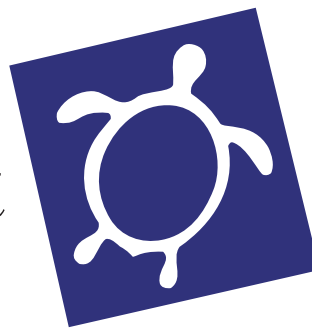


Environment



Hawai'i

a monthly newsletter

Monumental Dispute

Should the boundaries of the Papahānaumokuākea Marine National Monument be expanded? Much of this issue is devoted to exploring the arguments for and against. Teresa Dawson looks at the deliberations of the Reserve Advisory Committee and the case for expansion presented in a white paper produced by expansion proponents. Patricia Tummons reports on the distinctly anti-expansion views expressed at the recent meeting of the Western Pacific Fishery Management Council.

And don't forget: Our annual dinner is coming up on August 21, when cetacean expert Robin Baird will be our special guest speaker. More information on Page Two.

Debate Heats Up Over Potential Impacts Of Expanded Monument on Longliners

When it comes to the arguments that supporters and opponents of the proposed expansion of the Papahānaumokuākea Marine National Monument have put forth about the potential impacts of ending commercial fishing there, there's a lot to sort out: what matters, what's open to debate, and what's just plain wrong.

For example, the grassroots group Expand Papahānaumokuākea stated in a white paper last month that expanding the monument would protect deep sea habitats from the damaging effects of bottom trawling, when, in fact, that type of fishing has been prohibited throughout federal waters around Hawai'i since the 1980s.

Another example: In its April 8 letter to President Barack Obama, the Western Pacific Fishery Management Council

(Wespac) suggested that closing federal waters around the Northwestern Hawaiian Islands (NWHI) to fishing would "exacerbate the problem of sharks preying on juvenile seals." As pointed out later by Don Schug, a former Wespac staff economist and currently a member of the NWHI Coral Reef Ecosystem Advisory Council (RAC), "The assumption seems to be that the longline fishery reduces the population of sharks that prey on monk seals. However, ... the letter notes that the major threat to Hawaiian monk seals are Galapagos sharks, which, according to the letter, occasionally cross the open ocean between islands, but are generally resident at a single island. Elsewhere, however, the letter states, 'Sharks caught by the Hawai'i longline fishery are highly

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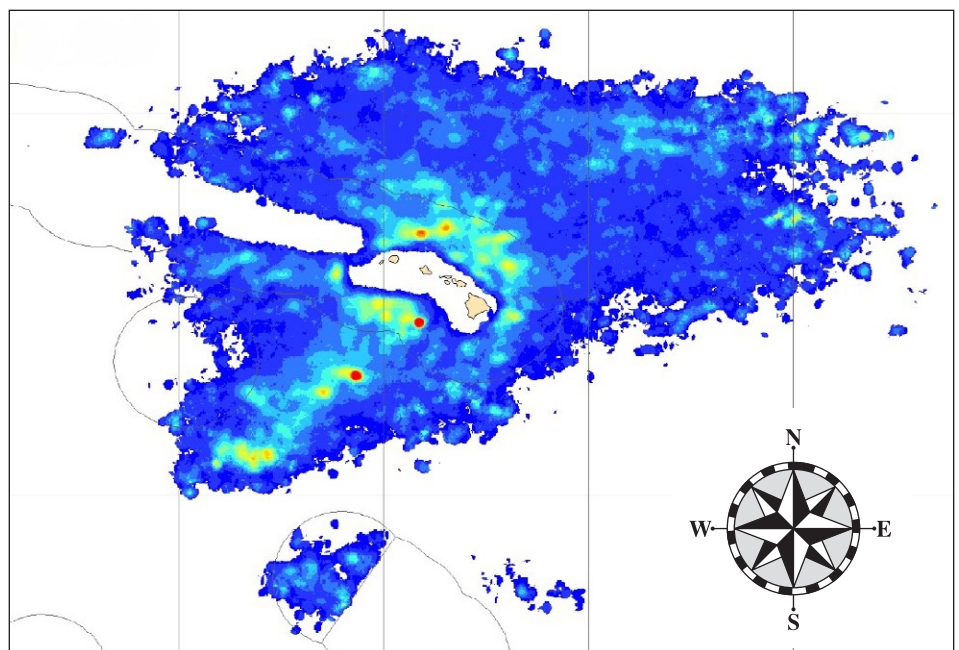
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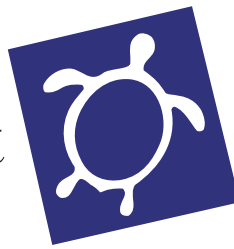
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*Proponents Argue for Protection
Of Sea Bed, Cultural Resources*



This map illustrates where the deep-set Hawai'i longline fleet set its hooks between 2005 and 2015. The thin black boundary lines indicate the U.S. Exclusive Economic Zone.

Environment



Hawai'i

Volume 27, No. 1

July 2016

NEW AND NOTEWORTHY

Save the Date: Robin Baird, the foremost expert on Hawai'i's false killer whales and other resident cetaceans, will be the special guest speaker at the annual *Environment Hawai'i* dinner.

Date: August 21, Sunday.

Time: 6-8:30 pm

Place: 'Imiloa Astronomy Center, Hilo

Cost: \$65 per person

(includes a \$20 donation)



Dr. Robin W. Baird

Baird, who has studied these cryptic animals for the last 17 years, will be speaking on the topic, "Conservation and Management of Hawai'i's Whales and Dolphins." His book, *The Lives of Hawai'i's Dolphins and Whales*, will be published later this year by



False killer whale with ono.

the University of Hawai'i Press.

Much more information about Baird's work may be found in the Cascadia Research Collective's website, www.cascadiaresearch.org.

To reserve a seat, please call our office at 808 934-0115 or send a check to *Environment Hawai'i*, 190 Keawe Street, #29, Hilo HI 96720.

Hu Honua Questions: Last month, the Public Utilities Commission issued a set of information requests to Hawaiian Electric and its subsidiary Big Island utility, Hawaiian Electric Light Company (HELCO) regarding the cancellation of a power purchase agreement with Hu Honua, the company proposing to build a biomass plant in Pepe'ekeo, on the Hamakua coast of the Big Island.

The utility cancelled the PPA, effective March 1. Now the PUC wants to know details of the negotiations, if any, between the utility and principals of Hu Honua – when, where, how they took place and who was involved.

It also is asking for copies of "all documents prepared by or for" the utility concerning the decision to terminate the PPA; and "a summary of any internal discussions" on the matter, among other things.

The commission also wants to know what role, if any, HECO suitor NextEra played in the decision. Were any NextEra representatives "involved in any of the discussions or negotiations" concerning the decision to cancel the Hu Honua PPA? Were any NextEra representatives "required to approve the decision to terminate"? And, finally, "please state whether HELCO and/or the HECO companies discussed or consulted with any representatives of NextEra ... with respect to the decision to terminate."

In its response, Hawaiian Electric submitted more than 1,000 pages of documents, most of them said to be confidential business information.

Money Money Money: The Department of Business, Economic Development, and Tourism is proposing to spend \$40,000 over the coming fiscal year in sponsorship of events "that promote and generate awareness of Hawai'i's clean energy goals." DBEDT's Hawai'i State Energy Office (HSEO) filed the proposal with the state procurement office early last month.

According to the proposal, DBEDT will open a request for proposals. Applications will be evaluated by a committee, which will then recommend funding to the state procurement office.

And in case anyone wondered where the funds are coming from, according to the information presented to the procurement office, "HSEO sponsorships are 100% federally funded."

Corrections: In our June cover story, we misspelled the names of two antibiotics: *ciprofloxacin* and *azithromycin*. We also provided the wrong date for the contested case hearing on Alexander and Baldwin's lease. It was on June 24, not the 23rd. We sincerely regret the errors.

Environment Hawai'i

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Quote of the Month

"I would like to take these environmentalists outside the reef and give them a little cut and see how their families cry for them."

— Manny Duenas
former Wespac member

Wespac Members, Staff Fulminate Against Expanded Marine Monument

The Western Pacific Fishery Management Council had its 166th meeting last month on Saipan and Guam. While council actions were generally limited in scope – for example, requesting council staff to convey its sentiments to various federal agencies on a variety of matters – discussions during the course of the meeting revealed much about the general views of several individuals on the council on topics of critical importance when it comes to managing marine fisheries in an era of global climate change.

Climate Change Deniers

Hawai'i council member McGrew Rice is a charter boat captain based in Kona. During a discussion of the proposed expansion of the Papahānaumokuākea Marine National Monument, Rice complained bitterly that there was no science to support the expansion. “We’re all here because the MSA” – the federal Magnuson-Stevens Act, which established the council framework – “says best scientific data available,” Rice said, referring to the standards that the MSA requires councils and the National Marine Fisheries Service to use when making their decisions.

Rice was one of several representatives from fishing, environmental, and governmental bodies who met recently in Honolulu with staff from the Council on Environmental Quality, which is to make a recommendation on the expansion to President Barack Obama. The monument was established by former President George H. Bush under the federal Antiquities Act, which has a different set of criteria for designation than that contained in the MSA.

“With the Antiquities Act, they’re about to destroy the MSA,” Rice said. “I was at the meeting with the CEQ, and it was tough for me to sit in on the meeting, giving facts to the CEQ and listening to them like it was already a done deal and they weren’t paying attention to the facts. Over the last couple of months, it seems to me that facts, science don’t matter.”

Yet when it comes to climate change, Rice, the professed defender of science, denied that it is real, while yet another council member, John Gourley, an environmental consultant from Saipan, seemed also to side with climate change deniers.

Those comments were made as the council was considering a recommendation from its own Marine Planning and Climate

Change Committee. Sylvia Spalding, the council’s public information officer, had presented the committee’s report to the council. Among other things, Spalding said, the committee wanted to “make sure we’re making recommendations only for fisheries plans, not other things.” The committee went on to recommend “that the council present the issue of climate change in a straightforward, understandable, and not emotionally charged manner so as to enable discussion of the issues,” Spalding said, with a caveat: “So as not to whitewash climate change, acknowledge that the change is due to anthropogenic activities.”

As the council considered a motion to adopt the Marine Planning Committee’s report, Gourley said that this acknowledgement of an anthropogenic cause “eliminates discussion.”

“I want to delete that,” he said, arguing that by including the statement that climate change was caused by humans, “we’re becoming an advocate. If you’re going to enable discussion and look at factual matters, then why pick one side over the other? To enable a discussion in a factual matter means it is unbiased in the recommendation and the discussion goes on both sides.”

Rice agreed. “I don’t believe in climate change,” he said, supporting Gourley’s request to remove the statement from the motion.

Spalding attempted to defend the insertion, noting it was made at the request of a committee member from Guam and no other committee member objected to it. “My personal opinion,” she said, was that “human activities can be discussed since 97 percent of scientists say it is human activities driving climate change. I don’t see this as opposed to factual discussion.”

Kitty Simonds, the council’s longtime executive director, suggested deleting the language. “I don’t see that it adds anything,” she said. “Just delete that sentence. If members cannot agree to this, I don’t see how this adds anything. Just delete the sentence.”

The sentence was deleted.

Gourley weighed in once more on the subject of climate change, as the council considered recommendations from its Protected Species Advisory Committee.

One of those was for the council to support “robust scientific research” to evaluate threats to green sea turtle nesting habitat

at French Frigate Shoals caused by rising sea levels.

Just when, exactly, would French Frigate Shoals be so inundated as to be unusable by turtles? Gourley asked Asuka Ishikawa, the council staff member presenting the committee’s recommendation.

“The worst-case scenario from the IPCC [Intergovernmental Panel on Climate Change],” she replied, “projects two meters of sea level rise. At that level a majority of French Frigate Shoals is still above water. So that information exists and we submitted that in the council’s comments” on the proposed de-listing of the green sea turtle from its protected status under the Endangered Species Act – a request that the National Marine Fisheries Service denied.

Gourley then commented that he believed it was “weak to just use the IPII [sic] model, which has notoriously been—I’m searching for another word other than wrong. Flaky?”

Sea Sentinels?

The proposed expansion of the Papahānaumokuākea Marine National Monument came up at several points in the council’s discussion at its June meeting.

In her report to the council, Simonds delivered “bad news:” “Corporate nongovernmental organizations and even our own government are devaluing our achievements,” she said, with the council being “held hostage by the Antiquities Act” and other laws.

The monument expansion proposal “is a huge grab,” she said, warning that the international high seas might be closed as well. “At the United Nations, there’s ongoing discussion of closures of the high seas. If that happens, our fishers will be limited to fishing in the Main Hawaiian Islands,” she said.

Paul Dalzell, the council’s senior staff scientist, then presented a slide show intended to bolster Simonds’ comments. The maximum depth of hooks set in the Hawai’i longline fishery, he said, was 400 meters – well above the height of even the highest seamount in the monument expansion area. “Seamounts in the monument are not like those in the Main Hawaiian Islands, such as Cross Seamount, which come to within 300 meters of the surface,” he said. Those in the Northwestern Hawaiian Islands “are very deep,” he added, with fishing having “no possible physical impact to the seamounts and no impact to benthic resources ... the impacts to these unique habitats from the longline fishery we evaluate as being very minimal.”

Council members raised yet another objection to the monument’s expansion.

If U.S. vessels were kept out of the area, it would mean they would no longer be able to report incursions of foreign vessels into the U.S. Economic Exclusion Zone.

Mike Goto, council member from Hawai'i, asked William Pickering, head of NOAA's Office of Law Enforcement in Honolulu, how many times a fishing vessel had reported such an incursion.

"I can't recall the last time we got any email, communication, whatever from a U.S. vessel reporting a foreign vessel fishing in the Northwestern Hawaiian Islands," Pickering replied. "We and the Coast Guard watch center spend a lot of time watching foreign vessels outside the EEZ." When foreign vessels pass through the EEZ with a steady, straight-track, there's likely no fishing being done. "If a vessel turns off its VMS" – vessel monitoring system, allowing vessels to be tracked by satellite – "and then comes back on 200 miles the other side, that's something we look at quickly," he added.

"There's no evidence in the past several years of any foreign vessel fishing inside the EEZ. We had a couple of U.S. ones fishing inside monument area, but as far as foreign vessels, can't think of one over last several years."

Despite repeated questioning, neither Pickering nor the U.S. Coast Guard's representative, Lieutenant Commander Rula Deisher, could recall any occasion when a U.S. fishing vessel reported a foreign vessel incursion into the EEZ.

Nonetheless, the council formally voted to ask Pickering's office and the Coast Guard to "determine the quantity and trends for U.S.-flagged vessels accurately reporting incursions by foreign vessels in the U.S. EEZ in the Western Pacific and provide a report to the council." Once more, Pickering said the last case was probably in 2004. The motion was amended before passage – but only to remove the word "accurately."

An 'Abyssal Plain'

Council senior scientist Paul Dalzell and council chair Ed Ebisui gave a power-point presentation on the proposed expansion that, Ebisui said, had also been presented at this spring's meeting of the Council Coordination Committee,

a gathering of directors, staff, and National Marine Fisheries Service personnel from all of the nation's eight regional fishery management councils held in May in St. Thomas, U.S. Virgin Islands.

Dalzell stated that there was "an awful lot of hyperbole about what a marvelous place the abyssal plain of the Northwestern Hawaiian Islands is. And there are seamounts which are places of biodiversity. But the fishery has

"[W]e don't have people willing to stand up to these stupid people."

— William Sword, Wespac

been operating for nearly 50 years. These places still look okay. But most of it is an abyssal plain of sand and mud."

He put up a slide intending to show existing and even future threats to fishing in waters plied by the Hawai'i longliners.

"Already there are lots of closures," he said, mentioning the existing monument; a zone south of the Main Hawaiian Islands called the southern zone, "if we catch more than the allotted number of false killer whales inside the Exclusive Economic Zone;" the closure of waters around Johnston atoll, Wake Island, Palmyra, Howland, and Baker islands. And although no longliner ever goes near the Mariana Trench monument, Dalzell included that as well in saying that

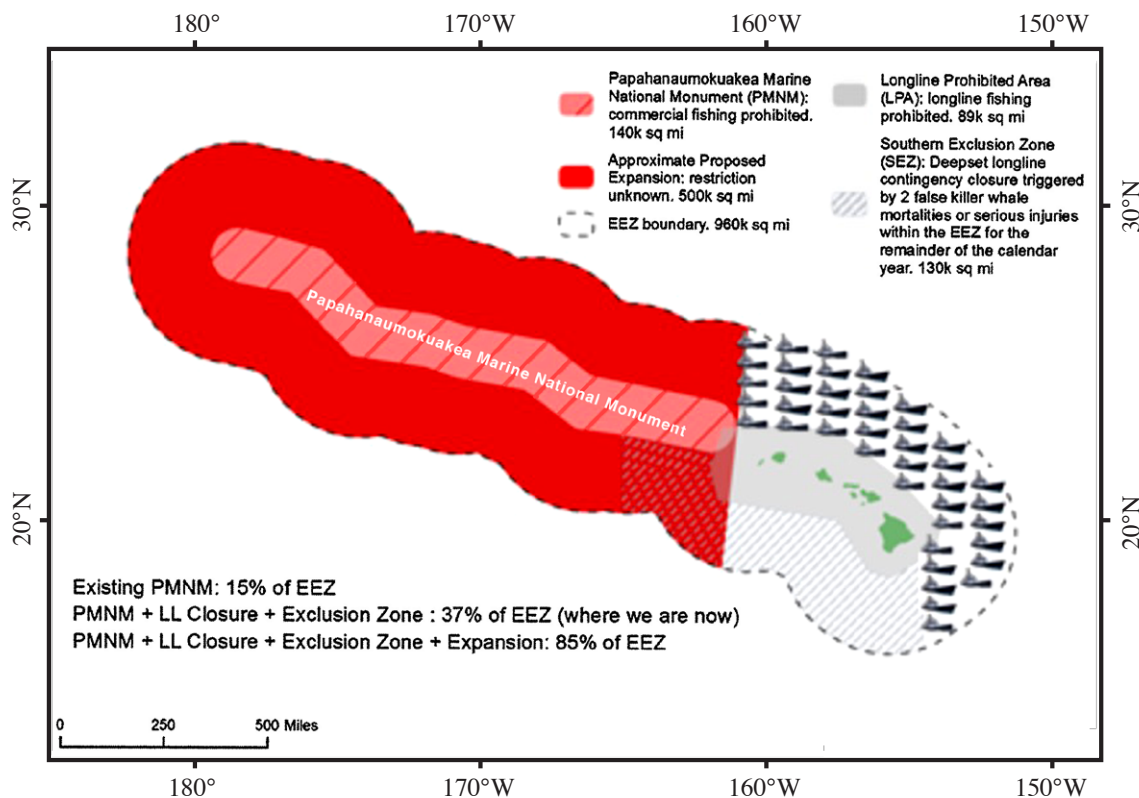
"something like 97 percent of area closures in the United States are in our area."

"Pew" – the Pew Charitable Trust, which has lobbied for marine protected areas for years – "has been spectacularly unsuccessful in getting anything done on the continental U.S. So they go where things are politically weakest – just two senators and a handful of congressmen," Dalzell said. "Other states have many more congressmen, so they're

poised now to do the expansion here."

Dalzell went on to raise the prospect of the United Nations exercising control over fishing on the high seas – "a serious proposition," he said – which would push all fishing into the exclusive economic zone. "So," he continued, imagine if we had such a high seas closure and we were unlucky that we got all false killer whale [takes] in one year inside the EEZ, and so the southern zone was closed for a year."

Ebisui gave the council credit for what he described as its pioneering role in saving resources within the existing boundaries of the monument. "The current boundaries were actually the protected species zone that the council set in the early 1990s, so



This map, prepared by the Western Pacific Fishery Management Council, is intended to illustrate how a high seas closure and monument expansion would concentrate longline effort in the U.S. EEZ around Hawai'i.

the fact that the monument designation used our protected species zone, overlaid its boundaries on that zone, is something of a validation, saying we did something that was very correct 15 years prior to designation of the monument," he said.

"With the international movement to close the high seas to fishing," Ebisui said, pointing to Dalzell's map, "it will restrict our fishery to that little tiny corner there. The fishery won't survive. ...

"It's incredible for the most oceanic state in the union to cut its own throat, which it is doing. At a time when we know that exports of fishery products to the United States are extensively using slave labor, as documented by the Associated Press, I can't think of a moral reason for doing this. Slavery in the 21st century, how is that possible?

"One of the messages is, by encouraging imports, we are directly facilitating and engaging in IUU [illegal, unreported, and unregulated] fishing and slave labor."

Other council members then weighed in with their thoughts on the monument expansion.

John Gourley: "I don't want to be left out on the monument discussion. The truth is, the monuments have nothing to do with conservation. This allows one person, before the door slams on his back, before he leaves the White House, he can lock up these federal waters at no cost – no NEPA [National Environmental Policy Act review], no congressional oversight – to pay off the environmental community and set up his legacy."

McGrew Rice: "From looking at the whole situation, Pew basically pays these people to lie to the public. ... Pew doesn't care what they say, just that they get it."

William Sword: "Us in American Samoa, we just are very sad that we have certain people in the Hawaiian Islands that don't treasure their traditions. Why would anybody in the Pacific, in their right mind, who's depended for centuries on the ocean, give it up to anybody? American Samoa is very afraid ... we're next. The domino effect. These guys will run all over us because we don't have people willing to stand up to these stupid people."



Bigeye Catch Rates On the Rise

It's surprising to me that the Hawai'i longline bigeye tuna catch rates are larger than last year," Mike Goto told the council in his contribution to the discussion about Hawai'i issues. Goto, a council member from Hawai'i, works at United Fishing Agency,

the Honolulu fish auction house.

Last year, the longline fishery was shut down for a couple of months after it reached its annual quota of 3,554 metric tons of bigeye set by the Western and Central Pacific Fisheries Commission. The fishery was able to reopen only after NMFS promulgated a rule allowing the U.S. territories to sell a portion of the quota that the United States argues the territories have to the longline fleet.

The record catch of bigeye in 2015, Goto noted, was attributed to the warmer ocean temperatures associated with El Niño. Longliners were expecting "a kind of crash this year after last year's abundance, but that has not happened."

Mike Seki, director of NMFS' Pacific Islands Fisheries Science Center, noted in his report that the current catch was ahead of last year's pace. At the time he spoke, on June 10, the reported catch stood at 2,989 tons. "That puts us pretty much well on our way to hitting our quota earlier," he said. "At this pace, we're [catching bigeye] even faster than we did last year, which was itself a record pace."

The catch-per-unit effort—the number of fish caught per hooks set—was very high, he continued. As to when the limit might be hit this year, Seki said the worst-case scenario was "we would hit the mark on July 22."

After the U.S. quota is reached, it is possible, under Amendment 7 to the council's pelagic fishery management plan, to begin to attribute further bigeye catches to the quotas of U.S. territories. That can only happen, however, if NMFS publishes notice and if the territories come to an agreement with the Hawai'i Longline Association on the amount HLA will pay for the one half of the territorial allotment of 2,000 metric tons.

Seki said his staff was looking at what happens under a scenario with the longliners fishing under one or even two additional territorial allotments. The forecast, he said, "comes very close to hitting the 5,500 metric ton mark if we have two allocations in place. We may not make it to the end of the year."

Goto said that this was creating a dilemma for HLA. "Depending on when allocations are made, the association might want to reserve it till the end of the year," he said.

As of late June, the NMFS Pacific Islands Regional Office website indicated that 88 percent, or 3,115 metric tons, of the 3,554 mt quota for bigeye caught in the Western Pacific had already been taken. The estimated date when the quota would be hit was posted as August 11.

PIRO administrator Mike Tosatto was asked about progress toward getting the no-

tice of quota transfer published in the *Federal Register*. "It's moving as quickly as it can," he replied. "Remember that it has to go out as a proposed rule. We take comments on that, deal with the comments, and then put out a final specification. The goal is to get it out ahead of the need to close the fishery so we don't have what we had last year."



Simonds Eyes Fines For Illegal Fishing

What about the \$49,000 fine? Is American Samoa going to be able to share in that?"

Kitty Simonds posed the question to William Pickering, chief law enforcement agent for the National Oceanic and Atmospheric Agency in the Pacific. That is the fine that the National Oceanic and Atmospheric Administration's General Counsel Enforcement Section has levied on a 70-foot longline vessel for fishing illegally inside the boundaries of the Rose Atoll National Marine Monument. The vessel, Fetuolemoana, is based in Pago Pago.

Pickering responded that he had nothing to do with disposition of the fine. "It is no longer in our wheelhouse," he said.

To which Simonds responded, "I'm just concerned that the funds will go to the sanctuary program and nothing to the American Samoa government."

Another case reported by Pickering concerned the grounding in mid-April of a longline fishing vessel, the 61-foot-long No. 1 Ji Hyun, off the island of Aunu'u in waters of the American Samoa National Marine Sanctuary.

Pickering stated in his report that although the corporation that owns the vessel has a U.S. citizen as its CEO, "[i]nvestigation has shown that a foreign national had control over the vessel at the time of grounding and that the American Samoa government hired the vessel for shipping, an activity in which the vessel is not endorsed or permitted to engage in under" Coast Guard regulations.

The fishing vessel had been chartered by the American Samoa Power Authority to carry fuel, solar panels, and other supplies to the island of Manu'a. The utility's CEO, Utu Abe Malae, was quoted in the *Samoa News* as saying that all the cargo was salvaged except for black cinders, which had been used as ballast, and pallets of cement. He also told the paper that the cement was left on board deliberately to weigh down the boat and prevent it from being carried further toward shore. "We have to be careful with the black

Former Guam Council Member Lashes Out at Environmentalists



PHOTO: WCPFC

Manny Duenas

In the press release it issued at the conclusion of its June meeting, the Western Pacific Fishery Management Council led off with comments from former council chair Manny Duenas.

For years, Duenas represented Guam on the council. When he stepped up to the microphone to deliver remarks, the time for public comments had already passed, but the chairman, Ed Ebisui, was happy to yield the floor to Duenas.

According to the press release, Duenas' comments "covered a gamut of issues facing Guam's fishermen, including competition with purse seiners for tuna; tiger shark attacks on net fishermen; competition with Micronesian fishermen from the U.S. Freely Associated States who reside on Guam; the inability to continue socio-cultural traditions related to sharing of green sea turtle; and the threat of losing prime fishing grounds due to military buildup, among others."

Duenas' comments were, in fact, far more inflammatory than the press release author, council public information officer Sylvia Spalding, suggested.

Duenas complained bitterly about conservation measures being pushed by environmental groups. "I would like to take these environmentalists outside the reef and give them a little cut and see how their families cry for them," he said.

"I know the environmentalists get paid a lot of money. One organization said they had \$270 million to work on issues in the Pacific. I asked for a little. The guy who was talking

was making more than \$200,000—more than Kitty," Duenas said, referring to Kitty Simonds, the council's executive director.

Duenas suggested that the Chamorro population of Guam was losing so many of its traditions that the "Chamorro people will have their own museum in Washington, probably behind the Holocaust Museum." The younger generation, he said, was not able to learn the tradition of serving green turtle as a sign of respect to elders and leaders. "It's not served to you guys back here," he said, pointing to the audience, "only to you guys," referring to the council.

He singled out the U.S. Coast Guard for special treatment. He denounced the area commander for failing to attend a blessing for boats during the recent Safe Boating Week. "We had this whole function, set up with priests and everything. Only two people showed up. We went through the process, paying priests, But your commander" — he pointed to the Coast Guard representative at the meeting — "is too good for us."

At the end of his comments, in which he managed to insult not only environmentalists and the Coast Guard, but also Micronesians, the U.S. military and the government of Palau, Duenas received an enthusiastic ovation from council members and the audience. — **P.T.**



PHOTO: USGS

The Sea Hawk #68, a Taiwanese longliner, grounded on the reef near the main airport.

cinders because we were told by the coral reef people that the cinders can damage coral," he was reported to have said.

Council member William Sword, representing American Samoa, said that the bags of cement have now hardened, making their removal all the more difficult.

The Coast Guard hired a salvage firm to remove fuel at a cost of around \$150,000, it said. Further efforts to remove the vessel are being handled by the sanctuary and the American Samoa government.

American Samoa council member Claire Poumele, port administrator for the territory, noted that there were now two grounded vessels on island reefs. In addition to the Ji Huyn, the Sea Hawk #68, a Taiwanese

longliner, has been stuck on the reef near the main airport for more than a year.

The vessel owner filed for bankruptcy soon after the grounding. With the Sea Hawk a total loss, there are no responsible parties or assets to go after to pay for removal efforts. "We have a law regarding derelicts," Poumele said, "but no funds to support it."



Council Considers Aid to Aha Moku Committee

Credit for the formation of the state Aha Moku Advisory Committee (AMAC) can be laid almost entirely at the door of Kitty Simonds and the Western Pacific Fishery Management Council. As described in several articles published in *Environment Hawai'i* and other sources, Wespac convened and financially sponsored the puwalu that preceded legislative action, in 2012, that gave AMAC formal standing in the eyes of the state and placed it under the administration of the Hawai'i Department of Land and Natural Resources.

Wespac staffer Charles Kaaiai gave the council a brief update on the status of the Aha Moku committee. "We have supported

this since 2006," he said. "They [the committee] have been trying to meet since then. It has not met for over a year. They haven't developed rules."

"Now," he continued, "laws regarding boards and commissions are beginning to kick in. Members serve four years and then their term ends. Right now, the committee is very vulnerable. The governor has the opportunity to select who will be on the committee."

He noted that the Aha Moku committee had received no appropriation from the Legislature. "Because the council supported this," he said, "we will be looking at ways we can assist in making this committee work. At this point, though, they look very vulnerable."

In fact, however, the committee met on June 23 and adopted a resolution praising Gov. David Ige and his administration for "their support and effort to keep the Aha Moku alive." (The state Department of the Attorney General had agreed to use a portion of the settlement over 2013's devastating molasses spill on O'ahu to fund the committee for the next fiscal year.) The committee was also scheduled that day to approve draft administrative rules, which had gone out for public hearing late last year.

— **Patricia Tummons**

Like Hawai'i Longliners, Purse Seiners Benefit from a Quota Transfer Scheme

In late 2011, Hawai'i longliners were about to reach their catch limit of bigeye tuna under an international quota system on the cusp of the busy holiday season. Congress rushed in and saved the day by passing a law allowing the longline fishery to continue catching bigeye through the end of the year by saying that whatever was caught beyond the international quota would be chalked up to the unused quota allocated in the same international system to one or another U.S. territory in the Pacific.

That quota transfer eventually became enshrined in federal regulations governing the Hawai'i longliners. In 2014, it was challenged by several environmental groups, but in December, U.S. District Judge Leslie Kobayashi upheld it.

Last year, in the face of island nations in the South Pacific increasing the amount they charged U.S. purse seiners to fish in their exclusive economic zones and restrictions by Kiribati on fishing effort in its waters, Tri Marine International, owner of several

purse seiners as well as the larger of two tuna canneries in American Samoa, petitioned the National Marine Fisheries Service to promulgate a rule that would do much the same thing for the purse seiners as NMFS had done for the longliners.

On May 25, it did just that, publishing a rule, effective on publication, that combines the U.S. fleet's limit of 1,270 fishing days on the high seas between 20 degrees N and 20 degrees S with 558 fishing days permitted to the purse seiners inside the EEZs of U.S. territories and U.S. remote islands within the same latitudes (American Samoa and Guam, for the most part). That zone, established by the Western and Central Pacific Fisheries Commission, is called ELAPS, for Effort Limited Area for Purse Seine.

According to NMFS, the rule "is being issued without prior notice or prior public comment because of the unexpectedly high level of U.S. purse seine fishing effort in the ELAPS in 2016." It goes on to say that this level was "unexpected" because of a delay in

the issuance of fishing licenses by the South Pacific island states that are party to the South Pacific Tuna Treaty. Those licenses were not issued until March 4.

That delay caused U.S. purse seiners to concentrate their fishing effort early in the year "in small pocket areas of the ELAPS that are not part of the Treaty Licensing Area and do not require Treaty licenses to fish," NMFS stated.

The new rule gives purse seiners 1,828 fishing days, all of which can be conducted in the EEZ even though 558 fishing days will be attributed to the territorial quotas.

According to Michael Tosatto, administrator of NMFS' Pacific Islands Regional Office, the limit for purse seine fishing days in U.S. territorial waters has been set at 558 since 2009. "Our obligation is to limit purse seine effort in the WCPFC area to 558 [fishing days] in the EEZs plus 1,270 in the high seas, which we do collectively... This rule is essentially the same as last year and we have been found compliant by the WCPFC on these provisions since 2009," Tosatto stated in an email.

Tosatto said that for the first few years, the limit set for the United States EEZs was not reached. "In 2015, we reached 1,828 days in the ELAPS and effort in the ELAPS was prohibited," he said. "We expect to reach the limit

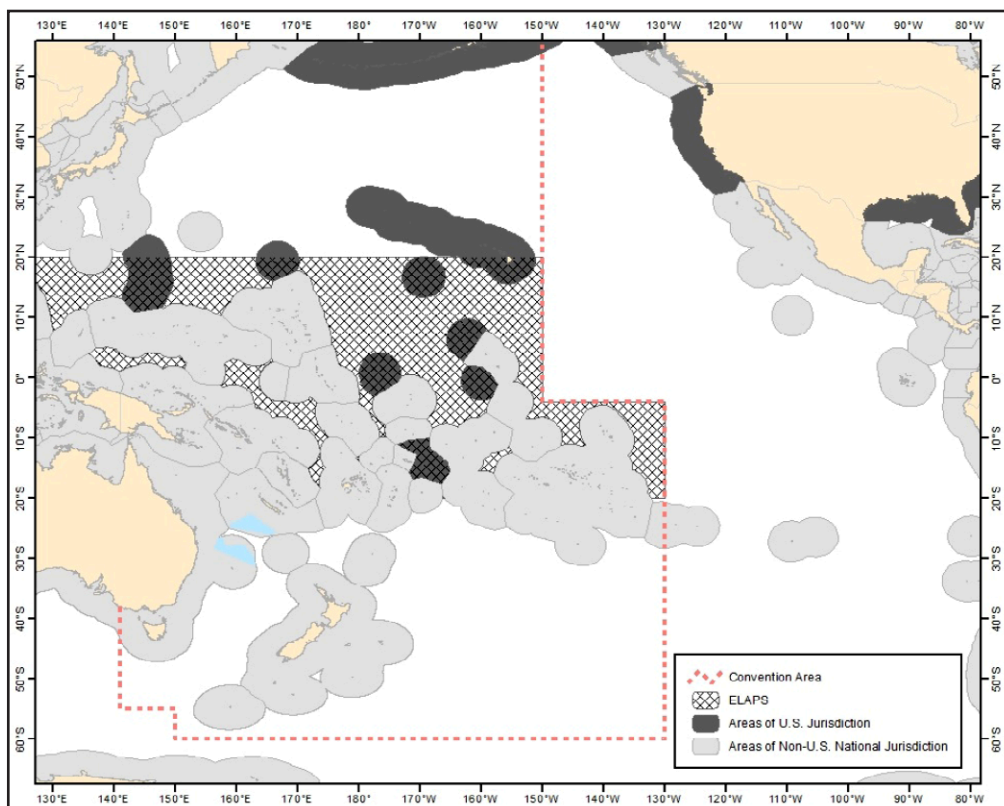
for the ELAPS again this year."

When that occurs, U.S.-flagged purse seiners in the Western Pacific, source of most of the world's skipjack tuna, will not be able to fish on the high seas or in U.S. Exclusive Economic Zones in the ELAPS area until the start of the next calendar year. To continue to fish, they would need to purchase rights to fishing days in the EEZs of the 17 South Pacific nations. Under the current terms of the South Pacific Tuna Treaty, the cost of a fishing day is around \$12,000.

The new rule has not been received well by the island nations that participate in the South Pacific Tuna Treaty. Transform Aqorau, chief executive of the Parties to the Nauru Agreement, representing most of those nations, described the move as "a superpower abusing a measure agreed to in December 2015," referring to the WCPFC conservation and management measure for tunas that was adopted at the commission's annual meeting in Bali.

The rule was announced just a month before the new negotiating session on renewing the Tuna Treaty was scheduled to be held, June 20-24, in Auckland, New Zealand. — *P.T.*

The Effort Limit Area for Purse Seine [ELAPS] in the High Seas



The dotted line indicates the jurisdiction of the Western and Central Pacific Fisheries Commission. Dark shading indicates U.S. Exclusive Economic Zones. Cross-hatched area indicates area between 20 degrees N and 20 degrees S. Light shading indicates EEZs of Pacific island states.

Some Council Family Members Omit Financial Interests on Disclosure Form

The Magnuson-Stevens Act gives wide leeway to members of the eight regional fishery management councils when it comes to voting on matters in which they, their spouses, or their minor children might have a financial interest. It does, however, require them to disclose the nature of those interests. For example, do they own a fishing vessel or have a stake in a company that markets or processes fish caught under the jurisdiction of the council they belong to? Do they provide essential services or legal or lobbying representation to a fishery that is in the respective council's wheelhouse? These are among the questions that appear on the financial disclosure form that all appointed council members and members of the Scientific and Statistical Committee are required to fill out.

But a review of the required financial disclosure forms on file with the Western Pacific Fishery Management Council suggests not everyone takes the disclosure with the same degree of seriousness.

William Sword, American Samoa

In the case of William Sword, whose third term on the council ended with the June council meeting, the financial disclosure forms he signed for the last two years are silent about his relationship with Pacific Energy. Sword, a civil engineer by training, is country manager for Pacific Energy, a subsidiary of the giant Pacific Petroleum. He himself described his company's relationship to the fishing industry in comments submitted last year on a proposed rule published in the Federal Register. "Pacific Energy is one of two fuel suppliers servicing the needs of American Samoa including the fishing fleet," Sword wrote.

Yet in response to a question asking if he was an employee of any entity that provided essential services to a fishery under the council's jurisdiction, Sword checked "No."

Although Sword is ending his service as a council member, he is continuing his involvement with council activities. At the June meeting, the council voted to appoint Sword to the Advisory Panel for American Samoa.

Jim Lynch, Scientific and Statistical Committee

Another member of the council family required to submit a financial disclosure form is Jim Lynch, a member of the council's Scientific and Statistical Committee.

Lynch has a master's degree in fisheries science, according to his home page on the web site of his employer, the law firm of K&L Gates in Seattle. But nowadays, his home pages states, he focuses on litigation involving the application of the Magnuson-Stevens Act, the Endangered Species Act, and the National Environmental Policy Act, among other measures affecting the management of natural resources.

According to the information on his home page, cases that Lynch has been involved in include:

"A fishery association" – not named, but in fact the Hawai'i Longline Association – "in District Court and Appellate Litigation challenging fishery regulations under the ESA, MSA, NEPA, and APA [Administrative Procedures Act];

"A fishery association" – HLA again – "in developing fishery management regulations under the MSA and ESA;

"A fishery association" – HLA – "in District Court and Ninth Circuit litigation defending a NMFS biological opinion concerning the pelagic longline fishery;

"A fishery association in matters pertaining to the development of the Northwestern Hawaiian Islands Marine Reserve and Marine Sanctuary...."

At the time these cases were being litigated, in the early- to mid-2000s, Lynch worked for the firm of Stoel Rives. Ryan

Steen of that firm continues to represent the HLA in challenges to the regulations under which the longline fishery is pursued.

Lynch's involvement in that litigation may well be regarded as ancient history, so far as financial disclosure is concerned. However, for several years, K&L Gates listed the Hawai'i Longline Association as one of the clients on whose behalf it was lobbying in Washington, D.C. That relationship did not end until mid-2015, according to K&L Gates' filings with Congress, well after the time Lynch joined the SSC.

Question 1.2.4 in the Employment section of the financial disclosure form asks whether the individual has employment "with any company, business, or other entity that provides [lobbying or advocacy] services related to any fishery under the jurisdiction of the council concerned?"

Lynch checked the "No" box.

The next question asks whether he is employed by "any entity that either owns (wholly or partially) or is owned by (wholly or partially) another entity providing [consulting, legal, or representational services] ... in any fishery under the jurisdiction of the council concerned?"

Again, Lynch checked "No."

Environment Hawai'i asked Lynch via email about his responses on the financial disclosure forms. No response had been received by press time.

McGrew Rice, Hawai'i

McGrew Rice, an appointed council member from Kona, Hawai'i, is a charter boat captain. He and his crew, licensed by the state as commercial fishermen, regularly catch fish that are included as managed species in the council's management plan for pelagic species, including mahimahi and marlin.

Yet on his most recent financial disclosure form Rice does not mention any involvement in a fishery that falls under the council's jurisdiction.

When asked about this, Rice denied he owned a charter boat. In filings with the state Department of Commerce and Con-



William Sword



Jim Lynch



McGrew Rice



Edwin Ebisui, Jr.



Michael Goto



Julie Leialoha

sumer Affairs, however, Rice is identified as the secretary and director of Ihu Nui Sportfishing, Inc.

His ownership interest in the company, if any, cannot be known from the DCCA filing. But if Rice has any interest at all in a company that is involved with a regulated fishery, including employment, that is supposed to be identified on the financial disclosure form.

In 2013, in fact, Rice did identify himself as a captain for Ihu Nui Sportfishing, which he stated engaged in charter fishing and trolling. Rice declined to say why he did not include this on his more recent financial disclosure forms.

Rice was also asked if he had an ownership stake in Ihu Nui. He did not respond by press time.

Ed Ebisui, Hawai'i

In contrast to Rice, Ed Ebisui, council chair and an appointed member from Hawai'i, is a "weekend warrior" fisherman. Yet Ebisui has fully disclosed his participation in the fishery. He provides the name of his vessel (Alissa's Pelican, a 29-foot fiberglass fishing vessel) and the type of fishing he does ("deepwater bottomfish, pelagic troll, kona crab, and opelu/akule hook and line"). He also acknowledges that, as an attorney, he may "represent fishers in legal proceedings, but not relating to any fishery under the council's jurisdiction."

Michael Goto, Hawai'i

The Hawai'i longline fleet has always had a representative on the council. In the past, this has been Jim Cook or Sean Martin. The two seemed at times to trade off; whenever the term of one ended, the other was appointed to take his place.

In recent year, however, that seat has been held by Michael Goto, who is, according to his disclosure form, director and treasurer of the Hawai'i Longline Association (HLA) and vice president of Quota Management, Inc., the corporation owned by HLA that negotiates payments to the U.S. territories that sell their bigeye tuna quotas to the HLA. Goto also has an ownership interest (greater than 1 percent) in the Honolulu fish auction house, United Fishing Agency. The DCCA

filing by United Fishing Agency also reveals that Goto is an officer and director of the company.

Julie Leialoha, Hawai'i

Julie Leialoha, an appointed member from Hawai'i, is transparent, almost to a fault, in disclosing her interests, even when not financial.

In answer to a question about "ownership" in a "company, business, or other entity" that provides lobbying or advocacy services related to a fishery under the council's jurisdiction, Leialoha indicates she has such an interest, inasmuch as she is "currently vice-president of Conservation Council for Hawai'i, a 501(c)(3) non-profit." Since CCH is a non-profit, it cannot really have owners, so Leialoha was not required to disclose this relationship.

Michael Duenas, Guam

Guam member Michael Duenas has been employed by the Guam Fishermen's Cooperative Association since 1997, which he discloses in answer to the question about his involvement with any entity that is engaged in the harvesting, processing, or marketing of fish under the council's jurisdiction.

Duenas occupies the seat held for many years by his father, Manny Duenas, who also represented the Guam Fishermen's Cooperative Association.

Claire Tuia Poumele, American Samoa

American Samoa council member Claire Tuia Poumele is director of the territorial government's Department of Port Administration. Before her appointment to that post, in 2013, she was the territory's school system administrator.

Her disclosure form indicates she has no ties to any company engaged in harvesting, marketing, or processing any fish nor does she have any association with an entity engaged in representing, lobbying, or advising any company that is involved with a fishery under the council's jurisdiction.

As port director, however, Poumele has discretionary authority over the berthing of all vessels entering Pago Pago's busy harbor. Whether this authority – the authority to assign berthing space – is sufficient to trigger an affirmative answer to the question of being employed by any entity that provides services essential to the harvesting, marketing, or processing of fish under the council's jurisdiction is something that probably should be considered by the parties reviewing her disclosure statement.

John Gourley, CNMI

The appointed council member from the Commonwealth of the Northern Mariana Islands is John Gourley, owner of a consulting firm.

In response to the question on the financial disclosure form about any ownership he might have of a company that provides consulting services to a fishery under the council's jurisdiction, Gourley acknowledges this relationship. "I am owner and principal of Micronesian Environmental Services who has a NOAA Fisheries data collection contract for reef and bottomfish landed on Saipan since 2010."

Federal Guidance

In 2014, the National Marine Fisheries Service published Instruction 01-II6-01, "Procedures for Review of Fishery Management Council Financial Disclosures," intended to provide "guidance necessary to ensure a successful and thorough vetting process to review the completeness and accuracy of information in financial disclosure forms..."

The procedures set forth are, first, that NMFS' Office of Sustainable Fisheries is to perform an initial review of the completeness of the forms. Then the forms are to go to NMFS' Office of Law Enforcement, which is "to determine and verify any connections to fishing vessels or other interests."

After that, the forms "will be considered properly reviewed. No further revisions to information in the forms will be required unless the [council] nominee notifies NMFS of a change." The forms then go to the regional administrators, who are given the opportunity to review and comment on the forms. Once that is done, the forms are forwarded to the council executive directors and made public on council websites.

Once a nominee's appointment is final, the financial disclosure forms need to be filed annually. At that point, initial review is done by the council's executive director, "to ensure they are properly completed to the executive director's knowledge." NMFS regional offices are then to review the forms and "verify the information on the forms against readily available information."

The Magnuson-Stevens Act does set forth penalties for "knowingly and willfully" failing to disclose or falsely disclosing a financial interest. In addition to civil penalties, such failure could result in removal of the individual from the council or SSC.

—**Patricia Tummons**



Claire Tuia Poumele



John Gourley

RAC from page 1

migratory pelagic sharks that do not show site fidelity to the NWHI.' Moreover, the letter reports that 96 percent of the sharks caught by the Hawai'i longline fishery are released alive."

Wespac senior scientist Paul Dalzell later conceded that his agency had, indeed, contradicted itself. He agreed that attacks on monk seal pups (not juveniles, as the letter had erroneously stated) are made by Galapagos sharks at French Frigate Shoals.

The White House is expected to hold at least two meetings in Hawai'i (one of them on Kaua'i) to give the public a chance to comment on the proposed expansion before the president makes a decision. It's likely the debate over whether or how much fishing should be allowed in the U.S. Exclusive Economic Zone around the NWHI will continue until then, as will efforts to nail down relevant facts. We focus here on two areas of dispute: benefits a large marine protected area provide to NWHI tuna stocks and the amount of fish caught by Hawai'i longliners that actually stays here.

Spillover Effects

One of the main arguments made by expansion supporters is that providing a haven, or *pu'uhonua*, for the tunas targeted by longliners will enhance fish populations both inside and outside the monument, so even if vessels are forced to the high seas, they'll still be able to catch ample amounts of tuna.

The white paper developed by Expand Papahanumokuakea discusses the potential benefit to bigeye tuna, which is the main target of the Hawai'i longline fishery. Bigeye in the Western and Central Pacific are considered subject to overfishing, and the paper notes, the International Union for the Conservation of Nature has assessed the species as "vulnerable to extinction."

A global analysis of marine reserves — mainly those in coastal and bottom habitats — found that they generally result in more and larger fish, as well as greater species diversity, the paper states.

"[T]he principle that fish populations rebound when fishing pressure is removed appears to hold true for offshore species, too. For example, Filipino fishermen caught skipjack, yellowfin, and bigeye tuna inside High Seas pocket 1, an area of high seas between the Philippines and Guam closed to most fishing countries. These fish were on average larger than fish of the same species caught inside the Philippines EEZ," the paper states, citing a 2015 report to

the Western and Central Pacific Fisheries Commission.

The group also cites studies involving genetic testing and chemical signatures that suggest bigeye and yellowfin tuna are not as highly migratory as previously thought. That being the case, it argues, "spillover effects of the fish that do swim outside of the area of protection would benefit fishermen."

Wespac's Dalzell, however, stated in a June 5 email to Schug that studies "do suggest limited movement of yellowfin tuna, but not bigeye tuna. ... [S]ince yellowfin can both feed and spawn around Hawai'i, there is little incentive for them to move on elsewhere, unlike bigeye, which appear to need to spawn in lower, more equatorial latitudes."

At the RAC's June 8 meeting, Wespac's Eric Kingma vehemently disputed any suggestion that expanding the monument would benefit bigeye tuna. "Some people have a little bit of information and want to play fishery management," he said, noting that a recent assessment of the bigeye tuna stock in nine subregions across the Western and Central Pacific has shown that the region closest to the NWHI is not overfished or subject to overfishing. In more equatorial waters, where fishing pressure is concentrated, the stock depletion rate is much higher, he said.

"You're not going to be saving bigeye by expanding the monument. That is a true statement," he said.

Indeed, the Secretariat of the Pacific Community's 2014 stock assessment for bigeye tuna in the Western and Central Pacific found only a slim difference between the spawning potential under historic fishing levels and the spawning potential of an unfished state in Region 2, where the Hawai'i fleet spends most of its time. However, contends University of Hawai'i Fisheries Ecology Research Lab director Alan Friedlander, "They don't really know what a virgin stock is. By the time they did the assessment, it was already exploited. I believe [the unfished biomass] was much, much, much higher than the current assessment indicates."

Furthermore, Friedlander says that while an expanded monument might not currently help bigeye as much as it will Hawai'i's resident stock of yellowfin, that may not be the case once climate change brings warmer waters closer to Hawai'i. "Bigeye could potentially be spawning closer to the Hawaiian archipelago. Then there would be a direct effect from monument expansion," he says.

Exports

Many in the local fishing community have stressed how important it is that Hawai'i longliners provide the fish that feeds Hawai'i.

As fishery scientist David Itano told the RAC at its June 8 meeting, every disadvantage forced upon highly regulated U.S. fishermen benefits more loosely regulated foreign fleets that catch fish "with a higher ecological debt."

"This industry ... provides a resource unmatched in terms of local production," Kingma said, adding that he wanted to clear up some "misinformation of how much fish stays in Hawai'i."

Wespac itself stated in an October 2015 press release that most of the fish caught by the Hawai'i-based fleet is consumed in Hawai'i. "Only three percent is exported," the press release said.

At the RAC meeting, however, Kingma offered significantly different figures. According to peer-reviewed journals, he said, 80 percent of fish caught by Hawai'i longliners stays in the state; 18 percent is exported to the mainland, and two percent is distributed to international buyers.

"Seventy to 80 percent of this fishery stays here," he said, amending the numbers yet again.

When it came time for public testimony, Department of Hawaiian Home Lands deputy director William Aila disputed Kingma's numbers, reporting that Mike Goto, manager of the Honolulu fish auction and a member of Wespac, recently told the Office of Hawaiian Affairs' board that almost 50 percent of the fish caught by longliners leaves the state.

"That was a mistake," Kingma interjected, but Aila insisted that's what was said.

Goto later clarified to *Environment Hawai'i* that he had told OHA that "less than half" of the fish is exported, and Aila had apparently interpreted that to mean *nearly* half. While he would not provide an exact percentage of the fishery's exports because he said that was proprietary information, he said it's closer to Kingma's numbers. Goto said it's around 30 percent, but varies from year to year.

In any case, Expand Papahanumokuakea states, federal catch data show that the fleet's landings and landed values remained constant after the 2014 expansion of the Pacific Remote Islands Marine National Monument and the same would result from a monument expansion in the NWHI.

—**Teresa Dawson**

NWHI Advisory Council Supports Plan To Keep Middle Bank Open to Fishing

On June 16, Sen. Brian Schatz sent President Barack Obama a proposal to expand the Papahānaumokuākea Marine National Monument in the Northwestern Hawaiian Islands (NWHI). It was similar to one floated earlier in the month by the group of native Hawaiians who originally proposed the expansion. In response to concerns expressed by local fishers, the group had amended its original proposal to preserve access by Kaua'i and Ni'ihau fishers to two popular fishing buoys near Nihoa and Necker islands. Schatz's proposal, perhaps for ease of enforcement, excludes all federal waters outside the current monument east of 163 degrees West longitude. The change not only maintains access to the buoys, it also leaves open a large section of ocean used by commercial longliners, which have so far been the some of the most vocal opponents of expansion.

Whether Obama adopts Schatz's proposal remains to be seen. In any case, despite a vigorous attempt by NWHI Coral Reef Ecosystem Reserve Advisory Council member Linda Paul, it seems less likely than ever that all of Middle Bank, located at 161 degrees West longitude, will be included.

At its May 12 meeting, Paul initiated a lengthy discussion over whether the boundary should be expanded to include all of Middle Bank. Currently, the boundary cuts straight through it.

Including the entire bank would better protect the critically endangered Hawaiian monk seals that forage there, she argued. To alleviate the controversy over the expansion's impact on longliners, which catch a small fraction of their haul in the U.S. Exclusive Economic Zone around the NWHI, Paul proposed a tradeoff: expand the monument boundary out to 100 on all sides, rather than out to the EEZ limit of 200 miles everywhere except at Middle Bank. Under her proposal, longliners could retain access to more than half of the area in the NWHI the currently fish in, while Middle Bank would be fully protected.

The council ultimately failed that day to reach consensus on whether to support the Native Hawaiian Cultural Working Group's proposed boundaries. At its following meeting on June 8, however, an overwhelming majority of council members voted to support the proposal as written at the time.

Before the vote, council member Pelika

Andrade said, "Fishermen rely on that [area]. If we want to look at sustainability, we're doing more damage and sending the wrong message bringing that [boundary] closer to our populated areas."

Even so, Don Schug, a member of the advisory council, pointed out that the council, in an August 2014 letter to Obama on the Pacific Remote Islands Marine National Monument, stated that should the Papahānaumokuākea monument's boundaries ever be revised, Middle Bank should be placed entirely within the monument.

"Somehow we're going to have to explain to Obama why we changed our mind," Schug said.

To this, advisory council chair Tim Johns argued that it was not bound by previous decisions.

Eric Kingma, enforcement and National Environmental Policy Act coordinator for the Western Pacific Fishery Management Council, noted that state catch data suggest 10 percent of commercial bottomfish landings come from Middle Bank and asked Paul whether there had been any monk seal interactions with fishermen there or any bottomfish stock depletion.

"Those questions need to be asked and answered to see if Middle Bank should be included or not," he said. "It hasn't been shown

that fishing on Middle Bank is impacting the foraging success of monk seals. ... Ask NOAA." (NOAA is the National Oceanic and Atmospheric Administration.)

Ecologist David Laist told the council Middle Bank is probably an important foraging area, adding, "Whether or not commercial fishing is affecting them is uncertain. I would not rule out the possibility that it does have an effect."

Laist suggested that the council recommend including Middle Bank, but keeping the current fishery management scheme in place until further research is done to assess the extent of the problem, if there is one. Paul made a motion that the council do just that, but it garnered only a handful of yes votes.

Andrade stressed that a key part of the expansion proposal is honoring the relationship between people and natural resources. Generations of her family have sailed to Middle Bank, she said. "What about the families who want to go there without a permit?" she asked, lamenting that a number of marine areas have already been closed to fishing and many locals worry about more being lost.

"Let's gain the trust back. Let's do that," Andrade said.

Perhaps to allay the concerns over monk seals, council member and monk seal expert Bill Gilmartin noted that the seals on nearby Ni'ihau are doing well.

The council ultimately voted to support the working group's proposed boundaries. Schug and Paul voted in opposition; Gilmartin abstained. — T.D.



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Proponents Argue NWHI Monument Expansion Would Protect Sea Bed, Cultural Resources

The debate over the proposed expansion of the Papahānaumokuākea Marine National Monument has so far focused mainly on potential impacts to Hawai'i's longline fishery. But at last month's meeting of the Northwestern Hawaiian Islands Ecosystem Reserve Advisory Council, William Aila reminded the council, "It's not only about fishing. It's about sea bed mining, protecting maritime cultural resources of the Midway battle, Hawaiian cultural resources ... the birds, fish, winds, cloud and rain." Aila is one of the several native Hawaiians who earlier this year wrote President Barack Obama seeking greater protections for federal waters in the Northwestern Hawaiian Islands (NWHI).

'No Recovery, Ever'

A "prime crust zone" spans a large swath of the sea floor in the NWHI, monument research specialist Daniel Wagner reported at the council's May meeting. And in that crust, he said, are commercially valuable manganese, copper, zinc, cobalt and titanium.

The sea floor is increasingly being prospected by the mining industry, he told the council. "Some areas are protected. Most are going to be explored," he said. While most of that exploration so far has taken place in international waters, he's convinced that deep-sea mining in U.S. waters is something that "probably will happen in my lifetime."

Any mining in U.S. waters would have to clear the approval process overseen by the National Oceanic and Atmospheric Administration, itself a division of the Department of Commerce. Should mining ever occur in the NWHI, some have suggested that it would devastate the rich biological communities that Wagner and other researchers have discovered during recent research cruises.

In more than two dozen unmanned, deep-sea submersible dives done in the

NWHI in the past two years — six of them in the expansion area — researchers found high-density biological communities "in almost every place we looked," Wagner said. Not only did the submersibles find the much-publicized "ghost" octopus (likely a new species), the world's oldest living marine organism (a 4,000-plus-year-old black coral), and the world's largest sponge, Wagner said they also discovered the largest known marine community, spanning more than ten miles.

"At these depths, we don't just have new species, we have remarkable new species," he said. And the sea floor teems with so much life, he added, that there were times when the submersible operators couldn't land the rover.

"It had to hover," he said.

While most of the dives were done inside the monument, Wagner noted that all the seamounts in the NWHI EEZ likely have high-density biological communities. One seamount recently discovered peaked within 100 meters of the surface, while others were as tall as Mauna Kea (nearly 14,000 feet from sea level to summit) and the island of O'ahu, he said.

University of Hawai'i Fisheries Ecology Research Lab director Alan Friedlander told *Environment Hawai'i* that the NWHI may not have particularly rich manganese deposits, but its seamount peaks do have crusts of cobalt, an element used in electronics and computers. "You can imagine lopping off the top of these seamounts ... There will be no recovery, ever," he said.

Expansion of the monument would protect approximately 110 additional seamounts from the effects of deep sea mining, according to a white paper issued last month by the grassroots group Expand Papahānaumokuākea.

'Collateral Damage'

In addition to protecting deep-water habitats,

proponents of the expansion hope to reduce the Hawai'i longline fleet's bycatch. Seabirds, turtles, marine mammals, and other species are "collateral damage" in the longline fishery, Friedlander said. In 2014, the fishery interacted with dozens of Black-footed and Laysan albatross in federal waters around the NWHI, and between 2009 and 2014, federal fishery observers documented two takes of endangered false killer whales there, according to NOAA maps. The fishery also catches and releases several thousand sharks of various species in the region annually. With an expanded monument, "those species will be afforded protection," Friedlander claims.

Opponents, however, argue that the fishery is not jeopardizing any incidentally caught species. Western Pacific Fishery Management Council staffer Eric Kingma said at last month's council meeting that 85 percent of the sharks caught are blue sharks, which, he argued, are not vulnerable to over-exploitation (this despite the fact that they are considered "near threatened" by the International Union for Conservation of Nature). Kingma added that the Hawai'i longline fishery is a model for effective seabird bycatch mitigation. "The way you protect seabirds is have other fleets adopt Hawai'i's practices," he said. (It should be noted, however, that litigation related to the fishery's take of seabirds and endangered sea turtles is ongoing.)

The extent of bycatch impacts aside, expansion proponents have argued for the preservation of all NWHI resources in their natural state. Aila told the council that native Hawaiians consider natural and cultural resources to be one and the same. What's more, the white paper states, the Hawaiian cultural practices of voyaging and wayfinding rely on biological signs, including the presence of marine life and birds. It adds that with the increase in the number of traditional Hawaiian voyaging canoes, the ocean surrounding the NWHI is a "critical training ground" for navigators.

— T.D.