

***NORTHWESTERN HAWAIIAN ISLANDS
CORAL REEF ECOSYSTEM RESERVE ADVISORY COUNCIL MEETING***

Wednesday, October 20, 2004, 8:30 a.m. – 4:30 p.m.

Thursday, October 21, 2004, 8:30 a.m. – 12:00 noon

Reserve Office Conference Room

6600 Kalaniana'ole Highway, Suite 300

Hawai'i, O'ahu

Draft Meeting Notes

Day One

ATTENDEES [Advisory Council Members]: Paul Achitoff (Conservation); Buzzy Agard (Native Hawaiian); William Aila (Native Hawaiian); Rick Hoo for Rick Gaffney (Recreational Fishing); Bill Gilmartin (Research); Gail Grabowsky (Education); Cindy Hunter (Research); Athline Clark for Tim Johns (State of Hawai'i); Kekuewa Kikiloi (Native Hawaiian); Michael Tosatto for Bill Robinson (Pacific Islands Regional Office); Lloyd Lowry (Marine Mammal Commission); Jarad Makaiiau for Kitty Simonds (Western Pacific Fishery Management Council); 'Aulani Wilhelm (NWHI Reserve); Carol Wilcox for Laura Thompson (Conservation); John Muraoka (Department of Defense); Don Palawski for Jerry Leinecke (U. S. Fish and Wildlife Service); Linda Paul (Conservation); Birgit Winning (Ocean-Related Tourism).

Excused: Tim Johns (State of Hawai'i); Laura Thompson (Conservation); Dwight Mathers (U. S. Coast Guard); Rick Gaffney (Recreational Fishing); Kem Lowry (Citizen at Large); Bobby Gomes (Commercial Fishing); Naomi McIntosh, (Hawaiian Islands Humpback Whale National Marine Sanctuary).

Absent: Ray Arnaudo (Department of State); Philip Taylor (National Science Foundation).

[Alternate Council Members (not representing voting members)]: Isabella Aiona Abbott

[NWHI CRER Staff]: Andy Collins; Malia Chow; Mokihana Oliveira; Naomi Sodetani; Hans Van Tilburg; Sean Corson; Virginia Branco.

[NMSP Staff]: Allen Tom.

[Members of the Public]: Kitty Courtney (Tetra Tech); Cha Smith (KAHEA); Greta Aeby, Cynthia Vanderlip (DLNR); Stephanie Fried (Environmental Defense); Belinda Heil; Bryon Sykes (Chaminade University).

PURPOSE OF THE MEETING: For the RAC to discuss the 304(a)(5) package and the management plan development process for the proposed sanctuary.

I. CALL TO ORDER

Vice-Chair Linda Paul called the meeting to order at 8:55 a.m., welcoming everyone to the Reserve's new conference facility and reminding all to tour the new offices. This was

followed by introductions of the members of the Reserve Advisory Council (RAC/Council), staff and audience. William Aila then offered a pule in Hawaiian, calling for insight and skills necessary to have aloha in understanding the complexity and importance of the materials to be discussed, and the passion of what these words mean.

II. REVIEW AND APPROVAL OF MINUTES

Vice-Chair Paul called for comments on the draft minutes of the RAC meeting held on July 7-8, 2004. Lloyd Lowry expressed appreciation to staff stating that while he was unable to attend the last meeting he felt that staff did a great job on the minutes. He then called for clarification to “VI. Subcommittee Recommendation and Discussion on Fishing Alternatives Resolution”, “Recommendation D: Prohibition of recreational fishing after one (1) year from date of sanctuary designation”, page 5, line 7, 3rd sentence: “... Johns asked for the rationale of the subcommittee and Gaffney’s recommendation for closing recreational fishing...”, and asked that the word “not” be inserted between the words “for” and “closing”, stating that Rick Gaffney’s recommendation was for not closing recreational fishing. The correction would read as follows:

Johns asked for the rationale of the subcommittee and Gaffney’s recommendation for not closing recreational fishing.

Vice-Chair Paul called for a motion to approve the minutes. It was moved by Bill Gilmartin, seconded by Buzzy Agard, that the draft minutes be approved as corrected. Motion passed unanimously.

III. REVIEW AND APPROVAL OF AGENDA

Vice-Chair Paul suggested that it would be appropriate to proceed with the agenda as currently drafted, noting that a 15-20 minute presentation by KAHEA on its analysis of items that would be discussed throughout the RAC meeting be scheduled during the public comment periods. Discussion ensued resulting in an amendment to the agenda for the day. The amendment called for the placement of a 15-minute presentation by KAHEA and Environmental Defense at 10:00 a.m., following the briefing to the RAC on the 304(a)(5) package. It was moved by Aila, and seconded by Kekuewa Kikiloi, that the agenda be approved as amended. Motion passed unanimously.

IV. DISCUSSION OF THE RAC BRIEFING HELD ON OCTOBER 7, 2004 AND THE 304(A)(5) PACKAGE AND PROCESS (WILHELM/AILA)

Commenting on the recent briefing to the RAC, Aila stated that there are immense differences between what the RAC and NOAA presented and how the Western Pacific Fishery Management Council (WPFMC) has reacted to it. Aila noted the importance of paying close attention to the presentation by KAHEA as there is great distance between the groups. Aila then shared a particular observation at the briefing stating that it is presumptuous of WPFMC to propose goals and objectives to the 304 (a) (5) process, and asked that Jarad Makaiiau take this back to WPFMC.

Wilhelm provided a brief synopsis of the briefing and reminded the RAC that there are three basic steps in designation and that the 304(a)(5) process falls in the pre-formal environmental impact statement (EIS) process. Under the National Marine Sanctuaries Act (NMSA), it is required that the appropriate fishery management council be given the opportunity to draft fishing regulations, which are needed to be part of the draft EIS (DEIS). This is the time this process takes place, a pre- National Environmental Policy Act (NEPA) process that the sanctuary program has used. All regulations will be promulgated under the NMSA, whereby draft regulations, or a determination that regulations are not necessary, would be accepted as proposed unless the Secretary of Commerce (Secretary) or its designee finds that the WPFMC action fails to fulfill the purpose and policies of the NMSA or the goals and objectives of the proposed designation.

Wilhelm offered that this is an ecosystem-based approach, consistent with the mandate of the NMSA. The schedule for the 304(a)(5) process was provided on September 20, 2004, and presented formally on October 7, 2004. The process would allow the WPFMC to have 120 days, ending on January 28, 2005, to act on the package that was presented on October 7th. It was requested in a letter to the WPFMC that should an extension be required, a written request be made. There has been no formal request as of this date.

Wilhelm explained that the package submitted to the WPFMC included the following attachments: (A) Goals and Objectives; (B) Model Regulations; (C) Fishing Alternatives Analysis. This analysis involved four primary steps: (1) Resource Assessment; (2) Fishing Activity Evaluation; (3) Development and Evaluation of the Range of Fishing Alternatives, and (4) Identification of Most Consistent Alternative. The following evaluation tools were used: (1) compatibility/consistency screening; (2) ranking based on ecological and socioeconomic parameters; (3) spatial analysis, comparing resource and use across zoning options.

Reminding everyone that this is pre-EIS and not a decisional document, Wilhelm commented that the focus now is on the continued development of the management plan and the DEIS, which will analyze a range of alternatives for all activities including fishing and contain draft regulations. Wilhelm stated that lots of things could change as this is the beginning, rather than the ending, of the process. It is necessary to focus on concerns and bring the best ideas forward during the NEPA process, and added that it is unlikely that the goals and objectives will change. The floor was opened to discussion.

Paul Achitoff asked about the relation between this process and NEPA requirements. If the fishing regulations proposed by WPFMC are consistent with the goals and objectives do they have to be adopted under the NMSA? Wilhelm responded that WPFMC has the opportunity to prepare draft fishing regulations before they are incorporated in the DEIS. Achitoff asked that after the draft fishing regulations go into the DEIS, could the National Ocean Service (NOS) at some time adopt something different? Wilhelm reiterated the 304(a)(5) process is the opportunity to prepare draft fishing regulations. They are not the final regulations.

Michael Tosatto stated that the draft regulations would be added to the DEIS if they are consistent with the goals and objectives. He further stated that the Secretary could either accept them as proposed regulations or reject them outright, and within the NEPA process make a record of decision. Should the Secretary reject the draft regulations, someone would have to draft them. Achitoff stated his confusion where the Secretary approves the proposed regulations as being consistent with the goals and objectives, could this be changed during the NEPA process? Tosatto stated regulations could change through the process, therefore fishing regulations would have to change.

Wilhelm stated that the approach was consistent and the purpose was to basically provide strong advice. Don Palawski asked if NOS could modify goals and objectives without any additional input by the RAC. Wilhelm replied that this is pre-DEIS, and that NOS has indicated it is highly unlikely that the goals and objectives are going to change before the DEIS. She further stated that much of the goals and objectives were strengthened upon advice of the RAC. Gail Grabowsky queried at what point would the RAC be able to comment on the fishing regulations again? Wilhelm noted that fishing recommendations from the RAC were included, and that the point is not to change this document now. The RAC could choose to take action prior to WPFMC action. Draft regulations would be determined by the Secretary and would show up in the EIS. The window when the public can make recommendations on all aspects of the sanctuary proposal is during the public comment period.

Makaiau stated that the next WPFMC meeting for decision-making is planned for March 2005. Wilhelm noted that WPFMC has yet to advise on its being able to meet the 120-day deadline, and that this flexibility is subject to legal interpretation. Discussion followed on the impact of a written request for an extension by WPFMC, reasons for the extension, and implications of how it would affect the schedule to develop the DEIS.

Hunter expressed concern on the process of when the draft regulations are accepted by the Secretary and become proposed regulations which go into the DEIS, as the RAC did not write the regulations. Wilhelm confirmed that the RAC does not write regulations and that changes can be made by writing formal advice in the DEIS. While the 120-day period is pending, development of the DEIS continues. For example, RAC action is still pending on zoning issues. The RAC does not have to wait for a response from WPFMC. The RAC can make a request for modifications to what is written and build on the range of topics for the DEIS.

In response to Hunter's question, Wilhelm noted that Tetra Tech is the consulting firm that is preparing the EIS for the proposed NWHI sanctuary designation. Makaiau noted that when developing an EIS under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA/Magnuson) this is a tight timeline of 30 days after the close of the public comment period to develop regulations, which is not a lot of time. Makaiau asked if the NMSA addresses any such timeline. Wilhelm stated that the release of regulations would be simultaneous with the release of the final EIS.

Vice-Chair Paul called for a 10-minute break at 10:00 a.m. Reassembly was followed by public comment.

V. PRESENTATION ON THE 304(a)(5) DOCUMENT BY KAHEA AND ENVIRONMENTAL DEFENSE (SMITH/FRIED)

Cha Smith of KAHEA opened the presentation by asking the council to give serious attention to the problems found in the written 304(a)(5) process document, emphasizing that it may not be a pre-decisional document. Smith noted that the information that went into determining this document is extremely important and requested that the RAC be involved in developing the information going into the DEIS beginning now.

Stephanie Fried of Environmental Defense, speaking on behalf of the non-governmental organizations (NGOs), thanked the Council for the opportunity to speak. She stated that the 304(a)(5) document gives notice of NOS' intention to address methodology in the framework of the document to WPFMC, RAC, and the public, noting that this is the best effort to date by NOS to set the entire framework for the proposed sanctuary. Fried stated that this is a resource assessment document, noting that only five Council members have familiarized themselves with it and a critique provided by the NGOs. Fried reminded all that what is agency policy today may not be agency policy tomorrow, and that the goals and objectives are open to change according to information by Congressional staffers.

Fried asked that the RAC go on record to signal overall intentions, and that at its January 2005 meeting a working group be set up as a starting point to delve into the document. Fried is hopeful that the RAC will spend time on evaluating changes in the goals and objectives, including the following: language regarding Hawaiian access, which appears as a trigger of preferential racial treatment; prohibition of crustacean harvest; restriction of fishing within protected wildlife species and Goal No. 7. Fried pointed out that Goal 7 was tremendously modified and specific language that the RAC deliberated on is missing.

Fried indicated that there are material errors of fact and an errata statement should be issued. She noted discrepancies on percentages; research methodology; new bottomfish research and urged the RAC to take a look at the preferred alternative for negotiation. Fried noted other examples of errors, including omission of the Wildlife Refuge in the document; Table 11, Results of Screening Fishing Alternatives and the text portion by Dave Raney; screening and review of the document for comparison; problems with the evaluation on page 61 on Executive Order (EO) scores: -1, repealed anytime, +1 NOS, a two point difference. Fried urged the RAC to look at the methodology. This review is a test run for the DEIS.

Vice-Chair Paul called for questions. Grabowsky asked if Fried is stating that the EO is the status quo. Fried replied that it is never going to be enforced if sanctuary designation does not happen.

VI. PRESENTATION AND DISCUSSION ON WPFMC's "FISHERY MANAGEMENT MEASURES FOR THE PROPOSED NORTHWESTERN HAWAIIAN ISLANDS NATIONAL MARINE SANCTUARY" (MAKAIAU)

Makaiau's presentation, entitled above, included the following slides: (1) NMSA Section 304(a)(5); (2) Fishery Management Plans; (3) NWHI National Marine Sanctuary, MSFCMA Regulations and NMSP Regulations; (4) WPFMC Process; (5) Summary of Fishery Management Alternatives for the Proposed NWHI National Marine Sanctuary (Rainbow Book); (6) Content of the Document, Table 1, Summary of NWHI Bottomfish, Crustaceans, Precious Corals, Coral Reef Ecosystems, and Pelagics Fishery Management Alternatives; (7) Outcomes of the 124th Council Meeting, October 12-15, 2004; (8) NWHI Sanctuary Goals and Objectives for Fishing; (9) NWHI Sanctuary Alternative 3, Council Alternative 1-B, Modification 1A, Council Alternative 1-B, Modification 1B; (10) NWHI Sanctuary Working Group; and (11) Other Related Actions.

Discussion followed Makaiau's presentation. As a result, the following emerged as potential action items for the RAC's consideration on the following day: (1) motion was made by Gilmartin/Clark to establish a subcommittee on definitions to address ecosystem integrity, sensitive areas/habitats; (2) confirm the membership of the management plan subcommittee; (3) motion was made by Gilmartin/Agard amended by Achitoff/Agard and Achitoff/Winning and approved by concensus that: (a) NOS not participate in the WPFMC 304(a)(5) working group; that the RAC registers its opposition to WPFMC proposal of any 304(a)(5) interagency working group as being inappropriate and subversive to the process set forth in the NMSA; (b) the RAC supports the public and transparent exchange of information; and (c) WPFMC activities should be limited to developing fishing regulations in accordance with section 304(a)(5) of the NMSA; (4) motion made by Schug/Grabowsky and unanimously approved by hand vote that no extension be granted to the 120-day 304(a)(5) process, noting that any extension would slow the designation process; there are already sufficient studies with respect to the range of alternatives regarding impacts to the fishing industry; not a complex fishery to be analyzed compared to those reviewed within other national marine sanctuaries; two potential modifications, similar to alternative 3 were already developed at the last WPFMC meeting; unlikely additional time will result in substantially improved fishing regulations than could be developed within the allocated timeframe; and that the RAC stands by its original fishing recommendations and goals and objectives for the EIS process which it approved in July 2004. It was also noted that problems include but are not limited to Goal 3, where wording does not state strongly enough that access must be granted by permit and more specifically state "prohibited unless specifically allowed." There is no objective measure as to what is to be prohibited.

Vice-Chair Paul called for public comment and recognized Stephanie Fried and Cha Smith.

VII. PUBLIC COMMENT

Fried reported on a recent airing of the Hawai'i Fishing TV show that featured fishing in the Nihoa area and asked if a permit was issued and should the RAC have been informed

by staff. She asked about the current lobster research currently being conducted at Necker and asked if USFWS issued permits in this area. Palawski stated that he was unsure.

Smith requested that an opportunity for public comment be placed on the agenda for the following day. The Vice-Chair entertained a motion to amend the agenda for Day Two (October 21, 2004) by scheduling public comment before action items. Motion was made by Bill Gilmartin, seconded by Paul Achitoff, that the agenda for day two be approved as amended. Motion passed unanimously.

Vice-Chair Paul then called a lunch break. The meeting resumed at 1:15 p.m. with a presentation on the management plan development process.

VIII. PRESENTATION AND DISCUSSION ON MANAGEMENT PLAN DEVELOPMENT PROCESS (FIELDING)

Malia Chow prefaced the presentation by informing the RAC of the surprise federal register notice on final review of the Reserve Operations Plan. This is an error and the federal register notice will be withdrawn.

Fielding explained the three primary steps in designation: scoping, issue review and prioritization, and the draft and final EIS. The DEIS and management plan (MP) serve two different processes. Major components of the EIS differ from those of the management plan, the larger part of which will be the action plans. Fielding noted that the MP has gone through a number of steps, with its foundation being the ROP, the goals and objectives statement and the desired outcome statement. The ROP incorporates content and programs that the RAC worked on, and because of the ROP the MP can build on existing programs and address issues not currently in the ROP. Fielding stated that the goals and objectives statement with its seven goals provides mission, vision and principle to guide the management of the proposed sanctuary. The ROP manages the reserve and the MP manages a future sanctuary. The ROP content is the foundation from which the MP benefits. The ROP is function-based, the MP is issue-based.

Fielding then called upon Chow to present steps leading to the outline of priority management needs and action plans. Chow explained that there are 10 action plans in the ROP and five priority management needs and action plans. Reserve staff was assigned to each action plan where comments were reviewed and sorted. The ROP was crosswalked with the EO, visioning comments, and agency concerns. Chow stated that staff spent the last six months in this process, which included data review of the 2002 scoping comments along with public comment in form letters, emails and petitions. Writing teams were assigned. Subcommittees worked closely with staff writers all working with the criteria, "does it fit within our vision, mission and goals?" Writing teams evolved to special teams where subcommittee and interagency partners provided input to the outline of priority management needs (PMN) and action plans. Fielding then discussed the table of contents of the draft MP, which included 1.0 Introduction; 2.0 Need for Management; 3.0 Priority Management Needs, including action plans and summary tables under the

following sections: 3.1 Understanding and Interpreting the NWHI; 3.2 Protecting Ecosystem Integrity; 3.3 Managing Human Activities; 3.4 Facilitating Regional Coordination; 3.5 Achieving Effective Operations, and 4.0 Appendices.

Chow noted the following action plan components: desired outcome; need for action (why are we doing this?); current status (where are we now?); strategies for achieving the desired outcome; activities; partners; references; performance measures and summary tables. Chow noted that the activities are linked in the sanctuary goals and objectives which may or may not be in the final printed MP when it is publicized, but is presented here as information to the RAC.

Fielding reiterated that the goals and objectives are the foundation of this process and explained how they were used. Goals are linked to the management need sections and action plans, such as 3.2 Protecting Ecosystem Integrity and 3.3 Managing Human Activities, to protect, preserve and maintain natural biological communities for current and future generations. Fielding stated that the MP design tells us how to reach our vision, that each layer rolls to the next. Fielding acknowledged the work of the MP subcommittee noting that members were instrumental in achieving positive results. The subcommittee met three times and have four future meeting dates scheduled: October 21, 2004; November 1 and 8; and January 25, 2005.

Lloyd Lowry relayed comments on behalf of Tim Johns. Lowry praised Chow and Fielding for being very organized and responsible for providing documents for review. He noted the difficulty of doing reviews section by section without having a view of the entire document until all sections are together. L. Lowry stated that good progress is being made and acknowledges the good work of staff.

It was noted that the following members of the MP subcommittee would like to continue and/or be on the committee: Tim Johns; Cindy Hunter; Bill Gilmartin; Gail Grabowsky; Rick Hoo, Kem Lowry; Jarad Makaiau; Don Schug; Laura Thompson; Carol Wilcox, Birgit Winning; Kekuewa Kikiloi; William Aila; Lloyd Lowry; Matt Zimmerman; Don Palawski; Linda Paul; Athline Clark; Michael Tosatto. This would be taken up as an action item on the following day. Fielding noted that the invitation for the October 21, 2004, MP subcommittee meeting went out to the subcommittee, which is the RAC membership.

Buzzy Agard asked where are items that are not from the ROP coming from? Fielding replied that items came from the database of information referred to, including scoping comments, science workshop, and committee brainstorming sessions.

Don Palawski asked if it would be possible to move old and new business items from the agenda for the following day to this day's afternoon agenda. Vice-Chair Paul approved it. A 10-minute break was called at 2:00 p.m.

Upon reassembly, Makaiau asked questions regarding terminology such as ecosystem integrity, what is it, how is it measured; would the MP describe it; is there going to be some kind of

measuring statement? Wilhelm replied in the affirmative to the extent definitions will be developed. She stated her uncertainty if all definitions would be attached to the DEIS or the MP. She noted that while the MP is part of the EIS both are being developed on two different paths.

The following item was moved up from the following day's agenda.

IX. OLD BUSINESS:

Science Workshop Update. Chow stated that the report, "Information Needs for Conservation Science and Management of the Northwestern Hawaiian Islands", dated August 2004, identifies priority issues of concern, information needs, and strategies related to the long-term conservation and protection of natural resources and the cultural legacy of the NWHI, as a result of the science workshop held on May 13-15, 2003 in Honolulu. Chow noted that the report contains raw data and is a resource for prioritization only. The next step is to develop a regional science plan. It is hopeful that a meeting may be convened in early 2005 for this purpose to include interested participants and stakeholders. The NWHI regional science planning and coordination would help to increase communication, build collaborative processes and create a forum for scientists to identify and share research and management needs.

Clark noted that the workshop was very beneficial, and emphasized "regional" in regional science, as numerous issues relevant to the entire archipelago are being reviewed. For example, the science workshop represents NOAA's development of a regional perspective; NOAA's coral task force team has an initiative to develop a coral reef research plan for both the main Hawaiian Islands and the NWHI without informing any of the other agencies locally. Clark stated that a meeting of management agencies and scientists met to broaden the participation and inform the task force of research priorities, representing a unified voice. Key coral task force members will be in Honolulu next week affording a time to meet to address research, coordination and monitoring needs.

Vice-Chair Paul inquired on the U. S. Coral Reef Task Force and its operations. Michael Tosatto explained that funding is through a matrix from Congress to NOAA and then to programs. The emphasis is to deliver from one product. When Congress needs to decide where allocations should go and see two proposals with the same product, they will choose one of them. Chow stated that the critical need is to share and not overlap management mandates that are brought to the table.

Hunter asked if the results of the science workshop would be tied in with the scientific symposium scheduled for November 2-4, 2004 at the Hawai'i Convention Center. Makaiau stated that the foremost objective is to have a forum to present research much like the tripartite studies did 20 years ago and convene a group to discuss ecosystem science and what it means for the archipelago. It is expected that a 5-10 year science research plan would result from this scientific symposium. Makaiau stated that there will be an exhibition and reception presentation by all agencies open to the public.

Gilmartin was displeased with the release of the science report, that it is a list without analyses. Chow stated that the report is not a final document but a source of information that agencies may use in planning management needs. Gilmartin's concern was the need for a process to filter science information. It was noted that the management plan for the proposed sanctuary could be a filter.

Discussion resumed on potential action items. Wilhelm asked if the group would work on a resolution or letter to Dan Basta regarding the RAC's recommendations. Hearing consensus, Wilhelm stated that a draft could be worked on during the following day's meeting and continued discussion on action items. Vice-Chair Paul concurred.

X. ADJOURNMENT

The meeting of Day One of the two-day meeting was adjourned at 4:35 p.m.

October 21, 2004

Day Two

ATTENDEES [Advisory Council Members]: Paul Achitoff (Conservation); Buzzy Agard (Native Hawaiian); William Aila (Native Hawaiian); Rick Hoo for Rick Gaffney (Recreational Fishing); Bill Gilmartin (Research); Gail Grabowsky (Education); Cindy Hunter (Research); Athline Clark for Tim Johns (State of Hawai'i); Kekuewa Kikiloi (Native Hawaiian); Michael Tosatto for Bill Robinson (Pacific Islands Regional Office); Lloyd Lowry (Marine Mammal Commission); Jarad Makaiau for Kitty Simonds (Western Pacific Fishery Management Council); 'Aulani Wilhelm (NWHI Reserve); Carol Wilcox for Laura Thompson (Conservation); John Muraoka (Department of Defense); Don Palawski for Jerry Leinecke (U. S. Fish and Wildlife Service); Linda Paul (Conservation); Birgit Winning (Ocean-Related Tourism).

Excused: Tim Johns (State of Hawai'i); Laura Thompson (Conservation); Dwight Mathers (U. S. Coast Guard); Rick Gaffney (Recreational Fishing); Kem Lowry (Citizen at Large); Bobby Gomes (Commercial Fishing); Naomi McIntosh, (Hawaiian Islands Humpback Whale National Marine Sanctuary).

Absent: Ray Arnaudo (Department of State); Philip Taylor (National Science Foundation).

[Alternate Council Members (not representing voting members)]: Isabella Aiona Abbott

[NWHI CRER Staff]: Andy Collins; Malia Chow; Mokihana Oliveira; Naomi Sodetani; Hans Van Tilburg; Sean Corson; Virginia Branco; Russell C. Jones

[NMSP Staff]: Allen Tom.

[Members of the Public]: Kitty Courtney, (Tetra Tech); Cha Smith (KAHEA); Greta Aeby, Cynthia Vanderlip (DLNR); Stephanie Fried (Environmental Defense); Belinda Heil; Bryon Sykes (Chaminade University); Dave Raney, Sierra Club; Mark Mitsuyasu (WPFMC); Dan Suthers (University of Hawaii); Amarisa Marie.

I. CALL TO ORDER

Vice-Chair Linda Paul called the meeting to order at 9:00 a.m. The first item of business followed.

II. OLD BUSINESS

- A. Hi'ialakai Update. Malia Chow introduced NOAA Corps Officer Lt. Russell C. Jones who recently joined the reserve office and oversees the research vessel Hi'ialakai. Lt. Jones gave a brief background of his service as former Executive Officer of the NOAA ships Oscar Sette and Townsend Cromwell and a former Honolulu Port Captain. The Hi'ialakai returned to port on October 17. Jones reported that after three days into operations the crew felt as if they had been sailing for over 20 years, a great accomplishment as over 85 percent of the crew was new employees. The Hi'ialakai will return to the shipyard in Seattle for the installation of the multi-beam system. It will then

sail to the coast of Oregon for a test run and return to Honolulu before the next field season.

Reporting on behalf of Chief Scientist Randy Kosaki, Chow stated that the ship was out for 35 days from September 13 to October 16, 2004, noting that it was a great platform primarily due to safety training. The first two days were devoted to testing, practicing dive safety and medical proceedings. Much appreciation goes to Dana Wilkes. Chow emphasized that the Hi'ialakai will enhance research and monitoring and coral disease assessment programs of the reserve and stated that a chief scientist's report will be provided.

Naomi Sodetani, Communications Specialist with the reserve, shared media coverage beginning with the ship's commissioning on September 3, 2004. She highlighted several activities, including the reoccurrence of coral bleaching that was initially seen in 2002 and the discovery of shipwreck remains believed to belong to the whaling ships Pearl and Hermes reported lost at this atoll in 1822. Hans Van Tilburg, Regional Marine Archaeologist, will study photographs taken by divers.

Bill Gilmartin reminded staff that the RAC did not want to have a research report without any screening. He asked if the research being done on the Hi'ialakai and other vessels support science projects that have already been outlined, and how are projects prioritized. Discussion ensued on how survey results are gotten. Athline Clark stated that it takes a year and a half to compile and analyze data, especially with many new species being identified. NOAA Fisheries has protocols on how to release data. Gail Grabowsky asked if Kosaki could advise the RAC as to what the science goals are and how they fit together with goals and objectives of the reserve. Gilmartin suggested that the projects and reports that have been previewed by the RAC be placed on the website as they become available. Chow stated that this is a series of expeditions that have been occurring since 2000, following standardized protocols particularly with the reserve's partnership with NOAA Fisheries.

Hunter inquired on the review criteria for research. Clark replied that research is always a collaborative effort as there are numerous agencies that help support research expeditions. Chow stated that requests are evaluated by research value and weighed against what is disallowed by the EO. A permit was issued for the Hi'ialakai research cruise. Permits are issued for access in reserve waters, not in state or federal waters. Inquiry is made on the need for a permit if it is known that a ship is sailing to the NWHI. Grabowsky asked if there is a goal in the proposed sanctuary to have reports on all research results. Fielding noted that an action plan on information synthesis would be in the next draft of the management plan.

Michael Tosatto stated that permits are required of NOAA Fisheries partner agencies for all projects that are funded by the National Marine Fisheries Service (NMFS). He noted that the 2005 budget for cooperative research is currently being formed and should be available a year from now. Protocols to minimize growth of organisms on ship hulls

Gilmartin asked would RAC members be able to participate on a cruise to the NWHI as time and space permits? Chow stated that at a recent ship allocation meeting there was discussion to have segments of people see the NWHI. Jarad Makaiau asked what is the formal reserve permit application process and checklist? Chow stated that in the past two field seasons permits were processed within 30 days. After approval by HQ it is turned over to NOAA Fisheries. Clark stated there is a need to further develop permit application protocols for collaboration among agencies.

Dan Suthers, Associate Professor, University of Hawaii, Department of Information and Computer Sciences, specializing in design of technologies for educational applications, was responsible for educational activities aboard the Hi'ialakai and served as the science writer. He was asked by Andy Collins to make today's presentation. As background, Suthers has hosted the website hawaiianatolls.org since its inception, serves as co-primary investigator for the Hawaii Networked Learning Communities (hnlc.org), a community of educators improving science, math and technology education in Hawaii's schools, currently serving 36 rural schools in three cohorts, and focusing on cornerstones for improving achievement and integrated into model units that teachers design.

During the voyage, Suthers wrote daily journals and feature stories publicized on hnlc.org and other lists drawing public attention to the science being undertaken and took approximately 5,000 photos and five hours of videotapes. Journals drew readers in with personal story and natural wonders to lead them into science both embedded with features such as how scientists study the NWHI and what they are learning. Writing was done onboard and approved before inputting on the web. Suthers will document the science in articles for dissemination to the general public and secondary school populations following the voyage. Features in progress includes a study of which algae supports the productivity of the NWHI, and endemism and discoveries of species. Work projects include expanding and reorganizing features into a self-contained resource and organizing images for educational use. Longer term options call for teacher workshops for science focused curriculum planning, similar to navigating change but involving older students; planning of activities to be undertaken on subsequent voyages and the development of support software that will organize and simplify expedition reporting.

Suthers stated that the experience was a transformative one for him. He has received substantial positive feedback from the scientific staff and family members of the ship's crew. Hits from the website have increased and teachers have indicated that they would like to have lead time to plan instructional activities. Suthers concluded that the challenge remains, "How can we bring remote places and the science being done there to the public, especially to school children?" Andy Collins stated that after all have seen this done successfully, the reserve is excited about having at least one berth for educational outreach activity on all vessels that travel to the NWHI. To publicize this site it was noted that emails were sent from the ship and that articles with the website address appeared in the Honolulu Star Bulletin. Buzzy Agard stated that having a follow-up public workshop to discuss important issues would be helpful. Surveys are being planned on website as an effective teaching tool. Objectives include placing information into

brochures, websites, booklets and other material with a focus on protecting the area. Collins asked if anyone had suggestions for other projects to let him and Suthers know.

- B. Enforcement Workshop Update. Chow presented this report on behalf of Tommy Friel. A two-day workshop was held in May of 2004, with a follow-up in June for the purpose of developing a portfolio of strategies to enable effective enforcement in the NWHI. There were 35 participants including managers and enforcement officers. She noted that a draft report will be released and an update provided by Friel at the next RAC meeting.

A 10-minute break was called. The meeting reconvened at 11:05 a.m.

Dialogue followed on the preceding day's discussion on a subcommittee on definitions to address ecosystem integrity, and sensitive areas and habitats. As a result, motion on the establishment of a definitions subcommittee was made by Gilmartin and seconded by Clark. The motion was approved unanimously.

III. PUBLIC COMMENT

Vice-Chair Paul recognized Dave Raney, Cha Smith and Stephanie Fried. Raney presented two handwritten resolutions in draft collectively worked on for the RAC to consider as a result of the following day's discussion on fishing regulations. The first resolution was read by Raney, the second resolution by Fried. Both drafts are appended and made a part of these minutes.

Cha Smith stated that their purpose in giving testimony during public comment is not to drive a wedge into the process. She noted that the 304(a)(5) document as reviewed and submitted to the RAC as guidance has serious problems. Smith asked that they be allowed to participate fully and have more involvement in the process that is going to affect the draft EIS. Smith thanked the RAC members for their time.

Fried stated that the non-governmental organization hui (NGO/hui) includes Environmental Defense's 400,000 members and KAHEA's 10,000. She noted that they are having a difficult time understanding the process. They were not invited to participate. As one of the public comment opportunity was eliminated the preceding day, Fried asked that their ideas be at the table as this is a turning point in the DEIS process. Vice-Chair Paul stated that the RAC has a management plan subcommittee that is the planning process for the proposed sanctuary designation, and that Fried is welcome to confer with the chair of that subcommittee. Wilhelm reiterated that activities and strategies are the focus of the MPSC, and that the management plan is part of the DEIS. The DEIS is being prepared by the contactor, Tetra Tech.

Discussions on the floor centered on understanding the adequacy of representation on the RAC whereby constituency views are not being passed to representatives on the RAC. Achitoff stated that he would like to see the input of NGOs integrated into the process and issues of recommendations be put on record as specifically as possible. He expressed uncertainty as to the MPSC being able to address the concerns of the hui. Discussing

issues at public comment would be challenging. Hunter stated that the MPSC has invested a lot of work and has a long way to go, and that the hui represents a big part of the public. As the vice-chair of the MPSC, Hunter invited representatives of the hui to participate at the subcommittee meetings. Fried asked if a working group could be established. Vice-Chair Paul stated that members of the MPSC represent a variety of constituents and that in her view it is up to the RAC to have a parallel working committee.

Carol Wilcox stated that an enormous debt of gratitude is owed to the hui representatives and feels their suggestion for a working group is a good one. Gilmartin stated that it does not make sense to establish another subcommittee. Achitoff suggested that whether or not a working group is set-up if the hui wanted to make a presentation to the RAC that it give sufficient notice and upon receiving notice that it be allowed to do so. The amount of time would depend on the subject matter. Vice-Chair Paul stated that the RAC heard a 20-minute presentation from the hui the preceding day and that this is a public body that represents a large constituency.

Achitoff called for resolving the process on how items are placed on the agenda. Vice-Chair Paul explained that agenda items are discussed via conference call between the RAC leadership and the reserve staff. A draft agenda is then circulated to RAC members for review. Fried made a last minute request on October 19th, before the leadership was able to discuss the issue. The charter states that the agenda is set by the chair in coordination with the reserve coordinator. Staff is charged with putting a draft together in a two-week process. Wilhelm added that much effort was made to insure the leadership was informed of a 15-minute time frame for a presentation by the hui. Wilhelm encouraged all to keep relationship building in mind and that what has been done is good work.

A 10-minute recess was called. Upon reassembly, the following review of the draft of the letter to Dan Basta via the Acting Reserve Coordinator, regarding the RAC's recommendations on the 304(a)(5) process, drafted the preceding day, was taken up.

Wilhelm showed the draft on-screen explaining the following language proposed by Schug, as follows: 4) The RAC recommends that no extension to the 120-day 304(a)(5) process be granted to the WPFMC. It is unlikely that additional time will result in substantially improved fishing regulations, and any extension could delay the sanctuary designation process. The impacts of a broad range of fishery management regimes for the NWHI have already been sufficiently analyzed. Recent analyses include an EIS for the Hawaii bottomfishery prepared by the WPFMC as well as separate socioeconomic assessments of the commercial NWHI bottomfishery conducted by WPFMC, SOH, NOAA Fisheries and NOS.

Language proposed by Gilmartin was also reviewed as follows: The NMSP has provided recommendations and advice regarding draft fishing regulations to the WPFMC in accordance with the NMSA 304(a)(5). As may be necessary, the RAC supports further public and transparent exchange of information between the WPFMC and the NMSP.

The RAC believes the WPFMC should proceed with its limited responsibility to develop fishing regulations in accordance with section 304(a)(5) of the NMSA and within the 120-day time frame allowance. The RAC recommends that the NMSP not participate in the proposed WPFMC 304(a)(5) working group because this working group is inappropriate and subverts the process set forth in the NMSA. The format calls for a letter from the RAC to the reserve coordinator, which if signed at this meeting will be transmitted the following day.

Fielding assisted with on-screen editing of the letter. References to Goal 3 and Goal 7 were dropped. Achitoff suggested that a working group be established to draft the letter to NOS. Vice-Chair Paul called for a show of hands of those who would like to be on the working group. These were: L. Lowry; Schug; Kikiloi; Grabowsky; L. Paul; Gilmartin; Wilcox and Hunter. A letter will be sent to leadership for approval, as well as an invitation to members who are not present at this meeting. Hunter requested a current email address list of RAC members. Hunter will serve as the chair, Wilcox as the co-chair. A meeting within three weeks was suggested. This discussion resulted in the following action:

ACTION ITEM

Motion: To accept the letter to the Acting Reserve Coordinator on the RAC's concerns related to the NMSA Section 304(a)(5) process.

Proposed by: Cindy Hunter

Seconded by: Paul Achitoff

Ayes: 9

Nays: 0

Abstention: 1

Approved by majority vote.

sIV. NEW BUSINESS

The next RAC meeting is scheduled for January 26-27, 2004, at the reserve office conference room. Wilhelm stated that Moani Pai would send an email update on expirations of the 3-year term seats.

V. ADJOURNMENT

The meeting was adjourned at 1:15 p.m.

THE NOS SECTION 304 (a)(5) documents represent Page 1
The NOS best effort at:

1. Developing a screening methodology
for ranking

a) FISHING ALTERNATIVES

b) alternatives

c) ^{defining} ~~scoping~~ "ecological value" and bottom-
fish value"

Sanctuary

AS WILL OCCUR UNDER THE DEIS process.

2. Drafting regulations for a proposed Sanctuary

3. Presenting a revised version of the
goals and objectives of the proposed sanctuary

THESE STEPS PROVIDE A TEMPLATE FOR THE DEIS
process,

ACCORDINGLY, WE (~~THE RAC AND THE~~ ^{representing the} ~~management~~
~~and conservation committee~~), recommend that
the RAC communicate to the Sec. of Commerce:

1. CONCERNS ABOUT THE RANKING PROCESS,
screening methodology, modifications to
the goals and objectives, factual errors,
IN THE 304 (A)(5) DOCUMENT.

2. URGES NOS TO INCORPORATE EXISTING
and NEW DATA, including January 2004 data
from the bottomfish stock assessment panel and
the economic data on the value of bottomfish
fishing to local restaurants.

~~RE~~ A NGO Hui OF ENVIRONMENTAL and Native Hawaiian organizations and individuals representing over a million people, request the RAC to resolve to appoint a DEIS Working group to: ^(a) monitor the DEIS process and to prepare and submit to the Dept. of Commerce, ^(b) The RAC's Assessment of The NOS Blueprint for the DEIS process, (304(a)) ^(c) documents and RAC recommendations for "screening methodologies for fisheries and other proposed activities in the NWHI,

- 2) Comments on NOS draft regulations
- 3) RAC Recommendations re: range of alternatives
- 4) Recommendations re: ranking the alternatives and preferred alternative - and other activities related to the DEIS process.

THE RAC NOTES THAT ITS PREFERRED ALTERNATIVE (FISHERY ALTERNATIVE 5), ~~WAS~~ RECEIVED A LOWER RANKING THAN THE NMSP PREFERRED ALTERNATIVE 3, DUE TO MODIFICATIONS OF THE GOALS AND OBJECTIVES SUBMITTED BY THE RAC, AND THE SCREENING METHODOLOGY APPLIED BY NMSP IN ITS TABLE II.

THE RAC FINDS THAT THE SCREENING POTENTIALLY METHODOLOGY, ~~IS NOT FLAWED~~ WHILE USEFUL FOR QUALITATIVE COMPARISONS, IS FLAWED AS A RANKING DEVICE. IN PARTICULAR, THE SCREENING CRITERIA ARE ALL WEIGHTED EQUALLY, THIS DOES NOT GRANT SUFFICIENT WEIGHTING TO THE RAC'S APPROACH OF PROVIDING A HIGH PRIORITY TO PROTECTING THE MONK SEAL AND OTHER THREATENED SPECIES THROUGH BROAD PROTECTIVE ZONING. THE CRITERIA ARE ALSO BIASED IN FAVOR OF ~~RETAINING EXISTING~~ FISHING ACTIVITIES.

"SOLID ECONOMIC" BENEFITS AS THOSE RELATED TO ^{NWHL} FISHERIES, ~~ALTHOUGH~~ WITH INSUFFICIENT RECOGNITION OF THE SOLID ECONOMIC BENEFITS EXPRESSED BY THE GENERAL PUBLIC ADVOCATING A FULLY PROTECTED POU HONDA EXPRESSED IN NUMEROUS PUBLIC MEETINGS REGARDING THE FUTURE OF THE NWHL.

In the NWHL, are silent on economic activities linked to NWHL protections, carried out in the MHL, and silent on a wide range of ~~and~~ additional economic values including non-use values.