



DRAFT – Subject to Council approval or revisions at Council Meeting #71
Hawaiian Islands Humpback Whale National Marine
Sanctuary Advisory Council

DRAFT MEETING MINUTES

NON-GOVERNMENT (Voting)

Teri Leicher
Business Commerce

James Coon
Citizen-At-Large

Vacant
Commercial Shipping

Barbara (Maka'ala) Kaaumoana
Conservation

Judith Lemus
Education

Myrick (Rick) Gaffney
Fishing

Adam Pack (Chair)
Hawai'i County

Roberts (Bob) Leinau
Honolulu County

George Thompson
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Solomon Pili Kaho'ohalahala
Lina'i Island

Robin Newbold
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Walter Ritte
Moloka'i Island

Matthew Kawaiola Sproat
Native Hawaiian

Douglass Cole
Ocean Recreation

John (Jack) Kittinger
Research

Kelsey Poole
Tourism

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Whale Watching

GOVERNMENT (Non-Voting)

Leo Asuncion
DBEDT – Office of Planning

Veronica Rocha
DBEDT Renewable Energy

Suzanne Case
DLNR

Ella Herman
DLNR – Hawaiian Islands
Humpback Whale NMS

Laura McIntyre
DOH

Sandra Rossetter
DOT – Harbors

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OHA (Voting)

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NOAA OLE

Rachel Sprague
NOAA Fisheries PIRO

Eric Kingma
WESPAC (Voting)

Shelly Lynch
US Army Corps of Engineers

Eric Roberts
US Coast Guard

Janice Fukawa
US Navy

70th Meeting

January 26, 2016 9:00 am – 4:30 pm

**NOAA Inouye Regional Center, Honolulu
Ko'olau Haka Conference Room, Room #1564**

Welcome and Introductions

Chair Adam Pack called the meeting to order and Vice-Chair Sol Kaho'ohalahala opened with a pule.

Secretary Jack Kittinger takes attendance.

Primary SAC council members present: Bruce Anderson*, Leo Asuncion (phone), Suzanne Case*, Malia Chow, Athline Clarke, Jim Coon, Janice Fukawa, Rick Gaffney, Glenn Hong*, Clarissa Honeker, Maka'ala Kaaumoana*, Sol Kaho'ohalahala, Eric Kingma, Jack Kittinger, Teri Leicher, Bob Leinau, Keola Lindsey*, Shelly Lynch, Laura McIntyre (phone), Robin Newbold, Adam Pack, Kelsey Poole, Walter Ritte, Matt Sproat, George Thompson, Take Tomson (for Jeff Pollack)*, Jeff Walters

*not present for role call but arrived at the meeting later in the day

Alternate SAC council members present: Thorne Abbott, Greg Kaufman, Frazer McGilvray, Nina Monasevitch

Primary members excused: Gene Brighouse, Doug Cole, Judy Lemus, Jeff Pollack, Eric Roberts, Veronica Roche, Sandra Rossetter,

Purpose

Adam stated the purpose of the meeting is to receive updates of various sanctuary activities, the management plan review process, and council business including the council charter. He described the process for public comments to the SAC which will occur at 3:00 pm. He said that public comments are to make a statement, which will be part of the record, and that it is not a Q & A session with the council. Adam stated he appreciated Sol for stepping in and acting as chair for the past two council meetings.

Council Business

- Approval of Meeting 69 Minutes
 - Adam said that there was a suggestion from Nina Monasevitch to correct the humpback whale numbers in the NMFS report. Jim Coon moved to approve the minutes with the recommended correction, seconded by Rick Gaffney. Unanimous approval of minutes with recommended correction by council.

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- Review of Applicants from November Recruitment
 - SAC Executive Leadership council members have agreed to review applicants for 17 seats that were advertised in November, except Jack who will not be a reviewer since he is an applicant.
 - We expect to select and seat new SAC members by the next council meeting.
 - The next recruitment period is in February and we will be advertising Molokai and Lanai alternate seats.
- Officer elections will be held at the next council meeting
- Adam Pack Resigning as SAC Chair
 - Adam announced that he will be stepping down from his position as SAC Chair and also resigning from the SAC. He's been on the council since 2003 and has been serving as chair for two terms. The sanctuary has a long successful history of education, research and resource protection. He says it's been a real privilege working with the members. There have been a lot of changes over the time he's been serving. In 2003 the first thing he did was co-chair a ship strike working group with Jim Coon to address the challenges of vessel strikes against whales. Then he was part of the SPLASH research effort, which involved 50 research groups from many different countries. This large dataset collected between 2004-2006 is what led to the understanding that the whale population is increasing at around 6%. Over that period of time there have been great whale response and education programs.
 - The latter half of his tenure was largely spent with the MPR process. That has been a 5 year endeavor now, with many people around this table having been involved. That process involved the formation of working groups and island-wide scoping meetings to receive guidance on the desires for the future of the sanctuary. In 2012 those reports were presented at the SAC meeting at the Ala Moana Hotel. Then the process took off and we've been involved ever since to various degrees.
 - In the summer of 2012 he was part of the research and conservation committees, as well as part of Aloha Aina, which brought together different experts and scholars with incredible knowledge to create a guidance document for how state and federal partners could work productively with the Hawaii community to arrive at the best solutions they could for the marine environment. At that meeting, Adam asked various heads of NOAA and the state whether they could do ecosystem based work on their own and they said no. Adam asked the agencies if they could see a place for the sanctuary to play a role in ecosystem management and they said yes. They said they saw a place for the sanctuary to work in a cooperative venture so that everyone is participating without duplication. So, armed with that knowledge we moved forward and continued on this path for the next couple of years – finally arriving at something that with some tweaks we felt comfortable with. This has led us to the present time.
 - Adam said that what he is most proud of is being together and working so productively with all these council members. All council members work together positively - we all care about the ocean in spite of our differences. That part for him has been really wonderful.

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- Last week the executive committee had a call and the suggestion was made that he send an email encouraging and inviting Bruce Anderson, DAR Administrator to try and attend the SAC meeting for the full day. He received a response back saying he appreciates that but scheduling wise he couldn't make it. A day later he received an email with Suzanne's letter. He read through it and immediately wanted it to get out to SAC members. This afternoon when Suzanne, Bruce, Allen, and John are all here, these letters and the situation will be discussed. This is when SAC members will be able to ask questions.
- Malia Chow presents Adam with a lei and plaque acknowledging his time on the council and gives him an entanglement response shirt.

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Council Discussion Period

- Adam opened the discussion to the council to take some time to discuss the letter from DLNR to NOAA.
- Walter Ritte: He wants to understand the role of the SAC. He's not used to being on something (council) unless he's really committed to it. He's impressed with how hard everyone worked and thought the end product (mgmt. plan) was really good. He wears two hats – the hat of the general community and the hat of the Hawaiian community – and there's a difference. He's really happy with what we accomplished. We all have different agendas and it costs a lot of money and time for everyone to get together; some have given years of their time to this process. Last night it became apparent that it's not going to end well – that all of their hard work is going to go out the window. And as a Hawaiian that means a lot to him, what they are talking about is protected by state constitution. He thought the proposal was solid. He doesn't know what the obligation of John Armor is to the SAC. What is the SAC's response to Mr. Armor? He says the public reaction to the document was negative and the SAC didn't make enough effort to take the proposal to the communities and he takes a share of the blame for that. And now we have agency leaders going into a room and negotiating the outcome. Can we demand what the sticking points are – is it money or jurisdiction? It doesn't matter to him – we are losing our resources, and we need help whether it's state or federal. As a Hawaiian he wants to know why the state is making decisions like these. As a Hawaiian I'm upset with DLNR and with Mr. Armor because we couldn't come to some kind of a compromise. I'm frustrated and I want to see how others feel. I want to know others' positions and how we can get organized for a response.
- Greg Kaufman: I respect what you said. If you look back in time, this sanctuary was opposed by the fishermen, died and went away, was resurrected again later, died again, etc. It was finally created under the current conditions after the people of Hawaii had a few years to think about what the sanctuary would look like. The notion was the community would sit down and define what that sanctuary was (hence the SAC). It was a given even back then that the state would not give up jurisdiction over its resources. You can see that as a negative or a positive. The fact of the matter is that this is an underlying overture that we've had to deal with since day one. This is the only place in the U.S. where the governor has veto power over the president and

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congress. I look at this decision as a statement by the state describing that they have the responsibility for these waters. What these letters say to him is that this is not the end, it's the beginning - the beginning for the SAC to go back to management plans from 20 years ago and ask where we are and what can we do better? By all definitions, this sanctuary contradicts the National Marine Sanctuaries Act. And that's what we're dealing with today. What we should be upset about is that if the state really had this position in their pocket all this time, they should have laid it out on the table from the beginning. He doesn't appreciate that the state has wasted our time and resources to engage in a process that wasn't going to go anywhere.

- Gordon Labeledz: He was on all but one of the working groups during the process and was very pleased with the outcomes. He went into this process extremely pessimistic – historically the sanctuary hadn't done much to protect whales – but with the working groups there was the opportunity to be positive. He thinks things went bad when the DEIS/DMP came out, long before the letter from Suzanne Case. He's looking forward to the sanctuary getting back in the business of protecting whales.
- Teri Leicher: She says that this discussion has to reoccur when the state and sanctuary leadership are here. We did work hard and put a lot of thought in it. They need to hear this.
- George Thompson: He says that when he joined the council he thought he was going to help. He was amazed and awed at the people that work at the sanctuary and the volunteers. His biggest disappointment is the amount of wasted effort that has gone into this thing. Yes, the sanctuary needs to continue on and we need to move forward but after the amount of time he's seen put in, it is devastating to see no compromise. It is a waste that the talent here is not being used to try and come up with another solution.
- Sol Kaho'ohalahala: He agrees that John, Suzanne and Bruce need to hear this discussion. We can debate the results as much as we want but that doesn't give us any forward movement. We need to find a source for why we are in this position – we should ask the state for the source that makes them hesitant for moving forward with the work this council has done. He wants to propose that the group has ho'opono or a look inward for the source of how this has come to be. He wants the SAC to look to where the problem really lies and then figure out how to proceed with the state's and NOAA's participation. Then, ask what are the next steps the council can do to advance their work, rather than debate the outcome.
- Adam calls an end to the discussion and moves forward with the agenda.

ONMS Sanctuary Advisory Councils
(*Rebecca Holyoke, ONMS National Council Coordinator*)

- The national SAC coordinator, Becky Holyoke, will join us via teleconference from Silver Spring (unable to attend in person due to a snow blizzard in the DC area).
- She provided an overview of the role and importance of various councils

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- There is a network of advisory councils; 16 councils within ONMS
- First council was established in 1990, last in 2013
- 13 Sanctuary Advisory Councils, 1 Reserve Advisory Council (PMNM), Business Advisory Council, MPA Federal Advisory Board
- These differ in membership diversity, geographic scale, and program scope
- Update from headquarters including recent actions and SAC Chairs summit
 - SAC summit is a meeting of the advisory council chairs held every 12-18 months
 - Summit was just held in January in Annapolis
 - Great products that come out at the national level that really help us to be constructive and to move forward
 - This is an opportunity for sanctuaries to share their efforts – for example Greater Farallones and their work on ocean acidification, ocean warming, and sea level rise

SAC Chairs Summit Report (*SAC Vice chair, Sol Kaho'ohalahala*)

- Sol represented the council at the Sanctuary Advisory Council Summit in January and will provide an overview of the meeting.
 - Thanked Rebecca for her presentation. He says these summits are an opportunity to participate more at the national level, and provide a chance to put our needs forward to other sanctuaries. Each sanctuary has their own issues but at the summit each was able to see which issues affect sites sanctuary-wide. It was nice to have the opportunity to connect and to have that kind of general support and direction. He's hoping to invite some of the work and knowledge from those sanctuaries, particularly Greater Farallones which has been doing a lot of work with climate change. The questions we asked at the summit were whether the councils should meet more often so that there is some reinforcement to the work we've done collectively and to help keep the momentum moving forward.
 - He discussed the agenda of the summit which was quite varied in the expanse of topics and speakers. The introductory guest speaker was David Holst, Deputy Assistant Administrator for National Ocean Service, who welcomed everyone to the meeting and shared some of NOAA's priorities. NOAA would like to focus on coastal resilience, coastal intelligence (observation, how we become more aware of our environment), place-based conservation (getting community to become partners in management). At the end of that statement came the reality that funding is what is going to be very difficult, both at the national level and at the local level. We expect that less funding will be made available to accomplish that work. We understand that because we're going to be faced with the same issues here at home.
 - John Armor challenged us to ask what we need to do to stay relevant to our communities. He wants us to make sure that the work we are doing is relevant to our place. He hoped that our gathering was so that in part we could learn more about ONMS offices and staff. The other goal was for us to be participants in sharing and having a general idea of what we're all involved in.

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This is an opportunity to get a sense of what each sanctuary is about and to connect from sanctuary to sanctuary and resource to resource.

- They had a presentation by Jim Landon, Director of NOAA Office of Law Enforcement. He provided information about his perspective of enforcement from a national level. The priorities that Jim deals with are priorities that come from the national office but are driven by local needs. So if you have an interest in some of the national issues that are relevant to our sanctuary then it would be helpful for this body to explore that and to stay connected to Jim. We need to see how there could be an opportunity to collaborate with state and local enforcement to enhance efforts.
- The summit had a site visit of Annapolis which is facing challenges due to sea level rise, flooding, and high tides. They are going through a process to determine how they're going to mitigate some of the issues arising from climate change in anticipation of these events. Sol thought about the situation here in Hawaii and how we haven't been impacted yet but it's something we need to be prepared for.
- The Greater Farallones National Marine Sanctuary has created some good climate change planning and community readiness documents and Sol has invited them to assist our site with climate change planning. They have worked on issues such as ocean acidification and sea level rise. Sol invited them to share with us some of their documents/protocols they've been developing for us to maybe apply here.
- The other important topic that was discussed was fundraising. We are part of a chapter under the National Marine Sanctuary Foundation and fundraising at the local level would help implement programs. We need to engage our foundation to find support for these things and to supplement what the federal and state budgets can do. This is another tool that we need to be involved with. We need to increase our communication and collaboration if we expect to get support from a broader community and if we expect to get help with funding. It is important to get our message out to the people across the nation to get them to support the sanctuary.

- Adam: Thanked Sol for his report and said that it is a benefit to see that we're part of a larger community and there are other resources to call on if we need them.
- Rick Gaffney: He stated that the federal MPA advisory committee is always looking for members and that he had a positive experience serving on the committee. He urged all members to consider applying when they are recruiting.
- Greg: Question for Rebecca Holyoke – of the 13 SACS, how many have government seats with voting privileges? She responded that there is a wide variety across sites and does not have the number in front of her.
- Greg: He recommended that the sanctuary incorporate platforms of opportunity on collecting whale data. He described how Pacific Whale Foundation has a program called Match My Whale which allows the public to match their humpback whale photo

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identifications with others and it helps humpback whale research. He said that he wants the site to get back to whale partnerships and incorporate programs such as these.

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- Adam said that SAC meetings are a good opportunity to take advantage of members' knowledge and expertise and that they should be given time to share with the council at SAC meetings. For example, he would like to have a presentation from Greg to learn more about his involvement with the International Whaling Commission and what is happening on a larger scale. Adam also thinks the sanctuary should know which researchers are permitted to work in the sanctuary and we should invite them to come and discuss their research with the SAC. He encourages the site to reach out to other groups that are doing research. He also recommends that the sanctuary fund research grants that could be awarded to researchers to address the goals and objectives of the sanctuary.

Public Comment Summary Report (*Dr. Malia Chow, Sanctuary Superintendent*)

- Malia briefed the council on the final summary report of public comments from the management plan review process.
 - Council members have received the report and it is available on the sanctuary website.
 - Malia explained the public comment sorting process. She said that the general tone for support/opposition was fairly balanced at the end of the day.
 - Since a lot of people took time to submit comments we wanted to provide a publicly available summary.
 - Total Submissions received: 15,337. This included comments from the following:
 - Oral and written testimony at public hearings
 - Individuals, organizations and agencies
 - Petition signatures and form letters
 - Jack: He questioned Malia's comment that the response was fairly balanced – he asked for what the major issues people raised both for and against, and what the major takeaways are from what we heard during the public comment period.
 - Malia: We really tried to highlight that in the document. The main opposition was for expansion of federal jurisdiction and regulations.
 - Jack: He says from the analysis it is hard to pull out the major takeaway points. He sked what the public comments were really telling us.
 - Malia: The NEPA process really requires the full response to public comments, which comes out in a FEIS, however the sanctuary does not anticipate doing that. If we are withdrawing our proposal we're really not obligated to respond.
 - Eric K: He said that it would be good to pass the summary of important topics to the state because they need to know what the public is saying.
 - Malia: The whole body of public comments was sent to state.

Superintendent's Report (*Dr. Malia Chow, Sanctuary Superintendent*)

- Malia reported on sanctuary activities in 2015 and highlighted accomplishments in education, research, resource protection, and community engagement.

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- Malia discussed the coverage in the media about “missing” humpback whales in the beginning of the season. The media ran several articles that there was a delay in the arrival of humpbacks with speculation about climate change and new breeding grounds.
 - Adam: He mentioned a paper by Scott Baker in 1981 which discussed arrival variability and that migration is tempered by age class and other factors. Even back then it was clear that there was a 2-3 week period when the peak arrival would occur. The misimpression of the public is that somehow the whales all come down at once, which we know isn’t the case. This, combined with the long arrival window, and the fact that there are over 10,000 animals coming down, leads to misunderstanding. It’s important to be informed about the realities of humpback whale migration in Hawaii. He offered to send this information out to members and staff so that they are equipped with what we know of the migratory patterns.
 - Jim Coon: He noted the irresponsibility of the journalism of that article. He called for members to be armed with knowledge to be able to speak about migration patterns.
 - Greg: He promoted the use of platform of opportunities (POPs) – and that we should incorporate POP observations. This would diffuse the notion real fast that there are no whales here because you’d see the data real time. He discussed how important the whale tourism industry is and said that according to the International Whaling Commission, there are 15.2 million whale watchers and that the industry is valued at \$2 billion. This sector is rapidly increasing at 15% per year. He said this sanctuary should be the crown jewel for these opportunities moving forward.
- Hana Hou article
 - There was a nice feature article of Ed Lyman in the Hana Hou magazine which highlighted the large whale response program.
 - Ed continues to acknowledge the community who are so integral to our process and in particular emphasized our partnership with fishermen.
- XL Catlin Seaview
 - Malia gave background of Office of National Marine Sanctuary partnership with the XL Catlin Seaview Survey team and organizations such as the University of Queensland.
 - There have been two surveys in the Main Hawaiian Islands, a 23-day mission in August and a 10-day mission in November. The surveys allow for a before and after comparison of the 2015 coral bleaching event. As part of the August mission, sanctuary staff organized education and outreach events at public schools and hosted public lectures.
 - There are plans for the team to return and resurvey in 2016 to assess the recovery and resilience of coral reefs at these locations. Moving forward there are questions about whether the site’s involvement can continue.

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- We have a fantastic database of underwater images because of this survey and Jon Martinez is the point of contact for questions on the project.
- Sanctuary research cruise with PMNM
 - In November, the sanctuary partnered with the Papahānaumokuākea Marine National Monument to conduct a research mission aboard the NOAA ship Hi'ialakai.
 - The goal was to understand the connectivity between deep and nearshore reefs as well as to get good messages out about marine conservation. The cruise occurred during the peak of the 2015 coral bleaching event.
 - PMNM conducted mesophotic coral reef ecosystem surveys, the sanctuary team conducted coral reef bleaching and disease surveys, and NOAA Coral Reef Ecosystem Program conducted tow board surveys.
 - Staff communicated about the mission through social media, Earth is Blue videos, and website features.
- Wave Glider demonstration
 - In Nov-Dec the sanctuary partnered with Liquid Robotics to conduct a 3-week mission in sanctuary waters using a wave glider which collected oceanographic data and images.
 - The glider surveyed Puakō Bay on Hawaii, transited through the Maui Nui area of the sanctuary, and then surveyed Maunaloa Bay on Oahu.
 - The sanctuary contributed to a Citizen Science day at Maunaloa Bay.
 - Frazer McGilvray: The wave glider is an exceptional piece of technology. The citizen science day brought many members of the community together and got them out into the bay to do activities like water quality assessments. There was a lot of positive feedback on what a cool effort this was.
 - Jeff Walters: He asked how long it took to travel the 600 km.
 - Jon Martinez: Roughly 2-3 weeks.
 - Malia: Liquid Robotics is in discussions with NOAA to address how they can continue to provide innovative tools such as this.
- Team Ocean
 - Team Ocean is a national program and there has been a real effort to launch it in Hawaii. People recognize that Hawaii has a large number of volunteers that we can capitalize on.
 - The goal of the program is to get our volunteers out on the water to spread the word about the sanctuary and responsible wildlife viewing. The program will be starting out of our Kīhei site on Maui.
- Legal Fellowship
 - We have initiated a process to establish a Legal Fellowship position within ONMS. We are starting with a 2015 fellow Jacqueline Baker who is a recent graduate from UH Richardson School of Law.
- Sanctuary Ocean Count
 - This is a momentous program for the sanctuary which started on Oahu in 1996. In the past 20 years, more than 20,000 volunteers have contributed over 100,000 hours.

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- In 2012, the program was recognized as the Take Pride in America Outstanding Federal Volunteer Program.
- Staff are reviewing our methods of data collection to see if we can view trends over time. We are also discussing a possible collaboration with Pacific Whale Foundation on Maui that also does a whale count.
- We are launching into Ocean Count for the 2016 season. The first one is this Saturday, January 30th. Every year we have a new ocean count t-shirt.
- We are asking ourselves whether we should be doing the survey earlier (e.g. December); it may alleviate questions about whale arrival times.
- Adam: He asked council members by a show of hands how many know how many researchers have been given permits by fed/state to do whale research. Not many raised hands. His point is that we have a large body of information for research here and he would like the SAC to be more informed. In the past we strongly encouraged researchers who were operating in our waters to make presentations to the SAC, perhaps at the end of the season, to really give an overview of what they're doing here, key objectives of research, results, and how it impacts SAC decision making and understanding of the whales. It is important for this group to understand who the players are because these are permits for operations in these (sanctuary) waters. Some of them are doing very exciting things. Researchers are learning not only about the species but also their habitat, which is one of the items of interest lately. Also, he would encourage a greater reach out on behalf of the staff to other groups that are doing research. Thirdly, the use of Request for Proposals – the sanctuary should fund research grants to address the goals and objectives of the sanctuary. It would be nice to get back to a position where the council identified key issues that need to be addressed and then work with the communities to address them – and have a record of accomplishment.
- Greg: He agrees with Adam and added that there has been a lack of partnership and a lack of awareness. For example, Pacific Whale Foundation published a paper in 2012 using the Great Whale Count data to predict trends in humpback whales. When the original management plan was created there was discussion of a 3-pronged management approach – they had fought hard for inclusion of the public in addition to the feds and state. He is concerned about the lack of humpback whale partnerships covered in Malia's overview, he thinks we should get back to what this sanctuary is all about. For example, Match My Whale – the sanctuary should adopt such programs to support the research community moving forward.
- Bob Leinau: He has concerns about what the military is doing and asked if anyone is keeping track of damage to whales from their sonar. Adam said that they (military) need to get take permits for anything they do. There is research to examine any effects that are within our detection abilities that occur with not just humpback whales but other cetaceans.

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So it's not like the Navy is just operating without any kind of research into potential effects.

- Gordon: He said wouldn't it be nice for the sanctuary to have a working relationship with the Navy to not hurt the whales. The Navy feels they are above the law (exempt).
- Sol: He called for the sanctuary to gather experts/information and to use social media and new outlets to get out this sort of information. It could be helpful to build this general knowledge of the sanctuary and whales and how we are involved.

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Council Subcommittee Reports

- The current list of subcommittee members is in everyone's folder – please see Shannon if there are any changes/updates.
- Standing Subcommittees (Education, Research, Conservation, and Native Hawaiian) report out
 - Jack (Research Chair): He compiled a list of people interested in serving on the research subcommittee with assistance from Jon Martinez. He scheduled a meeting to occur before the SAC meeting but with the recent changes they put it on pause until the future direction of the sanctuary is sorted out. The needs for an ecosystem sanctuary and a whale sanctuary are different. It is worth noting that some of these standing committees have been not as active and that's because the SAC members have been so active and involved in the management plan review process.
 - Matt Sproat (Native Hawaiian Chair): He has nothing to report at this time but he is looking forward to working on some ideas he has.
 - Ka'au Abraham (Education Staff Lead, reporting for Judy Lemus): The education subcommittee will convene a conference call to discuss future activities of the sanctuary. He mentioned a focus on social media and other related tools to further education objectives.
 - Frazer (Conservation Alternate, reporting for Maka'ala Kaaumoana): He distributed a list of sanctuary programs that were compiled by staff at the request of the subcommittee. It is a list of 104 different projects that the sanctuary supports across the islands. The subcommittee is unsure which activities will continue if the sanctuary remains a humpback whale sanctuary. Additionally, the purpose of this was to discuss the level of engagement across the state. They want the SAC members to review and discuss what activities they don't want to lose.

HIHW SAC Charter Overview and Charter Working Group Discussion (Shannon Lyday, HIHW SAC Coordinator)

- In anticipation of the update to the charter which needs to be completed in 2016, this will provide an overview of the content in the current council charter.

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- Shannon discussed the purpose of the charter which is to provide the scope of the council's responsibilities and serves as the constitution for the council's operation.
- The current charter was signed in 2009 and amended in 2010. It expires this August (it had 2 extensions because of management plan review process).
- At the last SAC meeting a Charter Working Group was formed; the working group has had 2 meetings since the last SAC meeting. Shannon is staff lead on charter revision, Rebecca Holyoke is also helping – she's revised 12 of the 14 sanctuary's charters, so we'll be relying on her expertise as well.
- Discussed National Marine Sanctuary Advisory Council handbook, which provides national policies and framework for charter.
- Shannon covered the list of items that the working group has come up with so far that they would like to address in the upcoming charter revision:
 - Term Limits
 - Travel Costs
 - Language Consistency
 - Annual Work Plan
 - Council Decision Making (Voting vs Non-voting Members)
 - Number of Government Agencies
 - Recruitment
- Discussed a few of these items and mentioned what the charter or handbook says with regards to them.
 - Annual work plan – mentioned Greater Farallones work plan is good example of work plan.
 - Council Decision Making – HIHW currently has 19 voting and 15 non-voting members. Shannon has a matrix to share from other sanctuaries to show how others are set up with the number of both government and non-governmental seats and their voting rights, as this varies by site.
 - Term limits – we currently do not have term limits in our charter but this is one of the things that there is a policy for in the national guidelines. So moving forward we will have term limits which will be no more than 3 consecutive terms in one seat. The number of years in each term is flexible (2 or 3 years). This policy would not be retroactive, it would start when the new charter is signed
- Bob: He asked if the term limit was per seat.
- Shannon: Yes. Fishing primary and fishing alternate is considered the same seat, so would be considered under the same term limit. However, if a member served as the research seat and then served as the fishing seat, these would be two different terms.
- Shannon also discussed travel funds - in our current charter a working group can receive travel funds but a subcommittee meeting cannot. This is one of the things to be addressed in the revision.
- Jack: He asked if we have ever had an annual work plan.
- Jim: He said that in the past the subcommittees (e.g. research, education) got together at the beginning of the year to describe and update their objectives. He

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said that rather than a work plan, this was a moving target – acknowledging that groups hit milestones along the way.

- Adam: Keep in mind that in addition to a work plan, other matters/issues would come up.
- Greg: His opinion is that there should be no government voting positions because there are other mechanisms for them to have input. Also says that youth should have a vote because we are treating them as a lesser position.
- Malia: She mentioned that youth didn't get a voting seat because the national perspective is that they didn't want to expose them to coercion.
- Adam: He thinks it is worthwhile to discuss the youth seat voting rights again; he thinks it is an educational experience for them. Also he is proposing that the SAC consider forming an emeritus group for those who are retiring but still have a wealth of knowledge. So one would be able to come to a SAC meeting and have the ability to keep contributing without an official seat.
- Jeff Walters: He remembers that there was discussion on having kapuna positions previously.
- Allen Tom: He wanted to address one of Greg's comments. He mentioned that members had voted for the government seats to have voting rights because there was a concern that if the feds couldn't vote they wouldn't show up.
- Greg: He is concerned that there is no way for non-feds to win the vote with all the government seats.
- Adam: He says this is fodder for the working group to discuss.
- Sol: He is the chair of the Charter Working Group. He invites any of the council members that are interested to join the working group. Procedurally, once the working group takes all of this information into consideration, they will run this through ONMS for process and legality and then it will come back to full council for review (note: no council action expected). The charter is really adopted by the ONMS Director so members will not have any official decision making authority.
- Walter: He asked for the sticking points from the state so that people can discuss them during lunch... there is consensus to save this for the afternoon.

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Lunch Break

Sanctuary Management Plan Review Process & SAC Q&A

(John Armor, Acting Director ONMS, Suzanne Case, DLNR Chair)

- Adam explained the protocols for the public comment period in the afternoon. Public comments are meant to address the council and not NOAA or the State. It is not a question and answer format.
- Welcome to John Armor, Suzanne Case, and Bruce Anderson who are just joining the meeting. We have leadership here to provide an update on the status of the management plan review process
 - John Armor: He apologized for not being at the meeting in person. You (the council) have seen the letters from Suzanne to him and his response back. He wants to make it clear from the outset that everyone came into this with the best of intentions and in good faith. Both NOAA and State staff started this process

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with the fundamental goal of making the sanctuary and the surrounding community better. We all wanted the same thing and he thinks he and Suzanne share the same amount of disappointment that we are where we are now in terms of the process. I am utterly disappointed that we couldn't get over the finish line with this in a way that addressed all our concerns and met our goals. I need everyone to understand how hard we all tried and I appreciate all the work that the advisory council has put in over the years. That effort was very much appreciated. Personally he doesn't feel like it was wasted because it started many important conversations on the need for and interest in protections. The letters speak for themselves on where the issues bog down fundamentally. We can't have sanctuaries that are simply focused on a set of natural resources and it is inconsistent with the National Marine Sanctuaries Act (NMSA) to pick and choose the aspects of the ecosystem that we protect. Having said that, we have a solid track record across the country of executing that responsibility in conjunction with local communities. I feel good about our ability to maintain high quality, world renowned programs in the Hawaiian Islands. Some of the focus will be on the disentanglement program, science, research and education focused on humpback whales and humpback whale habitats. I think that going down the road our program will have a positive impact on our surrounding community.

- Suzanne Case: I appreciate the huge amount of work that you put into this proposal. We are disappointed that we couldn't work out the respective issues. It's a fabulous sanctuary and I want to make it clear that we totally support the ecosystem approach to management so what we're talking about is the legal framework for it, not the policy side. I really appreciate everyone's efforts to do more and I want us to carry on in the spirit of that. I think that we as a state should move forward on that. We do have a huge amount of thought into how and where we should be focusing our efforts more. I came into this position in March of last year after the proposal went public and I went through a mad scramble to understand the document. I had a lot of help from Allen and Malia. I tried to catch up really quickly on the sanctuary proposal and issues that were raised. We put in extensive comments that the state submitted to the draft plan. I was then hosted at Florida Keys National Marine Sanctuary (FKNMS) and was able to dig into these issues some more. It was all very helpful. I've come to appreciate how the sanctuary was setup under a specific law by congress whereas the rest of the sanctuaries are setup under the NMSA. I appreciate that John said that sanctuaries need to be focused on ecosystems. And that is important for them. Therefore the definition of sanctuary resource as a whole ecosystem is important. This works when a sanctuary has federal jurisdiction only but when it comes to the state there are complications. Federal enforcement takes priority, which has been an issue all along and we just never found a way around it. It takes away authority from the state. We tried to be creative and one of the ways we proposed was to have a sanctuary where the technical definition of sanctuary resource remains humpback whale but that doesn't work and she can appreciate that. They thought of trying to expand schematically to all the things that are so fantastic about the sanctuary to other

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marine mammals and have that be the definition of resource, but again, good idea but it just won't work with the federal framework. It's no one's fault, it's just a conflict of laws that makes this not work. I talked with William Aila and he reaffirmed his thinking that this was an issue. I think we all have the same intent of exploring all options to move forward to protect Hawaiian waters. I'm excited to work with Bruce at DAR and we are thinking of all kinds of new work to do more to protect our waters and the special places that you have outlined in the draft management plan. I think the DEIS is a fabulous road map and we should use it going forward. We are trying to get strong state participation in the sanctuary from a personnel and financial standpoint. We have consistently requested funding for a co-management position within the state and we have within the administration a budget request for that position. We ask for your help in supporting this request to the legislature. We came close last year. I want to reiterate what a fabulous sanctuary we have now and we want to work with all of you to try to move this bar forward and showcase what we have which is very remarkable and very unique and I would hate to have it lose its identify. I just want to thank John for working with us closely over the last few months. The exchange of letters is our agreed upon way to document where we are now. I want to stress how collaborative the process has been and how much I appreciate that.

- John: I have nothing to add; she summed it up pretty well.

Council Discussion Period

- Adam called for questions/discussion from the council.
 - Teri Leicher: I don't take no for an answer easily, I am always looking for options. We have worked so hard and it seems that there must be a way to look at this federal/state agreement. If the concern is recovering damages for violations, there must be a way to develop protocols or MOUs to allow the state to pursue damages.
 - Suzanne: We looked into this closely. The FKNMS has an MOU with the State of Florida for the state to recoup damages and it works great if that actually happens but the MOU isn't binding to the federal government. We looked at this option pretty carefully with our Attorney General and NOAA legal folks and NOAA feels like this should be a practical issue and Hawaii finds it is a legal issue.
 - John: Our letters are pretty open on this point. We respectfully disagreed with each other on this point, both from a legal standpoint and a practical standpoint. From his standpoint, we didn't think it was an insurmountable issue and it could be solved by an MOU and while he disagrees with the state's concern he respects the state's right to have that concern.
 - Walter: My job on this council is to represent the island of Molokai and Molokai has grassroots people that depend on the resources so this issue is deep felt and heartfelt. I think the view that we have about our resources is that there's a huge need to protect these resources. We all have a different idea about what is the need, is there a need. My job is to try to express what is the need. Our resource managers on Molokai are saying things like tipping points. We are

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almost at the point that we are reaching a tipping point. Our people are getting arrested because people are coming to our island and wiping out our resources. The management of the resources is critical. When he listens to this, with all these new state people, and you guys are talking to each other about reaching an impasse. Well we cannot accept an impasse, we cannot. This has to be worked out. If they worked it out in Florida and other places it can be worked out here. If someone (federal government) comes along and says we can help you with resources - research, outreach, education, all these resources are coming to the table from the federal government, then we can't say "no" just because there is a legal fight over money. This Governor is going to take the hit on this because the previous Governor was supportive. DLNR isn't getting the funding they need; you are turning away resources from the federal government. I know my constitutional rights as a Hawaiian, the state is supposed to be a trustee for the resources which means you should be consulting with us – what is the impact on us as Hawaiians for you saying no? It's a huge impact and we have not been consulted. I don't want this thing to just end because 2 people wrote letters. That would be a huge loss for us. We worked hard to make sure that the document included partnerships with the communities and the feds have come along and said they'll do that but the state is having a hard time working with communities. Look at Haena and Mo'omomi and how things are going for them. As a community person I see these two entities that I want to get rid of, they are fake and overthrew our queen. We have to survive so we are working with you. If you want our help, please put all the issues on the table and we can advise you. We are here to help. This (the council) is a great group, the kind of group the state should have. He urged Suzanne to grab the letters and tear them up and not make this final.

- Allen: The way we are going now March is the date when John will submit the Federal Register notice.
- Walter: Everyone is going to look bad if we do that and can't come to an agreement.
- Bruce: After 2 months on the job, this is a real wake up call for the state and that we need to take a bigger responsibility for taking care of state resources. I read lots of comments from state agencies about duplicative regulations in state waters - there were 30 pages from agencies with concerns. I thought there must be something that the sanctuary could bring to the state that the state cannot do otherwise. Let's try to expand it to where we don't have overlapping regulations: marine mammals. This ecosystem approach was very scary to a lot of people because it was new and overlapping. The state had no problems with the sanctuary expanding to marine mammals but NOAA was unable to address this without the ecosystem additions. I glean from your work that there are areas that need to be focused on, for example Maunalua Bay and Molokai. We have asked a number of times what would the sanctuary bring to the state. The truth is that the state has asked a number of times what would designating the sanctuary bring to Hawaii and the truth is that the federal budget has gone down and there aren't the resources needed for the work that needs to be done. There was a good will and desire to help but there isn't money in the sanctuary

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program to do what you proposed to do. You have some overlapping and possibly contradictory proposal with no funding to back it up. It was well intentioned. You folks have collectively determined these holes. The state needs to step up and take more responsibility to manage and protect these areas. So there are contradictory and overlapping regulations and no resources to back up the sanctuary's promises... we have lots of pieces here but we don't have the whole picture yet and we need to work together to fill it in.

- Walter: You guys should consult with Native Hawaiians before making this decision.
- Suzanne: The state is not making an action, NOAA is.
- Walter: You're making a decision that will harm Native Hawaiians.
- Bruce: We are saying that we are not accepting the proposal as it is but not that we are against the sanctuary. The sanctuary will still be here. No one should be under the impression that things should be less than what they are now.
- Walter : So we just sue both of you...
- Adam: What I think I'm hearing from the state is that you are not closing the door. One piece of this puzzle that did not come into play is that this group of very talented people that represent different constituencies worked very hard to create a set of work plans that were turned into a management plan. We offered to sit down with the two entities to bring the perspective from the communities to help advise the two groups but it was never taken up. I think that it would have been helpful to have the leadership of the council represented at some of these one-on-one meetings between the state and NOAA to continue to remind them that this is a grassroots effort from the bottom up. We'd really like to continue to be a part of that process. It's a shame that it's not been just a couple of years but 6 years in making all of this.
- Walter: What he's come to realize is there are large amount of resources that are available nationally, and not just monetarily, but for example experience addressing issues such as climate change and Japanese debris. These are huge issues that we simply cannot solve on our own. That's why we were so excited about getting this relationship between the feds and the state to work. I don't think we can wait much longer.
- Greg: Those who fail to learn the history are destined to repeat it. The Director of Office of Planning from 1993, Harold Matsumoto, said Suzanne's words almost word for word in opposition to the sanctuary. I've been there from the beginning. In 1997 Governor Ben Cayetano authorized the sanctuary, I was there at the signing. In the document it's required that every 5 years the Governor must reauthorize the sanctuary. So in 2017, my question to Suzanne is: will the Governor reauthorize the sanctuary? To John, you are required to revise management plans every 5 years. So now that we've gone through this whole process and we're left at status quo – I want to know 15 years later are you now going to start anew with a new management plan that focuses on bettering the status quo?
- John: This was a management plan review process. The NMSA requires that we review and revise as necessary the management plans for all sanctuaries in the system every 5 years. The unfortunate reality is that it's very difficult for us to

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maintain that pace. But we have cycles in place where we issue a condition report that details the condition of the resources and follow up with a management plan review. It's a good question, though, where are we now that we are a humpback whale sanctuary? I'm certain that there is a need to refresh strategies for those resources. That is something that Allen, Malia and I need to discuss because the reality is that the management plan that has persisted up to this day has a need to be updated. I do want to address a response by Bruce to Walter. That is correct, that funding is a challenge, but we have a chicken and egg situation. The way I personally look at it is that you have to lean forward on following your mandates and pursue the resources after that. If this program did only what could be done under the resources that existed, we would never have designated other sanctuaries. We wouldn't have had the budget for that. There is a bit of faith there that you have to pursue, within reason, the right strategies to make the biggest difference even if the resources aren't there today. Because if you're doing the right thing and you're following your mandates the resources will come. But Bruce's point is still true... the resource allocation has been relatively flat over the years. For me, the question is what we are not going to do now that we are focused on whales.

- Suzanne: I agree with the strategy to charge ahead with your high priority actions no matter what. I don't know how we're going to do that but we're going to try hard. I am very proud of the status quo.
- Bob: Money is important, priorities are important, but if you don't have the legal basis for things to move forward then you're dead in the water. I'm amazed that this is a legal argument as to why we cannot move forward. I like the word "reconsider" – maybe if we take a look at the legal problem then this can be reconsidered and leadership can get beyond "I can't".
- Sol: It seems to me, Suzanne, that it's ironic that for a culture that has been ecosystem-based that we would look to the future with no bearing in mind as to how we are going to achieve a more balanced environment. I want to not lose sight of the fact that Hawaii is out there with a canoe promoting ecosystem and who we are and encouraging other nations to be as involved in the protection of their resources and that we would then come to this juncture and decide to just stay with the status quo for now. I think this is not where we need to go. Tomorrow has already passed and we have been at this journey for decades. I want to encourage our state – which has dual responsibilities for the general public and Native Hawaiians – to make us a partner. Surely we cannot turn around at this point. The second point I want to make is that while you've been talking about where you think these problems are, you've not been specific to this body about exactly what you're talking about. If we're going to collaborate with you to move forward you need to explain exactly what the issues are. I'm encouraging you to not give us an excuse but to tell us the problems and we will address them. Let's find where the real problems are that bring us to this point today and in doing so we can then work on solutions. But not disclosing to us all of those instances that are specific, without that we can't find solutions.
- Suzanne: I want to reiterate that we believe in ecosystem management – we have no disagreement with that approach. And the state's concerns have been on

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- the table for years. This thing has moved along without coming to grips with this. As far as Native Hawaiian concerns, we have made great advancements on enforcement as this process has been going along. Hawaii law is stronger than federal law for protecting cultural resources. If you want to support the Kaapulehu community process, it is going before the legislature on Feb 11.
- Sol: I appreciate that and we do want to move forward with this as Native Hawaiians. We are not going to take this as 'no can'. Let's adopt the principles of the place which tells us about our ability to find solutions; there's no such thing as we can't do this. If there are laws that need to be changed then let's look at them. If it's funding issues, then let's look at the sources and see what we can do.
 - Frazer: I am going to speak for conservation; someone has to speak for all the critters and resources in the ocean that we are trying to take care of. There's an argument over money while the resources are in decline. We're spinning our wheels and those resources are still declining for all the reasons Suzanne mentioned. If the state had a decent track record of managing and conserving the resources I think we could understand turning down the help but it doesn't. So why should we turn down the help? All you're doing is going to the legislature and asking for more money, which they say no to, so then you go do it again, and again they say no... this is the definition of insanity. We asked the sanctuary to put together a list of projects that they work on and there are 104. Some of these may suffer from this impasse that we find ourselves in. We're bringing knowledge and modern new applications to the state that can't afford it and that others are willing to come and help us with. I feel like we're arguing over who is playing #1 violin at the orchestra while the auditorium is falling to pieces. I wonder when it's going to stop. I love the fact that we want to do single species management but that's what we did in the 1980s. We've moved on from that because we know it doesn't work. So we're going to sit at the IUCN conference in September, which is the Olympics of Conservation, as the host organization, which usually announces a huge, forward-moving progress and innovation for conservation and all we can announce is the status quo and single species management from the 1980s.
 - Suzanne: We are talking about the same thing. The issue is over the legal definition of sanctuary resource, it has nothing to do with ecosystem based management.
 - Maka'ala: My heart hurts. I have been betrayed by my state and my federal government. I haven't been betrayed by my ocean and my family. I'm offended and insulted, Bruce, when you say ecosystem based management is a new thing. A'ole. I'm 6 generations back and my elders understood EBM. Everyone I've met around the world understands this. I would encourage us to use the process that we have – the process worked – we were sabotaged by something that none of us really saw coming. Rules are made by us and they can be changed. I am very sad and feeling betrayed. I agree with Walter that there was no consultation – there was no Article 12 Section 106 consultation (by the state). No action is still an action, in my humble opinion. These are Hawaiian waters, I get that, but these are Hawaiian places. These are Hawaiian critters. And there have been

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Hawaiian voices in this process speaking for these resources. I appreciate the difference between here and Florida. In some ways the federal government must learn to partner with the communities and the place. In this process they absolutely did.

When you look at the matrix you will see things that will remain under status quo. I want to commend staff for their hard work in putting this together. There will be many programs that will go away because of this. It takes us back to the 1980s. Single species does not get us to where we are today. It's important to me that DLNR understands you need to do a better job, I appreciate that you know that. I've said I will support funding for 2 DLNR things – DAR and DOFAW because they know how to partner with communities. We've been doing your job for you. We've been taking care of things ourselves. You've just pulled one of our partners out of the mix. This isn't a time to say no can. This is a time to hunker down. What I am here to suggest is for this council to look closely with the state at the PMNM model and that governing board. That was an arduous and painfully long process but that's what this is worth. This place, these waters, these critters are worth every moment and every bit we can throw at it. This is disaster – this is someone yanking the rug out from under us. I'm concerned that this is what we're going to show the World Conservation Conference. IUCN representatives will come to Kauai and guess who they are going to listen to? (gestures towards herself)

- Gordon: Everything in this room and building was taken from the Earth, it was a resource, and that is how we humans look at the earth - as a resource. There are a lot of people in this room who are advocates for nature. Every single meeting was full of opposition, angry ocean users who didn't want the federal government. We got out organized. I've got to know that part of Governor Ige's decision was based on feedback they got from the public. It's our fault for not educating people. We've got to go out and educate people. DLNR gets 1% of the state budget and that's our fault because we don't do the advocacy work we need to do.
- Greg: I have a question for John. Is it possible to take this management plan and the work that's been done with it and use it as the basis of a nomination process for a new sanctuary site?
- John: Yes, absolutely, that is what the sanctuary nomination process is for. There is nothing in our process that would discourage or inhibit such a thing. There would have to be a broad and diverse base of support within the community, and the state would have to be on board, but yes.
- Allen: We would still have the Natural Resources Damage Assessment (NRDA) issue that we have today.
- Greg: We wouldn't necessarily have the NRDA issue because if we start from the ground up we can attend to those regulatory and jurisdictional issues if you drive it from a community base, which was never done. We've already done the hard work and in my opinion it's worth the nomination process.
- Bruce: Regarding the program list - he says he is seeing this list for the first time and is hoping that these projects are continuing to move forward. Why can't these projects continue? Can you give me an example?

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- Maka'ala: The disaster preparedness planning would go away.
- Bruce: Why should it go away?
- Maka'ala: We receive a lot of funds to do community work. Often we need a NOAA partner to be eligible for those funds.
- Bruce: This plan could be a good roadmap for the future and it's something we should talk about.
- Malia: In defense of staff, there is a lot of hard work that staff has done to put these programs together and I'm surprised to hear that you would have these programs taken from the sanctuary to state programs.
- Allen: We will have to look at this list because as a humpback whale sanctuary there are some things that we cannot do, like mesophotic corals. We have to come back now as a whale sanctuary and find our focus again and I can see things on this list that are questionable to justify. There are things on this list bottom line that we cannot move forward with.

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Public Comment Period

- Doug Federly, Chair of Sierra Club Marine Action Team: Moving forward without a strong consideration of ecosystem based management is a mistake. EBM is very Hawaiian. The ancient kings knew that you cannot single out one element of an ecosystem. EBM means that we want to harmonize the relationships between different groups. If we disturb one thing the effect will have ripple effects and impact other species. Pretending that we can focus on a single species will get us into trouble. Trophic cascades can happen, for example if there is the removal of too many fish then there are not enough fish to graze on the algae, and the algae overgrow and smother and kill the coral. There is a system of check and balances within an ecosystem. EBM is working and is taking place all around the world and we have to get on board. Never give up.
- Dennis Yamaguchi: I want to thank everyone for their hard work.
- Mel Wills from Kauai Ocean Users: The public comment overview is extremely disappointing. It does not have an accurate description of those who were opposed or supportive of expansion. How many times are you going to spin the public comment to your favor, and withhold accuracy? The Waimea meeting was the highest attended and I would like to thank the sanctuary for adding this meeting at our request. John Armor commented about the inconsistency of picking species, and we agree with that, but the proposal has no scientific backing. Ocean users look forward to working with DLNR. I went to a meeting with Governor Ige who said that the state was not involved enough with expansion, and that's saying things nicely. Education and outreach should continue to be a priority for the sanctuary. Greg Kaufman mentioned the match my whale program. I would help with that program on Kauai. Bruce Anderson mentioned overlapping agencies that don't need to be duplicated. When you ask numerous federal agencies they say that they don't talk to each other much. The majority of opposition to this proposal came from Kauai, that should point

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DLNR and DAR to their direction. The ocean users group wants to thank DLNR for their decision. Sol mentioned that they want details, well others do too, the sanctuary plan was lacking details. The 3 alternatives in the proposal are not enough. The feds are spinning stuff just to hear themselves. The sanctuary needs to focus on the humpback whales because that was successful.

- Nina Monasevich from Kauai speaking on behalf of herself: Thank you everyone for speaking up. The state’s position is problematic and unacceptable and I wish Walter was still here because I read the science and the science clearly says that the oceans are in a state of mass decline and at a tipping point. We are on the brink of a mass extinction event and it starts in the ocean. I’ll go through that list: the link between climate change; over fishing; runoff; marine mammals, fish and seabirds are dying from ingestion; entanglement and vessel strikes; dwindling resources; decreasing krill and radiation from Fukushima. Research concludes that ecosystems are dynamic and must be considered holistically, which is the conclusion of the management plan. The management plan review includes thousands of hours of work between communities. Someone has misinformed the state administration, which is the only way someone could come to this conclusion. My understanding was that the majority of comments were in support of the expansion, and while there was loud opposition in Kauai, my understanding is that there was still strong support. If the state rejects this proposal, you have set us back by 24 years from the rest of the country. We should be a leader in preserving and managing the ecosystem. The Channel Islands oil spill is a good example of how the relationship between the sanctuary and the state can work. I hope everyone read the Aloha Aina document that says that neither the state nor the federal entities own the ocean. The ocean cannot be owned by the government. It is not pono to make decisions on the environment based on money or other factors. That is so short sighted while the resources continue to be in decline. It is only through collaboration and partnership that we can turn back the tipping point on our resources. We do not have time to go through this again; it’s been 6 years of hard work that have been put into this. We don’t have time to wait. And the time is among us now. The decline of the oceans is spreading exponentially. Please listen to us – we need to move this forward.
- Matt Ross, commercial fisherman on Oahu: When this management plan was released he realized that the management plan regulations would have affected his livelihood and severely impacted his ability to fish. Mahalo to Suzanne Case for your decision. This is something that would affect many from the fishing community. This doesn’t seem like the right way to manage the ocean. Everyone here has some impact on the ocean and that’s something that everyone can appreciate. I think the programs that the sanctuary does is good. You can take the status quo and improve it. I’m disappointed because it seems like this issue could have been avoided early on. These legal problems, the issues with overlapping jurisdictions, you should have seen them coming. I agree with Walter’s concerns about lack of state resources to address issues. I hoped that when the sanctuary was proposed that they would address the issues

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that we need. I regret that the sanctuary process couldn't do this and I'm not trying to criticize, you did work hard on this.

- Hitsue Cook, from Hawaii but live in Seattle: I don't know how to fully describe who I am but I come from an Iolani Kamehameha family and I am a graduate of Andrew's Priory founded by Queen Emma. We were told that part of our duty was to take care of our people so I'm speaking for the future and for families. I heard about this meeting 2 days ago and I'm here for this meeting. Hawaii extends beyond the Hawaiian Islands. There are many Hawaiians in Seattle – 70,000 in King County alone. Seattle is a very green and sustainable city. Many years ago I started taro festivals and I went to every island with the idea that climate change was happening and what would we do if we didn't have enough food. I pretended I was starving and discovered taro by necessity. People need to know how to find taro. There are many uses for it. I'm not Hawaiian by ethnicity but I grew up here. The ocean is a source of food and fish are dwindling. This is a magazine (holds up magazine) about mainstream media and one about health. This magazine says that all marine life has dropped by half. The WWF calls for protections for global ocean areas and for protections to be tripled by 2020. The state can start to promote fishing in a different way. Different kinds of fish can be sold. Japanese companies are selling sashimi. On the flight over here I read the Hana Hou (article about Ed and disentanglement) magazine and there was a great article on the whales and all the good NOAA is doing. Plastic debris is common now. It wasn't in the 70s. My last comment is that this is an opportunity for Hawaii to become experts about the ocean, our youth can become marine scientists, and can serve the world and Hawaii by coming up with solutions and innovations of how to take care of the oceans. Thank you for being here, you are fabulous for having so much love for ocean.
- Jeffrey Krantz runs H2O Sports: We got involved late in your planning but I can see the time and energy you put into this effort. Everyone has a livelihood and during this process we felt really left out. If we could get some collaboration in the future that would be a good thing. I commend DLNR and I realize that we all want the same thing but there is a huge money issue. We should all be going to the legislature and asking for more money. You need to work on communication. Regarding the Hawaii Kai SSMA that was proposed – we are open to talking but we want to be a part of the conversation, not just told what to do.
- Lorraine Garnier: Thank you for allowing public comment. I met someone in the 60s with my family and he had a long history of growing up here and fishing – it was Buzzy Agard. He went up to the NWHI with some empty boats and fished like crazy. He did this for several years and he noticed that every time he went back, there wasn't this resurgence of fish in certain areas. What he realized is that things don't come back. The ocean isn't a magical place that is unlimited in its resources - it is very limited in its resources. Being a state that is surrounded by an ocean, we need to be the professionals, the most knowledgeable people about the oceans. I believe that what NOAA has been working on these past 6 years is a good plan because we need to start protecting

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the ocean. Buzzy realized he needed to protect those islands up north and he talked to many people and now there is a sanctuary in the NWHI called PMNM. My heart is pounding because it is so upsetting that we aren't going to protect what we have. Scientists said this morning that there is going to be more plastic than critters in the ocean in 2050. I vote that we follow the plan in some form - tweak what needs to be tweaked – but move forward.

- Sam Montgomery: People from the community were not engaged and got scared and mobilized. We went to NOAA but no one had a straight answer for us so we got frustrated. We think that if you want to have a sanctuary that you have to engage your community, and we were not engaged at all. The whole process has been very frustrating for all of us. Basically, if there aren't going to be community-based stuff going on we're going to oppose anything you do. We felt like we were guilty until proven innocent throughout this process. I was floored by the proposed regulations. But what I do think this has done is brought a lot of us together so that we can move forward now. We felt like we were getting attacked and when you get attacked you go on the defensive. My suggestion moving forward is that you engage from the beginning and be more transparent. I suggest that you go through with us a grass roots approach or otherwise you are slamming things down our throat. This could have taken away our businesses. I was upset because all of the marine life just disappeared in Maunalua Bay. We haven't heard anything about runoff. I want to see that addressed. Leave the state running things but we would love to have help from NOAA.

- 2 comments submitted by email that Jack read.

- Lawrence Hinds:

As a former commercial fisherman I saw limited success employing single-species management in the Gulf of Mexico. It was not until the State of Florida went to habitat protection when we saw significant gains in fish counts of all species, and many counties there have enacted laws regulating fertilizers and other shoreline discharge. These acts have helped Florida's ecosystem and can help Hawaii too. I have worked on the Waianae coast for two years operating tour boats. The condition of the reefs, pollutants from coastal discharge and general marine fauna are in danger. Act now.

- Laura Gray:

I support your proposal to shift protection from single-species management (which we now know simply does not work) to habitat protection, which takes into account all the intricacies of nature and is so much more effective. My husband and I have owned a fish camp eco-tourism business in the keys for many years and he currently runs a dive boat on the west side. There is much more financial gain in a healthy ocean filled with life, than in a dead reef devoid of anything, which is where Hawaii is headed if something does not change. I recently finished hiking the long trails (Pacific Crest Trail and the A.T.). Scientists have learned from these trails that large, connected habitat

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protection is the way to restore species that are in trouble. It seems logical that our DLNR, which is charged with protecting our natural resources, would want to support the best practices plan devised by NOAA scientists, over many months and with much thought and effort. Being an R.N., I find that it usually works best to let the experts in their fields make the decisions, as the consequences can be irreversible.

- o Adam closed the public comment period. He encouraged members from the public to connect with SAC representatives and follow the meetings.

Discussion Period

- George: What is the next step? Suzanne, how can we move forward and salvage something from this proposal. I see the letters, but I'm with Sol, I don't want to believe that it is over. What can we do to bring the two sides together? Suzanne turned the question to NOAA.
- Allen: We have been looking at this for 6 years and we've known that the NRDA issue has been around. I'm open to suggestions but NOAA cannot define a sanctuary resource without habitat.
- George: Why did we go through this process if this issue would have stopped it?
- Allen: We hoped conditions were right for this, we had a different administration and a different governor at the time and I think we thought we could change minds. There is nothing wrong with being a whale sanctuary, and we can go back to doing that.
- George: The question goes back to Suzanne then, although we are the SAC, we are made up of the community – if we cannot partner up with NOAA, what can we do to get the state to start moving forward with some of these initiatives? I accept Jeff Krantz's offer to work together on Maunalua Bay. I appreciate everyone's interest in specific problems.
- Bruce: I haven't heard anyone disagreeing with what we need to do. I see there is a perception that the sanctuary is the salvation for the state and that's not the case. Ecosystem management is the sum of its parts and I think the whale sanctuary is a critical part of the whole. A lot of the issues that you are talking about are issues that can be gotten to by other means. I'm still looking for solutions to some of these issues which I didn't see in the plan. I don't think you should be discouraged with the progress you made so far. You have made a lot of progress. You can continue to work with DAR, other agencies and the sanctuary. This is the beginning not the end.
- Greg: He asked Suzanne to focus on the straw that broke the sanctuaries back: NRDA. I'm failing to understand the state's concerns with NRDA. Did you get an opinion from the Attorney General (AG)? If it worked in FKNMS with a MOA, why can't it work here? Please explain why NOAA is backing off because the state isn't going to give in on the NRDA issue. Can you show us what the AG said on this issue so we can understand it?
- Suzanne: She says she did talk with the AG alot. FKNMS has an MOU but the state doesn't have any enforcement capacity, they let NOAA do it all. I would reiterate that NOAA isn't backing off because we stated this issue; NOAA went forward despite us having this position.

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- Greg: Isn't this a water column issue? How does NRDA affect that? You even suggested in your letter that if the sanctuary becomes marine mammal focused then it is not an issue, but the rug is taken out from under your argument because monk seals eat fish, but those fish are still in the water column. So I don't understand your objection. The state's suggestion is one of limited approach so that you could address aspects of water quality that doesn't impact your NRDA concerns. Can't the water column be included?
- Suzanne: We mentioned this issue all along but NOAA proceeded. Also, the state did propose protections for other species of marine mammals.
- Eric: He says thanks to the members of the public that came to the meeting. I align myself with the comments that Bruce made about funding – the sanctuary isn't going to be the savior. However, there are a lot of NOAA resources to help with these issues. We are in the IRC building which cost something like 500 million and there are 400 some employees working here. WESPAC supports EBM and has ecosystem-based plans. It's been a long process and a hot room here today. I think the state should identify the core issues and work with the advisory council and be accountable for the position it took and be accountable to the public for the position it took.
- Sol to Suzanne: I want to suggest that since you have offered to continue to work with the SAC – I want to consider if it is an appropriate motion to put on the floor that we create a working group that would take this task up, that we would be given the authority to relate and interact with state administration and that we can comment and put everything on the table. Rather than sit and wait for the next meeting that we engage and take this opportunity before you leave and that we make that decision as a council if you think that this is the appropriate next step. Teri/Maka'ala Seconded.
- Allen: I am confused. You plan to work as a council with DLNR to do what? To get around the NRDA issue? Because we have a timeline if you look at John's letter.
- Suzanne: From my standpoint the most effective series of discussions moving forward are to look at the items that are outlined in the plan to really help us understand what from a DLNR and DAR standpoint would be necessary to work on.
- Allen: But at some point the NRDA issue is going to come up, correct?
- Suzanne: I am talking about it from a state perspective. To the extent that it is compatible with the sanctuary that we can work on it together as is, great, to the extent that it is not, we will work on it as a state.
- Allen: Ok. But in the meantime, we as the sanctuary program will continue to do what we have to do and put a notice in the federal register by March 4.
- Suzanne: Yes, understood (leaves the meeting).
- Adam: So Sol has put a motion on the table. Discussion?
- Bob: Sol you had recommended a committee. I would think that perhaps I could participate as an ex officio on a committee. I would get involved in meetings to understand the big picture and discuss whatever is on the table.
- Sol: Yes, the purpose is create whatever mechanism the SAC has to include as many people that would like to be involved in the discussion with DLNR and DAR to vet all of the areas that we haven't really had a chance to talk about today. That is what I would not want to have lost in this process is that we leave today with no more chance of discussion. I am hoping that everything can be placed on the table, so that we are

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not going to be just specific about a few things. We have issues here that were raised by Walter such as not having the opportunity to consult with the Native Hawaiian community as an example. That also needs to be placed in the discussion so that we are covering all bases. And if at some point we come out with some kind of a recommendation that would be better than us not doing anything at all. And that if we want to continue moving we should. We have talked about this not being the end. Well then let's make it a beginning.

- Jack: I think we need to be very specific about the scope of the WG. I can say as someone that was the co-chair of the MPR working group with Sol, we went methodically through that document. And at the time we were going to public hearings as well where there was a lot of heat about the regulatory aspects of the plan, at least in my backyard where I live in Maunaloa Bay. I won't confess to know anything about Kauai or Maui, but in Maunaloa Bay that was in the cross hairs. We were very deliberate about the scope of that working group. The scope was to review the mgmt. plan and to provide recommendations on which aspects we liked and which areas we thought needed improvement. There was some disagreement in the beginning about what the working group was formed to do. We had to come back to what it was formed for. Was it formed to advocate, make visible, and communicate about the plan or to evaluate it? We settled on the evaluation role. Now if we are going to form a working group, what is the scope of this working group? To facilitate the conversation between NOAA and the State? Is that a useful dynamic? Is the council well placed to do that? I think that having known that the NRDA issues have been on the table for 6 years and that there is a massive amount of work that has gone into it (the plan); I think we feel like there is an opportunity to seize here, and that we can fix it. And if that is the focus of the WG, as well as other things, such as consultation, we just need to be clear.
- Allen: We, NOAA, are on a timeline. So, great, between now and March 4 if you want to work and try to figure out something that we, NOAA have overlooked in working with the state. But I feel like we have done everything we possibly can to convince the state. That in other places like FL and Michigan and other places where we are in state waters it works. I don't want to drag this out any longer. Now if the council thinks there is something we missed, great, go forward, do what you can. But we are on a timeline.
- Maka'ala: But no matter what the SAC still exists. And the sanctuary exists. If this is other work other than to affect the federal register notice then that is ok. If this is a cooperative effort between members of this council and our knowledge and experience and the state to help them understand what we were trying to talk about earlier. That doesn't impact your filing.
- Allen: Sure, whatever you need to do to work with the state. There is a great management plan there. It may have holes in it. But we went through this whole process. There is good stuff in there about Maunaloa Bay, Kauai, and Niihau that you can pull out and use it however you need to. And I think the SAC can help identify that with the state and certainly with the sanctuary. However our next step as a Humpback Whale sanctuary and a Humpback Whale SAC needs to be what are we going to do with regards to humpback whales? What are we refocusing on?
- Jack: What do you need to file by March 4 and why?
- Allen: The federal register notice that we are withdrawing.

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Native Hawaiian

Douglass Cole
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- Jack: Does that have to happen by March 4? Because we have been on a 6 year timeline which started as a 4 year timeline.
- Allen: I am not sure but I will check with my program. We have 2 other sanctuaries in the other queue so we have to fish or cut bait.
- Greg: Clarification. This is a working group that we are talking about forming and not a subcommittee. The question I have for Allen and the reason why I prodded on this NRDA issue is because it is very clear to me that NRDA is the straw that broke the camel's back. And it is also clear to me that the state is saying that there is wiggle room in there. They are not swallowing the whole whale you are giving but that they are interested in a fluke or a pectoral fin if you repackage it. So what I am wondering now, is there is any opportunity between now and March 4 to repackage this? Because if there is not, then we are wasting our time.
- Allen: I think if the state would repackage it with the word habitat in there. So monk seals and their habitat, dolphin and their habitat, if that word was in there. It seems the word habitat is what is triggering the NRDA issues. Bruce, correct me if I am wrong. But we would need to get beyond the word habitat. If there is something that we have missed and someone can bring it up to us by March 4, great. But we have been working on this issue for years looking at all different angles.
- Bruce: Yes, it is my understanding that it is the word habitat. The NRDA issue is a big one but there are other issues too. For NRDA, the lawyers will go crazy trying to resolve it and I know Suzanne spent a lot of time with the AG on it. But just to be clear, the notice will say that they are withdrawing their proposal. That is the bottom line. That is all they are saying. It does not preclude another proposal going back to them for consideration. Or another iteration. What I hear, and what Suzanne was saying, and what Sol and others are supporting, is that we have some forum, whether it be this council, or some committee, or a whole other group which would be formed, which hopefully many of you would be involved in, to help the state form its plans to address some of the issues you have raised in the management plan. There is nothing to stop us from moving forward, outside of the sanctuary's umbrella, for dealing with the issues. Again, I am new here, but to be honest with you, we (the state) don't have many plans out there. Your discussions have resulted in one of the best approaches, in some areas, that we have to date. Obviously it would need to be fine-tuned and more specifics would need to be put in that plan, particularly in some areas. But we could pick up where you are, and see if there are other ways we could accomplish some of the things you want outside of the sanctuary. I would be very happy to be part of that dialogue, whether it is this group, or some other group.
- Greg: Doesn't that put us outside of the purview of why we are formed? All of the sudden, we are here to advise a single species sanctuary. We are not here to be a marine protected area advisory group or to advise DLNR. As much as I would like to do that, that is not the charter of this organization. I am hearing a completely different request. If Bruce, you want to call an independent working group, and if we want to volunteer to be on that working group, then fine, but I think as a motion to make a WG of this single species sanctuary to go out and solve or convince the state on the management of its aquatic resources is completely outside of our purview of this advisory council. I will vote against the motion for that reason. I am supportive of the nature of the motion but this is beyond our scope and I don't even think we are allowed to do that kind of a

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thing. We are here to advise Allen and Malia on this sanctuary, that we have to deal with.

- Teri: Especially since the state took away our co-manager but I want to clarify that this WG will also have NOAA as a representative as well. Because we need state and NOAA advice. We need to have both parties at the table while we look at this mediation or whatever this is going to be. Is that correct?
- Adam: I think the key is to define the scope of the WG.
- Teri: We are looking to come up with a solution, as Sol said, with NOAA, and DLNR. I want to clarify that they will both be part of the WG, because if we just have one party and not the other, then it seems like we will just be spinning our wheels and it will take more time. And we don't have more time.
- Gordon: I have to agree with Greg on a number of points. Also to Allen's point. And I want to remind you we thought we had this. But we had a different governor. Like most of you, I voted for Ige because we were angry with Abercrombie but we knew Ige would be worse. And he is. This is a political arena. We didn't lose on NRDA. We lost this at the governor's level. In my view, I will vote yes, because I always favor people talking to each other, so I will vote for the motion. But let's just go for a whale sanctuary. What is wrong with that? Let's see if we can protect the whales. Is that so bad?
- Maka'ala: I'm going to support the motion, I understand Greg's comments, and I understand that this council is advising the whale sanctuary, I get that part. But what was very clear to me today, and I said it several times, is I see the need to educate and inform the state on what we are actually doing in the community. I don't see the sanctuary, or anybody, as a panacea. But what the sanctuary has been has been a partner. And my organization, my community, has applied for and garnered some substantial NOAA and EPA funding. In order to do that, we need a NOAA partner that has some sort of business in the place we conduct business. And in my area, there is only one. This is the deal. I would like to participate in the WG because my experience on the NGO side and the community side in applying for funding and spending it for the benefit of our resources. I think that is a worthy activity. Now, whether that needs to be a sanctuary working group, or if is working group convened by DLNR, I care not, but I want a seat at the table. I have over a decade of experience, most of it fairly positive, about how we can work together. I don't know how to get past NRDA, a whole lot of smarter people than me can't get past NRDA, but maybe we can do something around it.
- Adam: Sol as the maker of the motion, please clarify the scope and we can take a vote.
- Sol: What I'm trying to do is take up the call that Suzanne put forth – that she is willing to work with us. And she is willing to help clarify. I don't know the specifics of what was presented today and I am hoping that in the gathering of this working group we can put those things on the table. We have the mgmt. plan to begin with so we are not going to be searching blindly. And on the perception part of this, I would rather we come out of this process with the opportunity to look at a win-win rather than leave today with the kind of press that will hit the airways about the situation where we are not working together. And that the state has done this. And remember, as Walter said, a finger will be pointed to one person, and your executive person will be the one to take

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the hit. That is not why we are here. And that is why at the beginning I wanted to make sure that we were going to be involved in trying to find a way to ho'oponopono this. That means we work in every opportunity to find a better solution than what we have been presented with. If we don't take this opportunity to try something then we will have in fact relegated it to the wind. And if that is the result, I don't think any of us will be happy with it. And "thank you for your hard work", it renders us all having done nothing. So, it is with that spirit in mind that I am thinking that there must be an opportunity for us to try. If we can come up with a specific scope that is acceptable to the council then let's do that right now and put it on the floor as a formal motion. But with that intent. That we are hoping. Even with what John said to Greg about a nomination process for a new sanctuary. Perhaps from all of this something might emerge that is as simple as that. That we can bring the partnerships together and come up with something positive.

- Greg: That I would support. Because that is completely different. I would support the notion of investigating a reauthorization process or initiation of a new sanctuary nomination process. That starts a whole new dialogue and puts everyone back on square one. That is different than trying to resurrect something that is largely going to fail by March 4th. We might be a little more informed but we will be no further down the road.
- Sol: What I am saying is within the work we have already done, there are obviously these underlying concerns and issues and that will be how we will come to a better place, is by identifying them, and working through and reconstituting what that might be to find a better way. I would like to at least say that we made an effort to try and do something.
- Greg: Can I make an amendment to the purpose of the working group: The working group be focused on mitigating the differences between the state and federal agencies on the draft management plan. Or understanding and not mitigating. Because I think if it is just one sided dealing with the state, which is what Teri also said, that will not work. It will only work if all parties are at the table and are engaged in the discussion.
- Sol: I have asked Jack to come up with a scope for the motion and listen to see if that addresses everyone's thoughts.
- Jack: I will try to do this based on the discussion. Scope of the WG: To review the existing proposed plan forwarded by NOAA, which will be withdrawn by NOAA, and to develop together with the managers from both NOAA and the State of Hawaii, a framework for a new management plan including understanding key barriers and identifying options for moving forward. That is really vague and broad. I am trying to capture taking what we did, which will get part of regulatory standpoint, in terms of the federal register notice which will come in March, and basically the task of the working group would be to work with both sides and determine what can be salvaged from that, and what are the key barriers that have already been hashed through perhaps. And given if there are sticking points, there are sticking points. But given that, how do you move forward.
- Robin: I prefer we make it very specific that we want to take action that will protect the marine ecosystem as opposed to resurrect the plan.
- Teri: The plan does that right- the plan is to protect the marine ecosystem.

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- Robin: But if the governor is saying no and we are not going to get past the guards at his gates then that would be a waste of our time.
- Teri: The point is the state wants to collect money for a coral polyp – if it is damaged they want to be able to keep the money and not have it go to NOAA. We need a third lawyer’s opinion.
- Adam: Well we have an amended motion, ok?
- Greg: I second the amended motion.
- Adam: Any further discussion before we vote?
- Sol – In closing, based on this discussion based on the amended motion. This has been a highly politicized process. Let’s not been engaged in those same politics, we are here to rise above the politics and come out with a solution that we think will be beneficial to those resources we are describing. And that is the main concern here that we work towards that direction. We will come to the moments in time when the politics will come in heavy. But let’s be clear that we are embarking upon this because we believe in a better way. We will rise above it and do what is right, not what the politics dictate.
- Adam: So the motion is to...
- Jack repeats the motion.
- Malia: Are you saying that then anyone can use the management plan or are you saying that this is the new sanctuary plan? I just want to manage expectations. So this advisory council is going to develop a new management plan?
- Jack: I think the WG is meant to kind of be the lazarus working group.
- Malia: So to resurrect the plan
- The council votes and passes it unanimously.

Meeting is adjourned.

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