters are regularly sent to patrol the EEZ line. Regarding foreign fishing vessels fishing on the high seas outside of the EEZ around the CNMI and Guam, they should not be setting lines in the U.S. EEZ nor should they be having lines drift into the EEZ, and USCG monitors that both electronically and with assets on scene. She said she will take back the concern about the aids to navigation in Agat Marina to the Department of Waterways, noting that there are differences in federal and private aids.

Sword commended the USCG for its outreach work in American Samoa. Sword added that American Samoa is still in need of a cutter, and is fixing up its shipyard to accommodate a cutter. He also noted issues with getting the Master's recertification for the longliners and the necessary drug test, and the need for lighthouses at Steps Point on Tutuila Island and on Aunu'u Island. Sword said they had a port meeting to discuss aids to navigation and what is needed in the region.

McCullum asked for the aids to navigation concerns to be provided in an email or letter to facilitate follow-up as an official request.

Sword said he will follow up once he returns to American Samoa.

Gourley asked the USCG for its opinion on the magnitude of IUU problem in the Mariana Archipelago and whether USCG has access to DOD satellite imagery.

McCullum said it is definitely a problem and that the agency does have access to satellite imagery. Enforcement and patrol efforts need to continue happening as they have been, especially in the CNMI, to ensure that what USCG is seeing electronically is matching reality.

Soliai said the response from Rear Admiral Day regarding the request for a waiver on the U.S. Master's for the American Samoa longliners was not the response that he was anticipating. Soliai said American Samoa will likely need to make some statutory requests being that the waiver is outside the prerogative and purview of the USCG.

McCullum suggested that Soliai reach out to U.S. Customs and Border Protection, as well as having the governor make that request.

Igisomar asked if there is an intention of establishing a cutter in the Mariana Archipelago knowing that the monument is in place, and there is a distance issue in responding.

McCullum indicated there is no intention to station a cutter in the CNMI and that the agency has the cutters from Guam that will continue patrolling in the area.

2. NOAA Office of Law Enforcement

Martina Sagapolu provided the NOAA Office of Law Enforcement (OLE) report. Since the December 2022 meeting, there have been 178 incidents. The most common complaint received by OLE is for the lack of enforcement as it relates to humpback whales and dolphins operating around the main Hawaiian Islands (MHI). Together with Hawai'i Division of Conservation and Resources Enforcement and USCG, OLE has been pounding the areas around Hawai'i addressing the increase of visitors to the islands who obviously want to see the animals in their natural habitat. There has also been an increase in harassments involving the Hawaiian monk seals (HMSs), particularly as it relates to Kaimana Beach in Waikiki.

Sagapolu highlighted a couple of investigations. Aboard one of the longline fleets an observer was unresponsive in his bunk and the vessel had turned back to Honolulu. Preliminary investigations reveal that there was no potential foul play but the medical examiner is conducting his autopsy and a final report should be coming out soon. Another investigation related to a case of a fugitive who had tried to abscond and fled on a commercial tour vessel. OLE reached out to

its assets on the Big Island that were able to pull together a time table to ascertain where the vessel and captain were taking off. OLE was fortunate to have the information based on the vessel movement and the last time that the vessel was departing from Honolulu, the fugitive was captured and taken in with no incident.

OLE continues to conduct almost 100% of Port State Measures boarding in American Samoa. There has been an uptick of foreign fishing vessels that are not complying with the 96-hour notification process, which causes a problem not only with the local government, but also with OLE. These vessels are not registered under the WCPFC licensing because they are licensed only to operate in those member countries' waters. This does not allow OLE to do its checks and balances to determine if there is any IUU activity relating to a particular asset. Additionally, through these boardings, OLE has realized that captains are not fully completing their logbooks. OLE is now working with the flag state to ensure that it educates its captains of the requirements.

OLE has been closely monitoring the Pala Lagoon in American Samoa. There have been illegal late night activities on the take of hawksbill turtles. OLE has been working with Joint Enforcement Agreement Partners from DMWR to monitor these activities.

Regarding additional IUU fishing, OLE continues to utilize the Port State Measures Agreement, which allows OLE to check where a vessel had been operating to ensure that there is no IUU activity occurring. OLE was in Jakarta and the Philippines in January 2023 working with different government agencies to help these member countries address IUU. This work is to be continued in Honiara and other Pacific Island nations. For example, OLE is working collaboratively with New Zealand and Australia, together with USCG to put one team together to ask the countries what they would like in terms of training and addressing IUU in their area, which allows OLE to target those visits and trainings based on their needs.

Dueñas expressed his concerns about the increasing interaction between humans and HMSs in the MHI, and wondered if innocent people may face harassment from HMSs simply because they happen to be near the animal. He asked whether PIFSC or other agencies like USFWS will be developing a master plan to relocate the HMSs to prevent such incidents.

Sagapolu said for cases where OLE has responded, those cases tend to be interactions with visitors, and where the interaction was considered a take because the person was causing a change in the animal's behavior. OLE tries to change the person's behavior, and in most cases will conduct compliance assistance, which is to educate the person about his/her behavior.

Soliai recognized the importance of the partnership between OLE and DMWR enforcement officers in ensuring that the resources are protected, especially with foreign vessels that come into American Samoa to ensure they comply with all of the regulations.

3. NOAA Office of General Counsel Enforcement Section

The NOAA Office of General Counsel Enforcement Section representative was unable to attend the meeting and no report was provided.

D. U.S. State Department

Mark Fitchett, Council staff, presented the U.S. State Department report as Brinkman was not in attendance. Brinkman attended the 11th SPRFMO meeting in February 2023 as the U.S. State Department liaison. There were five key outcomes: 1) Adoption of the high seas boarding and inspection measure; 2) Adoption of the limit on the number and tonnage of vessels fishing for jumbo flying squid, with exemptions for the Eastern Pacific developing coastal states; 3) Adoption of a U.S. proposal to incorporate climate change into SPRFMO scientific processes and decision-making; 4) Adoption of a bottomfish measure to enhance the conservation of vulnerable marine ecosystems in the South Pacific and improve the management of bottomfishing on the high seas; and 5) Adoption of a proposal on the allocation of jack mackerel that strengthen management and sustainable use in the fishery in the next decade.

The Fifth Session of the Intergovernmental Conference on an internationally legally binding instrument under the United Nations Convention of Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) was held early March 2023. The United States ensured that language on BBNJ not superseding RFMOs be retained. The Council may reach out to the BBNJ team to make a presentation at a later date after the United Nations finalizes the report.

The Our Ocean Conference was held in Panama early March 2023. The United States made 77 announcements from eight agencies and offices worth nearly \$6 billion in commitments, more than twice as much as the United States pledged at last year's conference.

E. U.S. Fish and Wildlife Service

Peck presented the USFWS report. Toni Mizerek is the new superintendent of the MTMNM and also of the Guam National Wildlife Refuge. A Japanese research vessel will collect bathymetric data and carry out remotely operated vehicle dives on some seamounts within MTMNM. USFWS is in consultation with contractors to develop displays for the MTMNM visitor contact station at American Memorial Park on Saipan. USFWS staff on Saipan continued outreach education, including hosting a high school naming contest for serpentine mud volcanoes to raise awareness of the resources within the monument. A letter was sent to Governor Palacios requesting a new set of nominations for the Marianas Trench Monument Advisory Council (MTMAC), and staff is also working with DLNR Secretary Igisomar on the nominations. Mizerek is the USFWS contact for the MTMAC nominations.

A research vessel from Germany is conducting a Pacific-wide cruise, and will be passing through the Jarvis and Baker units of the PRIMNM conducting oceanographic research.

The USFWS made two recent trips to the Rose Atoll Marine National Monument. The first trip did remote sensing work using satellite imagery and ground truth for invasive algae. This same work is being conducted in parts of the NWHI and is proposed to be expanded. Once the ground truth is done and satellite imagery continues to come in, USFWS can monitor these invasive algae outbreaks on a very large scale. The second trip was the first phase of the last step of iron removal at the F/V *Jin Shing Fa* shipwreck site, where a Taiwanese longline vessel ran aground in 1993. Most of the iron and debris was removed over the following decades, but some iron still remains some, which at a coral atoll is toxic. Iron is not naturally present so it creates a cyanobacteria bloom. Divers relocated corals that are near iron debris and will begin removing the iron in the coming weeks.

Dueñas asked about the status of the visitor center for the CNMI and the laboratory in American Samoa. He also asked if a conditional use of the Guam National Wildlife Refuge can be given to the native Ritidian people that used to own that area. Dueñas asked if the Marianas people can get back the zero to three miles in the Monument Unit Islands because, in the covenant between the Marianas and the United States, there is a provision in the leasing of the Farallon de Medinilla area and it states to lease from the government of the CNMI, Farallon de Medinilla and adjacent waters. Dueñas also asked for an update on the MTMAC and for Guam to be given observer status. Dueñas also asked about geothermal power plant development on volcanic units to provide power to the Southern Marianas and Guam.

Peck said regarding the MTMNM visitor contact station, the first step is the start of the design process. Regarding a laboratory in American Samoa, Peck said there may be some confusion with the sanctuary, but noted that outreach to bring the remote place to the people is part of the USFWS goal. Peck acknowledged the concerns regarding the Guam National Wildlife Refuge, and encouraged Dueñas to reach out to Mizerek to discuss those issues.

Igisomar said the CNMI has concerns about the MTMNM, noting that when the MTMNM began, DFW was against it. There were promises made to the CNMI to allow the designation and none of those promises have come true. The superintendent is based out of Guam, and is making monument management decisions for the CNMI. Some of the seamounts were named without CNMI participation. One of the main agreements was having a true partnership with the federal government in managing the monument, but things are moving without the CNMI being part of it, which is a problem.

Peck said he would like to meet with Igisomar on the side to understand his concerns more. The seamount naming was done by high schools and did involve the community. USFWS is understaffed but are advertising and hiring a superintendent that would be based in Saipan for the monument.

Gourley asked if USFWS reached out to the public for ideas on the displays for the monument visitor center.

Peck said he does not know.

Gourley said it would be courteous to the local people to involve them in what they would like to see as displays. Gourley asked about the MTMNM Cultural Working Group in terms of when it was formed, its membership and what outreach was involved.

Peck said he will need to find out more about the MTMNM Cultural Working Group, noting that the intent is reaching out to the community, but Gourley's questions suggested it is not comprehensive enough.

F. Public Comment

There were no public comments.

G. Council Discussion and Action

Regarding a process to designate a marine national sanctuary in the PRIA, the Council requested NOAA, and all other involved agencies, consult with the U.S. Pacific Territories beyond the public comment opportunity on the proposed sanctuary.

The Council directed staff to invite the NOS to provide a presentation on the proposed PRIA sanctuary to get a better understanding of the Council's responsibilities and role in the process.

Moved by Dueñas; seconded by Guthertz.
Motion passed.

Regarding the USCG Report, the Council requested the USCG to provide aids for navigation to ensure the safety of fishermen and other boaters of Guam and other jurisdictions.

Dueñas suggested including the other jurisdictions in the recommendation, noting aids for navigation needs for the CNMI and American Samoa.

Gourley said the recommendation is specific to Agat Marina in Guam, and adding other jurisdictions without specifics could make the recommendation vague. He suggested making a separate recommendation to address the other jurisdictions.

Soliai recommended amending the language to remove Agat Marina and adding the other jurisdictions.

Dueñas and Guthertz agreed to the change.

McCollum said it will be easier for USCG to make a decision and help with aids to navigation if the specific locations are provided in writing.

Gourley said the specific actions can be outlined in the letter to USCG, in coordination with American Samoa, the CNMI and Guam.

Moved by Dueñas; seconded by Guthertz.
Motion passed.

Regarding the monuments, the Council requested NOAA and USFWS for a status report of the monument visitor center in the CNMI and the science laboratory in American Samoa.

Malloy said the visitor center is an initiative of the USFWS, so the request for update would be more appropriate to direct to them.

Gourley agreed that the request should be directed to USFWS and not NOAA.

Peck suggested including both NOAA and USFWS in the recommendation.

Gourley suggested leaving the language as-is.

Simonds asked for clarification that the monuments are run by the sanctuary program.

Malloy said it depends on the monument, but for MTNMN, it is run through NMFS.

Simonds suggested that both NMFS and USFWS address the request, noting that these requests have been ongoing for the last 10 years.

Malloy said PIRO would be happy to collaborate with USFWS to address these questions.

Peck concurred.

Dueñas said the issue has to be put to rest, noting that the visitor center and the \$333 million tourism prosperity for the CNMI has not come to fruition. He said he would like to see support for a laboratory in American Samoa because it is in a remote area and such a facility would enhance capability for conducting more scientific research.

Moved by Soliai; seconded by Sword.

Motion passed.

VIII. Mariana Archipelago – Commonwealth of the Northern Mariana Islands

A. Department of Lands and Natural Resources and Division of Fish and Wildlife Report

Michael Tenorio provided the CNMI DLNR and DFW Report. Between November 2022 and January 2023, nine boat-based creel survey days have occurred and 37 interviews conducted, of which 17 were trolling, nine bottom fishing, three spearfishing, and four were hook and line for atulai (bigeye scad). Atulai fishing continues but had moved from the Garapan Fishing Base to Micro Beach, and the fish being caught are larger so they would be called hiteng instead of atulai. Three candidates were interviewed and selected for shore-based survey staff positions, but two of those candidates fell through. Eighteen shore-based creel sample days have occurred in this reporting period with 29 interviews conducted, of which 26 were hook and line and three castnet. Receipts through January 2023 have been collected from participating vendors, hotels, and restaurants for the commercial purchase data system, for which there are 43 currently active participants in the program. Based on the receipt data, between November and December 2022, about 1,900 pounds of bottomfish, 8,500 pounds of reef fish, 36,800 pounds of pelagic fish, 200 pounds of invertebrates and 3,800 pounds of miscellaneous reef fish (mostly atulai) were sold.

Regarding fishery assistance updates, all applications were provided to the Pacific States Marine Fisheries Commission (PSMFC) for final review and disbursement. The Office of Federal Grants has all the applications including those from Hawai'i and other territories, and these are under review with expected completion for all processing sometime in the spring 2023.

Regarding the LHP, gonad samples of peacock, flagtail, and star-spotted groupers, along with tripletail and Napoleon wrasse were delivered in January 2023 to the John Burns Medical School at the University of Hawai'i for histology work. The program is also processing otoliths for the *Scarus ghobban* for age determination.

There was some movement with the Garapan Fishing Base Shoreline Revetment Project. Staging of the project site is underway with silt curtains installed and berms built to mitigate

runoff. Lastly, DLNR continues to work with a contractor, as well as regulatory agencies, to address some compliance issues.

B. Arongol Falú

Gourley provided the island report for the CNMI. Marianas Southern Airways had its inaugural flight from Saipan to Guam in August 2022. The CNMI funded the new airline with about \$8 million, but the government terminated the contract in February 2023 due to lack of funding. The airline is still operating with its airfare increased due to the termination of subsidies from the CNMI government. United Airlines started a direct flight from Narita to Saipan for the first time in 10 years, but the CNMI is not a cheap destination for Japanese tourists with the U.S. dollar being strong. Asiana Airlines will be launching four times weekly flights from Incheon to Saipan beginning April 27, 2023, and daily flights in July and August 2023, and will target the Korean and Chinese market. An uptick in Korean visitors has become visible in the Garapan area, signaling some recovery in tourism in the coming months after COVID-19 devastated the market.

Fisheries in the CNMI have not changed much since the December 2022 Council report. Bad weather was prevalent over the previous two months, keeping fishermen from pelagic and bottomfish fishing. Fish wholesale prices has somewhat stabilized from a period of fluctuation. With low demand from restaurants and hotels due to the limited tourism, the markets are easily flooded with fresh fish. However, in the past two months, three or four new restaurants have opened as the economy is starting to return to normal.

Regarding the five-year review of the Mariana Trench National Marine Sanctuary, it has been 11 months since the second public comment period ended, but ONMS has not provided an update on the process and have only indicated that it is still looking at it. Comments from the two public comment periods showed overwhelming opposition for a sanctuary. The sanctuary nomination process is contingent upon public support, but Guam has been left out and it needs to be brought in so it can provide its position. Governor Arnold Palacios wrote an opposition Feb. 4, 2023, reiterating the CNMI's opposition for the sanctuary. He opposed the sanctuary in 2017 and again opposes it in 2023. To date, there had been no response from ONMS to the CNMI governor.

C. Review of Commonwealth of the Northern Mariana Islands Marine Conservation Plan (Action Item)

Tenorio reported on the review of the CNMI Marine Conservation Plan (MCP). DLNR and DFW staffs held meetings to discuss some of the questionnaires to be provided to the community for its input and prioritization of projects. The questionnaires were then circulated via social media to various organizations. The information received was compiled into the plan, sent to the governor, and the MCP was sent to the Council for review.

Dueñas said Guam is looking for capacity-building with training four to six individuals in the marine area to be included in the Guam MCP, and asked if a similar project has been considered for the CNMI MCP.

Tenorio confirmed capacity-building is included in the CNMI MCP.

D. Options for Exploratory Longline Fishing in the Commonwealth of the Northern Mariana Islands

Fitchett, Council staff, provided an overview of the potential for exploratory longline fishing in the CNMI. The issue was discussed with the Fishing Industry Advisory Committee (FIAC) and the Advisory Panel (AP), and was an issue of interest when the Council meeting was last convened in the CNMI.

The CNMI is entitled to some special privileges as a SIDS under the WCPFC, including having no specified catch limit under the tropical tuna measure, which provides opportunities to develop longline fisheries in the region where there are no established major pelagic fisheries. CNMI receives some fishery development funding through specified agreements under Amendment 7 of the Pacific Pelagic Fishery Ecosystem Plan (FEP), which attributes U.S.-flagged vessel catch under CNMI catch limits. The agreements, like the charter arrangements, are officially recognized by the WCPFC.

The CNMI may wish to utilize the fishery resources within its large EEZ, which covers approximately 300,000 square miles. Three major tuna species are caught in the CNMI, with skipjack tuna having high abundance, and yellowfin tuna (YFT) and BET not overfished or experiencing overfishing based on the major stock assessments conducted by the Pacific Community (SPC). Since there is little commercial utilization of those tropical tuna resources in the CNMI, exploratory fishing could be considered. From 2010 to 2011, five U.S. vessels made a couple of trips in the CNMI under the general longline permit, during which catch rates were comparable for BET and YFT at approximately nine to 10 fish per 1,000 hooks. Since then, there has not been any longline fishing in the CNMI.

CNMI is in a strategic location to access markets between Asia and the United States with opportunities to partner with the Hawai'i longline fishery. Other partnerships could also be utilized to fish in the EEZ, such as the Pacific Insular Area Fishing Agreement. Those fishing agreements from outside partners would ensure there is compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) provisions and would have funding to support the MCPs. Joint venture charter arrangements would be another option, which are recognized by the WCPFC with vessels still allowed to fish under FEP guidelines and work with the U.S. State Department to get the agreements through. All of these partnership options would have to be initiated by the governor or the territorial government. Charter arrangements and joint ventures are commonplace. Fishing would be conducted under the terms of the territory as well as requirements under FEP, including requirements on observer coverage, any applicable catch or effort limits, or offloading and transshipment requirements. These arrangements could provide opportunities for both the CNMI and Guam, noting Guam's aspirations to be a transshipment hub which was discussed at a meeting with the port the previous week.

Soliai said it is interesting to hear the CNMI is exploring the opportunity as there are obvious benefits. He said if there are certain markets that are interested in albacore, and if the agreements are with U.S.-flagged vessels, American Samoa would be interested in accepting albacore for its cannery.

Gourley said the CNMI has some challenges ahead with developing a longline fleet, including the lack the infrastructure and knowledge on how and where to catch fish. However, development has to start some place, and he thinks it is a good time to start.

Dueñas said at one time Guam had a \$100 million industry with more than 500 foreign longline vessels operating out of Apra Harbor, but they all decided to leave due to the federal regulations and compliance required. He said he hopes the CNMI's exploratory fishing comes to fruition, but said the venture should not be in the form of a Pacific Insular Area Fishing Agreement because the arrangement would have to go through the U.S State Department and it has not demonstrated concern for the well-being of the people in the U.S. Pacific Territories. He said the CNMI has an abundance of albacore tuna which could meet the needs of the American Samoa cannery. In Guam, catching fish is so prohibited that 90% of the fish are imported.

E. Advisory Group Report and Recommendations

1. Advisory Panel

Richard Farrell, CNMI AP vice chair, presented the AP report and recommendations. He reported AP discussed data collection issues as it pertains to sea turtle traditional take, and there is a need to identify funding sources to support data collection for this purpose. The AP also discussed the pelagic exploratory longline fishing, and would like to see public hearings held in the CNMI before there is any further movement. Photos of stomach contents of rate parasites were also shared with AP members and Council members, which spurred interest from the AP for a study.

Regarding Marianas fishery issues, the Joint Marianas AP recommended the Council request NMFS PIFSC conduct a study on stomach contents and parasites in pelagic MUS in the Mariana Archipelago.

Regarding Marianas fishery issues, the Joint Marianas AP recommended the Council request the DLNR DFW explore funding sources to gather the data to allow for the cultural take of green sea turtle.

2. Fishing Industry Advisory Committee

There were no FIAC recommendations regarding CNMI issues.

3. Regional Ecosystem Advisory Committee

Gourley presented the CNMI Regional Ecosystem Advisory Committee (REAC) meeting report and recommendations.

The CNMI REAC recommended the Council reengage with the community-based FMP with the Northern Islands Mayor's Office and other stakeholders.

The CNMI REAC encouraged NMFS to tailor its Equity and Environmental Justice (EEJ) Regional Community Engagement Plan for each island's municipality in the CNMI of Saipan, Rota, Tinian and the Northern Islands.

The CNMI REAC recommended the PIFSC FRMD and CNMI DFW communicate their plans and efforts for electronic data collection to the general public.

The CNMI REAC requested staff to follow up on the following items:

- Inviting military representatives and USCG to meet with the REAC to discuss fishery issues resulting from expanding military activities in the CNMI and USCG enforcement issues
- More information on community-based fishery management, including examples from other island areas
- Updates on the Micronesia Challenge
- Monument management plan updates
- Sanctuary nomination of the Mariana Trench

4. Scientific and Statistical Committee

There were no SSC recommendations regarding CNMI issues.

F. Public Comment

There were no public comments.

G. Council Discussion and Action

Regarding the CNMI MCP, the Council directed staff to write to the CNMI governor indicating the Council's review and concurrence with the MCP at its 194th meeting and requested the governor provide the MCP to NMFS for approval.

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

Regarding the CNMI fisheries issues, the Council directed staff to reengage with the Northern Islands' Mayor Office and other stakeholders on community-based FMPs.

The Council requested NMFS PIFSC and PIRO to tailor its EEJ Regional Community Engagement Plan for each island in the CNMI (Saipan, Rota, Tinian and the Northern Islands).

The Council recommended NMFS PIFSC FRMD and CNMI DFW communicate their plans and efforts for electronic data collection to the general public.

The Council requested NMFS and USFWS continue to work with the territories to improve their sea turtle programs to collect the necessary data to move towards delisting and a cultural take.

The Council requested NMFS PIFSC conduct a study on stomach contents and parasites in pelagic management unit species (PMUS) in the Mariana Archipelago.

The Council directed staff to explore opportunities to assist the CNMI with developing opportunities for longline fishing in the U.S. EEZ around the CNMI.

Malloy said PIRO will abstain from the recommendation pertaining to funding for sea turtle programs.

*Moved by Dueñas; seconded by Guthertz.
Motions passed with Malloy abstaining.*

IX. Protected Species

A. Ecosystem-Based Fisheries Management Turtle Model Workshop Report

T. Todd Jones, presented the report on an EBFM workshop that explored the effects of spatial decision making by fishers in the Hawai‘i shallow-set longline (SSL) fishery on protected species interactions and catch of target species. The workshop resulted from collaboration between PIRO, PIFSC, the Council and the University of Florida, and stemmed from Council staff asking PIFSC to explore ways to further reduce interactions in the longline fisheries while maintaining effort and catch. The objectives of the workshop were to look at building a spatial tool for evaluating the impacts and tradeoffs of spatial strategies on target species catch rates and protected species interactions; obtain fishery participant input on a spatial tool to help inform fishermen, scientists and managers on decisions for avoiding protected species interactions; and to discuss the utility of a spatial tool. The case study for the workshop focused on scenarios of SSL fishers avoiding loggerhead sea turtles.

Prior to the workshop, the organizers gathered input from industry representatives on environmental conditions that influence fishers’ decisions on where to deploy their gear or whether they move when they interact with protected species. The input informed the components for the Protected Species Ensemble Random Forests model used for the workshop. The model results were summarized as the amount of effort needed to avoid one of the spatial avoidance areas, the percent change in swordfish catch, the change in the number of loggerhead sea turtle interactions and the change in the number of leatherback sea turtle interactions from avoidance. The tool indicated that by the SSL fishery avoiding loggerhead interactions, it may result in reduced swordfish catch rates and increased leatherback interactions. Workshop discussions included participant feedback on the tool, factors influencing fishery participants’ spatial decisions, utility of the tool for avoiding sea turtle interactions in the SSL fishery and potential broader utility of the spatial tool to the SSL fishery and the Hawai‘i DSL fishery. Discussions highlighted the challenges with avoiding a dynamic temperature band in the water, such as the difference in sea surface temperature that captains see at the vessel and what is registered by satellite may be greater than the one-degree temperature band they are trying to avoid.

Dueñas expressed his concerns about the use of models as they can be used to the detriment of the fishery, and asked if the reduction in swordfish catch is additive over the year. He noted that the conservation benefit from closing the PRIA should be considered in models, as well as the mortalities from foreign fisheries. He applauded the effort to include the Hawai‘i longline fishermen in the workshop.

Jones said the swordfish catch rate reduction would not be additive, and would be higher or lower depending on the month. He also clarified that the workshop was an effort to provide

spatial tools to the fishing community so it can use it to avoid protected species interactions while maintaining target catch rates, and not for regulation.

B. Review of the Hawai‘i Deep-Set and American Samoa Longline Fishery Draft Biological Opinions

1. Draft Biological Opinion Overview

Melissa Snover, PIRO Protected Resources Division (PRD), presented the overview of the draft biological opinions (BiOps) for the Hawai‘i DSLL fishery and ASLL fishery. The draft BiOps were released prior to the Council meeting and will be available online through April 7, 2023, and NMFS expects to complete final BiOps for both longline fisheries in May 2023.

The DSLL BiOp considered the effects of the fishery on the green sea turtle, loggerhead sea turtle, olive ridley sea turtle, leatherback sea turtle, giant manta ray, Indo-West Pacific scalloped hammerhead shark, oceanic whitetip shark (OWT), sperm whale and the MHI insular FKW. NMFS concluded the DSLL fishery is not expected to appreciably reduce the likelihood of survival and recovery of the ESA-listed species. The draft BiOp includes an incidental take statement (ITS) expressed in interactions anticipated to occur over any five consecutive year period, and exceeding the ITS would trigger a reinitiation of the BiOp. The draft DSLL BiOp includes Reasonable and Prudent Measures (RPMs) that require NMFS to 1) release incidentally caught ESA-listed species from fishing gear in a manner that minimizes injury and increases post-release survivorship; and 2) ensure that the fisheries have monitoring and reporting programs sufficient to confirm the take is not exceeded. Terms and Conditions (T&Cs) for the RPMs include minimizing trailing gear, crew training, maintaining observer coverage at reliable levels, improving length estimates of leatherback sea turtles and requiring that all DSLL vessels that fish within the overlap area with the MHI insular FKW are observed. The overlap area has had low effort, but there have been no observed trips within the area, thus the assessment of impacts is based on estimated interactions from the amount of effort. Thus, the intent of the T&Cs for the overlap area is to gather better information, while also ensuring the observer coverage in the areas outside the overlap zone is also maintained.

The ASLL BiOp considered the effects of the fishery on the green sea turtle, olive ridley sea turtle, hawksbill sea turtle, leatherback sea turtle, Indo-west Pacific scalloped hammerhead sharks, OTWs and giant manta rays. NMFS also concluded no-jeopardy for this fishery, and included five-year ITSs. RPMs for this fishery are similar to those included in the DSLL draft BiOp, with the exception of the MHI insular FKW because the species does not occur where the ASLL fishery operates.

Dueñas expressed his concern that the BiOp continues to find ways to suffocate the fishery by promoting certain aspects, noting that he did not hear any information in the presentation about the status of the species of concern. He expressed concern with requiring observers in the overlap area, which would require vessels to declare where they will be fishing before they leave port. He also said longline fishermen are always blamed and more closures required of them when more than 300 turtles may be dying in a year in the Baja Peninsula. He also expressed concern with the lack of FKW tagging data to determine its full range. He asked NMFS to be honest with the fishing community as to what the mortality rate is and how many have died, noting that mortality is based on estimates. He also said at the recent Council member

training, NMFS said the BiOps should include conservation measures, but those have not been included in the BiOps for the region's longline fisheries.

Snover said the presentation was intended to be high level and focused on the RPMs, and that the full BiOp takes into account information on the species status, threats and mortalities.

Dang said the Hawai'i longline fleet recognizes the hard work NMFS did to conduct a comprehensive analysis and incorporate PIFSC's rigorous modeling and empirical analysis. He said the Hawaii Longline Association (HLA) and the fleet support the draft BiOp's non-jeopardy determination. No other longline fleet in the Pacific has to undergo such in-depth evaluation of impacts on protected species, including being subject to high levels of monitoring and required mitigation measures. This high level of fleet monitoring over decades allows NMFS to have a statistically strong understanding of the impact on ESA-listed species, many of which face much greater impacts from foreign fisheries and in the coastal habitats thousands of miles away from Hawai'i. He said HLA supports the RPM for crew training, and noted HLA is currently collaborating on a proposal to fund a crew training program. Dang said HLA does not support the RPM for observer coverage in the overlap area, noting the requirement would likely create a de facto closed area. He was also concerned the additional observer requirement could compound issues with observer coverage rates, considering that PIRO is already experiencing difficulty maintaining the 20% observer coverage rate with a tight budget and limited resources.

Dueñas said areas where the leatherback turtles come from in the Western Pacific consume turtle eggs, and Japan also has longline vessels along its coasts. The Council established conservation efforts in those areas 15 or 20 years ago, and Dueñas said those turtles should be pretty big by now and may be reproducing. He said if the longline fishermen are going to be told to stay out of all the PRIA, then they should receive some credit when their impacts are evaluated to level the playing field. He said he is glad to see the no-jeopardy conclusion.

Rice said he agrees with Dang on the observer requirement in the overlap area, noting that fishermen would have to declare before they go to that area, and if they do not have an observer, it would become a de facto closed area. He asked how the RPM would be implemented.

Jarad Makaiau, PIRO Sustainable Fisheries Division (SFD), said figuring out how SFD could effectively comply with the RPM is a complicated operational process. Existing protocols for observer placement involves statistical algorithms to ensure observers are deployed in a manner that provides comprehensive coverage at 20%. He said it is important to recognize that deploying observers requires statistical rigor to ensure data collected is representative of the fleet in its entirety. He deferred to PIFSC staff to explain how the current sampling works and what it would have to work through to ensure it can collect information from the overlap area in a way that would not compromise the overall integrity of the data collection system.

Simonds said in the past, when the Council asked what level of observer coverage is needed to manage the fishery, PIFSC staff said coverage over 20% would not add much to the data. She asked who will determine how to cover the overlap area, noting that in the past only one PIFSC staff was available to do these types of analyses and it would take time to complete.

Jones, PIFSC, said in order to maintain 20% observer coverage in the DSLI fishery while maintaining 100% coverage in the Hawai'i SSLI fishery, NMFS has to have observers

who are available any time a SSL fisherman declares he is departing for a trip. Based on a sampling design called SYSPLUS, DSLL trips are randomly selected to maintain 15% observer coverage, and an additional 5% coverage is placed manually when observers are available to reach the 20% coverage each year. In terms of implementing the RPM for the overlap area, if the part about maintaining observer coverage elsewhere can be ignored, then there would likely be a realized reduction of observer coverage outside of the triangle. The overlap area could be considered similar to a third fishery sector if the vessels need to declare to fish inside the area, and the coverage rate outside the overlap area would drop if the amount of available observers remained the same. The extent of the coverage reduction would depend on how many trips there would be in the overlap area in a year, and an increase in available observers will likely be needed in treating the overlap area similar to how the SSL fishery is treated. Jones said the point of the observer coverage is to understand nontarget species and protected species interactions, and random sampling is important to have good estimates of total protected species interactions spatially and temporally, as well as for future predictions. Regarding Simonds's question, Jones said PIFSC has been conducting studies on observer coverage in collaboration with PIRO, which shows that the relationship of observer coverage and confidence in the protected species estimates are a little more linear than previously thought. With more observer coverage, there is reduced uncertainty with the estimations.

Makaiau said one factor to consider is the possibility that vessels may not declare to fish inside the overlap area as Dang suggested, in which case no observers would be placed in the overlap area. However, he said it is not a reality PIRO wants to prepare for, noting the cost to increase the number of observers needed to ensure coverage. The agency would want to prepare to put observers in the overlap area if it needs to implement this RPM.

Rice asked if the Council will be part of the decision-making process on how the implementation will be done once the BiOp is completed.

Makaiau said there would be two opportunities for Council involvement. As NMFS considers implementation, it will continue to consult with Council staff members to inform them what NMFS is considering. It would also involve the Council when it comes time for actual implementation of a regulatory change that would require observers to be placed on vessels fishing in the overlap area. If regulatory changes are involved, Makaiau said it is the agency's preference to give the Council the opportunity to provide recommendations.

Rice said he wanted to make it clear the Council will be part of the process. He also said the DSLL has 20% observer coverage when the rest of the Pacific has less than 5% coverage. He said more social science is needed to understand what is happening with the fishermen because of all of the new regulations that are coming up.

Dueñas asked if video monitoring could be an option in lieu of an observer for vessels interested in fishing in the overlap area, noting that the technology is available and should be embraced in this instance.

Simonds said the Council started working on EM 10 years ago and it has taken time for implementation, but the hope is to use a combination of observers and EM.

Jones said there is a pilot EM study that has about 40 vessels participating in the Hawai'i longline fishery. The pilot studies showed approximately 99% accuracy on identifying fish

discards, and additional work is ongoing to develop the artificial intelligence capabilities to detect certain interactions so those instances can be verified by a human reviewer. Automation and machine learning will likely get to the point where detection and species identification will all be done through EM. There will always be a need for human observers for collecting samples, but the future is EM augmenting human observers and eventually EM being the primary. NMFS also has an EM Implementation Plan in development for the region, which will move the region forward.

Simonds asked if NMFS will estimate the reliable observer coverage for the overlap area.

Makaiau said while he was uncertain about timing, PIRO has already been discussing the issue with PIFSC on how to tackle the coverage.

Simonds said the estimation of observer coverage has been done by one PIFSC staff, and asked if anything has changed in terms of the ability to complete these types of analyses in a timely manner.

Jones said there have been improvements with two full time staff, Marti McCracken and Brett Cooper, now working on those types of analyses. Through an initiative of the Protected Species Tool Kit, PIFSC has been automating the estimation process so that once the data are frozen for the year, the estimation can happen within one to two weeks. Rob Ahrens has also been looking at observer coverage and impacts to the uncertainty around estimations and predictions based on observer coverage. He agreed that in the past it did take a while for PIFSC to generate those estimates, but it has made great advances.

Simonds asked what the observers do to estimate the length of leatherback turtles.

Makaiau said observers take photographs because the leatherbacks are usually too large to bring on board. The handling and release guidelines instruct crew to bring the animal as close to the vessel as possible so that the dehooking devices and other tools can be utilized to remove as much trailing gear as possible. Observers are instructed to estimate leatherback length to the nearest foot, but additional tools with laser pointers could help if observers are getting closer to the animal. He noted that it can be risky to try to bring animals close because of flyback concerns.

Jones said the importance of collecting data on the length of leatherback turtles has been recognized for some time because of the importance in population assessments. There have been proposals to develop cameras with lasers, but that technology does not allow length estimation if there is any angle when measuring. New technology through artificial intelligence and EM may be able to handle species identification and length estimates. He said NMFS is looking into getting a better handle on estimating animals that are not boarded on the vessel.

Simonds suggested that for placing observers in the overlap area, if a vessel does not declare fishing inside the overlap area but does so while out at sea, request assistance from the DOD or USCG to drop an observer on the vessel with a helicopter.

Makaiau said he welcomes the idea.

Rice said the SSC has recommended putting satellite tags on FKWs, which would help with understanding how many animals are in the area or how many utilize that overlap area.

Jones said while there has not been an observed interaction in the overlap area, there is 20% observer coverage in the DSLL fishery and effort is low in the area. He also noted that while there has not been a tag placed on an animal that has interacted with the fishery, information exists for movement of the insular population of FKWs.

2. Advisory Group Review of Draft Biological Opinions

Asuka Ishizaki, Council staff, provided an overview of the review process for the draft DSLL and ASLL BiOps, which the Council received from NMFS the week before the SSC meeting, March 8 and 9, 2023, respectively. The Council was provided the opportunity to review these drafts in accordance with the ESA-MSA Integration Agreement between the Council and PIRO, and following a number of requests that the Council had made over the past several years. The SSC reviewed the draft BiOps during its meeting held March 14 to 16, 2023, and the American Samoa AP, Hawai'i AP and the FIAC jointly met March 16, 2023, to review the drafts.

Clay Tam, AP Chair, presented the Joint AP-FIAC review of the draft BiOps. The Joint AP-FIAC expressed general support for the RPMs, but noted concerns on the potential burden to require observer coverage in the insular FKW overlap area due to the small number of trips and the uncertainty of whether the fishermen would fish in that area. Fishermen often do not end up fishing where they intended because of weather conditions, fish not biting or receiving information that fish are biting in another area. The Joint AP-FIAC also emphasized the importance of prioritizing crew safety in implementing handling requirements and ensuring flexibility for determining fishing location. The Joint AP-FIAC noted apparent data gaps with the insular FKW information in terms of survey coverage and potential effects from climate change. Tam presented the following Joint AP-FIAC recommendation:

Regarding the review of draft ASLL and Hawai'i DSLL fishery BiOps, the Joint AP-FIAC generally supported the RPMs, and recommended priority placed on the "maximum extent possible" for all applicable RPMs that may affect vessel operations and crew safety. The Joint AP-FIAC expressed concern about the potential burden to require observer coverage in the insular FKW overlap area, and recommended the potential impacts to vessel operations be considered.

Villagomez, SSC member, presented the SSC review of the draft BiOps. As part of its review of the draft BiOps, the SSC received a presentation on the updated assessment of population-level impacts of leatherback turtle interactions in Hawai'i DSLL fishery. The SSC commended the work done by the modeling team, and noted the team has done the best job possible considering the data available. The SSC determined that this analysis represents the best scientific information available (BSIA) for evaluating population-level effects on leatherback turtles from the Hawai'i DSLL fishery.

The SSC formed a working group to provide a detailed review of the draft DSLL and ASLL BiOps. The SSC adopted the working group report and supported its finding that the no-jeopardy conclusions are adequately supported by the information presented in the draft BiOps.

The SSC recommended that the Council consider the findings of the SSC working group report in its response to the draft BiOps for the Hawai‘i DSLL fishery and the ASLL fishery.

The SSC working group noted the draft BiOps reflect years of discussion and coordination between the Council and NMFS. The BiOps have been under development for more than four years. During that time, the SSC has commented extensively on the use of statistical models to determine the conservation status of listed turtle species. The working group noted the BiOps are sufficiently consistent with SSC comments provided in the past regarding interpretation of model results. The population models indicate that take in these fisheries has no discernable difference between the trends for the no-take and take scenarios for the leatherback and loggerhead turtle population projections. The working group determined the draft BiOps use the best available scientific and commercial data to assess the effects of the fisheries on ESA-listed species. The working group also concluded the no-jeopardy conclusions for ESA-listed species are well supported by the scientific information contained in the draft BiOps. The working group further concluded the RPMs and T&Cs contained in the draft BiOps are adequately supported by the best available scientific and commercial data. The working group noted that the conservation recommendations, while broad, should contribute to species conservation. The working group encouraged NMFS initiatives to support quicker reporting of fishery interaction data to facilitate timely reporting requirements in RPM T&C 2.c.

With respect to RPM T&Cs 2.b.i regarding observer coverage for the “overlap area” for insular FKWs, the working group believed that the risk of insular FKW interactions with the DSLL fishery is likely low in the overlap area (additional details of which is provided in the working group report). The working group therefore recommended RPM T&Cs 2.b.i include a provision to reevaluate the risk of insular FKW fishery interaction in the overlap area using updated satellite tagging data to determine whether mandatory observer coverage is warranted in the overlap area.

In addition to the SSC working group’s recommendations, the SSC requested NMFS provide an overlay map of the area including satellite tracking data and the “overlap” area to better understand the amount of habitat usage that occurs in the area.

C. Endangered Species Act and Marine Mammal Protection Act Updates

Lance Smith, NMFS PIRO, provided the ESA updates. In 2022, an internal NMFS working group had been developing a draft recovery plan for the three listed distinct population segments (DPSs) of humpback whales in U.S. waters; the Western North Pacific DPS, Central America DPS and Mexico DPS. NMFS expects to go out for public comment on the draft recovery plan in 2023.

NMFS recently completed a draft status review report for seven species of giant clams, for which it received an ESA listing petition in 2016. The draft status review report and the 12-month finding to determine whether any of the seven species should be proposed for listing are under internal review.

1. Overview of Endangered Species Act Critical Habitat Designations

Smith provided a general overview of critical habitat designations under the ESA. The ESA requires critical habitat to be designated for listed species occurring within the United States, as long as it is both “prudent” and “determinable.” Critical habitat is designated by two federal agencies, NMFS and USFWS. ESA defines critical habitat as specific areas within the geographical area occupied by the species at the time of listing that contain physical or biological features essential to conservation of the species and that may require special management considerations or protection. The ESA statutory definition of critical habitat also includes specific areas not occupied by the species at the time of listing that are essential for its conservation. The essential features depend on the species, and can include a combination of terrestrial, freshwater and marine areas. Critical habitat is not limited to optimal or ideal habitat, often broad across a species’ range and can include areas outside the current range. An example of designated critical habitat in the region is the HMS, and includes beaches for pupping and nursing, shorelines for hauling out and marine areas for foraging. Critical habitat does not establish a closed area, marine protected area, refuge, wilderness reserve, preservation, or other conservation area; does not affect land ownership; and does not affect public access.

Critical habitat designations are limited to areas within the United States, including the EEZ. ESA specifies that NMFS and USFWS propose critical habitat at the time the species is listed, or if more information is needed, then within a year of listing. However, meeting these statutory deadlines is challenging because critical habitat designation is complex and includes special requirements like economic and national security analyses. ESA requires the designation of critical habitat to protect the habitat needed to support recovery of listed species from destruction or adverse modification by federal actions, and to raise awareness of the habitat needs of imperiled species and focus efforts of conservation partners.

In terms of the process for designating critical habitat, NMFS and/or USFWS publish a proposed rule in the *Federal Register* and solicit public comments on the proposed rule, which may include one or more public hearings. NMFS and/or USFWS then consider the information provided in the public comments and any new information to formulate the final rule. If economic and national security impacts outweigh the conservation benefits, those areas can be excluded from the designation.

Critical habitat helps listed species by requiring federal agencies to consult with NMFS and/or USFWS on any activity that may affect critical habitat to ensure that their activities are not likely to destroy or adversely modify the critical habitat. Activities that are authorized, funded or carried out by federal agencies are federal actions for the purpose of these consultations. Generally, federal actions proceed without modifications, because the listing of the species under the ESA itself provides protection, and because federal agencies work with NMFS and USFWS through technical assistance before official consultation to discuss how future actions could be designed in ways to reduce or avoid impacts to critical habitat. However, in some cases, modifications of federal actions due to critical habitat may be required. Nonfederal entities, including state and territorial agencies, would only be affected by critical habitat if their projects involve federal funding or permitting. NMFS recognizes that many actions by state and territorial governments often do involve federal funding or permitting, but most actions by private landowners do not.

Sakoda asked if critical habitat could be designated beyond its historical range, such as in a situation in which a coral species could live in Hawai‘i but has not been established there in the past.

Smith said it is a possibility, noting that he did not think there has been such a case to date. The part of the critical habitat designation regarding unoccupied area at the time of listing would typically refer to historical habitat that has been lost. Areas beyond historical could be included if they meet that part of the definition. For example, if new habitat that is beyond historical habitat is likely to become suitable because of climate change or other reason, and that habitat is essential for the conservation of the species, then that area could be included.

2. Coral and Green Turtle Critical Habitat Rulemaking Update

Smith provided an update of coral and green turtle critical habitat designation. For the coral critical habitat designation, NMFS compiled comprehensive records of listed corals throughout the region in coordination with the territorial governments and USFWS. NMFS is currently revising the proposed rule based on the new information, and will either publish a final rule or withdraw the 2020 proposed rule and publish a new proposed rule followed by another public comment period. Smith noted that the public comments have been important for the coral critical habitat process and expressed appreciation for the amount of effort that the territorial governments, the Council and USFWS put into providing constructive feedback on the proposed rule.

For the green sea turtle critical habitat designation, NMFS is developing a draft proposed rule with the USFWS, and have been working with the territory and state agencies to collect turtle data relevant to the designation. NMFS and FWS plan to submit the draft proposed rule to the *Federal Register* by June 30, 2023, and are planning in-person hearings throughout the region during the public comment period for the proposed rule.

Guthertz asked what NMFS’s thinking is at this time on the green turtle critical habitat designation, based on the input received from local agencies to date.

Smith said NMFS and USFWS have been collecting the turtle nesting and foraging information from the local agencies, and the information is being used to map out proposed critical habitat. He is not allowed to provide details at this time, but assured Council members that NMFS is using all of the information collected.

Guthertz said she hopes that the sensitivity of the matter will be respected, and hopes NMFS and USFWS also take into consideration how important this matter is in terms of the cultural traditions and practices in the islands.

Muña asked whether there is a time frame on when a choice will be made between the two potential next steps for coral critical habitat.

Smith said there is not an exact timeline. NMFS is well beyond the statutory deadline for designating critical habitat, which normally does not mean much in terms of projecting when a rule would be published unless NMFS is litigated. Smith said NMFS was litigated today on coral critical habitat, so that is expected to press the agency into a settlement agreement in the near future that would establish a deadline for publishing the proposed rule. He said he is not able to

answer the question about a timeline until a settlement agreement is signed. However, NMFS has been working on the next steps and an internal review on the draft rule is in progress.

Dueñas said he was taken aback by the concern for giant clams, noting that they have long life spans and in many places around the world farm-raised clams are being introduced into their waters. He said ESA is like a gillnet in that it seems to capture everything but does not provide practicality in its application. He also expressed concern for critical habitat, and wondered if the experts who determines critical habitat know anything about the islands.

Muña asked where in the process NMFS is in establishing critical habitat for giant clams.

Smith said the current process is an ongoing status review in response to a listing petition, so NMFS has not gotten to the critical habitat stage for giant clams. NMFS is still deciding whether any of the petitioned species should be considered for listing. At the 90-day finding stage, NMFS found that three of the petitioned species, which included *Tridacna maxima* that is mainly used for aquaculture, did not have information in the petition that supported a listing.

Soliai asked if a draft would be available for review prior to the green sea turtle critical habitat proposed rule that is due in June.

Smith said NMFS is required to send the proposed rule to the *Federal Register* by June 30, 2023, based on a settlement agreement, and that NMFS will work with DMWR to organize a briefing before the actual publication.

Gourley said *Acropora globiceps*, one of the species under consideration for coral critical habitat, occurs in the Mariana Archipelago but it is at the extreme northern extent of the range and the bulk of the range is in Indonesia. When considering what can be done for the conservation of the species, what is done in the Mariana Archipelago would not matter much as critical habitat is limited to U.S. waters. He asked if an argument could be made that critical habitat would not be prudent for this particular species in the Mariana Archipelago.

Smith said the question could be asked whether it would be prudent because the Mariana Archipelago is a small portion of the species' range. In considering that question, NMFS looks at all U.S. waters combined, and in the case of *A. globiceps*, NMFS decided it was prudent because it occurs on multiple archipelagos across U.S. waters. However, even if the species was found only on one archipelago in U.S. waters, the question about prudence would not be straightforward, because how small a portion of a range would not matter for conservation is a subjective call. NMFS has determined critical habitat to be not prudent for other species like scalloped hammerhead sharks and the chambered nautilus because U.S. waters provide too little of a potential conservation benefit.

Gourley said it is interesting that there is a potential for the federal action to be modified to not adversely affect critical habitat, because modifying an action would basically change the project description. He also noted that there was no mention of compensatory mitigation in the context of modifying the federal action. In the past, USFWS told the CNMI that cutting down one coconut tree in Rota constituted an adverse action to the Mariana crow critical habitat, which resulted in the project being withdrawn. Gourley asked what the threshold is for adverse effect on coral critical habitat, noting examples like dredging and piling for a pier. He said these are issues that need to be worked out before critical habitat is designated. He also asked if NMFS

allows compensatory mitigation for critical habitat or whether the project has to be modified so there is no impact.

Smith said NMFS does not often see actions that could adversely modify or destroy critical habitat, but if there were such cases, NMFS would have to figure out how to minimize or avoid those adverse modifications or destruction of critical habitat. Whether compensatory mitigation is allowed would depend on the action, but it could be considered. Smith pointed out that it has been eight years since the HMS critical habitat was designated in Hawai‘i, and five years since the insular FKW critical habitat was designated, and there has not been one single project or federal action that was determined to destroy or adversely modify critical habitat.

Malloy said she appreciates that CNMI has had experience in other context with critical habitat and has questions about how it would work for NMFS. In response to the feedback heard at the last Council meeting, NMFS is reaching out to the territorial and commonwealth agencies for specific briefings to discuss specific circumstances with respect to critical habitat issues. She said these issues may not need to be resolved on the Council floor at this time because those briefings have been set up in advance of the rules to talk about the details, recognizing the complexity of the issue and the history. Malloy offered to Gourley and the territory agency staff to discuss more later.

Gourley said is why the territories took the approach of putting a 1,000-foot buffer around all infrastructures so that it would alleviate problems that could crop up when infrastructure repairs are needed in the future. He said it was good to hear that NMFS is reaching out to the territorial agencies, noting the need for meaningful communication before the proposed rule is issued and recognizing that NMFS has certain guidelines to follow once the proposed rule is published. Gourley also noted issues with USFWS, noting a letter from USFWS that said it cannot talk to the territories before the proposed rule. He recalled discussions from a prior Council meeting that there was no statutory prohibition against a federal agency entering into meaningful conversation with territorial governments prior to a proposed rule.

Malloy said what NMFS can talk to the territory governments about is a general overview of critical habitat, how it could apply in a variety of circumstances and the historical impacts on various projects. What NMFS cannot do is share information on the designation, and that has been clarified for the agency. She said NMFS will do everything it can to talk about the context, and provide briefings immediately after the publication of the rule to walk through the document and make sure everyone is clear on what it looks like and why.

Sheffield said the agency should be engaged in open conversation with the state and territorial agencies, but there are certain sensitivities around disclosing a draft document before it is released to the public and to outside of the federal government even if it is only intended for a narrow audience. That would waive the deliberative process privilege that trails the document, and releasing the draft to the territorial agencies could potentially release it to the public.

Gourley said engagement should happen before the draft document is developed, at the data collection phase. USFWS sent out an email asking for information about green sea turtle habitat be sent to them, and later said in its letter to the Council that it coordinated with the territories by sending an email but nobody responded to the agency. He said engagement needs to be done better, through face-to-face engagement that allows for discussion of the issues.

Sakoda asked if federal rulemaking is considered a federal action that triggers consultation, such as the USCG making ballast water rules.

Malloy said it is possible. Waste water discharge from a variety of sources into navigable waters would require a National Pollutant Discharge Elimination System permit, so that would be subject to consultations.

Tucher asked if the question is whether the rulemaking process itself, under the Administrative Procedures Act, requires consultation in advance of the issuance of the rule.

Sakoda said not the rulemaking itself, but the final promulgation of the rule.

Tucher said it will depend on the statutory requirements. For example, under the ESA, NMFS has certain obligations to consult with states and territories on particular matters that arise during the rulemaking. If there is another substantive statute that imposes that obligation of consultation, such as in the case of ballast water management, then the federal action agency would follow that requirement. However, there is no requirement under the Administrative Procedures Act to consult with an affected state or territorial government, and the consultation would need to occur under the substantive statute that is being implemented.

Muña said the Vessel Incidental Discharge Act laid out that state and territories could not impose any laws that are stricter than the current discharge policies or procedures, and wondered if establishing critical habitat would conflict with that.

Dueñas said the federal rules and regulations are affecting people on the shoreline, noting the example of the permitting process for the new GFCA building in which the cost of construction has increased in the time that it has taken to go through the permitting process. He also called for greater transparency to be afforded to the Council to be invited into interjurisdictional discussions so that the information can be front-loaded, noting that this is the first meeting at which he has heard about the giant clam issue.

Malloy said this is exactly the kind of conversation she was hoping PIRO could have with the territorial governments, which is why it scheduled one-on-one meetings. She asked Muña, Sakoda, Igisomar and Soliai to reach out to her or other PIRO staff to set up the meetings and start the conversation. Regarding giant clams, Malloy said she wants to make sure PIRO takes the responsibility for coming a little late to this game, noting that this was an issue that was initiated with a listing petition in 2017. There was a gap between that petition and the next steps, and the new PIRO leadership is playing catch up. She promised to be as transparent as possible as soon as they can, and this topic will be brought back to future meetings.

Peck said USFWS is committed to outreach communication for the green sea turtle critical habitat. He also said he thinks some of Gourley's comments were selective, noting the letter from USFWS to the Council laid out the consultation history and noted no rely to emails, but also that there has been in-person or virtual contact. Peck said USFWS will continue to reach out to the state and territorial agencies.

3. Draft Recovery Plan for Oceanic Whitetip Shark

Kristen Koyama, NMFS Office of Protected Resources, presented an update on the status and next steps in the recovery planning process for the OWT. NMFS published the draft Recovery Plan Jan. 25, 2023, and had a public comment period through March 27, 2023.

ESA envisions the recovery plans as the central organizing tool guiding progress to recovery. The recovery plans are not regulatory, and are guidance documents with no obligation or requirement that the actions identified in the plans must be implemented. Recovery plans are nonetheless critically important to a successful recovery program, and must contain objectives and measurable criteria, recovery actions, and an estimate of time and cost needed to implement the actions. Recovery plans encourage partners that have the authority and funding to implement recovery actions and to guide the development of mitigation strategies to be used in other permitting and consultation processes under the ESA.

The draft recovery plan for the OWT is accompanied by two supporting documents, the Recovery Status Review and the Draft Recovery Implementation Strategy. The draft recovery plan was informed by two expert workshops convened in 2019, one of which was in Honolulu with a focus on Pacific populations of OWTs. Following the workshops, a small team of NMFS staff took the input from the workshop and further synthesized it to develop the draft recovery plan. NMFS is seeking comments on the proposed objectives, criteria and recovery actions, and the estimated time and cost of actions. Once the public comment period closes, NMFS will review all comments and incorporate them into a final recovery plan, as appropriate.

OWT is listed globally, and the draft recovery plan identifies management units as a tool for subdividing the population in a manner that is useful for management purposes. Four management units were identified for OWT based on RFMO boundaries.

The draft recovery plan outlines three primary objectives to achieve viable populations across the species range by increasing population abundance, showing resilience of the species by managing or eliminating threats and ensuring long-term viability of the species through the development and effective implementation of regulatory mechanisms. The recovery criteria include one demographic criterion with four different alternatives for determining when the species has not met that criterion to address significant declines in abundance and population trends. It also has six threats-based criteria to address the major threats of overfishing, international trade in shark fins and inadequate regulatory mechanisms. Recovery actions include three research-related actions to fill large information gaps about the species, inform progress toward meeting the demographic recovery criteria, and inform management approaches; two recovery actions to address fisheries interactions both domestically and internationally; one recovery action to address international trade on shark fins; one recovery action focused on monitoring and reporting; one recovery action to address inadequate regulatory mechanisms; one recovery action aimed at outreach and education; and two other recovery actions to identify and evaluate other stressors and to develop a post-delisting monitoring plan. Each of the recovery actions are accompanied by specific activities in the Recovery Implementation Strategy document. The draft recovery plan estimates the time to recovery as approximately 62 years, which is rounded to 70 years to account for uncertainty, and an estimated cost for recovery over the course of the entire recovery plan as \$110,035,000.

Ishizaki provided an overview of the comments included in the draft Council letter in response to the draft recovery plan, based on staff and SSC review. She noted the SSC

recommendations on this matter would be presented under the SSC report section of the agenda. In the draft recovery plan, NMFS identifies partners for specific recovery actions, but the Council was not specifically identified as a partner. One of the comments in the draft letter therefore requests NMFS to identify the Council explicitly as a partner for activities that involve U.S. fisheries in the region. The second comment relates to the threat assessment table in the draft recovery plan, in which the commercial longline fishery bycatch in the Western and Central Pacific management unit is rated high, compared to all other regions that were rated as medium high. The justification for the difference in threat rating was not clear, but staff review indicated NMFS may have misinterpreted the last population projection that accounted for nonretention and other conservation measures adopted by WCPFC, and thus a re-evaluation of the threat is warranted. The third comment requests NMFS separately evaluate the threats from U.S. and international fisheries so that recovery actions may be appropriately prioritized between domestic and international issues, recognizing that U.S. fisheries in the region have a small relative impact on the OWT. Ishizaki requested the Council's review and approval of the draft letter.

Rice asked if the Hawai'i longline fishery's use of monofilament leaders is considered as part of the draft recovery plan.

Ishizaki said it was mentioned in the draft recovery plan, and deferred details to Koyama.

Koyama said she would need to go back and review all of the factors that went into that, and the Office of Protected Resources will look at the specific issues identified in the Council's comments once it receives the letter.

Soliai asked how the threat assessment was done that resulted in this region's fishery threat being rated higher than others.

Koyama said the recovery status review document includes a description of the definition of each of the terms and how they were determined. NMFS looked at the geographic extent of the threat, likelihood of occurrence, and severity of the threat, and those factors were combined to come up with a threat score. NMFS consulted with experts to develop those assessments. She said the office will revisit the threat assessment when it receives the Council's comments.

Rice asked if most of the data used in the assessment comes from the Hawai'i fleet, considering that the fleet has the largest observer coverage.

Koyama said one of the reasons the species was divided into management units is to account for the different availability of data from the regions. While NMFS would consider the data from the Hawai'i fleet, it would not use it to develop a general assessment for the population across its range.

Soliai expressed concern that most of the data for the region is coming from the U.S. fleets and said the most prudent way to conduct an assessment would be to have an independent assessor.

Chelsey Young, PIRO PRD, said the information about the Hawai'i longline fleet switching to monofilament leaders was available toward the end of the assessment period and was incorporated. The threats assessment applies to the entire range of the Western and Central

Pacific, and NMFS relied heavily on the 2019 stock assessment. The reason the threat was ranked slightly higher than some of the other regions is because of the information that longline fleet in particular was having the largest impact on the species. In other regions, like the Atlantic, the U.S. Atlantic pelagic longline fleet does not catch the species frequently because it fishes farther north than the species range, but that information had to be balanced with impacts from the longline fleets in South America, which resulted in a medium high threat rating. NMFS was trying to figure out where it would need to prioritize and were having the most impact on the species. One thing that was not considered and NMFS will incorporate later is the recent adoption of the WCPFC conservation measure that bans both wire leaders and shark lines, which may lower the threat rating.

Rice said he wants to make sure that there is no prejudice against the Hawai‘i longline fleet, noting that by nature of the available data, more captures would be recorded than other fleets.

Young agreed with Rice, and said is the reason a lot of the recovery actions prioritize on international coordination because PIRO recognizes that the U.S. fleets represent a small portion of the range and a relatively smaller impact to the species.

Dueñas expressed his concern that the impacts are not considered on a Pacific-wide approach and have not considered the measures that have been put in place, noting potential impacts from fish aggregating devices (FADs) throughout the Pacific Islands. He expressed concern that a lot of money is being spent on developing the draft recovery plan rather than exporting the technologies as it was done through the International Fishers Forums hosted by the Council. He also said what happens in Hawai‘i is not the same in the Mariana Archipelago, and if longline fishing ever develops in the region, wire leaders will be needed to prevent gear loss from wahoo. He said in the Pacific, one has to be careful in mandating measures that are not conducive to the communities’ ability to harvest their resources.

D. Review of Potential Measures for the False Killer Whale Take Reduction Plan Modifications

Ishizaki provided an overview and status of the FKWTRT process, noting that the FKWTRT is undergoing a series of meetings to provide recommendations to modify the Take Reduction Plan (TRP) implemented under the MMPA in 2012. Since the November 2022 FKWTRT meeting, a series of work team meetings have occurred, and the team will reconvene March 28-31, 2023. The FKWTRT operates on consensus, but if the team cannot agree to a consensus plan, MMPA allows for minority reports. In advance of the November 2022 FKWTRT meeting, the Council at its September 2022 meeting identified its positions on the potential adoption of weaker hooks and other priorities. For the current meeting, the Council was asked to consider the latest information and consider updating its position statement to provide direction to staff representing the Council on the FKWTRT.

Elena Duke, PIRO PRD, provided an overview of the work team discussions that occurred between December 2022 and February 2023. Five work teams were convened on deterrents, gear modification and handling, EM, Southern Exclusion Zone (SEZ) and the shortline fishery. The deterrents work team canvassed researchers for any emerging methods or gears, which did not generate new ideas, but identified interest in looking at the effect of discards

on depredation and prioritizing vessel acoustics to figure out what may be attracting FKWs. The gear and handling work team considered the potential modification of handling to incorporate the use of a fighting line device as well as other gear modifications to reduce MSI. The EM work team drafted high-level EM program objectives for collecting FKW information, which was done in coordination with the Council's Electronic Technology Steering Committee. The SEZ work team considered the purpose and consequences of the zone, as well as potential changes or alternatives to the area, but the work team found it difficult to discuss the issues without discussing other elements in the TRP. The shortline fishery work team reviewed the State of Hawai'i's data on the fishery and discussed whether there is a need to include the fishery within the TRP scope. Emerging research priorities identified through the work team discussions included research on attractants in terms of vessel sound or lights, identification of individuals that depredate frequently, and artificial bait or development of metal repellent.

Ishizaki presented additional considerations for the Council regarding the work team discussions. The fighting line device was identified by industry representatives as a potential for increasing the success in straightening the hook, and also addresses the safety issues associated with flyback. Based on past observer data, approximately 70% of FKW interactions had conditions where the fighting line device could have been used, and if 50% of those cases resulted in the hook straightening, the proportion of serious injury reduced would be approximately 35%. Council staff asked PIRO to run a comprehensive quantification of the potential benefits of using the fighting line device. Regarding the EM work team discussions, the objectives developed by that work team is intended to fit into the broader effort now underway through the Council process. Regarding the SEZ, one alternative approach to the trigger would be to consider a cumulative tracking rather than the trigger resetting on an annual basis. Regarding the shortline fishery, the Council has on several occasions considered whether the fishery should be federally managed, but each time has decided against it due to the small scale of the fishery. Additional considerations include the new EEZ-wide survey that will be conducted later in 2023 that is expected to generate new abundance estimates two years after the survey, as well as a new pelagic stock abundance that includes the high seas that was presented to the TRT the previous week. Previously, the potential biological removal inside the EEZ around Hawai'i was estimated at 16, with the MSI for that area estimated at 17. The new assessment estimates the potential biological removal for the area inside and outside the EEZ at 33, and the corresponding MSI for that area is 47. This last minute information provided to the FKWTRT is expected to drive much of the discussion at the meeting. Ishizaki noted that assuming a potential 35% reduction in serious injury from the fighting line device could reduce MSI to just below the potential biological removal.

Rice said there needs to be more studies on the post-release revival of FKWs, and that the longline industry should be provided with incentives to bring the animals close to the vessel and release them with the least amount of trailing gear possible to see if they survive. The current assumption is that the animals that are released with gear are going to die, and that assumption is hurting the industry. Crew should be trained so they can handle the animals to get close enough to the vessel, and tags should be deployed on the animals to determine whether the animals survive. He recalled an example of the FKW that stranded with hooks in its stomach but it had died of old age, which provides an example of the animals being able to survive with hooks in their stomachs. Rice asked Ishizaki to explain the maps showing data used in the latest abundance estimate.

Ishizaki said the boundary used for the latest abundance estimate is based on the known biological information on the pelagic stock of FKWs. Additional survey sighting data are available outside of the boundary, in the area east of Johnston Atoll, but that information has been excluded because of the potential that these animals may be part of an Eastern Tropical Pacific stock or another stock that is not the pelagic stock. Excluding those survey sightings results in excluding an area of higher density of FKWs, based on the underlying habitat-based species distribution model. Ishizaki said there are a lot of questions around how the boundary was delineated and what information has been used for it since the information was provided to the FKWTRT in the previous week. The satellite track data for known pelagic animals represent only 10 tags, highlighting the lack of information on the pelagic stock.

Rice said if a FKW is caught in an overlap area, it is not known whether the animal is from the pelagic, insular or the NWHI stock, highlighting the need for additional research. He said scientists should help the longline industry more to find funding for the necessary research and to train the crew so they can handle the animals to bring them close to the vessel.

Dueñas expressed his concern with the boundary selected for the new abundance estimates, and why one was considered the preferred boundary over another. He said the movement of FKWs is dependent on their food source, which is affected by weather. He said he would like to know the membership composition of the FKWTRT. He said he would prefer to see the boundary include a larger area that includes the full extent of the fisheries.

Dang said the industry supports the implementation of the fighting line device designed by a couple of the fishermen on the FKWTRT who have the experience on the water. Straightening the hook by putting tension on the branch lines has been ineffective, and the switch to monofilament leaders has increased the risk of injury to crew. The fighting line device catches onto the weighted swivel and the crew can use a much stronger rope to apply active and dynamic tension to facilitate the hook straightening. It is safer and a more compatible and intuitive response to having a hooked animal on the line. He has always said since the inception of the FKWTRT that crew training and understanding the human component of those involved in the potential release of the animal have the highest potential of improving the situation for all involved, especially the animals. He said the other management ideas such as the SEZ and weaker hooks are not likely to work, noting that the latest hook study suggests that the impact to the industry could be in the range of \$10-12 million in lost catch while not knowing if FKWs are being released with those hooks. Dang asked what prompted the need for a new management area for the abundance estimate.

Duke said it came at the request of NMFS because the fishery operates inside and outside the EEZ and to assess the impacts to FKWs in the broader area that the fishery operates.

Rice asked if there would be a way to see the impacts of foreign vessels, noting that foreign fishing effort surrounds the U.S. EEZ.

Duke said there is a large uncertainty around foreign fishery impacts on FKWs, which NMFS may consider in the future.

Rice said the foreign vessels would continue to fish even when the Hawai'i longline fleet is shut down due to FKW interactions. He asked if Malloy had anything to add to the discussion.

Malloy said no.

Dueñas expressed concern with the determination of whether a FKW is being made by the observer on board, and asked what the observers do to ensure their determination is factual.

Ishizaki said the serious injury determination is not made by the observers, but they collect information that contribute to the determination, such as taking photographs and video, and recording the details of the interaction in terms of how long it was or how much gear was left. The actual serious injury determination is made by a team of PIFSC and other NMFS staff, after which it is reviewed through the Pacific Scientific Review Group.

Dueñas said it is conjecture to make a serious injury determination based on observations, and said more emphasis should be placed in satellite or other tagging system to reinforce the determinations made by the scientists.

Rice agreed with Dueñas and asked that Ishizaki emphasize that point at the FKWTRT meeting.

E. Advisory Group Report and Recommendations

1. Advisory Panel

Tam presented the AP and Joint AP-FIAC reports and recommendations.

Regarding Hawai'i fishery issues, the Hawai'i AP recommended the Council request PIFSC conduct an economic analysis to better understand the economic impacts from the FKW.

Regarding the FKWTRP, the Joint AP-FIAC recommended:

- The FKWTRP measures consider crew safety and compliance issues.
- NMFS provide funding to industry to develop and implement the fighting line device and any new regulatory requirements. Consider a pilot program that would compensate fishermen for their participation to develop new measures.
- Any mandatory EM implementation for the longline fishery to be at no-cost to the industry.

Tam noted the Joint AP-FIAC expressed concern for using EM to evaluate compliance with handling measures, noting that environmental factors (e.g., sea state) may affect crew's ability to follow handling measures but may not be captured on video.

2. Fishing Industry Advisory Committee

There were no FIAC recommendations regarding protected species.

3. Regional Ecosystem Advisory Committee

There were no REAC recommendations regarding protected species.

4. Scientific and Statistical Committee

Villagomez presented the SSC report and recommendations.

Regarding the EBFM Turtle Model Workshop Report, the SSC recommended further application of the Protected Species Ensemble Random Forests model to the Hawai'i DSLL fishery data and continued exploration of alternative machine learning modeling approaches.

Villagomez additionally reported the SSC commended the work done by the team, noting that the model provides a good application to look retrospectively at fishery performance.

Regarding the draft recovery plan for OWT, the SSC recommended the Council consider the following in the response to the draft recovery plan:

- Monitoring the interaction rates is especially important in light of non-retention measures and should be highlighted.
- The basis for recommended recovery targets, especially the quantitative criteria, should be clearly described. In particular a description of how these criteria relate to ESA recovery criteria should be included.
- Delisting criteria 1d should not prescribe any particular model and remove reference to Bayesian State Space model.
- In order to assist agencies in prioritization of OWT research, the activities highlighted as Priority 2 should be assessed with respect to expected impact (e.g. low, medium and high) and likely timeframe to achieve this benefit.

Regarding the review of potential measures for the FKWTRP modifications, the SSC recommended the Council take into account the following considerations in refining its position for the upcoming FKWTRT meeting:

- The use of longline fisheries data to make inference on shortline fisheries should be cautionary.
- The observer program should record the use and outcomes of the fighting line device to allow evaluation of the effectiveness of the device(s) chosen for implementation.
- Incentives are needed to encourage crew to cut the line close to the hook, including consideration of the safety and integrity criteria.

Villagomez reported the SSC noted that weighted branchlines, which is a seabird bycatch mitigation tool, make it difficult to straighten hooks from FKW interactions and reduce trailing fishing gear from species of concern including FKWs, turtles and OWTs. The SSC also noted the lack of distinction in the serious injury criteria for the length of trailing gear or presence of weighted swivel disincentivizes crew attempts to cut the line below the swivel.

F. Public Comment

There was no public comment.

G. Council Discussion and Action

Regarding the EBFM Turtle Model Workshop, the Council **requested NMFS PIFSC explore further application of the Protected Species Ensemble Random Forests model to the Hawai'i DSLL fishery data and continue to explore alternative machine learning modeling approaches.**

Moved by Dueñas; seconded by Rice.
Motion passed.

Regarding the review of the Hawai‘i DSLL and ASLL fisheries draft BiOps, the Council concurred with the no-jeopardy findings for all ESA-listed species in the DSLL and ASLL fisheries BiOps, and finds that the conclusions are well supported by the available scientific and commercial information.

The Council recommended DSLL RPM T&Cs 2.b.i include a provision to reevaluate the risk of insular FKW fishery interaction in the overlap area using updated satellite tagging data to determine whether mandatory observer coverage is warranted in the overlap area. The Council further recommends NMFS consider potential impacts to fishing operations, and the overall integrity of the observer program’s random sampling design and bycatch estimates prior to implementation of this T&C.

The Council requested NMFS to provide a map of the insular FKW “overlap area” in the DSLL with the latest satellite tracking data to better understand the amount of habitat usage that occurs in the area.

The Council requested NMFS PIRO to work with the Council on the implementation process for applicable RPMs once the BiOps are finalized, and to provide an update at the June Council meeting.

The Council directed staff to send comments to NMFS PIRO by April 7, 2023, in response to the review of the draft BiOps, incorporating the recommendations from the AP, FIAC, SSC and the Council.

Malloy clarified that the recommendations referencing insular FKWs pertain only to the DSLL BiOp, whereas the other recommendations pertain to both the DSLL and ASLL BiOps. She said PIRO abstains from the recommendation regarding RPM T&C 2.b.i.

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

Regarding the FKWTRP, the Council endorsed the recommendations from the SSC and the Joint AP-FIAC, and adopted the following positions for the 2023 FKWTRT meeting:

- a. Supports the development and implementation of a fighting line device as a priority measure to improve the success rate of weak hooks.**
- b. Develop appropriate handling guidelines and crew training for the fighting line device that prioritizes crew safety as well as incentives for crew to cut the line close to the hook if hook straightening is not successful in a reasonable amount of time.**
- c. Priority should be placed in conducting research to estimate species-specific post-hooking survival rates.**
- d. Reiterates its previous position that:**

- i. **The Council does not support adoption of weaker hooks under the TRP due to the potential economic impacts and lack of clear conservation benefit.**
- ii. **Priority should be placed on developing strategies for reducing trailing gear and finding solutions to reduce depredation.**
- iii. **SEZ should be considered for removal when the TRP measures are revised, noting the tradeoffs of the closure on other protected species interactions and competition with foreign fishing vessels.**

Malloy said PIRO abstains from this recommendation given that the output from the FKWTRT could come to them for action.

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

Regarding the Draft OWT Recovery Plan, the Council **directed staff to send a comment letter incorporating the SSC recommendations and the following issues:**

- a. **Requests NMFS to identify the Council as a partner in recovery actions related to U.S. fisheries in the region;**
- b. **Requests that NMFS reevaluate the threat level of commercial longline fisheries bycatch in the Western and Central Pacific Management Unit based on the latest scientific information considering the potential benefit of conservation measures; and**
- c. **Requests NMFS to evaluate fishery threats separately for domestic and international fisheries so that recovery actions may be appropriately prioritized.**

Malloy said PIRO abstains from this recommendation because the comment letter would be sent to NMFS Headquarters.

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

Regarding the Pacific Scientific Review Group, the Council **requested NMFS to include a fishery expert from the Pacific Islands region to its membership.**

Dueñas said he appreciates the type of fisheries research done by David Itano throughout the Pacific working with Pacific Island nations, and requested that NMFS include that type of expertise on the FWKTRT or the Pacific Scientific Review Group.

Moved by Guthertz; seconded by Rice.
Motion passed.

X. Hawai'i Archipelago and Pacific Remote Island Areas

A. Moku Pepa

Ramsey reported the bad weather in Hawai‘i provided a good opportunity for fishers to do maintenance on their fishing gear, with wind speeds up to 45 mph compared to a high of 35 mph winds in 2021. He said there were some beautiful days for fishing despite strong winds.

Rice reported the State of Hawai‘i was in the implementation phase of the new non-resident recreational marine fishing license (NRMFL). He said 90% of these licensed will come from the charter industry, and there are concerns with its establishment. One concern includes making sure the DLNR website works in case there is somebody who needs to buy a license at the last minute. The second concern was regarding how the money from these permits will benefit the Honokohau Small Boat Harbor.

Dang reported the Hawai‘i SSSL had great success for the first quarter of 2022. Vessels continue to fish, and he expects those boats will take one or two more trips before the close of the season. Fish production has been strong, and market prices were very good for the most part. There was an over-supply of fish that delayed vessels from getting in and offloading their catch. For the DSLL fishery, the price of ahi continued to fluctuate depending on supply. Overall, production has improved in spite of the bad weather in the beginning of 2023.

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

Bryan Ishida, Hawai‘i Division of Aquatic Resources (DAR) commercial fisheries biologist, presented the State’s report for November 2022 to January 2023. As of the end of the reporting period, 311 commercial marine license (CML) holders made 1,285 trips and caught 127,714 pounds of mixed deep-seven species. For the current fishing year, there were higher reported catch compared to the last four seasons. This may be due to good monthly landings and weather in December 2022. For the current fishing year, opakapaka represents approximately 46% of the deep-seven catch composition and may be returning back to a normal catch composition.

In 2022, there were 19 CML holders who made 53 trips and caught 2,533 pounds of Kona crab. For January 2023, there has been 279 pounds landed. The reported catch for the 2022 fishing year was the lowest in the last five years. A rebound in the catch is not expected until DAR is finished with the rulemaking process to repeal the no-take of females.

In 2022, there were 2,334 CML holders who made 887 trips and landed 52,965 pounds of uku. Uku prices throughout the year remained good, but a part of the reason for less catch than 2021 was likely due to competition with other fisheries. They found that fishers were focusing their efforts on ahi, mahimahi and deep-seven species. For January 2023, there has been 5,494 pounds of uku landed.

In 2022, 3,201 licenses were issued or renewed for total revenue of \$447,000. In January 2023, 265 CMLs were issued and renewed. There is a continuing decrease of total CMLs due to nonlongline CMLs decreasing over time while longline CML increased. In January 2023, 265 CMLs were issued and renewed. One PMNM Conservation and Management Permit was granted in December 2022. The Permit Coordinator’s Group is reviewing three applications to access the monument.

In November 2022, one FAD was reported missing and recovered. Four FADs in December were reported missing and one recovered. In January 2023, one FAD was reported missing.

The aquatic invasive species team and the urchin hatchery reached a milestone of one million out-planted collector urchins into Kaneohe Bay and the Waikiki Marine Life Conservation District. The team assisted NOAA in surveying the grounding site of the M/V *Voge Trader* to track the long-term recovery of the impacted coral reef.

For the 2023 Hawai‘i Legislative session, DAR did not introduce any bills, but multiple aquatics-related bills were reviewed. House Bill 755 would allow DAR to immediately adopt administrative rules that will prevent Stony Coral Tissue Loss Disease, and Senate Bill 432 would allow enforcement to protect State waters after the final Federal Vessel Incidental Discharge Act of 2018.

In April 2023, DAR will be holding scoping meetings to gather input on draft rules for commercial marine dealer licenses, CMLs and the NRMFL. Following these meetings, DAR will initiate the formal public rulemaking process to gather public feedback on the proposed rules.

Regarding the Coronavirus Aid, Relief and Economic Security (CARES) Act, the PSMFC disbursed \$3.6 million in Round 2 CARES Act funding to 240 applicants deemed eligible based on criteria established in the Hawai‘i Round 2 Spend Plan.

Sakoda reported House Bill 755 did not move forward due to some resistance from the shipping industry on any further regulations and its preference to wait until the USCG promulgates rules that regulate the industry nationwide, which would take about three to four years with the risk of Stony Coral Tissue Loss Disease entering its waters. He asked whether USCG regulations may have to go through critical habitat or EFH consultation, and said he would like to discuss with PIRO about how DAR could work through PIRO to ensure its interests are addressed. Regarding Rice’s concerns on the NRMFL brought up during his Moku Pepa, Sakoda said the statute would direct all revenues into the Sport Fish Special Fund that can be used for sport fish management.

Sakoda also reported on the Holomua Marine Initiative. DAR is developing a management plan for its nearshore resources from 0 to 50 meters in depth. The goal is to have healthy nearshore marine ecosystems and abundant nearshore resources for the people of Hawai‘i whether for recreational, subsistence or commercial purposes. In October 2022, DAR held three public talk story sessions with fishers and stakeholders on Maui to develop its management proposal. In February 2023, DAR convened a navigation team to identify the proposed management solutions to address threats to Maui’s resources. The outcome of this process will result in a management proposal that DAR will take through a public scoping and rule-making process. Earlier in the Holomua Marine Initiative, DAR used the name 30x30 and it has moved away from that to have the full suite of management tools available for what the stakeholders of Maui want to present.

Rice said DAR should prepare for a long night for the April public scoping meeting in Kona. He said he has received a lot of feedback from Kona, Kaua‘i and Maui fishers. In the past, fishers have gone to their legislators to have provisions of the Sport Fish Restoration Fund changed since Kona fishers have not seen a dime of it in their harbor. The Honokohau harbor is

the only harbor that does not provide electricity or security. They have homeless that defecate on the dock and owners on the south side of the harbor paid \$15,000 each to install their own electricity. The fishers want to know where the money goes and they want to see improvements at their harbor.

Dueñas said part of the agreement for the Sport Fish Restoration Fund is that revenue derived would go to the department or agency in charge and that is why he is against licensing in Guam. Every improvement in Guam's marinas has to come through legislative appropriations. He asked if the establishment of the NRMFL would require fishers to pay for this license and the federal saltwater angler license. He asked for clarification on the reason for allowing the take of female Kona crab but not lobster or Samoan crab.

Sakoda said there was new information that Kona crab can be sustainably managed through size limits and restricting the take of females was unnecessary. Restricting the take of females created a hardship on the fishery since there was more than a 50% regulatory discard if fishers cannot keep females.

Dueñas asked if there was follow up on the ulua tagging program developed by Tam. There was a lot of time and effort to discover the bounty and movement of Hawai'i's fish, but there has not been further analysis on the data from that study. Fishermen have tagged marlin, tuna and other fish, but there has been no follow up on results from those studies. He said what killed the program was the initial results found that the MHI was feeding the NWHI rather than the expected spillover effect from the monument.

Rice said F buoy has been reported missing.

Ishida said any reports of missing FADs are welcome.

Gourley asked how long it takes to issue a permit for PMNM.

Joshua DeMello, Council staff, said there are three permit deadlines in February, May and September. The monument process requires applicants to get their paperwork four months prior to the proposed activity.

C. Northwestern Hawaiian Islands Fishing Regulations -Native Hawaiian Subsistence Permit and Cost Recovery (Final Action)

DeMello, Council staff, provided an update on the Council's final action on the regulations for permitting fishing in the Monument Expansion Area (MEA) of the NWHI, which included a noncommercial fishing permit, a Native Hawaiian subsistence permit that allowed cost recovery and prohibition of commercial fishing. Following the Council's final action at the 193rd meeting in December 2022, the ONMS and NMFS sent a letter to the Council stating that cost recovery in the form of sale is inconsistent with the goals and objectives of the proposed sanctuary. ONMS relied on comments from the NWHI Cultural Working Group and said the Council could provide revisions on the recommendation by April 14, 2023. Thus at this 194th meeting, the Council was asked to review options for cost recovery and the Native Hawaiian subsistence fishing practice permits.

The intent of cost recovery through customary exchange is not for commercial sale or for profit, but rather to allow disadvantaged communities to have the opportunity to fish in an area they have traditionally fished without having to pay the large amount of startup costs to get into the fishery. The first option for the Council's reconsideration of the cost recovery was to allow for sale as part of cost recovery, for which the Council recommended a \$15,000 cost limit at the December 2022 meeting. PIFSC provided the Council with potential trip costs and Council staff also talked to fishermen with experience fishing in the NWHI to get their cost estimates. PIFSC's estimated trip cost to the Ho'omaluu zone for fuel, food, ice and bait was up to \$8,000 based on the 2006 survey estimate and corrections due to inflation. Based on cost estimates provided by fishermen, their costs for gear, bait, ice, food and drinks ranged from \$3,000 to \$20,000 depending on how far they might go. These estimates indicate that trip costs vary based on factors such as trip length, vessel size, transit speed, insurance, safety equipment and weather and sea conditions. The second option for cost recovery would be to include it as part of the permit review. Under this option, the applicant would outline activity and information on the fishing practice and cost estimates, and the decision on whether cost recovery would be allowed or denied would be made by the PIRO regional administrator as part of the permit review process. The third option would prohibit sale in any form. The Council received a letter from NOAA NOS indicating it found barter or trade to be acceptable but was unsure on how to track that type of transaction. The Alaska Department of Fish and Game has included the idea of cash trades that is not for profit and not considered commercial.

The staff reviewed existing federal permit review processes under the MSA like the Special Coral Reef Ecosystem Permit, Community Development Plan and the Experimental Fishing Permit to see what processes could be included into the Native Hawaiian Subsistence Fishing Permit process. The Council could use the existing permit review process or use any other existing federal permit process to create a new process for this permit. Based on the Council's recommendation at its 193rd meeting, an applicant would submit his/her application, which includes a statement describing the objectives of the fishing activity, expected disposition of the resources harvested and cost estimates. NMFS would forward copies of the application to the Council and the monument management partners for review and the Council could consult with its advisory bodies to provide recommendations on the applications. Following the receipt of the application, NMFS would consult with the Council and monument management partners and receive the recommendations for approval or disapproval of the application.

The staff convened a meeting with representatives from different fishing communities and Native Hawaiian organizations to discuss subsistence fishing practices and the permit review process. The discussions from that meeting indicated that there were other groups that wanted to be involved in the application review process. A 30-day public comment period on the permit would provide the opportunity for those interested groups to provide input on whether the activity is sustainable for the fisheries, fishing practices or potential for cost recovery. Following this public comment period, the final decision would remain with the PIRO regional administrator.

Dueñas said PIFSC cost estimates were based on bottomfish trip, but the action area is outside of the bottomfish area. For the MEA, fishermen will be targeting pelagic fish where the engine will continue to run and drive up fuel cost. These are two different types of fishing trips and it is like comparing apples to oranges.

DeMello said the bottomfish fishermen did troll on their way to target bottomfish, but there were other associated costs.

Ramsey said the wording from ONMS regarding cost recovery was pretty strong and asked what the implications would be of including cost recovery in the proposed rule package.

Simonds said the Council has been in discussion with NOS and NMFS and will hear what their thoughts are on the inclusion of cost recovery in the application process. Simonds recommended that the Council hold off on taking action until comments are received from ONMS, which was expected by the third day of the Council meeting.

Malloy said if the Council were to choose option 1 for cost recovery (allowing sale with limit), then there would be high probability that ONMS will reject the Council's action.

Rice said the F/V *Wild Hooker*, which is a 60-foot boat, had to get a special insurance as part of his permit and jump through quite a few hoops before entering the monument. That fisherman spent six days to put satellite tags in tunas and marlins in the NWHI from 50 to 200 miles offshore. Fishing was not as exciting as expected because of the distance from shore and the lack of features such as ledges where fishing would be better, and they incurred costs of more than \$20,000.

Sword said one cannot put a cost on maintaining culture. The Native Hawaiian Cultural Working Group does not follow the Polynesian way of thinking. As a High Chief, he wants to help and feed his people for the perpetuation of his culture. He said they need to help their people and should not rely on outside people to decide what is best for them. As Pacific Islanders, they need to feed their people by going fishing rather than relying on Chinese fishing boats.

Dueñas hoped that the Office of Hawaiian Affairs (OHA) would be the lead partner to identify the communities that are in dire need of fresh local fish. The Council talks about being responsible stewards of the land, but also needs to be stewards of the people. It is unfortunate that Native Hawaiian families are priced out of paradise and moving to the continental United States to survive as a Pacific Island. Pacific Islanders continue to die of diabetes from eating too much spam and corn beef. He does not see anything wrong with the Council affording the Hawaiian people the opportunity to have fresh, healthy fish from their ancestral lands. Cost recovery should be allowed and fishermen should not be punished for fishing in the NWHI and bear the cost. Cost recovery should be based on actual costs which include ice, bait, gas, food and maintenance fee in case of any damage to the vessel during the trip. The Council should continue to advocate and protect fishing communities to achieve National Standard 8.

Sakoda said Council members should read the letter from the Native Hawaiian Cultural Working Group as it takes a different position from the Council. The State of Hawai'i does not support sale or bringing back any resources to be sold for cost recovery. The State of Hawai'i would support option 3.

Gourley asked Sakoda why the State of Hawai'i does not support sale.

Sakoda said under State law, cultural rights or practices cannot be used for commercial purposes. In Hawai'i, any sale of marine resources is considered commercial activity. It

understands the action is at a federal level and the Council is not bound to State law. The concept of sale for cultural practices is not consistent with how the State interprets it.

Dueñas said every artisanal practice on Guam is considered cultural, like wood carving with a machine. This practice is considered cultural, but they are allowed to sell it and still be considered a cultural practitioner. However, a fisherman cannot take his/her fish and use it as a payment to pay for services like power or phone, so he/she becomes a commercial fisherman and as a result the protection clause of the cultural practice of exchange is deleted from society.

Sword said in American Samoa, the people spend a lot of money to keep their culture alive, and the money comes out of a common person's pocket. Whether it is through fishing for family or village functions, the activity still costs money. Fishermen in Hawai'i have been trying for years to get their culture back to where it needs to be, but in Samoa their culture was never lost. If Hawai'i wants to keep its fishing culture alive, then there needs to be different ways to maintain it. Cost recovery is not about making money, but maintaining the culture.

Rice said these Hawaiian groups have received money from nongovernmental organizations that pay them for their testimonies. These groups may be farmers, but they are not fishers. If they were real fishers, then they would advocate for cost recovery rather than taking money from under the table. This started during the Obama Administration when a nongovernmental organization paid a few Hawaiians to ask the president to establish the PMNM. Obama did not know what was up in the NWHI and established the monument as a feel good measure. When Rice and Ed Ebisui (former Council member) attended a meeting with Obama's representatives at the Council office to discuss the proposed monument, they knew after listening to the representatives talk that the decision was made prior to their discussion.

Sakoda said Hawaiians can perpetuate cultural practices by fishing in the MHI. Based on the Native Hawaiian Cultural Working Group, it is the belief that the NWHI was off-limits and only allowed entry for special purposes. The State of Hawai'i is not against cultural practices, but recognizes there are different areas where different practices were accepted.

Dueñas said Hawai'i fisherman Leo Ohai applied for a permit to teach fishers how to do kaka line fishing in the longline exclusion zone around the MHI under the Western Pacific Community Development Program. Unfortunately, he never got that permit and that effort died with his passing. The Council is about perpetuating the past and bringing it to the future.

Ramsey said the Council will postpone its decision-making until the next day. He said Council members have the same intention to maintain cultural practices, but there are regulatory hurdles that seem to get in the way. He encouraged the staff and Council to get creative on another option where culture can continue to thrive.

[Discussion resumed on Friday, March 31, 2023]

Gourley invited Eric Roberts, superintendent of the PMNM, to discuss ONMS's position on options for fishing regulations in the NWHI MEA.

Malloy said Roberts was invited to speak on ONMS's position on options provided to the Council, specifically the option to incorporate trade, barter and sell option into the permitting process.

Rice said if there is fishing for Native Hawaiians or native people in the designated area, then cost recovery is needed. Estimated costs for fuel, food, and ice were around \$20,000 to fish from 50 to 200 miles out in the open ocean. Being that the MEA is in open ocean and not likely to impact any protected species, he does not see any concern if people have to catch fish for cost recovery. ONMS has said no to sell, barter and trade. The only fishers that will go into that area would be those with lots of money rather than serving those communities who could benefit from access.

Roberts said he heard some of the Council's initial conversations. Based on the letter to the Council, both NOS and NMFS have determined that the proposed fishing regulations were inconsistent with the goals and objectives of the National Marine Sanctuaries Act (NMSA) and the idea of cost recovery could be considered commercial activity. The letter sent by NOS and NMFS seemed clear in terms of what would be accepted and denied. There are other options on the table that include the utilization of the Community Demonstration Project Program (CDPP) that would be accepted.

Gourley asked who determines the goals and objectives, and if ONMS makes a unilateral decision.

Roberts said the sanctuary proposal is unique since there is a monument in place. ONMS, in concert with the monument management board, which consists of NMFS, ONMS, USFWS, State of Hawai'i and OHA, drafted the initial goals and objectives. Once this draft is completed, then ONMS will go out to the public and ask for comments.

Gourley asked if the monument management board drove the bus to determine the goals and objectives that ONMS would later adopt.

Roberts said the monument management board did not drive the bus, and clarified that those agencies had the opportunity to provide input that ONMS would take under consideration for the sanctuary designation process.

Gourley asked when the affected communities will be able to provide their input.

Roberts said they will be included in the public process. ONMS will have public hearings on the draft management plan, EIS and the rulemaking package.

Guthertz asked why the Council needs to remove sell from the proposed regulations before ONMS goes out for public review. She said sell should be kept so the public can have the opportunity to say if it likes it or not.

Roberts said under Section 304(a)(5) of the NMSA, NOAA has to determine whether or not the Council action is consistent with the proposed goals and objectives before ONMS advances to the public comment period.

Guthertz said the NMSA process is not equitable and fair to the Council. This process may set precedence for other island areas that may face a sanctuary or monument designation, and this was why the Council had difficulty with amending the language. Without cost recovery, fishers will not be able to go up there and fish since they cannot offset the cost.

Rice asked what the sanctuary would preserve from 50 to 200 miles offshore of the NWHI.

Roberts said it would be premature to answer the question since ONMS has not developed its EIS that would consider all of the activities that could occur in the proposed boundary. Its direction to pursue the sanctuary designation process is consistent with the Presidential Proclamations.

Rice said if ONMS finds that there are no adverse effects from any fishing through the EIS, whether there is a chance for ONMS to open the area up to fishing.

Roberts said the prohibition on commercial fishing is based on the Presidential Proclamation, and ONMS does not have the authority to reverse a proclamation.

Soliai said the Council was frustrated that there were no efforts by NOS for consultation. He appreciates Roberts's time for coming to the meeting and asked if ONMS will better engage the Council in the future.

Roberts said the sanctuary designation process began in late 2021, and ONMS sent its letter around November 2021. It sent this letter ahead of time knowing that the Council would need a few meetings prior to final action. ONMS thanks the Council for its final action, but NOAA did not accept the inclusion of sale. At that point, NOAA could conclude the 304(a)(5) process by rejecting the Council action and move forward with the development of its own regulations under the MSA or the NMSA. ONMS fought long and hard at the regional level to not have the recommendation rejected and give the Council one additional meeting and a deadline of April 14 to decide if the Council would be willing to remove sale.

Ramsey asked if the inclusion of sale would lead NOAA to reject the whole proposed rule package.

Roberts said it is NOS's preference that NMFS move forward with creating the regulations for the noncommercial permits under MSA since it is not ONMS's expertise. There is a well-established process associated with MSA, the Council and NMSA and it does not want to insert itself into the process if it does not have to. ONMS can accept other portions of the Native Hawaiian Subsistence Fishing Permit and could specifically reject the inclusion of sale.

Gourley asked if there is an established marine sanctuary that allows commercial fishing or circumstances that ONMS would allow commercial fishing.

Roberts said he cannot think of any existing sanctuaries that do not allow commercial fishing, and noted many of them do allow it throughout the sanctuaries system. The current situation is different because of the existing monument that does not allow commercial fishing, so there is already a commercial fishing ban in place regardless of what the sanctuary does.

Gourley said the monument and sanctuary designation processes are two different animals. He asked why ONMS cannot treat the sanctuary process as a unique animal and let the monument be unique.

Roberts said it is his understanding that the Presidential Proclamations take the place of law. Any sanctuary overlay would need to be consistent with the existing laws in place.

Gourley said the expansion area did not fall under the initial designation area and asked why NOS could not treat the expansion area differently.

Roberts said if the sanctuary boundaries were to extend beyond PMNM, then they would have a different situation. Both PMNM and the MEA ban commercial fishing, so there is no distinction between commercial fishing within the two boundaries.

Gourley said his question was in relation to the MTMNM.

Roberts said he was not familiar with the MTMNM and would defer on answering any questions regarding it.

Gourley asked Roberts if he reviewed the Council's draft recommendation and to provide ONMS's opinion.

Roberts said there are a few options on the table and said the inclusion of cost recovery was inconsistent with the NMSA.

Kamaka'ala asked if the Native Hawaiian Subsistence Permit and the noncommercial fishing permit would go through a similar or same process in place for PMNM.

Roberts said the process and regulations would be promulgated under MSA and deferred to PIRO.

Makaiau, PIRO SFD, said the permit process in place follows the regulations at 50 CFR 404 for PMNM, and the permit process the Council is considering would follow the procedures of the MSA. Based on the 193rd Council recommendation, the application process for a permit would come to NMFS and they would go through the Council for consultation on the application process. NMFS could include consultations with other relevant affected local resource management agencies and other federal agencies that may have oversight over the action area. The Council under the MSA is authorized to consult with its advisory groups under Section 302(h).

Guthertz said ONMS should consider EEJ in its decision.

D. MHI Kona Crab Status Determination Criteria (Initial Action)

Thomas Remington, Lynker (Council contractor), presented on the action to establish a status determination criteria (SDC) in the Hawai'i Archipelago FEP for Kona crab harvested around the MHI. Despite the results of the stock assessment, the stock status of MHI Kona crab remains "unknown" under NMFS's Fish Stock Sustainability Index as there is no SDC, and the FEP currently does not meet the requirements of National Standard 1 of the MSA. Filling this management gap would further support MHI Kona crab as an actively managed species under the FEP and allow for results of stock assessments to be used to determine stock status. Remington presented the following alternatives for the Council to consider: 1) no action; 2) utilize the SDC from the recent stock assessment; or 3) use a SDC from crab fisheries from

outside the Pacific Islands to bring the FEP into compliance with MSA. Under all alternatives, there is no direct impact anticipated to fishery operations, as establishing SDC under the FEP is a technical requirement under the MSA to define when a stock is past the threshold into being overfished or experiencing overfishing.

Dueñas said he agreed with option 1, but likes the idea of exchanging stock status among other nations and areas of jurisdiction. He asked if the SDC would be affected when the State of Hawai‘i allows the take of female crabs.

Remington said the previous stock assessment used projections that considered the harvest of female and the 2018 assessment would still apply to the Kona crab stock even with that regulatory change. When the State of Hawai‘i does repeal that rule, then the next stock assessment would consider how that change affected the status of the stock.

Dueñas asked how much time would a small fishery need to recover before fishing could reoccur, noting a small bottomfish fishery at Hancock Seamount that was closed since the species was in need of recovery. He said he wants to make sure that the spawning potential ratio and growth rate is also incorporated into the decision-making process.

Rice asked if Kona crab is caught in federal waters.

Remington said over the past five years, approximately 85% of Kona crab catch came from state waters. In the late 1990s and early 2000s, the catch between state and federal waters was split in half.

Rice said there is limited information from U.S.-based crab fisheries. He asked if there was information from international fisheries that could inform the MHI Kona crab SDC.

Remington said he could look into other SDC from other Kona crab fisheries, but noted that the spanner crab fishery off the southeast coast of Australia did not have a system that meshed with the MSA process. He has not explored further, but could if the Council directed him to do so.

E. Gold Coral Management (Final Action)

Zach Yamada, Council staff, presented on the action item to consider renewal of the gold coral moratorium. Gold corals are harvested to craft into jewelry. Richard Grigg discovered the resource in 1971. The growth rate of gold coral is extremely slow. The Council put in a gold coral moratorium in 2008 to allow further time to see whether more recent research would validate Grigg’s original aging estimate or demonstrate a different growth rate. Frank Parrish, PIFSC, determined the colonies he tagged, ranged between one to nine years, showed no discernible growth. If gold coral grow 6.6 centimeters per year, one should be able to see growth. With this information, the Council put in a third moratorium in 2018 to reassess gold coral estimates.

The purpose of the current action was to provide the Council with the time to consider a long-term management strategy to ensure the sustainability of the gold coral fishery in the Western Pacific Region. The current moratorium is set to expire June 30, 2023. No research has been done since the last moratorium extension. Yamada presented three options: 1) let the

moratorium expire (no action); 2) extend the moratorium an additional five years to June 30, 2028; and 3) prohibit the take of gold coral. The no action option would open the fishery. The gold coral quota is still in place, but an ACL would need to be established before July 1, 2023. Under the extending the moratorium option, the Council could consider further possibilities without rushing into an ACL. However, a reassessment would still be needed as no research has occurred in the last five years. The prohibiting harvest option would fully protect gold corals, but would hinder the fishery's ability to develop.

Dueñas said it was expensive to harvest gold coral when it was allowed. He asked why there was an update from Grigg's growth rate where PIFSC found that gold coral grow at a slower rate.

Yamada said Parrish went to conduct a reassessment and found that gold coral had slow to no growth within the project period.

Gourley asked where gold coral harvest fell in the hierarchy of other precious corals.

Yamada said black coral was the most harvested, followed by red and pink coral, then gold coral.

Sakoda said the sale of gold coral in the State of Hawai'i is prohibited.

Kamaka'ala asked what the function of gold coral is in its ecosystem.

Yamada said gold coral has a lower function since it is found at deeper depths.

Kamaka'ala said this information is relevant for decision-making and the cultural perspective of that species. In Hawaiian culture, the Kumulipo is the creation chant of Hawai'i where it mentions the function of coral that may help the Council understand how Hawaiians viewed it.

F. Review of Pacific Remote Island Areas Marine Conservation Plan (Action Item)

Matt Seeley, Council staff, presented the contents of the PRIA MCP. The process starts with NMFS informing the Council that there is funding available in the Sustainable Fisheries Fund. The Council Executive Committee then convenes to review the priority ranking within the MCP and to consider the amount of funds available, current Council issues and available resources to do the projects. After the Executive Committee identifies the projects to be funded, Council staff works with PIRO to finalize the grant application. Seeley reviewed the goals and objectives for the PRIA MCP and described the projects listed in the plan.

Sakoda asked if the Western Pacific Community Development Program and CDPP under Objective 5 would that apply to all communities in Hawai'i and the territories.

Simonds said yes.

G. Advisory Group Report and Recommendations

1. Archipelagic Plan Team

Jones, Archipelagic Plan Team (APT) chair, presented the APT report and recommendations from its meeting held Jan. 25, 2023.

Regarding the next steps to refine uku EFH in the Hawai‘i FEP, the APT established a working group comprised of Kisei Tanaka, Tom Oliver, Bryan Ishida, Seeley and Remington to review available data and WPSAR outcomes of the EFH modeling Level 1 and Level 2 approaches to assist in the development of an options paper regarding the refinement of uku EFH to be presented to the APT at its April 2023 meeting.

Regarding the proposed establishment of SDC for Kona crab in the Hawai‘i FEP, the APT endorsed option 2, which includes rolling over SDC that are derived from recommendations by Restrepo et al. (1998) and are consistent with the previous stock assessment by Kapur et al. (2019), noting the PIFSC Stock Assessment Program (SAP) prefers option 2 and that SDC from other regions or fisheries may not be well suited for application in Pacific Island fisheries.

2. Advisory Panel

Gil Kualī‘i, Hawai‘i AP vice Chair, presented the Hawai‘i AP report and recommendations from its meeting held Feb. 24, 2023.

Regarding options for establishing MHI Kona crab SDC, the Hawai‘i AP supported option 2 (use SDC from the previous assessment), provided that additional research on the following will be conducted to inform the next stock assessments:

- Extent of noncommercial catch
- Full range of the stock, noting a significant amount of catch used to come from Necker Island
- Sex ratio, including the impact of no-female-take regulations on sex ratio

Kualī‘i reported the Hawai‘i AP agreed there was a need for more research to be done on the MHI Kona crab fishery to fully understand its shifting habitat and socioeconomic value to the community. There is a small market for Kona crab that may be due to its short shelf life. Fishers catch Kona crab primarily for parties and other occasions. The AP feels that the current regulations of no-take of female Kona crab needs to be addressed, setting a size limit for males and extending the closed season to allow for a complete spawning season.

Regarding options for gold coral management, the Hawai‘i AP supported option 2 to extend the moratorium and work towards calculating maximum sustainable yield (MSY) to establish an ACL for the gold coral fishery.

Kualī‘i reported the Hawai‘i AP’s primary concern regarding gold coral management was that if the fishery dies, then it would be difficult to reestablish a management regime.

3. Fishing Industry Advisory Committee

There were no FIAC recommendations.

4. Scientific and Statistical Committee

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

Regarding NWHI fishing regulations -Native Hawaiian Subsistence Permit and Cost Recovery, the SSC recommended data collection, reporting and monitoring be required for subsistence fishing activities in the MEA.

Villagomez reported the SSC noted that cost recovery is a matter of EEJ and that without some form of cost recovery it will be impractical for people to go there. The SSC also discussed the costs associated with fishing in the different zones of the MEA and noted that these estimates should also consider labor/crew costs, among other factors. While SSC members supported sale as a means of cost recovery, there was also concern about creating a fixed schedule of costs that fail to keep pace with inflation. Finally, SSC members also emphasized that permitted fishing in the MEA would provide valuable fishery information, and encouraged monitoring and reporting of all catch from the area along with economic and nonmonetary cultural factors associated with fishing.

Regarding the MHI Kona crab SDC, the SSC recommended alternative 2 to establish the same SDC for Kona crab as other Council fisheries.

Regarding gold coral management, the SSC recommended the Council extend the gold coral moratorium for another five years until June 30, 2028.

Villagomez reported the SSC considered the different management options and noted that there are substantial research gaps for this stock. For example, the next NMFS survey of these beds is not scheduled until 2025. Also, while there is a moratorium for gold coral, this species can also grow on bamboo coral, which can be harvested under a permit.

H. Public Comment

There was no public comment.

I. Council Discussion and Action

*Regarding the next steps to refine uku EFH in the Hawai'i FEP, the Council **directed staff to convene a working group with NMFS PIFSC, PIRO, and the State of Hawai'i to review the available data and EFH WPSAR outcomes to assist in the development of an options paper for refining uku EFH and provide initial options for the Council's consideration at its June meeting.***

Malloy suggested PIRO be included in the working group to provide expertise on EFH.

Moved by Rice; seconded by Sword.

Motion passed.

*Regarding the proposed establishment of SDC for Kona crab in the Hawai'i FEP, the Council **recommended option 2, providing SDC for Kona crab fisheries that is consistent with the previous stock assessment, as a preliminarily preferred alternative. The***

Council noted that SDC from other regions or fisheries may not be well suited for application in this fishery and directs staff to develop an amendment with the appropriate range of alternatives for final action at its June meeting.

Moved by Rice; seconded by Dueñas.

Motion passed.

Regarding Gold Coral Management, the Council recommended extending the existing gold coral moratorium until 2028. The Council further recommended NMFS PIFSC work towards calculating an MSY for gold coral, based on the BSIA, in order for the Council to consider a long-term solution for the fishery.

Moved by Dueñas; seconded by Rice.

Motion passed with Malloy abstaining.

Gourley requested the Council reopen discussion to address the inadvertent omission of the deeming language from the gold coral moratorium final action.

Regarding gold coral management, the Council reconsidered the recommendation to include deeming language for the final action.

Moved by Guthertz; seconded by Rice.

Motion passed.

Regarding gold coral management, the Council recommended amending the gold coral moratorium to include the deeming language:

Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directed 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 Chairman to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The Executive Director and the Chairman are authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.

Moved by Guthertz; seconded by Sword.

Motion passed.

Regarding the Hawai'i and PRIA MCP, the Council approved the PRIA MCP as finalized at the 194th Council meeting and directs staff to transmit the document to the PIRO regional administrator for review, approval and publication in the *Federal Register*.

Moved by Guthertz; seconded by Rice.

Motion passed with Malloy abstaining.

Regarding Hawai'i fishery issues, the Council directed staff to work with the State of Hawai'i and NMFS to move forward with the Hawai'i small-boat engagement and community meetings to address critical data needs.

Moved by Rice; seconded by Sword.

Motion passed.

Regarding NWHI fishing regulations for the MEA, the Council recommended amending the final action previously taken at the 193rd meeting.

[This motion was taken up March 30, 2023.]

DeMello read out a version of the draft amendment to the recommendation that stated that a Native Hawaiian Subsistence Practices Fishing Permit holder may not sell catch to recoup costs associated with a trip to the MEA.

Guthertz said the recommendation should clarify that the value of bartering and trading should not exceed the actual costs associated with the fishing trip. If the Council is going to remove sale from the recommendation, then there should be further clarification saying the value of the barter or trade should not exceed the cost of the trip.

Tucher said Council staff, SFD and GC's intent with the draft amendment language was to change as few words from the original 193rd Council meeting recommendation as possible so as not to open up any areas of disagreement with ONMS. If the Council is going to make additional changes, Tucher said there is a good chance ONMS may raise additional objections if additional changes are made. He clarified that the intent of the draft amendment language is to clearly state that one may not sell, but to retain barter and trade to recoup costs.

Guthertz said there were concerns that someone might challenge the recommendation and there is inconsistency with the language.

Tucher recommended the Council preserve the original language of the 193rd action and not create new text that can be objected to.

Guthertz said she is not an attorney and she is a teacher. She suggested that her concerns are registered as part of the minutes so it is clear to the reader that the Council brought this matter up should it be contentious later on.

Dueñas said he was concerned with the removal of sale out of the recommendation. Fishers cannot buy fuel, pay for power, or water through barter or trade. He would love that on Guam so he could pay his power bill with fish. He was concerned that the Council would deny the native people of their rights. He hoped the permit would create exemptions for sell, barter and trade of fish as long as the organization or entity is part of a recognized native group. He is concerned that the Council is not affording the native community the opportunity to move forward and will not support the measure without the allowance of sale. As Pacific Islanders, they should not adjust in accordance with cultural norms and further regulating culture is wrong. The government has no right to regulate culture.

Gourley asked what would be the repercussions of leaving the recommendation as is.

Tucher deferred the question to the PIRO regional administrator.

Malloy said the Council could forward an action to NMFS where it would take action under MSA that differs from what the sanctuary would accept. The reality was that NOAA would want to look at this from a one NOAA perspective and would want NMFS to hold so the sanctuary process could go forward and then align the MSA regulations with the ultimate sanctuary regulations.

Rice said he agreed with Dueñas that the removal of sale would stop anyone from potentially going into the NWHI MEA. The whole exercise would be for nothing since no one would be able to afford to think about going fishing unless you have a sailboat.

Guthertz asked how the Council could vote on removing sale while trying to satisfy certain interests. This is not a good compromise and it was wrong. If she votes on this action, she wants to be able to face the people of Guam and give them an appropriate explanation on why the Council made the recommendation. The Council is at the point where this is a hard issue and members are justifying why they cannot allow people to recoup costs. The Council cannot do that and islanders should not vote for this. With respect to their federal counterparts, they would look bad in the eyes of their people. She could not enter her classroom and meet her students at the University of Guam (UOG) and justify the action. She said she will refuse to vote on removing sale.

Dueñas said cultural practices is an evolving thing and has been upset that when it comes to Pacific Islanders, they are limited to the same practice as many generations ago, whereas Japanese longliners and American purse seiners can say those fishing methods are part of their culture. He would like to remove the word practice and the Native Hawaiian livelihood or way of life because that is more descriptive on how Hawaiians evolved over the years.

Soliai asked what the implications are if the Council does not take this action.

Tucher said if the amended proposal is not approved, then the prior action from the 193rd meeting stands with the allowance of \$15,000 for cost recovery. The Council could revisit that number and amend that action. He advised the Council that Native Hawaiian subsistence practices has a broad meaning and it could include some customary exchange without running afoul in the prohibition of commercial fishing. Knowing that there is a conflicting opinion under the NMSA, the current recommendation would not be consistent with the purposes and objectives of the sanctuary and NOAA could not approve the sale up to any amount, any cash transaction, even if limited to cost recovery. There may be a delay in the action being accepted for transmittal until the sanctuary policy decision. He cannot say that the action will be disapproved, but it would be fair to say that the action would be at risk of disapproval.

Soliai asked Tucher if he was suggesting that the Council's recommendation will be disapproved by the sanctuary.

Tucher said he was not able to speak for the sanctuary program, and noted he did not necessarily understand everything in the sanctuary's letter but he interpreted it to mean that the Council's recommendation was not approvable.

Soliai said the sanctuary should make itself available to answer these questions and be part of the discussion.

Dueñas said the people entering the NWHI are not Hawaiian and he is concerned that once the Mariana Archipelago is put in the same designation, then it is going to have the same stringent regulations. For example, Palmyra belongs to The Nature Conservancy and people have to spend \$25,000 to go there and catch bonefish. If you do not allow the native people to fish in their areas, then you should not allow The Nature Conservancy to fish in Palmyra. He suggested the Council stick to the 193rd meeting recommendation and send a strong letter to the sanctuaries program asking if it is truly an entity for the protection of the Native Hawaiian culture. It does not control the fish going in and out, but it can control who goes up there to fish at the expense of \$20,000 but without the ability to pay for the trip's cost. The NOAA white ship is taxpayer-funded and is able to go in and out of the area, but when it comes to Native Hawaiians, the Council cannot allow cost recovery. That is the purest form of discrimination.

Gourley suggested the Council table this discussion and reconvene a virtual meeting in 21 days.

Soliai suggested the Council not approve the amended language, keep the original recommendation and have the sanctuary staff meet with the Council to have further discussion.

DeMello said NOS gave the Council a deadline of April 14, 2023, to provide a revised recommendation.

Rice asked if the Council could request an extension.

Malloy said an extension was not likely to be granted.

Soliai asked why the Council would not be granted an extension.

Malloy said NOS does not feel like it should grant an extension.

Soliai said growing up he did not like being told what to do and that sounds like what was happening. He asked Tucher and Malloy if this issue could be brought up during the permitting process.

Simonds said it would be up to the Council. It was the Council's suggestion to move the criteria and sale to the application process. This would allow cost recovery and would need a new vote.

Tucher said the Council would need to vote on the current motion to amend, but could decide to work on a new one that would move sale to the application process. If the Council feels it is its conviction in its compromise, then it could consider doing that and bring this up the next day.

Sakoda said moving this criterion to the permitting process would still be rejected by NOS. He does not think it would be a good idea to open that up. Using the CDDP as a way to finance Native Hawaiian practitioners who want to go up to the monument or sanctuary would be a great idea. This would address the issue of providing a means for the practice without having to rely on cost recovery.

Kamaka'ala said as a native Hawaiian, some of the things shared about Hawaiians culturally puts her in a hard position as members have shared that they feel certain actions would push them out of the fishery. She felt that some of the comments made about Native Hawaiians push her out of the conversation and the conversation is a misalignment with her culture. Hawai'i's history is unique and shared a story of a major event in Hawai'i's legal history in June 1959. In 1959, there was a ballot before all of the citizens when Hawai'i was still a territory, and ballot stated a single question, "Shall Hawai'i immediately be admitted into the union as a State?" The limitations of the ballot were raised by legal professionals and historians since the 1950s. The issues raised are like there were no other options. She feels that a lot of the conversation in this space really pushes Native Hawaiians out and leaves them to repeat history.

Ramsey said he is a simple-minded person, but the Council was still in the game and could compromise a little or draw the line in the sand and get shutdown. If the Council decides to not take action, then it could be out of the game and lose its ability to keep the public involved. He attended multiple meetings with fishers, practitioners and the public where different views were shared. His vote is that an amendment be made to the motion to stay in the game and keep the Council's suggestion in consideration.

Simonds suggested that the Council remove the sale and move it to the permitting process.

Malloy said NOS would likely be uncomfortable with that suggestion.

Simonds asked if NMFS wants to be out or not since NOS has not consulted the Council or NMFS.

Gourley asked if the Council could meet with NOS the next day.

Simonds said she has been communicating with NOS for further consultation. Simonds said if NOS rejects the proposed fishing regulations, then it would not have any regulations unless it accepts the other part of the recommendation. NMFS should support the rest of the recommendation, but say sorry, that it does not support sale.

Malloy said PIRO articulated the Council position many times, but still ended up with the letter the Council received from ONMS.

Dueñas said the discussion should be tabled until the next day.

Moved by Guthertz; seconded by Ramsey.
Further discussion and vote tabled until the next day.

[Discussion on the above motion resumed March 31, 2023, at which point the following substitute motion was made, discussed and voted on.]

Regarding NWHI fishing regulations for the MEA, the Council stressed the importance of allowing cost recovery for fishing in the MEA in order for the community to participate in the fishery. Native Hawaiians are at the top of several socioeconomic indicators including the highest rates of poverty, unemployment, negative health conditions, lowest home ownership, etc. A decision to disallow cost recovery, including sales will continue to disenfranchise the Native Hawaiian community. The Council believes that limited cost recovery may be conducted on a small scale within the community consistent with Proclamation 9478's prohibition on commercial fishing. We further believe that the Council's recommended prohibition on commercial gear and comprehensive process for applying and approving requests for Native Hawaiian subsistence practice permits will provide effective safeguards against commercial fishing. The distance from the MHI to the MEA requires a large cost for fuel, bait, ice, food and other fishing needs may prohibit fishers from participating in Native Hawaiian cultural and traditional fishing practices in the MEA. Cost recovery allows for the disadvantaged communities to participate in cultural and traditional fishing practices by promoting equity amongst fishers as directed by EO 13985 in particular for Asian American, Native Hawaiian and Pacific Island communities as directed in EO 14031. The Council also acknowledges the comments of an independent cultural working group and that other Native Hawaiian groups have commented at the Council's recent public meetings with a differing opinion. Nevertheless, to achieve resolution on this issue the Council amended its 193rd Council meeting recommendation as follows:

a. Revised the Disposition of Native Hawaiian Subsistence Practices Catch section to read:

- **Disposition of Native Hawaiian Subsistence Practices Catch:** Bottomfish MUS and Pelagic MUS legally caught by an individual holding a valid MEA Native Hawaiian Subsistence Practices fishing permit may bring catch back to the MHI for consumption, including *community sharing, barter and trade customary exchange*. Additionally, permittees may request NMFS consider the ability to recover costs through sale of catch associated with the trip to the MEA. Additionally, permittees may sell, barter or trade catch to recoup costs associated with the trip to the MEA, not to exceed the actual costs associated with the trip, subject to the limit below. This restriction ensures that the activity is not for commercial purposes.
- ~~NMFS and the Council would limit the total value of catch traded, bartered or sold not to exceed the cost for fuel and ice, and other trip costs to make a trip from the MHI to the MEA and in no case exceed \$15,000 per trip. A permittee would also be required to document and report to NMFS, the direct costs associated with each trip conducted to the MEA and the amount and value of any catch that is sold, bartered or traded.~~

b. Revised the Native Hawaiian Subsistence Practices Fishing Permit Application Process section to read:

- **Native Hawaiian Subsistence Practices Fishing Permit Application Process:**
An applicant for a Native Hawaiian Subsistence Practices Permit must complete and submit an application to NMFS that includes, but is not limited to, a statement describing the objectives of the fishing activity for which a permit is needed, including a general description of the expected disposition of the resources harvested under the permit. *If cost recovery is requested through sale, the application must include estimated costs for fuel and ice, and other trip costs to make a trip from the MHI to the MEA along with a statement explaining why cost recovery is necessary for the intended action.*
 - If an application contains all of the required information, NMFS will forward copies of the application to the Council, USFWS, ONMS, OHA, and the chair of the Hawai‘i DLNR. *The Council may consult with any of its Federal Advisory Committee Act (5 U.S.C. App. 2) exempt advisory bodies established pursuant to Section 302(g) of the MSA to provide comments on the application. NMFS will also make the permit application available for public review for no less than 30 days.*
 - *Within 30 days following receipt of a complete application,* NMFS will consult with the Council through its Executive Director, and the USFWS, ONMS, OHA, and the chair of the Hawai‘i DLNR concerning the permit application and will receive their recommendations for approval or disapproval of the application.

c. In addition, to provide EEJ for Hawai‘i communities to participate in Native Hawaiian fishing practices in the MEA, applications for funding through Western Pacific Community Demonstration Projects Program and Community Development Plan Program under the authority of MSA section 305(i) are to be submitted in accordance with 67 FR 18512 (April 16, 2002) and this action. The Council requested NMFS provide funding to support the approval of such grants. This could provide communities seeking to access the MEA the funding needed to assist with costs for their trip.

Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directed 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 Chairman to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The Executive Director and the Chairman are authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.

Kamaka‘ala said as an indigenous Hawaiian representative, allowing cost recovery does not sit right. The Council has discussed Native Hawaiian practices, exercising their rights that have a long, beautiful and complex legal history. Throughout history there has been no implication that Hawaiians go to PMNM to participate in the fishery. There are other fisheries in the region that may have done that but it may be different for the indigenous people of the

Mariana Archipelado and American Samoa. She agreed the socioeconomic state and health statistics are true, but allowing Native Hawaiians through the proposed permit that was not confined by race is not grounded in Hawaiian culture that guides their practices of gathering fish and resources from the ocean for subsistence. Doing otherwise jeopardizes the health and integrity of Native Hawaiians. She recommended the Council remove subsistence and replace the term with practice since the practice is beyond subsistence.

Gourley said the Council cannot remove the term subsistence since it is part of the monument designation.

Kamaka'ala said the Council could leave the term as is. She said there was the Supreme Court of Hawai'i case law on the Wao Kele 'o Puna area on Hawai'i Island that helped to interpret the Kumulipo that could be referenced for further discussion. She asked if the noncommercial fishing permit is still under consideration for Council action.

DeMello said not for the action in front of the Council, but it was in the action that the Council passed at the 193rd meeting.

Kamaka'ala said the Council and its comanagers need to include Native Hawaiians in the permitting process for noncommercial fishing since any issues of noncommercial fishing to the MEA could have a negative impact on the Native Hawaiian subsistence permit.

Tucher said this motion to amend the Council's 193rd meeting recommendation and change portions regarding the Native Hawaiian Subsistence Fishing Permit. The Council's jurisdiction and authority is limited to managing fisheries.

Sakoda said the sale of resources was inconsistent with the State of Hawai'i's definition of commercial or noncommercial purposes. The State of Hawai'i does not support the inclusion of cost recovery and will vote no, but it supports everything else and would like further discussion on financing fishing trips through the CDPP.

Dueñas asked Sakoda if the State of Hawai'i does not endorse the sale by Native Hawaiians in the exercise. He wants to make it clear that the State of Hawai'i does not support Native Hawaiian's ability to have cost recovery and sale.

Sakoda said the State of Hawai'i does not support cost recovery through the sale of resources that are brought from the MEA back to the State of Hawai'i.

Dueñas asked if there were any exceptions.

Sakoda said the State of Hawai'i supports the use of CDPP which could provide funding for Native Hawaiians if there are legitimate practices approved through the permit.

Moved by Rice; seconded by Sword.

Motion passed with Sakoda and Kamaka'ala opposing, and Malloy abstaining.

XI. Public Comment on Non-Agenda Items

There were no public comments.

XII. Welcome and Introductions

A. Guam Opening Protocol

The Para I Probecu'n I Taotao-Ta, Inc. presented a cultural performance welcoming the Council to Guam.

B. Opening Remarks: The Honorable Lou Leon Guerrero, Governor of Guam

The Honorable Lou Leon Guerrero, Governor of Guam, gave opening remarks to start Guam portion of the 194th Council Meeting. Leon Guerrero said she is honored to be among great thinkers and subject matter experts about fisheries, as the oceans are wealth in Guam and throughout Micronesia. She expressed her appreciation that Simonds remains in constant contact with Guam Council members and other representatives keeping them updated about what is happening in the Pacific Region, the nation and the world.

Over the years Guam has monitored increasing IUU fishing boats. These vessels pose a threat not just to U.S. national security, but also to Guam's local fishing industries. Left unchecked, IUU and associated labor abuses undermine economic competitiveness, national security, fisheries sustainability, the livelihoods and human rights of fishers around the world, and will exacerbate the environmental and socioeconomic effects of climate change. The Guam Administration has worked alongside the Attorney General's Office, Homeland Security and the USCG to monitor its waters and maintain oversight of marine time borders. All of the Western Pacific islands have taken similar measures. While this threat remains largely outside of Guam's scope, Guam faces other threats to its way of life from the federal government.

Leon Guerrero said she joined the president and other conservationists who want to protect waters, preserve natural resources and use the rule of law to set boundaries in this regard, but within balance. Leon Guerrero echoed Governor Palacios that this is a matter that demands respect and fluent communication. No one is against these intentions, but there are impacts hanging on these intentions that fail to consider Guam's food security or fishing traditions. Pacific Islanders eat two to four times more fish than people in other nations with most of the fish eaten coming from local waters and reefs. The Pacific Islands also contribute more than 30% of the global market for tuna. National policies do not always consider these and other factors, but they are direct impacts felt only by Guam and the Pacific Islands.

DOAG is currently working to develop Guam's very first FMP. DOAG is including input from Guam's fishing community every step of the way and incorporating indigenous fishing knowledge and management strategies that will insure sustainable fisheries for generations to come.

Islands like Guam are already feeling the effects of the climate crisis and face hotter weather, risk to our fresh water supply, coral reef death and stronger typhoons. But Pacific Islands are rising to the task.

Leon Guerrero joined the Environmental Protection Agency to celebrate its 50th anniversary the previous night. She was happy to be among those who are monitoring beaches for pollution, remediating lands impacted by industry and supervising the use of chemicals in agricultural projects. Also present were the people who lead the task force on coral reef

resilience, green growth, zero waste and more conservation initiatives. These are people Leon Guerrero trusts, people who know the value of the environment and are fighting to protect it. Leon Guerrero said the Council shares the same spirit with the same values and work ethic. The islands can work together to strengthen efforts to ensure the economic viability and security of fisheries while maintaining a conservation mission. The Council has the support of Guam and Leon Guerrero's administration, and she thanked the Council for its voice and collaboration.

Gourley thanked the governor for her remarks. Gourley said Guam, the CNMI and American Samoa have started working together more in the past year, including sending several joint letters. He said the Western Pacific island areas working together will allow them to get a lot done together, more than fighting the battles individually.

XIII. Mariana Archipelago - Guam

A. Isla Informe

Guthertz reported the REAC meeting discussed some of the issues facing Guam's fishing community, including concerns about the impact of the Marines firing range on the closure of waters to local fishermen for more than 270 days out of the year. The military representatives imparted an impression of their candidness and willingness to adjust in the planning for the range and coordinate the timing of firearms and weapons training with the needs to continue fishing. The military representatives indicated they are willing to work with the fishermen and come up with dates for the closures that would have the least impact on their fishing activities. They would use all the traditional media as well as social media, flags and other warnings when the waters are closed in the north. There is no intention on detaining or arresting any fishermen or boats that may happen to enter the restricted areas on reserved training days. Instead, they will wait until the boats leave the restricted area. Because of their willingness to cooperate, there is room for discussion to help the fishing communities have maximum access. The meeting went well with a goal to advance the cause of the fishing community and make sure they are not locked out of fishing grounds. The military is cognizant of the community's concerns.

Dueñas recognized Roy Dueñas who passed away recently. He was the first Chamorro to graduate from the Merchant Marine Academy, ran a poultry farm, was a fisherman, a former senator and was responsible for getting him into the GFCA.

Dueñas reported fishing events in Guam are hosted and managed by the GFCA, unlike in the CNMI where DLNR DFW takes care of the logistics and provides manpower and assistance. In Guam, so-called sponsors stand on the sidelines while DAWR staff collect fish data and update the standings on the board. Guam boats that travel to Saipan to join derbies are accommodated while CNMI fishermen who come to Guam do not get the same reception.

Dueñas provided his perspective on President Biden's initiative to look at designating the PRIA as a sanctuary. He said it is disheartening to take away resources while not providing opportunities for those in American Samoa, noting that the PRIA are important to American Samoa. He expressed his concern that there is no equality and equity involved in the process, and the expansion may be continued to the Mariana Islands next even though no industrialized fishing occurs. Sanctuaries were created as a rehabilitation program, and the best way to promote a sanctuary is to take a place that is destroyed and make it better, as it was the case for Fagatele

Bay. In the 1960s, Peter T. Wilson blew a channel at Tumon Bay to allow for water exchange, and the bay was transformed from a mangrove forest to a man-made bay with corals.

Regarding the firing range, Dueñas said Guam is not anti-military, but the community is concerned with open burning and demolition. The community wants to be partners but also wants reciprocity. Three firing ranges in Guam have off-limit and safety zones. The military was asked to put FADs around the safety zones to allow boaters to know where they are located. Dueñas also said the military should also consider funding marinas and boat ramps on the east side of the island, noting that close to a billion dollars is being spent in Guam for the military buildup and \$500,000 a year funding to support MCP projects is a small amount by comparison.

B. Department of Agriculture / Division of Aquatic and Wildlife Resources

Jay Gutierrez, DAWR chief, presented the DOAG and DAWR report. Regarding shore-based creel surveys between July 1, 2022, and December 31, 2022, all planned creel and participation surveys were completed for 36 creel and 12 participation surveys. The top three species caught were big-eye scad (atulai), juvenile goatfish (ti'ao), and the tarakito (bluefin trevally). The top three fishing methods were hook and line, castnet and gillnet. Hook and line showed 487 gears and 423 fishers. Overall, 578 gears and 518 fishers were counted. All boat-based creel surveys were completed with 48 creel and 12 participation surveys. The top three species caught included skipjack tuna with 98.5 mt, mahimahi at 43.2 mt, and wahoo with 21.7 mt. There were 212 mt of fish landed through trolling, followed by bottomfish (15 mt) and snorkel spearfishing (15 mt).

Regarding the Agat Marina Dock B replacement, the design has been completed as of March 14, 2023, and the permitting process could be completed during May 2023. Construction is estimated to be completed in August 2023. Some rusted pilings were found below the water line with the Port Authority of Guam (PAG) to do repairs before work can begin. On the Harbor of Refuge, installation of 35 mooring buoys for transient vessels has started. PAG needed to remove two sunken vessels in the area first, but funding constraints puts completion date as unknown. For the Merizo pier and boat ramp, Department of Public Works contracts division is reviewing the project before it is approved. The project has several problems due to new procurement law with the Guam Services Agency (GSA) requiring six vendor quotations, but two vendors responded to the call-out. The structural assessment is done.

Regarding enforcement between November 2022 and February 2023, five arrests were made for fishing within the Piti and Tumon Bay Marine Preserves.

Special permits to allow fishing within the Achang Bay, Piti, and Tumon Bay Marine Preserves were issued for seasonal atulai, i'e, ti'ao and mañahak during this period.

DOAG continues work with the UOG Marine Lab on the FMP. Phase 1, involving collection of all data for coral reef fish around Guam, has been completed. Phase 2 involves species assessment and examination of the trends for priority species that make up approximately 80% to 90% of the catch biomass over the past three decades. DAWR hosted initial community meetings, and shared what will be done with the FMP and solicited feedback. More community meetings will be scheduled after talks with UOG and PIRO with a timeline established on moving forward. Work continues with PIFSC and PIRO to complete the Management Strategy Evaluation. DAWR will choose some of the strategies.

Regarding FADs, DAWR is working with USFWS and NMFS on whether echo sounders can be attached to the FADs. ESA Section 7 consultation is needed before sounders can be installed. Eight deployment requests and purchase of seven more FADs were made to GSA. Five will be for 500 fathoms and two at 1,000 fathom components. Of the 34 shallow water mooring buoy sites, only 31 are deployable because of missing bolts on the substrate. DAWR submitted requests for 15 deployments to GSA.

Maintenance work is ongoing at the location of the 10 cultural signs placed around the island. Maintenance work was also done on the fishing platform at Paseo De Susana with debris and graffiti removal. Two other platform sites were not maintained due to bad weather. Individuals broke the fence at the front of the Hagatña platform to allow access to the riprap to fish closer to the water. There are plans to install a gate for fishermen to use for this purpose.

All permits have been completed for the Clam Project with funding released to DAWR. Community meetings were held in Inarajan and Malessa in February 2023 to get input from the communities on site selection, monitoring, and surveillance, available participation, outreach, awareness, and community and new participation. The feedback received was documented for use at other upcoming meetings.

Work is ongoing on an aquaculture feasibility study for reef fish populations with a grant from USFWS WSFR under the State Wildlife Grant Program. The study will be similar to a market analysis to determine all available resources, including cost and permitting, and whether in-water or on-land aquaculture system is more feasible. DAWR is working with the Bureau of Statistics and Plans to execute a request for proposal.

Dueñas asked if the 15 mt from spearfishing and 15 mt from bottomfish were because of expansion over six months. Deaths attributed to free diving have occurred while no one had died from SCUBA spearfishing. Revisiting the ACLs is needed based on the numbers presented. There is concern the reports paint an abstract rather than the actual reflection of catch. Such high numbers have not been seen before. Guam is exceeding the ACL so if these catch numbers were to be used, another workshop on the expansion or data input is needed. The Guam legislature should look at banning spearfishing because the catch numbers are higher than when SCUBA spearfishing was legal. Regarding bottomfish, 53,000 pounds was questioned as being overfished from a 31,000-pound ACL, yet the ACL was attained during the roughest time of the year. Bottomfish could be shut down for six months or banned altogether. On the FMP being developed with UOG Marine Lab, the process in the development of an FMP is a collaboration between scientists and fishermen. Dueñas said all factors regarding growth rates need to be looked at, including fish habitat. Of the 13 BMUS, species caught in shallow water using spinning reel should not be lumped together with those caught deep under one unit species. The FMP should look at how each grouping is harvested.

Gutierrez said the 15 mt was due to expansion from July 1, 2022, to Dec. 31, 2022, and deferred to PIFSC on explaining the expansion model. A lot of spearfishing is going on, including by the Micronesian mosquito fleet. There could also be a large fish in the catch that when expanded, resulted in a high number.

Muña added there were three community meetings held in Santa Rita, Hagatña and in Dededo on the FMP. The meetings provided an opportunity for fisher participation, and to

inform them of the process and the different approaches, considerations and factors. UOG Marine Lab's role in the process is to compile all the different data studies that have been done since 1970. It will analyze the trends seen in the data to help inform some of the decisions to be made with the community.

Soliai asked if Guam has an ongoing fisher's registry.

Gutierrez replied the only registry DAWR has is the one collected from those who applied for the CARES Act and comprise approximately 800 fishermen.

Sword asked if information can be shared on the no-rot recycled material used for the repair of the Malesso Pier, including manufacture information. In American Samoa, public works handles all construction for DMWR, not the port because the port is not an authority. He said Guam is blessed to have its own engineers to do the permits and design to get projects done.

Gutierrez said he will check with PAG on the no-rot source. The Malesso project is being done under Department of Public Works, while the Hagatña and Agat marinas are being done under the PAG, its jurisdiction.

Marlowe Sabater, PIFSC, said only about half of the 15 mt are the BMUS that are tracked relative to ACLs. He also said the expansion method applied to creel survey data has gone through a Center of Independent Experts review.

C. Review of Guam Marine Conservation Plan (Action Item)

Muña said DAWR held community meetings to share the purpose of the MCP. The agency sent emails to sister agencies and nonprofit organizations requesting proposals to be included in the plan. Muña requested the Council's action on the MCP to be moved to the next Council meeting to allow time to finalize and submit for approval.

Dueñas said he did see a problem with deferring Council review until the next meeting, and noted no objections from the other Council members.

D. Report of the Guam Bottomfish Data Workshop

Sabater, PIFSC, reported on the Guam BMUS Data Workshop convened Jan. 17-19, 2023, which focused on the 13 species of BMUS listed in the Council's FEP. BMUS comprise approximately 44% of catch in weight over the past 10 years. The Guam workshop was the third data workshop in the region, with the first two being in the MHI in 2016 and American Samoa in 2020. The stock assessment process now includes two additional steps prior to starting the analysis to enhance the fishing community involvement in the process and to improve the transparency of development of science used for fishery management. These steps are the data evaluation and stakeholder input stage, and the assessment planning stage.

Starting August 2022, SAP in coordination with local agencies began compiling available information for the Guam BMUS, including reports from the 1960s and 1970s, into the Data Evaluation Report. Commercial purchase receipts from the GFCA and voluntary reporting were reviewed and evaluated, including a pilot study for a fishery-independent survey conducted at

Galvez Banks in 2010, 2012 and 2014. Availability of the shore-based creel data and the NOAA diver survey were also reviewed as some of the BMUS are actually coral reef species.

The workshop was a collaborative effort between PIFSC, the Council and DOAG, resulting from a recommendation at the 180th Council meeting. The purpose was to review datasets and analysis proposed to inform the 2024 assessment, and to solicit advice from the fishing community and the local agency that could help understand the trends in data. Information gleaned from the workshop could also help improve data collections in the future. The workshop adopted a focus group approach to maximize information exchange of the attendees. Participants included 18 people from the fishing community, four from the Council, six from DAWR leadership, six from DAWR technical staff and 10 from PIFSC. Participant feedback showed there were increases in deep bottom fishing activities in recent years, and that bottomfish catch has been variable on two- to seven-year cycles. Some of the species included in the BMUS were undesirable such as mamulan (giant trevally), or not commonly caught such as gadao (grouper) and pink kalekale. Information was also gathered on factors that affect fishers' decision on when, where and what to fish. Fishers and DAWR staff confirmed they are capable of distinguishing the newly identified *Etelis boweni* from *E. carbunculus*, whereas other species identification may be mixed, such as the pink kalekale and opakapaka.

In terms of next steps, SAP will finalize and update the Data Evaluation Report with additional information provided by the fishing community and the local agency staff. SAP is now at the start of the analysis modeling phase, which will take around 10 months. A feedback meeting with the fishing community will be conducted at the end of 2023 to share how their input during the data workshop was used in the stock assessment.

Rice asked if there were any conclusions after the workshop and what is happening with bottomfish for the next round of ACLs.

Sabater said the workshop scope was to vet the trends and all of the data and information collected through the fishing community. The modeling phase has not been reached. The outcome of the next ACL will not be known until the assessment is done and reviewed around February 2024.

Rice said it is good that the additional steps were included in the process so that the data used in the stock assessment will be as close as possible to the real data.

Soliai thanked PIFSC and the Council for taking the initiative, noting that the steps taken by PIFSC in American Samoa over the last several years to engage the communities, working with stakeholders and especially fishermen have been a key part of the process. American Samoa is now in a better situation because of the engagement and the collaboration with the Council, PIFSC and territorial leadership, which has been a big step toward meaningful consultation. He said working remotely does not work, and meeting with the right people and getting the right information towards accurate and relevant data is important.

Dueñas said some fishermen who attended the Guam Data Workshop said it was the scientists who did most of the talking. Fishermen, DAWR and scientists should be together in a social setting, at the GFCA or Malesso Pier, have drinks and talk one on one. The volunteer data collection program was created by fishermen and captured all data, including interactions with seabirds, sea turtles and sharks.

Muña said she attended each workshop from the start to the end. There were several fishers who attended daily, and PIFSC staff sat with fishers during lunch for several hours, although no beer was involved. Several AP members were present, including Jesse Rosario, Dominick San Gil, James and Ken Borja, and others she did not know. The fishers did their part and had conversations with PIFSC, admitting they learned things they did not know. She said the workshop went well and a lot was learned on both sides, with appreciation for the engagement process also gained on both sides.

Soliai said in American Samoa, people realized there will always be gaps and differences in opinion. He said he respects all of the positions from the Council members but said it is important for Council members as stewards of the resources to come together to find solutions for the problems. If the parties are engaging the communities, then Council members should participate in the process. He respects the sensitivities and positions everyone take, noting that there was almost a riot when American Samoa received the determination in 2019 its bottomfish was overfished and subject to overfishing. A lot has happened since then and the community is in a good place now, but the work is not yet complete. Council members should be a part of the process to find solutions and work together with stakeholders and key parties.

Gourley said he attended the workshops in Guam. It is a new process for PIFSC and not going to be perfect, but they brought 10 people out from Hawai'i, which provided the opportunity for all those who work on stock assessments to talk to the fishermen. Simply talking to fishermen, whether they are bottomfish fishermen or not, helps educate PIFSC on what goes on in the region. By the time the process comes to the CNMI, there is hope that all have learned from mistakes made in American Samoa and Guam. The process is good and needs to continue because this had not been done before. What works and what does not work is learned every time these are held in different island groups. Scientists may not understand what the fishermen do, and the fishermen do not understand expansion algorithms of what the scientists do, but it was necessary to get the groups together to talk and progress was made.

Dueñas said he just wants dialogue between the scientists and the community to build the trust. He said rather than being in a formal meeting room setting, the conversations should happen by the GFCA or a pier. At one meeting held in 2020, there were more than 60 fishermen who attended because there was concern for the numbers not being real for the ACL. Emphasis is being put on smart devices and not volunteer data collection. People cannot handle using smart devices, which resulted in Catchit Logit dropping in usage. PIFSC should move faster because the ACL is on a three-year cycle.

Sabater thanked Dueñas for his comments and guidance, and noted his suggestions are being considered in PIFSC's parallel effort to improve data collection. He said it is exploring the ability to organize events in more informal settings, including the possibility of hosting a derby. Sabater said PIFSC will continue the engagement with the fishing community.

Dueñas said while Hawai'i and American Samoa each is looked at as an archipelago, Guam and the CNMI is not, and questioned why the difference in treatment.

E. Advisory Group Report and Recommendations

1. Advisory Panel

Judy Amesbury, Guam AP vice chair, presented the AP report and recommendations. The Guam AP traveled to Saipan for a joint CNMI and Guam AP meeting.

Regarding Mariana fishery issues, the Joint Marianas AP recommended the Council request the local government work with the DOD to expand the warnings to the Mariana fishing communities for temporary restricted areas, and work with the local fishing community to develop a mitigation plan that could include the construction of a boat ramp on the east side of Guam and provide access military resources (e.g., gas), and the deployment of FADs.

Regarding Marianas fishery issues, the Joint Marianas AP recommended the Council:

- Request the Guam DOAG DAWR explore funding sources to gather the data to allow for the cultural take of green sea turtle.
- Request NOAA provide a report to the AP on past and ongoing research being conducted in the Marianas.

Amesbury reported the AP discussed other fishery issues, including an eastside boat ramp in Guam needed as a safety issue because there is a lack of access for rescue on that side of the island. Amesbury also noted that the Guam AP discusses FAD issues at every meeting, as Guam is having trouble keeping them deployed and if the military can help.

Dueñas said having a boat ramp on the east side is important, noting families who lose a member in the water have no closure if the body is not recovered.

2. Fishing Industry Advisory Committee

There were no recommendations from the FIAC regarding Guam issues.

3. Regional Ecosystem Advisory Committee

Dueñas presented the Guam REAC report and recommendations. He said capacity building was a discussion item at the REAC. There was talk to have the military share information with Guam Community College (GCC) and UOG to see what jobs are needed and what kinds of training is needed to build local capacity. The military said it welcomes requests for information.

The Guam REAC recommended the Council:

- Communicate to Joint Region Marianas (JRM) the importance of hiring local graduates instead of importing personnel and request a report on how many local people have been hired over the last five years to support the military expansion.
- Request the governor to include fishing community issues and mitigation solutions on the Civil-Military Coordination Council agenda.

4. Scientific and Statistical Committee

There were no recommendations from the SSC regarding Guam issues.

Camacho, SSC representative, said he participated in one of the bottomfish data workshops and was heartened there was engagement, an improvement for future stock assessments, particularly when binning out the different stocks between deep-water versus shallow-water bottomfish.

F. Public Comment

There were no public comments.

G. Council Discussion and Action

Regarding the Guam fisheries issues, the Council directed staff and the Guam DOAG to continue discussions with the Mayor's Council of Guam on the development of community-based FMPs.

Directed staff to request JRM and Guam DOAG to consult with the UOG and GCC regarding positions available in an effort to develop suitable curriculums for local graduates instead of importing personnel and requests a report on how many local people have been hired over the last five years to support natural resource protection.

Directed staff to request Guam Government Office of Military Affairs to include fishing community issues and mitigation solutions (e.g., FADs, boat ramps, etc.) on the Civil-Military Coordination Council agenda.

Muña said the second recommendation would entail discussions with the Civilian Military Coordination Council, but that would come into direct conflict with local state agencies because they are poaching people from the DOAG. This encourages JRM to take more people from the state agencies because they pay more. She asked that the recommendation be deleted. In the past year, DAWR lost four biologists to federal hiring and replacing them is a struggle.

Guthertz said the emphasis of the discussion was about ensuring the JRM accommodate local graduates from the UOG and GCC. JRM is also bringing people from off-island. Priority should be local hires for the federal jobs. There are local potential people who can meet the requirements.

Dueñas said Mary Okada, president of GCC, requested the military show a list of positions and jobs available so it can expand its training program to accommodate whatever job opportunities are available so local people will be hired and GCC can be prepared to develop programs to augment and provide opportunities and a pool of local workers.

Muña agreed and said these comments will accommodate her concerns. If JRM is talking directly to GCC, then it can develop curriculum around the positions it is trying to fill and that can allow an individual to choose what he/she is pursuing to support military expansion or natural resource protection considering the military expansion.

Ramsey said if the intent is to highlight the opportunities that exist for students, then he suggests adding DAWR as well as the appropriate local government to the recommendation to

request the report of recent hires so it highlights and makes transparent the opportunities that exist on both sides and encourages both entities to hire locally.

Muña supported the addition.

Dueñas said this is to look at employment opportunities and the training needs to fulfill those opportunities derived from the military buildup, not necessarily hiring people. Resource protection is a factor and not the whole crux of the matter, which is for developing a five-year plan to look at the type of education GCC and UOG must provide.

Muña asked that the first recommendation include DOAG since it is already working with the villages on community-based management work.

Muña said for the third recommendation, the Office of Military Affairs within the government of Guam is the person to whom this correspondence should be directed, and Muña can then support the recommendation during the meetings with that office.

Dueñas said the JRM representative at the REAC meeting suggested any mitigation request be through a letter from the governor to the JRM.

DeMello, Council staff, said when the Council sends its letter to the Guam government, the Office of Military Affairs will be the one to handle the request since it put the agenda together.

Moved by Sword; seconded by Guthertz.
Motion passed.

XIV. Pelagic and International Fisheries

A. 2022 Longline Reports

1. Hawai'i Longline Fishery

Russell Ito, PIFSC, presented the 2022 annual report for the Hawai'i longline fishery. The report covered fishery statistics including participation, effort and catch. 147 vessels fished in 2022, of which 125 were exclusively fished DSLL targeting BET, with the remaining 22 vessels fishing both DSLL and SSL targeting swordfish. Fourteen vessels operated out of California at least part of the year, with most of those vessels being Hawai'i-based and went to California to dry dock or pick up crew.

In 2022, 1,600 total trips were made, a slight decrease from 2021 and most of which were of DSLL trips. A slight increase in SSL trips were made in 2022. Sixty-four million hooks (out of 22,200 sets) were set in the 2022 fishing year in both sectors, of which 75% (48 million hooks) was set outside the U.S. EEZ around Hawai'i. DSLL effort was concentrated south of the EEZ compared to historical patterns, and SSL effort was concentrated between 30 to 35 degrees north, which was farther north compared to historical patterns. In 2022, 107,000 BET were caught, but the level of catch had declined over the last four years, commensurate with an increase in YFT catch in the last two years, to a record catch of 85,036 individual fish. Last year, 13,000 albacore were caught, indicating an increase in albacore catch over the last several years.

Fifteen bluefin tuna were caught in the fishery in 2022, an increase from seven in 2021. BET CPUE has declined since 2014, while YFT CPUE increased. Swordfish catch in the SSLL fishery increased (13,000 fish in 2022) from a relatively low level in 2018, while DSLL catches decreased over the same period. Marlin catches declined from peaks in 2018 and 2019 to historical levels. Catches of other PMUS have tended to decline in recent years, with the exception of mahimahi that increased slightly (6,000 fish in 2022) after a long-term decline between 2010 and 2020. External influences on the fishery in the first quarter of 2022 included bad weather and rough seas, increases in fuel and supply costs, and high fish prices were noted.

Dueñas asked if CPUE and size frequency of the fish landed is being maintained.

Ito said the BET CPUE is decreasing but YFT CPUE increased, which could be explained by warmer waters and shift in fishing areas. Ito said the size of BET has not changed and has been about 80 pounds for some time.

Dueñas asked about a limit on the number of BET that can be retained on SSLL vessels unless there is an observer on board, and whether that limit has been reached.

Ito said there was no limit on the number of BET on SSLL trips, but said the BET caught on SSLL trips are counted toward the quota.

Dueñas asked if there is any analysis on cost.

Ito said a PIFSC Cost Earnings Survey is ongoing for the Hawai'i longline fishery.

Dueñas asked if the catch trends in the 10-year time series have been matched with El Niño or La Niña.

Ito said the 10-year average would incorporate whatever climate variability that occurred in that period.

Dueñas asked if there was a correlation between El Niño or La Niña on where fish are caught.

Ito deferred the question to PIFSC oceanographers and stock assessment scientists who incorporate climate variability in their models.

Rice said the 2019 El Niño coincided with big blue marlin and good fishing, whereas it has been in La Niña conditions for the last three years where the presented data indicate a decline, and asked if PIFSC staff could look at that pattern. Rice asked if the 10-year data presented included periods when the NWHI was still open to longline fishing.

Ito said the 10-year average includes years prior to the 2016 monument expansion.

Rice suggested data on catch and performance be averaged in time periods consistent with monument closures, and noted the importance of the NWHI for swordfish in the past.

Ito agreed that the NWHI is a productive area for swordfish, and said he could consider shortening the time series or compare the data before and after the expansion.

2. American Samoa Longline Fishery

Keith Bigelow, PIFSC, presented the 2022 annual report for the ASLL fishery. The report covered fishery statistics including participation, effort and catch. The number of vessels and overall effort has declined since 2000. The number of trips reported declined in part due to the fact trips were shorter in the past, including to alia vessels. The first half of 2022 demonstrated an increase in South Pacific albacore CPUE to almost 15 fish per thousand hooks, which was a significant increase over the previous decade. YFT catch and CPUE were, however, down in 2022. At present, nine out of 11 vessels have electronic reporting capability. Electronic reporting will remove 20,000 log sheets a year from manual processing.

Soliai asked if PIFSC also collects data on bycatch.

Bigelow said PIFSC receives bycatch data, which is included in the logbook reports. PIFSC also produces the national bycatch estimates, led by PIFSC statistician Marti McCracken. McCracken generates the annual bycatch estimates from observer data, which tend to be more accurate than the logbook data submitted by fishermen.

Soliai noted the increased catch rates for the fishery and asked if the improved catch rates were related to the opening of parts of the Large Vessel Prohibited Area, or if it was premature to attribute that relationship.

Bigelow said he does not want to speculate as there is only one year of data since the Large Vessel Prohibited Area reopened. He said the next semi-annual report in September 2023 will be presented by Jennifer Stahl, PIFSC.

Dueñas asked Bigelow what a definition of bycatch was under the bycatch reporting he referred to.

Bigelow referred to the MSA definition of bycatch, which is anything discarded whether for economic reasons, depredation or regulatory. Incidental catch are nontargeted fish that are retained.

B. Multi-Year Territorial Bigeye Tuna Catch and Allocation Specifications (Initial Action)

Fitchett presented on development of a framework for amending the existing single year BET catch and allocation limit framework, and options for specifying multiyear allocation limits without the need for a catch limit for each of the territories. These allocations would transfer catch from the territories to Hawai'i-based U.S. longline vessels.

Western and Central Pacific Ocean (WCPO) BET comprise a stock that is internationally managed and assessed by the WCPFC. The 2020 assessment indicated that the BET stock is not subject to overfishing or overfished. The tropical tuna conservation and management measure (CMM) 2021-01 assigned longline BET limits of six countries, including the United States, which has the lowest limit of 3,554 mt. CMM 2021-01 does not establish a limit for SIDS and Participating Territories, including American Samoa, Guam and the CNMI. CMM 2021-01 will expire at the end of 2023. Catch transfer arrangements between nations with specified BET

longline catch limits (e.g., Japan, Korea, etc.) are commonplace. Charter arrangements with flag states working with SIDS are also commonplace.

Fitchett presented analyses from stock projections that demonstrate the low impact of possible allocation limits on the WCPO stock. Longline catch per year for all vessels in the WCPFC is approximately 60,000 mt a year with purse seine fisheries catch approximately 70,000 mt in most sub-adult BET. Therefore, the relative impact of the U.S. longline fishery is low.

The current domestic management framework requires catch limits applicable to the U.S. Participating Territories in order to establish allocation limits on a single-year basis. The Council previously recommended removing catch limits for the U.S. Participating Territories (to be consistent with international management). It also recommended establishing allocation limits of 1,500 mt per territory for 2020-2023, based on their marginal impact on the BET stock and the fact that the stock is no longer experiencing overfishing. Considerations for Council action include a new draft BiOp that became available recently, a new WCPO BET stock assessment expected in August 2023, possibility of a new tropical tuna measure in December 2023 and whether multiple specified fishing agreements could be allowed.

Dueñas acknowledged the self-imposed 2,000 mt per territory catch limit, but noted there is no longer a need for a territorial catch limit in order to have an allocation limit. American Samoa has a small longline fishery and the CNMI might have an aspiration to develop a fishery of its own. Therefore, the catch limit could be a hindrance. Dueñas supports a three-year catch and allocation specification under the proposed framework. Dueñas also said NOAA and the U.S. State Department need to work harder to increase the Hawai‘i longline fishery catch limit. Dueñas noted the amount of money going as aid to other Pacific Island countries, while the U.S. government cannot give money to fund the MCPs to support fishery development in the U.S. territories. Dueñas also acknowledged the diversity of Hawai‘i and the importance of fisheries there, therefore it needs support, too. Collectively, the U.S. Pacific Islands need to be supported under the premise of EEJ.

Guthertz said the U.S. Pacific Territories welcomed other Pacific Islanders before the Compact of Free Association (COFA). She was happy that COFA was renewed, but disappointed that funding cannot come to Guam or other territories.

Soliai followed up on the comments by Dueñas and Guthertz on the lack of consideration for EEJ, particularly equity. Soliai said American Samoa needs to be recognized as a SIDS or Participating Territory and all the entitlements afforded to them. Soliai expressed frustration at the lack of equity despite all the talk about EEJ, noting the example of what the president is doing now about designating a marine sanctuary to the areas that are beneficial to the territories.

Simonds said when a separate group requested the president to expand the PRIA monument in 2022, Governor Ige wrote a letter to the president supporting that effort. She hoped the new Governor Green may be more supportive of fisheries.

Malloy addressed Soliai’s comments that Hawai‘i fishery’s desire to increase allocations and catch limits under the WCPFC. Malloy also said increases in catch limits or allocation limits either through the WCPFC or this action may affect analyses under the BiOp. She expressed

concern that anything other than the 3,000 mt allocation limits (status quo) could prompt a reinitiation. Some species in the BiOp are showing declining trends that need to be addressed.

Rice said the 2,000-mt limit for the territories was used as a negotiation tactic at WCPFC to get a larger U.S. quota, but the United States did not get an increase while other countries did.

Tucher clarified that no catch limit is required under the WCPFC. There is no legal objection to removing the territorial catch limit. The catch limit was initially included in Pacific Pelagic FEP Amendment 7 because there was in anticipation that there would be allocation of BET and some sort of a contractual mechanism would be needed to create an interest in the high seas or EEZ catch in the territories that they could then transfer by a specified fishing agreement. Domestically, there is still the requirement to ensure compliance with all applicable law, including the ESA.

Dueñas said increasing U.S. international catch limits may not render the need for allocations, but the territorial assistance is still needed. The Hawai‘i fishery is going to operate as it needs to. Guam should still be afforded the same benefits as Micronesia through COFA, whether or not 3,000 mt increases are given to the Hawai‘i fleet through the WCPFC, or through these territorial arrangements. Dueñas followed up on the duplicitous nature of the United States giving aid to keep out China from Pacific Island states, and supporting tens of millions of dollars through the South Pacific Tuna Treaty, with nothing in return for the United States. Dueñas concluded that Hawai‘i should be given everything it needs for its fishery, but the territories also need support. The purse seine issues have dominated discussions in the past.

Simonds said the U.S. State Department and NOAA keep the South Pacific Tuna Treaty matters separate from WCPFC matters. Also, purse seine and longline interests have been working together in recent years.

Sword said the U.S. State Department has caused the United States to lose ground in WCPFC matters. Meanwhile 60% of American Samoa lives below the poverty level. The government has not seen the value of the territories and Sword suggested Hawai‘i recognize the issues impacting the territories as vital.

Rice said he hopes that it does not take another four years if another BiOp is needed.

C. International Fisheries Issues

1. Western and Central Pacific Ocean Longline Management Workshop

Fitchett presented the outcomes of the first informal WCPO Tropical Tuna Longline Workshop. Anticipated issues and outcomes of a second informal workshop scheduled for the end of April 2023 were also presented, including the possibility of zone-based management options for longline fisheries within the WCPFC. New stock assessments for WCPO BET and YFT are expected in August 2023. Fitchett described the scientific needs for a series of informal longline management workshops and formal WCPFC tropical tuna workshops in 2023. Scientific information is needed in 2023 for the revision of a new tropical tuna CMM.

Fitchett also provided an overview of a proposed PRIA sanctuary designation initiative announced by President Biden March 21, 2023, which directed the Secretary of Commerce to

consider a sanctuary designation that would encompass 100% of the PRIA. The White House fact sheet on the initiative indicates that the designation would contribute toward the 30x30 America the Beautiful goal. The SSC at its September 2022 meeting reviewed a proposal by the Pacific Remote Island Coalition to expand the Pacific Remote Islands Marine National Monument. The SSC at the time received a presentation from a scientist affiliated with the Coalition and expressed considerable disagreement. The same rationale from that monument expansion proposal was used by the Coalition to propose a national marine sanctuary.

The tropical tuna stocks are not overfished and no overfishing is occurring, and the question remains as to what biodiversity a sanctuary would protect. The proposal also does not discuss unintended economic and socioeconomic consequences to the territories, the United States and beyond, as well as consequences of displacement of fishing effort. The SSC at the September 2022 meeting noted a lack of data and analytical framework to support a proposal to expand protections in the PRIA as the scientific evidence indicate limited conservation benefits. A recent study by John Hampton, a prominent tuna expert in the Pacific, as well as the Pacific Community tuna experts that found that the Phoenix Island Protected Area (PIPA), which borders the PRIA, had no noticeable conservation benefit to tropical tuna stocks in the area outside of the PIPA nor on the WCPFC jurisdiction as a whole. Waters are already closed to fishing from 0 to 50 nm of the PRIA, therefore there is already no risk of interaction between tuna fisheries and bottom habitats like coral reefs. The Council considered the SSC's recommendation from the September 2022 meeting, and sent a letter to the White House requesting consultation with the territories. Fitchett noted that the proposal is in conflict with EEJ principles that the Council has already discussed. Specifically, the proposal is in conflict with EO 14008 on tackling the climate crisis at home and abroad that includes the America the Beautiful initiative, as well as EO 13985 on EEJ issued in 2021.

Simonds said the sanctuary proposal mirrors the earlier proposal by the Coalition to expand the PRIA monument. The president's memorandum announcing the sanctuary proposal initiative focuses on ancestral lands rather than on science. She said the voices of the islands need to be heard, as the main issue is the lack of consultation with territories. The consultations with territories that were requested in 2022 have not happened. If the sanctuary process if followed, the Council could be part of that process as the councils are the fisheries arm of the sanctuary.

Rice said this proposal does not fit with the MSA.

Soliai said Pacific Island fishermen are becoming the endangered species because of federal actions. Soliai said the Council already discussed concerns about the initiative and the conflicting science in 2022 when the monument expansion proposal came out. Soliai noted the narrative on ancestral stewardship and that Hawai'i has provide its comments, but the territories have not been included. The reopening of PIPA should have indicated the lack of conservation benefit and impacts to tuna economies. NOS and NOAA need to find a way forward without closing fisheries and in consultation with the territories. Soliai said he is tired of writing letters because it has not led to the requested consultations.

Rice said he is skeptical of any benefits and that the Pacific Islands are taking the brunt of 30x30, and the closures are pushing U.S. fishermen to compete with foreign fleets.

Soliai said more than 52% of the region’s U.S. EEZ is closed to fishing due to monuments and the sanctuary would make that two-thirds.

Dueñas said the closure would amount to approximately 70% of U.S. Pacific waters, which is disheartening because no one is out to protect fishermen. Dueñas questioned the need for a presidential EO when the process is intended to be transparent, and said there are already existing processes and programs to protect the resources in those areas. He noted that the NOS budget is almost half of the NOAA budget, and said a lot of money is spent to do nothing. When he attended the Council member training, Dueñas asked the National Environmental Policy Act trainer why the president does not need to comply with the act when issuing EOs but the trainer was not able to provide an answer. He said he wants to ensure indigenous people are not being ignored in terms of how they are perpetuating their culture, noting that Guam is getting back to its sea-faring traditions similar to how Hawai‘i is going through its cultural renaissance. Dueñas noted the heavy foreign fishing and current vessel monitoring system requirements to monitor U.S. boats. IUU fishing is a much bigger issue than U.S. fisheries in their own waters, and said the best eyes and ears to protect the United States is the fishermen.

Fitchett referred to a 2018 NOAA publication by Jesi Quan Bautista and Savannah Smith, which he reviewed with the assistance of Amesbury, Guam AP vice chair. The study describes that the lack of fresh water and lack of fertile land at atolls and islands in the PRIA, as well as the lack of resources to sustain a permanent residence as reasons for not having a permanent residency by any voyager. The study indicates there were no permanent settlements on any of those atolls or islands.

D. Advisory Group Report and Recommendations

1. Advisory Panel

Tam, AP chair, presented the AP recommendations.

Regarding the options for multi-year BET catch and allocation limits, the American Samoa AP recommended that the Council proceed with the multi-year territorial catch and effort allocation framework removing the requirement for annual catch limits (ACLs) for the U.S. Participating Territories, and proceed with previously analyzed longline BET allocation option with a preliminary preferred alternative of up to 2,000 mt allocation limits for fishing years 2024-2026.

The Hawai‘i AP recommended the Council proceed with the multi-year territorial catch and effort allocation framework removing the requirement for ACLs for the U.S. Participating Territories, and proceed with previously analyzed longline BET allocation options with a preliminary preferred alternative of up to 2,000 mt allocation limits for fishing years 2024 to 2026.

The Joint Marianas AP recommended the Council remove the requirement for a BET longline catch limit for U.S. Participating Territories and proceed with a multiple year allocation framework for those U.S. Participating Territories.

The Joint Marianas AP recommended Council staff provide any available information on previous allocations, including how much each attribution may be valued from previous specified agreements. This should be used to inform a preferred allocation limit.

Regarding pelagic fisheries research priorities, the Hawai‘i AP recommended the Council request PIFSC conduct an economic analysis to better understand the economic impacts from the FKW.

The Hawai‘i AP recommended the Council request PIFSC to study how many sharks can be removed from the population while achieving MSY.

The American Samoa AP recommended the Council consider shark depredation research in American Samoa.

2. Fishing Industry Advisory Committee

Tam presented the FIAC recommendations for Michael Goto, FIAC chair.

Regarding options for multi-year territorial BET catch and allocation limits, the FIAC recommended the Council proceed with implementing Amendment 11, and recommends specifying a multi-year limit starting as early as 2024 with no catch limit for U.S. Participating Territories and up to 2,000 mt allocation limit per territory.

Regarding shortline fisheries, the FIAC recommended that members work with staff to develop a document characterizing the shortline fishery.

3. Regional Ecosystem Advisory Committees

There were no REAC recommendations on pelagic and international fisheries.

4. Scientific and Statistical Committee

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

Regarding the Hawai‘i longline fishery logbook reports, the SSC recommended that trends in hooks per set over time be included in future annual longline reports.

Regarding the WCPO Longline Management Workshop, the SSC recommended a working group examine the availability of vessel specific information to support linear programming or other forms of optimization to develop an analytical relationship between longline effort (fishing days) and catch.

Regarding the international billfish biological sampling research update, the SSC recommended, in order to enhance further outreach, that PIFSC provide the information on the project to the WCPFC Scientific Committee.

The SSC requested an update from the PIFSC LHP on progress for all pelagic and insular species to the SSC.

Regarding Bayesian meta-synthesis of shark bycatch mortality to support evidence-informed hazard mitigation policy, the SSC recommended that the Council should encourage the use of approaches such as meta-analyses, when available, to support assessment of bycatch mitigation policies.

Regarding updating the Council's Pelagic Fisheries Research Plan, the SSC recommended a working group comprised of members Itano, Harley, Camacho, Ochavillo, Severance, Kobayashi and Hospital work with Council staff, AP members and the Pelagic Plan Team (PPT) to revise the Council's Pelagic Fisheries Research Plan and report back to the SSC at its June 2023 meeting.

Camacho reported the SSC did not make any formal recommendations on the multi-year territorial BET catch and allocation specifications action item, but noted that under all catch options presented, there appeared to be no increase in fishing mortality or depletion risk to the BET population.

Camacho also reported regarding area-based management issues, the SSC did not make a formal recommendation but heard a report from John Hampton regarding a study in which he and his team investigated using counterfactual analyses of the PIPA. In that paper, the SSC reviewed a rebuttal also by Ray Hilborn refuting assertions of a spillover effect by the PMNM Expansion in 2016. The discussions have generally concluded that these blue water marine protected areas usually have little to marginal conservation benefit to species in these pelagic areas given the highly migratory nature of those stocks.

Dueñas asked if there has been any thought by the SSC on efficacy on the success rate of the conservation measures on sharks.

Camacho said he could not comment as the SSC has not discussed the issue.

E. Public Comment

Tam, AP Chair, made public comment on the marginalization of the people of the Pacific Islands, including the cost recovery issue for Hawaiian fishermen in the NWHI. He said everything comes at a price in today's world, and if people are going to continue to practice their traditions and culture, cost recovery or exemptions need to be accommodated. More Hawaiians live outside the Hawaiian Islands than in Hawai'i, including an American Idol competitor saying he was "priced out of paradise." Tam also noted the numerous EOs that bypass the system, and said he considers them an abuse of the system.

F. Council Discussion and Action

*Regarding the options for multi-year BET catch and allocation limits, the Council **directed staff to reconvene an action team to proceed with revising the territorial catch and effort allocation framework, to allow for a territory to allocate PMUS to fishing vessels via a specified fishing agreement without first setting catch limits for the U.S. Participating Territories. The Council also clarified that the framework should***

retain the ability for the Council to establish a catch and allocation limit should the conservation and management need of the stock require it.

The Council directed staff to proceed with analyzing multi-year longline BET allocation options with a preliminary preferred alternative of up to 1,500 mt transfer limits from U.S. Participating Territories to U.S. longline vessels. This action should be effective for fishing years 2024-2026.

The Council directed staff to provide any available information on previous longline BET catch allocations between U.S. Participating Territories and U.S. longline vessels, including how much each attribution may be valued from previous specified agreements.

Moved by Rice; seconded by Guthertz.
Motion passed.

Regarding President Biden's request for a national marine sanctuary in the PRIA, the Council directed staff to draft a letter to NOAA requesting:

- a. NMFS and NOS meet with the governors and staff of the territories of American Samoa, Guam and the CNMI and that NOS describe in detail the process that will be followed for President Biden's request for a national marine sanctuary in the PRIA; and
- b. A review of the process with the Council as soon as possible.

Moved by Rice; seconded by Soliai.
Motion passed.

Regarding Council's Pelagic Fisheries Research Plan, the Council recommended a working group comprised of SSC members Itano, Harley, Camacho, Ochavillo, Severance, Kobayashi and Hospital work with Council staff, AP members and the PPT to revise the Council's Pelagic Fisheries Research Plan and report back to the SSC and Council at its June 2023 meeting.

The Council recommended the Pelagic Fisheries Research Plan include priorities looking into: 1) the economic impact of territorial fisheries in terms of their benefits and needs to support and sustain the local fishing communities, especially the local longline fishery which provides food security for American Samoa, and 2) research on mitigating and reducing shark depredation.

Moved by Rice; seconded by Guthertz.
Motion passed.

Regarding Hawai'i longline fishery reports, the Council recommended that trends in hooks per set over time be included in future annual longline reports.

Moved by Rice; seconded by Guthertz.
Motion passed.

Regarding pelagic life history research, the Council requested NMFS PIFSC provides an information paper on the International Billfish Biological Sampling project to the WCPFC Scientific Committee.

The Council requested NMFS PIFSC LHP to report on progress for all pelagic and insular species to the SSC.

The Council requested NMFS PIFSC determines the MSY for shark populations in order to ensure sustainable stock management.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding meta-analyses to inform management decisions, the Council encouraged the use of approaches such as meta-analyses, when available, to support assessment of bycatch mitigation policies.

Moved by Rice; seconded by Guthertz.

Motion passed.

Regarding scientific needs to negotiate a new tropical tuna measure, the Council directed staff to convene a working group composed of SSC members to examine the availability of vessel specific information to support linear programming or other forms of optimization to develop an analytical relationship between longline effort (fishing days) and catch.

Moved by Guthertz; seconded by Soliai.

Motion passed.

Regarding Hawai'i nonlongline pelagic fisheries, the Council directed staff to work with FIAC members to develop an information paper that characterizes the Hawai'i shortline fishery.

Moved by Guthertz; seconded by Rice.

Motion passed.

XV. Program Planning and Research

A. National Legislative Report

Gourley provided the national legislative report and said the 118th Congress began Jan. 3, 2023, and that all legislation from the 117th congress must be reintroduced. The committees have changed and the House Natural Resources Committee includes representatives from American Samoa, Guam, the CNMI and Hawai'i. Notable legislation that passed since the last Council meeting included the National Defense Authorization Act, which contained ocean-related legislation such as prohibiting shark finning and reauthorizing the Coral Reef Conservation Act. The reauthorized act provides for a nonvoting member from each of the RFMCs, something that the Council has been advocating for 20 years. There is also a push by

some members of Congress to dilute or eliminate fishermen or fishing representation on the Councils. Gourley said not much is known about that initiative but there are members that would like to remove fishermen from RFMCs and the Councils are keeping track of the issue.

Rice said initiative to remove fishermen from RFMCs would eliminate people like him that fish every day.

B. Territorial Bottomfish Management Unit Species Revision Status Update

Seeley, Council staff, provided an update on the Council's initiative to revise the territorial BMUS lists. The purpose of the action is to refine the BMUS complex to reflect the current state of the bottomfish fishery in American Samoa. There is a need to revisit the MUS to determine whether the current species composition of the complex remains representative of the fishery. The BMUS in American Samoa include shallow-water species that include various groupers, emperors and snappers, and deep-water species like jobfish, trevally and various snappers.

The action would move the shallow-water species into the ecosystem component species designation under the FEP and including new deep-water species into the BMUS complex. The APT developed working groups to focus on developing SDC, ACLs, and accountability measures, as well as defining bycatch, EFH and fishing communities. The working group reports were presented to the Council at the December 2022 meeting and the action team is currently working on the alternatives for an amendment. The action team is recommending that the Council move forward with the amendment for only the American Samoa Archipelago FEP at this time to prevent regulatory mismatch from the timing of the amendment and upcoming stock assessments, as well as to prioritize specification of new ACLs for American Samoa using the new stock assessment to get out from under the rebuilding plan. The action team is developing the impact analysis and the APT will review the alternatives in draft amendment in April with a plan for the SSC and Council to review the draft amendment for initial action at its June 2023 meetings.

C. Updates on the NOAA Fisheries Equity and Environmental Justice Strategy

Danika Kleiber, PIFSC, presented an update on NMFS's national strategy on EEJ. She provided an overview of equity and how EEJ can be applied to environmental laws, policies and practices. A national draft of the strategy was rolled out in 2022 with public feedback provided through virtual and in-person meetings. Most of the feedback received was from the Pacific Islands and represented strong support for the strategy. There were requests to align NMFS's work with local needs, engage with more diverse groups, support the autonomy of territorial and tribal governments, and to collect demographic data from Councils and agencies to be able to understand if those groups are reflecting the communities that they serve. NMFS was also asked to measure success by feedback from communities and partners. The community had concerns with catch shares, aquaculture and protected species and made specific implementation recommendations which included communicating early and often with stakeholders, working with the Council and other agencies and supporting capacity for EEJ work. The capacity could include a workforce that has the language, cultural, engagement and social science expertise to be able to work within communities. She said only one in 60 of the scientists that NOAA hires is a social scientist with 30 social scientists in all of NOAA and 14 in NMFS.

NMFS met with more than 270 people in targeted meetings including fishers, fish marketers, cultural practitioners, government officials, territorial agencies, academics and members of the public. The purpose of the meetings was to solicit in-person feedback from the communities on the draft strategy and to initiate discussions with communities in preparation for subsequent engagement to develop a regional implementation plan. The national plan is great but where the hook meets the fish is going to be with these implementation plans. Kleiber provided the results of the meetings and the comments regarding barriers to EEJ in the region, supporting territorial agencies, and engaging communities to co-develop and co-produce projects from beginning to the end. Participants wanted NMFS to document how input, including indigenous and fisher knowledge, is used and to provide opportunities for the community like jobs, training and paid internships. Other feedback included concerns about pollution, food security and federal funding dependency. She said the national plan is on the cusp of being finished and NMFS is forming a working group to create an engagement plan to engage partners and communities to create a regional implementation plan by the end of the year.

Rice said one size does not fit all as the islands are unique compared to the rest of the country and this should be recognized in the national plan.

Kleiber said there has been an effort to make sure that the regional plan is tailored to the region.

Guthertz asked how far up the chain of authority has the EEJ strategy been embraced. She said the social scientists seem very supportive of EEJ but wondered how comfortable others are inside and outside of the agency with embracing it in their work.

Kleiber said there is a great deal of support from leadership and that the assistant administrator has made EEJ one of the three or four things that she emphasized as a priority for NMFS.

Soliai asked how the regional plan will fit into the national plan when the priorities for the national plan do not necessarily relate to the region. He said the national federal policy for conservation has a negative impact on the territories, such as the example of designating a sanctuary for the PRIA.

Kleiber said they are in constant communication with NOAA GCPI to put in language to push for changes related to EEJ, but there will be guard rails.

Soliai said he hoped to be on the positive side of the guard rail and not fenced in. He asked who comprises the national working group.

Kleiber said the national group includes three representatives from the region, two from PIFSC and one from PIRO. She said she is the co-chair of the national working group which shows that the region has been prioritized, or at least well represented.

Soliai recommended that a member from the territories be represented on that working group so that concerns and issues are conveyed from a Pacific Islander. He said it makes sense not to have that group only represented by federal employees.

Kleiber said she will convey that recommendation.

Ramsey said a lot of the plan is based on the recognition that western science is the decision maker. He asked if there has been exploration into putting indigenous knowledge on the same playing field as western science.

Kleiber said is an ongoing tension and one of the pushbacks they have gotten in EEJ because it is explicitly in the strategy that indigenous and traditional ecological knowledge be included. What that looks like in reality is still being worked out.

D. Regional Communications and Outreach Report

Amy Vandehey, Council staff, presented the regional communications and outreach report including an update on the quarterly newsletter, media requests, the Fishers Forums held in conjunction with the Council meeting and updates on Guam scholarship students. The newsletter highlighted what climate change looks like in the Pacific Islands, outcomes from the WCPFC meeting held late last year, the Guam bottomfish data workshops, and a scientific paper on tuna and marine protected areas. Since the last Council meeting, there were 17 instances of press releases that were picked up that mentioned the Council including three press releases about the last Council meeting. There were also two media requests with staff being interviewed for articles on deep-water shrimp and also on climate change effects on tuna distribution. The Fishers Forum held at the Guam Museum was successful with more than 100 people in attendance and interviews by KUAM TV.

Three students are attending the UOG on the Council's scholarship program, one from CNMI and two from Guam. Andrew Kang, a master of science student from Guam, is researching the life history and marine productive biology of the humphead wrasse on Guam and has been processing samples and analyzing data. The student hopes the findings will be useful for the management of this species and anticipates graduating in spring 2023. Leilani Sablan, a master of science student from Guam, is in the process of analyzing data to determine environmental predictors for noncommercial reef catch. Based on preliminary findings, environmental factors such as winds, moon and season play different roles in different sectors within Guam's noncommercial fisheries. This student is finalizing the results and hopes to be completed by August 2023. Jude Lizama, an undergraduate student from the CNMI, is exploring opportunities to enhance his fishery management capabilities by managing the laboratory for commercial fisheries biological sampling on Guam and anticipates graduating in spring 2023. The scholarship program requires the students to commit to working at their home fisheries agency for one year for every year of funding that they receive once they graduate.

E. Council Program Planning Report

DeMello presented on the Council's program planning and priority setting for 2023 and provided an overview of the Council's five-year program plan. The Council's programs were realigned in 2020 but the drivers for these programs remained unchanged. Recent directives that have come up in the past year and a half including area-based management, EEJ and seafood have forced the Council to incorporate new ideas and update policies and agreements. The current five-year program plan is set to expire in 2024 so the staff has been working on different activities that would provide new ideas for the next plan. These activities included the staff planning retreat and meeting with the PIFSC leadership, PIRO SFD and Hawai'i DAR. The meetings provided an opportunity to discuss priorities, synergies and where the Council can

coordinate and collaborate. Council staff is restructuring the program plan to capture those ideas and priorities and also reaching out to meet with other PIRO divisions for additional meetings. DeMello said the plan is to develop a new program plan for the Council to review by September 2023 and then finalize the plan for the Council's approval in March 2024.

Michelle Chow, PIRO, presented on the 2023- 2026 NMFS Geographic Strategic Plan (GSP) for the Pacific Islands Region. NMFS Headquarters directed PIRO and PIFSC to develop a unified GSP that follows the overall strategies in the National Strategic Plan for 2023-2026. This plan represents a lean strategic vision rather than a catalogue of all of responsibilities. The final draft is due to NMFS Headquarters for a national leadership review April 28, 2023, which will be done in May and June and sent back to local leadership for completion by August. The GSP should be published in October 2023. She requested Council comments and input on key strategies or any major flags or gaps by April 15, 2023.

Rebecca Walker, PIFSC, provided the strategic goals in the draft GSP. Goal 1 is to adaptively manage fisheries for sustainability and economic competitiveness. This addresses priorities on adapting fisheries management to a changing climate, modernizing the fisheries survey and data enterprise and also IUU fishing. Goal 2 is evolving protected species scientific efforts to meet basic mandates for population assessments. This also includes recovery actions that focus on understanding how to fulfill the mandate as the climate changes and impacts protected species. Goal 3 is organizational excellence. This is about diversifying work, promoting equity and environmental justice, and improving mission performance through organizational excellence. This goal captures the strategies on internal administrative procedures, like workforce development, from organizational changes in a post-pandemic world, as well as communication with external organizations.

Walker reported the most important comment heard from Council staff so far is that NMFS should be communicating early and often on issues and activities that are described in the plan that may affect the Council or Council-managed fisheries. There is also a need to ensure that the Council's statutory responsibility for fisheries management is clear. Walker said Council staff identified that the draft plan does not include much information on economics and social science so that will be addressed in the next draft to be more explicit in some of the strategies.

Dueñas said he loves the concept but was looking for more specificity in terms of the concerns from the Council, noting that the plan is abstract like a Van Gogh painting and open to interpretation. He said he does not see a realistic plan for recovery or use of protected resources like the green sea turtle by the indigenous people. There is hard work being done in developing the plan but it does not fix the problem or address the concerns of the community. There needs to be a real outcome to any strategic plan.

Walker said the Van Gogh metaphor is useful and that the key performance indicators will provide more focus on outcomes in the plan.

Soliai said IUU fishing is addressed by having enforcement within the region. American Samoa does not have an asset that can enforce IUU fishing within the territory. He said should be taken into account as recommendations for the plan are being made.

Sword said the plan should also be looking at food security for the nation.

F. Regional Coordination Meeting Reports

1. Council-PIRO (NOAA Fisheries Geographic Strategic Plan)

(Agenda Item addressed during prior presentation.)

2. Council-PIFSC

(Agenda Item addressed during prior presentation.)

3. Council-State of Hawai‘i

(Agenda Item addressed during prior presentation.)

G. Advisory Group Report and Recommendations

1. Advisory Panel

There were no AP recommendations regarding program planning.

2. Fishing Industry Advisory Committee

There were no FIAC recommendations regarding program planning.

3. Regional Ecosystem Advisory Committees

There were no REAC recommendations regarding program planning.

4. Archipelagic Plan Team

Jones, APT chair, presented the APT report and recommendations. Jones said the APT held an intersessional meeting on January 25, 2023 and the meeting topics included territorial BMUS revision, refinement of uku EFH, Kona crab SDC, and working group reports.

Regarding changes to SDC related to the proposed revision to the territorial BMUS lists, the APT recommended for territorial BMUS that rate-based analytical approaches, such as spawning potential ratio, be allowed as SDC.

Regarding changes to ACLs, accountability measures, and the use of 50 CFR 600.310(h)(2) provision related to the proposed revision to the territorial BMUS lists, the APT endorsed the ACL/AM/(h)(2) report as drafted by the APT component team, including the establishment of a Tier 6 approach to inform the development of ABCs and ACLs and a proposed list of accountability measures that ensure biomass and fishing effort remain at sustainable levels.

Regarding changes to monitoring and bycatch related to the proposed revision to the territorial BMUS lists, the APT:

- Recommended the territorial resource management agencies, in collaboration with PIFSC, review current protocols to augment the length-based monitoring of catch from bottomfish fishing trips in the proposed BMUS lists are properly identified and measured

for length (and weight if possible); and conduct training sessions for data collectors on fish identification and length measurements for the proposed BMUS.

- Recommended developing technological solutions to support length-based monitoring through the use of mobile devices equipped with image recognition technology to identify and optically measure fish length.

Regarding changes to EFH related to the proposed revision to the territorial BMUS lists, the APT notes that the proposed action to revise the territorial BMUS lists would have little effect on the designation of EFH required to be specified in the FEPs, and the APT recommends revising EFH definitions to reflect the proposed deep-water BMUS to be added to the lists, improving EFH definitions for all life stages of all BMUS where able, and removing EFH definitions for shallow-water BMUS transitioning to ECS and into the territorial FMPs as a result of the proposed action.

Regarding changes to fishing communities related to the proposed revision to the territorial BMUS lists, the APT notes that the proposed action to revise the territorial BMUS lists would have little effect on island fishing communities, associated indigenous programs, sociocultural or economic aspects of their bottomfish fisheries and socioeconomic data collection efforts by PIFSC and the Council. The APT recommend updating the socioeconomic summary figures and statistics presented in the Council's Annual Stock Assessment and Fisheries Evaluation Reports consistent with the revised species list such that historical and current data are representative of the updated BMUS according to the proposed FEP amendment.

Dueñas asked for clarification regarding the MSY proxy mentioned and asked if it would be used for the creel survey.

Jones clarified that PIFSC looked at a weight-based or spawning potential ratio and the need to have a proxy that would be measured to provide an MSY-like metric.

Dueñas said there are approximately 30 seamounts in Guam with bottomfish habitat and asked if the deep and shallow habitats were separated in the BMUS evaluations.

Jones said PIFSC no longer looked at the current American Samoa BMUS as a complex and moved to single-species assessment by going rate-based, which allows it to look at the species separated from shallow or deep. The BMUS revision would move the shallow species to primary management by the jurisdictions and the remaining BMUS would include the deep-bottom.

Dueñas said most of the shallow- and mid-water are in federal waters on the seamounts. He said there needs to be another MUS category for seamounts. There needs to be a shallow complex, a mid-water complex and a deep-water complex. Dueñas also said PIFSC should look at DNA to determine if the fish at the different seamounts are related to each other or to other areas such as the islands in Micronesia.

5. Scientific and Statistical Committee

There were no SSC recommendations regarding program planning.

H. Public Comment

There was no public comment.

I. Council Discussion and Action

Regarding the territorial BMUS revision, the Council directed staff to incorporate the APT recommendations for the territorial BMUS revisions into a draft amendment for initial action by the Council at its June meeting. The draft amendment should include, but is not limited to, options for SDC, EFH and ACL processes. Further, the Council directs staff to begin the process with American Samoa and continue with Guam and the CNMI as new stock assessments are made available.

The Council directed staff to request NMFS PIFSC work with the territorial agencies to review current protocols to augment the length-based monitoring of catch from bottomfish fishing trips and ensure that the proposed BMUS lists are properly identified and measured for length (and weight if possible). Further, the Council requests NMFS PIFSC assist the territorial agencies in conducting training sessions for data collectors on fish identification and length measurements for the proposed BMUS.

The Council directed staff to request NMFS PIFSC to develop technological solutions to support length-based monitoring through the use of mobile devices equipped with image recognition technology to identify and optically measure fish length.

The Council recommended the APT consider updating the Council's annual Stock Assessment and Fisheries Evaluation Reports to be consistent with the proposed revised species list such that historical and current data are representative of the updated BMUS.

Dueñas wondered if the concept of measuring fish may be a burden for fishermen if the APT is looking for exact measurement. He prefers EM through the use of a smartphone or an electronic scale. The biosampling program was great because fishermen brought in fish to be weighed and samples like gonads and otoliths were taken. The program was taken away from the market and went to a contractor who is buying fish at a higher rate and increasing the effort for bottomfish.

Gourley said the details will likely be worked out during the development.

Moved by Guthertz; seconded by Sword.

Motion passed.

Regarding EEJ, the Council directed staff to request NMFS include territorial representatives on the EEJ Working Group to provide expertise needed to identify, effectively engage with and address the needs of Pacific Island communities.

Moved by Dueñas; seconded by Guthertz.

Motion passed.

Regarding planning, the Council directed staff to work with NMFS PIRO and PIFSC to finalize comments and identify program priorities for inclusion in the draft Pacific Island Region's GSP.

Moved by Rice; seconded by Guthertz.

Motion passed.

XVI. American Samoa Archipelago

A. Motu Lipoti

Sword referred members to the Motu Lipoti in their briefing materials, noting the types and sizes of fish such as dogtooth and YFT that were caught by the recreational and indigenous groups. In 2022, there was a report of a local longliner inside the 12-mile zone where the recreational anglers have been catching an abundance of YFT, halfway between the mouth of the harbor and the South Bank.

Sword reported the 2023 Flag Day Tournament is scheduled to be held April 14-15, 2023, the I'a Lapoa International Tournament is scheduled to be held October 9 to 13 and the Thanksgiving tournament will be held in November.

Sword provided updates on the 3,000-ton shipyard and dry dock facilities and said the current management has extended it by another 30 feet, allowing for bigger purse seiners to be brought up. Four 38-foot Super Alias are being built in Port Townsend, with the first one scheduled to be down in American Samoa in April 2023. These Super Alias, funded by the Economic Development Authority, are 295-horsepower Yanmar diesel with a 300-gallon capacity, allowing them to journey anywhere within the EEZ.

Soliai referred members to their briefing materials for the Legislative update. American Samoa introduced local legislation to create a landing license for purse seiners in the territory and the Fono endorsed the Administrative Measure which is currently with the Governor's Office for signature. The purpose is to create a local database or registry of purse seiners that support the economy, such as the canneries, with the hope that it will be looked upon favorably within the WCPFC and tropical tuna measure that will be discussed in December 2023.

Soliai provided an update on the cannery, noting that approximately 430 mt are processed daily. There have been direct deliveries from both U.S.-flagged vessels and foreign vessels. Impacting the cannery was an unplanned two-week shutdown to address some maintenance issues and challenges that occurred in flying contractors down to complete the work.

Soliai stated that the PSMFC's review for the CARES Act 2.0 funding for American Samoa was still underway and that it anticipates funding to be received in late April or early May.

Dueñas asked if the Asian Pacific Airlines was still servicing American Samoa.

Sword said there is a cargo plane that comes once a week and double flights over Christmas. Hawaiian Airlines brings the mail twice a week.

B. Department of Marine and Wildlife Resources Report

Domingo Ochavillo presented the DMWR report. Low tides and high air temperatures have contributed to fish kill events, including a report from the village of Au'asi March 23, 2023, after which DMWR staff documented hundreds of dead fish on the shore in Tutuila, most of which were rabbitfish. DMWR suspected that the juvenile fish ended up stranded in tidal pools and exposed to high temperatures. There was a similar phenomenon in 2016, when a majority of juvenile rabbitfish was infected with a virus in their nervous system. The extreme conditions made them vulnerable to infection, resulting in their deaths. DMWR staff has sent samples to USGS for analysis.

DMWR staff recorded coral black band disease for the first time in American Samoa and noted similar reports in Hawai'i. Unlike Hawai'i where it is cyanobacteria that is causing the black band disease, the cases in American Samoa may be caused by filamentous algae, suggesting that the caustic agents may differ between geographic areas. DMWR staff sent samples to USGS for analysis.

FAD A deployment occurred recently in Anu'u and FAD D (shallow) was deployed on the west side of Tutuila. Five FADs are currently active, including areas across the harbor and in Fausa. DMWR hopes to deploy a FAD in Manu'a.

Ochavillo reported on the boat-based and shore-shore based creel programs. Three alia boats landed approximately 4,000 pounds of pelagic fish during the reporting period. Market sales for the reporting period included approximately 12,000 pounds of fish, with marlin, swordfish and wahoo with the highest sales, indicating that incidental catch from longline vessels are a significant fish source available for the market. Only two alia boats went bottomfishing in the last quarter, indicating a drastically declining bottomfish fleet in American Samoa. Octopus was the top landed catch from the shore-based creel survey. Ochavillo also reported on the catch from the 2022 tournaments.

The Community-Based Fishery Management Program has been slowly progressing and DMWR has done a lot of great outreach. Village of Amanave on the western part of Tutuila has rejoined the program.

The WPSAR for the bottomfish stock assessment was very well attended, including several fishermen, and provided a good opportunity for fishermen to ask questions about the bottomfish assessment.

Soliai asked if there was a response regarding the samples for the coral black band disease sent to USGS.

Ochavillo said the USGS scientists showed that the black band is actually filamentous algae.

Soliai emphasized the need for a marine lab in American Samoa to address these concerns more expeditiously in comparison to the current practice of sending samples off-island.

C. Update on American Samoa Bottomfish Stock Assessment and Review

Fitchett reported a WPSAR was conducted in American Samoa Feb. 17-23, 2023. The WPSAR was chaired by Erik Franklin, University of Hawai‘i, and two Center of Independent Experts reviewers, Joseph Powers and Patrick Cordue. The new stock assessment is a species-by-species assessment, and the panel found that the stock assessment satisfied all the Terms of Reference. The final WPSAR report and the stock assessment are expected to be presented to the SSC and Council in June 2023. If a BSIA recommendation is made by the SSC, the Council will provide direction to form a P-Star and Social, Economic, Ecological and Management Uncertainty (SEEM) Working Group. After the June 2023 Council meeting, PIFSC would issue the BSIA memo and updates to the Stock Assessment National Stock database. PIRO would then issue a stock status determination letter superseding a rebuilding plan. Between June and September 2023, Council staff will convene a P-Star and SEEM Working Group with the new BSIA and stock projection, the results of which will be presented at the September 2023 meetings. The SSC at the September 2023 meeting will consider setting an ABC, and the Council will consider initial action for the 2024-2028 ACL, with final action anticipated in December 2023.

Dueñas asked for the outcomes of the stock assessment, how the outcomes will affect the 5,000-pound catch limit under the rebuilding plan.

Fitchett said the stock assessment took a holistic approach accounting for life history and improvements to the data. He said he could not comment on how the stock assessment will affect the ACL, as the WPSAR report is still underway and the final results will be available in June. He said many of Dueñas’s concerns will be addressed based on how the WPSAR went.

Sword asked if there are any updates to the Catchit Logit program.

Jones, PIFSC, said the Catchit Logit program started as a pilot program funded by the Council, and PIFSC is in the process of transitioning that program to PIFSC under WPacFIN with Sabater leading the transition. The first phase is to use Sellit Logit to replace the Commercial Receipt System and provide training for the jurisdictional agencies and vendors. The second phase is going to commercial mandatory reporting for jurisdictions that have it. The third phase is replacing the creel survey with the survey through Catchit Logit. The original pilot, which concentrated on fishers volunteering their information, has been set aside in the phased approach.

Soliai thanked the Council and PIFSC for hosting the WPSAR meeting in American Samoa and noted the step forward in providing some equity and meaningful consultation with the American Samoa Government. He hoped that a similar consultation approach will be considered for other territories. Soliai said he attended an SPC fisheries meeting where he learned about a tool called Ikasavea, and hoped that some of those mechanisms could be incorporated for fishermen into Catchit Logit for the territories and the region.

D. Advisory Group Report and Recommendations

Dueñas requested that advisory group members be allowed to give a minority report so that the Council has a better understanding of what was discussed during meetings. If there are no recommendations, other information or updates can be reported.

1. Advisory Panel

Nathan Ilaoa, American Samoa AP vice chair, presented the following recommendation:

The American Samoa AP supports the Council's efforts to promote regulation by NMFS of the American Samoa based U.S. flag purse seiners as a SIDS fleet with regard to the WCPFC.

2. Fishing Industry Advisory Committee

There were no FIAC recommendations.

3. Scientific and Statistical Committee

There were no SSC recommendations.

E. Public Comment

There was no public comment.

F. Council Discussion and Action

*Regarding American Samoa bottomfish stock assessment and management, the Council **directed staff to work with NMFS PIFSC and DMWR to provide next steps for American Samoa bottomfish fishery management to the Council at its meeting in June.***

The Council directed staff and requests NMFS PIFSC to evaluate the use of *Ikasavea* for American Samoa data reporting, and report to the Council at its meeting in June.

Moved by Sword; seconded by Guthertz.

Motion passed.

*Regarding American Samoa fishery issues, the Council **continued to request the USCG increase assets and patrols in American Samoa to address IUU fishing and enhance safety at sea.***

The Council reiterated its request for NMFS to proceed with rulemaking to recognize a distinct American Samoa purse seine fleet, so it may be fully entitled to privileges of SIDS and U.S. Participating Territories with regard to CMMs under the WCPFC.

Malloy stated that PIRO will abstain from the second recommendation regarding the rulemaking to recognize a distinct American Samoa purse seine fleet.

Moved by Dueñas; seconded by Sword.

Motion passed with Malloy abstaining.

XVII. Administrative Matters

A. Financial Reports

DeMello reported the current administrative budget has a shortage of projected expenses due to the increased cost of meeting venues, airfare, personnel and stipends. The Council is in the fourth year of the five-year multi-year award and expects to receive an update on additional 2023 funding at the Council Coordination Committee meeting in May. DeMello referred members to the briefing materials for the administrative, coral, Sustainable Fisheries Fund, turtle grants and other associated projects.

Dueñas commented on the budgetary restraints and said he has been disheartened as the Council continues to struggle and experience the lack of equity towards the Pacific Island people.

Sakoda asked if there has been any discussion on addressing the Office of Inspector General findings and letter.

Gourley deferred questions concerning the audit to Simonds.

B. Administrative Reports

Elle Granger, Council staff, reported Floyd Masga, the Council's CNMI Island Coordinator terminated his contract in February and that the Council will be conducting solicitations. The Council also welcomed Felix Penalosa as the new American Samoa Island Coordinator starting March 1, 2023.

The Council participated in the NOAA Office of Sustainable Fisheries Preventing Harassment and Discrimination training and as of Feb. 14, 2023, office reported approximately 70% of the Council family had completed training. The model policies for the RFMCs were finalized at the November 2022 Council Coordination Committee meeting and Council staff plans to compare those models with the existing policy and present them during the June 2023 meeting.

C. Council Family Changes

DeMello reported staff would like to add Sean Hanser, PIRO Habitat Conservation Division, and Irene Kelly, PRD, to the APT. For the PPT, staff would like to add Jason Philibotte, PIRO assistant regional administrator for International Fisheries Division, and Melissa Snover, PRD. For the Education Committee, staff requests to replace Alfredo De Torres with Kelsey McClellan as the Northern Marianas College representative, replace Agustin Kaipat with Christina Tudela as the CNMI DLNR representative and replace Leah Beth Naholowaa with Sylvia Calvo as the Guam DOE representative.

D. Meetings and Workshops

DeMello referred members to the list of meetings and workshops provided in the briefing materials and reviewed the upcoming June 2023 SSC and Council meeting schedules. DeMello stated that members may contact Simonds for meetings they are interested in attending.

Dueñas requested members be present in-person for upcoming Council meetings.

Soliai requested the Council consider spending additional time in the territories in conjunction with the Council meetings to facilitate further engagement with the communities and the fishermen.

Malloy noted that the December 2023 WCPFC and the Council meetings are scheduled concurrent in the same week and requested reconsideration for the dates, as many PIRO staff would not be able to attend the Council meeting.

Guthertz thanked the Council members, staff, federal partners and agencies for contributing to the meetings on Guam and the CMMI. Guthertz commented on the success of the Fishers Forum and the level of participation and contributions. Guthertz also concurred with Soliai's request to spend more time with the people in the islands they represent, to absorb their perspectives, concerns and recommendations.

E. Executive and Budget Standing Committee Report

Gourley reported the Executive and Budget Standing Committee meeting was held March 26, 2023, and that most of the issues have been previously discussed. An item of interest was NMFS initiating the review of National Standards 4, 8 and 9. There are certain priorities, such as climate resilience and equity that were not considered when these standards were created. There will be an ad hoc committee formed to generate comments.

F. Public Comment

There was no public comment.

G. Council Discussion and Action

Regarding administrative matters, the Council approved the 194th Council Meeting financial and administrative reports.

The Council directed staff to send a letter to the NMFS assistant administrator requesting funds be restored that were removed over the past few years and that NMFS provide funds for upcoming unfunded program activities such as climate change and EEJ.

The Council requested NMFS PIFSC collect baseline information and implement a monitoring system for the Mariana Archipelago seamount habitats.

The Council requested the governors of Guam and the CNMI draft a letter to the JRM /DOD/Office of Economic Adjustment to provide funding to the Marianas MCPs to mitigate the impacts on existing and potential fishery opportunities due to the ongoing and future military activities in the Mariana Archipelago.

Malloy said PIRO abstains from the recommendation to send a letter to the NMFS assistant administrator to fund certain activities.

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

Regarding CCC effort to review National Standards 4, 8 and 9, the Council established a working group, to be chaired by the Council chair and with representatives from the SSC, AP, FIAC, APT, PPT, Social Science Planning Committee and other members as appropriate, to work on the national review of National Standards 4, 8, and 9.

Move by Guthertz; seconded by Dueñas.
Motion passed.

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

- a. Add Sean Hanser, NMFS PIRO Habitat Conservation Division, and Irene Kelly, PRD, to the APT.**
- b. Add Jason Philibotte, NMFS PIRO International Fisheries Division, and Melissa Snover, NMFS PRD, to the PPT.**
- c. Replace Alfredo De Torres with Kelsey McClellan as the Northern Marianas College representative to the Education Committee.**
- d. Replace Agustin Kaipat with Christina Tudela as the CNMI DLNR representative to the Education Committee.**
- e. Replace Leah Beth Naholowaa with Sylvia Calvo as the Guam Department of Education representative to the Education Committee.**

Moved by Guthertz; seconded by Sword.
Motion passed.

Regarding coordination and planning, the Council directed staff to work with advisory bodies to review and update the 5-year Pelagic Fisheries Research Plan for Council consideration and endorsement at the 195th meeting in June.

The Council directed staff to continue coordination and strategic planning efforts with NMFS, local agencies and advisory bodies to develop the next 5-year Council Program Plan and Budget (2025-2029) and provide an update at the next Council meeting.

The Council directed staff to continue to work with the governors of American Samoa, the CNMI, Guam and Hawai'i to identify a pathway to allowing green turtle harvest in the U.S. Pacific Islands.

Malloy stated that regarding the recommendation on green sea turtle harvest, PIRO, the U.S. State Department and the NMFS Office of International Affairs have had multiple conversations regarding allowing green sea turtle harvest while turtles are still listed as endangered species under the ESA. The U.S. State Department has made it clear there is no path forward to do this unless turtles are delisted. Malloy said she wanted the Council to understand that pursuing this option may not be fruitful for Council staff at this time based on the U.S. State Department's position.

Gourley asked if there could be a cultural take of a threatened species if turtle is down-listed from endangered.

Malloy replied that would not be possible as long as they are part of the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC) and reiterated it may not be a fruitful endeavor for Council staff.

Dueñas said no effort to perpetuate a culture is ever fruitless. He said the Mariana Archipelago, American Samoa and Hawai‘i are not geographically part of the Americas for which the IAC was intended, and these areas should be given an exemption. He expressed frustration that the people in the Mariana Archipelago are told they cannot perpetuate their culture because of federal laws, and asked the federal agencies for joint cooperation to find a resolution.

Igisomar said the CNMI shares the concerns expressed by Dueñas, and said it is conservatively asking for five or six turtles. He said it was disheartening to be told not to initiate a discussion because it may not go your way and questioned where the equity and equality are in that process.

Malloy said PIRO abstains from the recommendation on the green sea turtle directed harvest.

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

H. Other Business

Rice expressed concerns regarding the possibility of fishermen being removed from the RFMCs.

Dueñas restated concerns about the Presidential Proclamation for the sanctuary designation.

Soliai thanked the governments of Guam and the CNMI, Governor Palacios and Governor Guerrero for the hospitality extended to the Council meeting. The territorial governors have worked together in unison and respect in their joint letter to the president in response to the proposed sanctuary expansion within the PRIA. Soliai noted that all are supportive of conservation and that there should be a dialogue and process by which small communities are engaged. The core objective of Council members is that they are stewards of the resources that their communities rely on. Soliai thanked all the federal partners and Council staff for their work.

Gourley reflected on the significant differences of the amount of U.S. waters in the Western Pacific that were available to U.S. fisheries between 2005 and 2022, and the potential impact if the PRIA turns into a sanctuary. Gourley said the territories and Hawai‘i have been the target of Washington, D.C. and environmental groups that wish to shut down sustainable fishing ventures that were created or kept for use by the MSA. Gourley thanked federal staff, the governors and Council staff for their work.

[Meeting adjourned.]