



Report of NWHI Fishing Regulation Public Informational Meetings

November 21, 2022

Background/Introduction

In 2016, President Obama, Presidential Proclamation 9478 set aside an area of 50-200 nm adjacent to the Papahānaumokuākea Marine National Monument (PMNM) as the Monument Expansion Area (MEA). Through the proclamation, the Secretary of Commerce (NOAA), in consultation with the Secretary of Interior (USFWS), were provided responsibility for management of activities and species within the monument expansion area under their respective authorities (e.g. Magnuson-Stevens Fishery Conservation and Management Act (MSA), National Wildlife Refuge System Administration Act, Endangered Species Act (ESA), etc.). The Proclamation prohibited commercial fishing activities and anchoring on any living or dead coral. However, it also allows for regulated fishing activities, including Native Hawaiian practices (including exercise of traditional, customary, cultural, subsistence, spiritual, and religious practices) within the MEA, and non-commercial fishing (provided that the fish harvested either in whole or in part, does not enter commerce through sale, barter, or trade, and that the resource is managed sustainably).

The Presidential Proclamation that established the MEA contains specific requirements related to the management of fishing in the area. Specifically, Proclamation 9478 prohibits commercial fishing within the Monument Expansion Area and authorizes the Secretary of Commerce to manage non-commercial fishing on a sustainable basis and consistent with the overall conservation objectives of the Monument Expansion Area. The purpose of this meeting is to seek input on the details of potential fishing regulations in order to administer fishing consistent with the conservation and management directives of the Proclamation.

The Western Pacific Regional Fishery Management Council (Council), at its 192nd Meeting in September 2022, directed staff to solicit additional input from the community on alternatives for allowing non-commercial fishing and Native Hawaiian practices in the MEA, including a definition for subsistence fishing and options for including customary exchange.

Public Information Meeting Methods

Public meetings were held on the islands of Kaua‘i, Maui, Hawai‘i (Hilo and Kona), Moloka‘i, and O‘ahu. These sessions included an informational briefing by Council staff about the Council, history of fishing in the Northwestern Hawaiian Islands, the Monument Expansion Area and the regulations for non-commercial fishing. Staff provided the options for developing federal permits for fishing and solicited input from participants. The briefing was followed by a public comment session that allowed for questions and notes were taken and are provided in summary in this report.

Summary of Overall Comments

In general, participants on all islands commented that fishing should be allowed in the NWHi and that the opportunity for Native Hawaiians to fish should be provided. Participants

commented that due to the distance and expense that fishing in the MEA would entail, the only persons likely to fish in that area would be rich people with large boats that could afford to go there. There was support to allow for commercial fishing, non-commercial fishing, and Native Hawaiian subsistence fishing. Cost recovery was also supported by most participants as a means for providing the ability for fishermen to access the area.

There were many comments on the ability to enforce any potential regulations in the MEA as well as the definition of Native Hawaiian, subsistence, and traditional practices. Participants said that if fishermen want to go fishing (in the MEA), they should have that ability and the Council should continue to provide access.

More detailed comments from each public meeting are provided below.

Kaua‘i Informational Meeting

The Kaua‘i meeting was held at Wilcox Elementary School Cafeteria in Līhu‘e on Tuesday, November 1, 2022. The meeting began at 6:15 p.m. with 20 participants. Council staff provided the informational briefing and then invited comments from the participants.

A participant raised numerous points regarding Native Hawaiian access, rights, and practices. He noted that Native Hawaiian is not defined by the Federal government. He said that the Federal government does not have the right to dissolve traditional rights that are defined by the Hawaii State Constitution (Article XII) and offered a definition of traditional rights as an “ancient practice that can never be altered.”

One participant noted that the Council needs to define the words they are using and work on coming up with Hawaiian terms for upholding the opportunities to fish.

There were multiple comments from participants saying that they didn’t know many fishermen that are wealthy enough to be able to go to, and fish in, the MEA. Participants agreed that if only rich people are able to fish in the MEA, which will anger the local fishermen. A few participants also noted that commercial fishing allows for fish to be affordable for the people so the Council should consider limiting the amount of commercial fishing to allow for those folks to sustain their trips. Participants discussed the different types of fishing that could be allowed and agreed that they did not want people out of state to fish in the MEA.

One participant asked what the need was for extra laws as there are already rules in place provided through the Executive Orders. If the Council does nothing, fishing will continue to be prohibited in the area.

Mayor Kawakami provided the following statement:

“Mahalo for being here tonight. I came to the wrong meeting. I thought that I was coming to the 30x30 meeting for DAR. However, the NWHI is really important. I am a public official and therefore must carefully consider my words in a measured statement. My family’s business at Big Save was built by local fishermen who would sell fish to them for the community to purchase at the store. If you are talking about recreational fishing in the area (NWHI), it should be about native Hawaiian by practice and not blood quantum. Kauai is

impacted the most by the monument. I don't know too many fishermen who can afford to go there and fish for recreation. However, there are rich people who can reach that area which would leave a bitter taste in local mouths. I understand that this is the opportunity to provide input on this subject matter. People who can't afford to catch fish, allowing someone else to catch fish is important. I hear from commercial fishermen all the time, and understand who can afford the activity. There should be consideration of some commercial up there to bring back to the local community to enjoy local fish. As Mayor, thank you for being here."

Participants provided comments on other fishery issues such as Fish Aggregation Devices and how they are ruining fish migration; the State of Hawaii's Holomua 30x30 initiative; and marine protection areas.

Maui Informational Meeting

The meeting in Maui was held at the University of Hawai'i Maui College, Ka Lama Room 103, in Kahului on November 3, 2022. The meeting began at 6:20 p.m. with ten participants. The Council's Executive Director provided opening remarks and Council staff provided a presentation and solicited comments from the participants.

One participant said that fishing in the MEA is not feasible unless you are a billionaire. If fish cannot be taken by the recreational and subsistence fishermen, the Council should allow for commercial fishermen, like the longline fleet, to go in there and bring back the resources to feed the community. It would be better for Hawaii's fishermen to go in there and fish rather than let foreigners bring fish to Hawaii, as it provides independence and self-sustainability for Hawaii.

There were questions about enforcement and monitoring of vessels that would fish in the MEA. Staff responded that enforcement is done through the US Coast Guard and NMFS Office of Law Enforcement. There were also questions about what species would be caught and the sustainability of fishing.

A participant said they needed the whole picture of what the fishery resources look like in order to understand if it is feasible. In order to allow for barter, there needs to be an understanding of what can be given and what cannot be given. There were concerns about taking care of the Main Hawaiian Islands and to understand the whole picture.

One participant, a prior NWHI bottomfish limited entry permit holder, said that even though he sold his fish, he considered himself a subsistence fisherman. He said that he fished to pay his mortgage, just like a subsistence fishermen would trade or barter to survive. He also said that in the NWHI, the biggest regulator there is Mother Nature because outside 50 miles, there is nowhere to run or hide in the event of bad weather.

Some participants said that there should be a requirement for permits or catch to benefit the Hawaiian communities. They suggested allowing commercial fishermen to fish in the MEA to provide part of the catch to those communities.

Other concerns provided by participants included a potential shortline fishery operating near Maui and the effects on traditional fishing ko'a, monk seals impacts on the近shore fisheries,

and enforcement. There was also a lengthy discussion on longline fishing and the effects of the fishery on local resources.

Hilo Informational Meeting

The first meeting on Hawai‘i Island was held at the Grand Naniloa Hotel in Hilo on November 4, 2022. The meeting was attended by 10 participants and started at 6:15 p.m. Council staff provided an introduction to the Council followed by discussion and comments.

Participants questioned why commercial fishing was prohibited as there are not much fishermen who fish outside 50 miles, even from the Main Hawaiian Islands. One participant said that Kaua‘i fishermen are buying bigger boats to fish up north.

Participants said that there is a need to ensure that future generations continue to eat fish and sustain the demand for local seafood rather than importing chicken and beef to feed the community.

There was some discussion about who would be able to fish under the Native Hawaiian subsistence fishing permit and how Hawaiian would be defined. One participant said there are concerns on how inclusive a Native Hawaiian permit would be and encouraged consultation.

There was interest in clearly defining non-commercial fishing and native Hawaiian Fishing with different sets of regulations. One participant also suggested that the non-commercial fishing permit allow for expenses to be recouped up to \$10,000.

A participant asked about the observer guidelines being implemented as it seemed presumptuous to implement provisions this early.

Other issues brought up by participants included the territorial tuna quota and the loss of fishing due to the loss of the Pohoiki boat ramp.

Kona Informational Meeting

The second meeting on Hawai‘i Island was held at the Royal Kona Resort in Kona on November 5, 2022. The meeting started at 10:15 a.m. with 10 participants. Council staff provided opening remarks and a presentation on the issue for discussion.

Participants asked about the technology used for tracking boats and fish in the MEA. A participant noted that there are new energy sources and types of batteries, there could be a way to keep costs down and be more efficient in the future.

Another participant wondered if there was demand for Hawaiians to go up there to fish and what their motivation would be to ask for a Native Hawaiian subsistence fishing permit. Participants also questioned if there were boats actually fishing in that area.

One person said that Native Hawaiians deserve to go up there, it is their right, but customary exchange could open a can of worms. Instead of cost recovery, the government should provide grants that would cover the cultural activities in order for Native Hawaiians to participate.

Another person asked if there was a possibility to create a processing center in the NWHI where fish could be canned or preserved to bring the catch back.

A participant said he believed that the NWHI was taken over by the military, as the military can do whatever they want without oversight or fishermen observing.

Other comments ranged from discussing the stock assessment process for MHI bottomfish, to fish tagging, to reporting and data collection.

Moloka‘i Informational Meeting

The meeting on Moloka‘i was held at the Lanikeha Community Center in Ho‘olehua on November 8, 2022. The meeting was attended by five participants and started at 6:30 p.m. The Council’s Executive Director provided opening remarks and Council staff provided the informational presentation.

A participant asked how many Native Hawaiians go fishing in the NWHI and suggested that Native Hawaiians that have fished in the NWHI be grandfathered in for permit. She also said that Native Hawaiians should also not have to pay for a permit to fish in the NWHI. She agreed that there is a need for the ability to recoup costs for fishing.

There was a discussion on the amount of boats that were allowed to fish prior to the area being closed. A participant said that since it is closed, they don’t know what is going on up there and there needs to be a common sense approach to understanding what is allowed. He supported subsistence fishing and recouping costs as it should be worthwhile for fishermen to go fishing. He said the regulations should not make it difficult for people to continue practicing their traditions.

A participant said that a limit on fishing should be based on family size rather than what can be taken. If fishermen catch too much, then that should be given to the community. Fishing ability is going to be constrained to what the cooler can hold.

Participants suggested that community meetings help to ensure that the community is consulted and that the community can hold agencies accountable on their business. They said that it is important to take value in what the fishermen on Kaua‘i and O‘ahu have to say because they are more likely to fish in the NWHI.

Other issues discussed included Aha Moku, climate change, sea turtles, 30x30, and monk seals. Participants aired their concerns regarding the need to make sure that the Main Hawaiian Islands are concentrated on because the NWHI is important because it is for Hawaiians but it is more important to address fishing issues in our own backyard.

O‘ahu Informational Meeting

The meeting on O‘ahu was held at the Ala Moana Hotel on November 10, 2022. There were 25 participants at the start of the meeting at 6:15 p.m. Council staff provided opening remarks and a presentation detailing the issues for discussion.

One participant noted that rules that the Council puts in place cannot be less restrictive than the rules provided by the Presidential Proclamations. He said that customary exchange is not a traditional and customary practice as there was a more reciprocal relationship value. He said the status quo and no action options are the best the Council could do because the other options are unlikely to meet the goals of the proclamations and the sanctuary.

Another participant noted that there are a number of issues to understand, including climate change, to determine what is happening in a fishery. There should be a way for research and information to be collected in the NWHI.

A participant said there are questions of practicality and the physical capability of being able to fish in the MEA. You would need at least a 40 foot long vessel because there is no shelter to run to or access in the MEA. He said that Mother Nature will be the strongest manager of the area. Another participant suggested using different types of vessels as any opportunity to fish in the area would also need to be safe for people to do so. One participant said that going to the area will be hard and the US Coast Guard would have a hard time getting to those people in the event of an emergency.

Participants asked how enforcement would occur since foreign vessels can go through the monument and have the ability to turn off their Vessel Monitoring System (VMS). It was noted that the US Coast Guard does flights over the area as well as monitors the VMS. Participants also asked about the participation and information for existing or prior non-commercial fishing in the MEA. Staff noted that there are no records for non-commercial fishing.

Discussion on limiting fishing included potential discrepancies between the numbers provided in the proclamation and what available stock assessments allow.

One participant said that he would like to go fishing again and understands that commercial fishing could not occur but asked if those on Kaua‘i made that request. He said that he may not be rich but has access to a rich man’s boat. He said that people who have been there say there is abundance in the NWHI that you could not fathom. He stated that if there is a Hawaiian fisherman that wants to go fishing in the MEA, then he should have the ability. He and his family should continue to have access. He said that the Council should not dismiss any family’s ability to get out there as there are families that may have those practices; you just need to find them. It is unfair for the military to go in whenever they want.

A participant said that when we cut off resources, we are doing the opposite of self-sustainability. The guiding principle has to be access to the resource since us as islanders need the resource. Another participant disagreed and said that managed access has to be pono due to the tragedy of the commons. He said it would be a terrible precedence to be able to bring fish back because Kure to Midway is sacred and peoples should not be allowed to go and get whatever they want.