

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

**Non-Government (Voting)**

William Ailā, Jr. (Chair)  
State of Hawai'i

Linda Paul (Vice Chair)  
Conservation

Rick Gaffney (Secretary)  
Recreational Fishing

Pelika Andrade  
Native Hawaiian

Kalama'ehu Takahashi  
Native Hawaiian

Nakoa Goo  
Native Hawaiian Alternate

Solomon Pili Kaho'ohalahala  
Native Hawaiian Elder

Audrey Newman  
Conservation

Samuel 'Ohu Gon III  
Conservation

Robert Leinau  
Conservation Alternate

Doug Fetterly  
Conservation Alternate

Thorne Abbott  
Conservation Alternate

Don Schug  
Research

Haunani Kane  
Research

Mark Hixon  
Research

Neal Langerman  
Research Alternate

William Walsh  
Research Alternate

Richard Lee  
Ocean-Related Tourism

Paul Badgley  
Ocean-Related Tourism Alternate

Bonnie Kahapea-Tanner  
Education

Heather Howard  
Education Alternate

Judith Cucco  
Citizen-at-Large

Kammie Dominique-Tavares  
Citizen-at-Large Alternate

Vacant  
Commercial Fishing  
Commercial Fishing Alternate  
Native Hawaiian Elder Alternate

**Government (Non-Voting)**

Athline Clark  
Papahānaumokuākea MNM

Kim Hum  
HIHW National Marine Sanctuary

Malia Chow  
NOAA Fisheries PIRO

Brandon Jim On  
NOAA Office of Law Enforcement

Malle Norman  
U.S. Coast Guard

Janice Fukawa  
U.S. Department of Defense

Joshua DeMello  
WPRFMC

Jared Underwood  
U.S. Fish and Wildlife Service

Brian Neilson  
Hawaii Division of Aquatic Resources

Kealoha Pisciotta  
Office of Hawaiian Affairs

August 31, 2022  
9:00 a.m. – 1:00 p.m  
Via Google Meet Teleconference  
Meeting Minutes

**ATTENDEES:**

RAC Voting Members Present: William Ailā (Council Chair), Audrey Newman (Conservation), Don Schug (Research), Mark Hixon (Research), Rick Gaffney (Secretary and Recreational Fishing), Linda Paul (Vice Chair and Conservation), Samuel 'Ohu Gon III (Conservation), Haunani Kane (Research), Solomon Kaho'ohalahala (Native Hawaiian Elder Primary), and Richard Lee (Ocean-Related Tourism Acting Primary)

RAC Voting Members Absent: Pelika Andrade (Native Hawaiian), Kalama'ehu Takahashi (Native Hawaiian), Bonnie Kahapea-Tanner (Education Primary), and Judith Cucco (Citizen-at-Large).

RAC Non-Voting Members Present: Nakoa Goo (Native Hawaiian alternate), Doug Fetterly (Conservation alternate), Kammie Dominique-Tavares (Citizen-at-Large alternate), Neal Langerman (Research alternate), Joshua DeMello (WPRFMC), Janice Fukawa (USDOD), Richard Hall (NOAA-NMFS-PIRO), Malia Chow (NOAA-NMFS), Cindy Among-Serrao (ONMS-HIHWNMS, Brandon Jimon (NOAA-OLE), Kealoha Pisciotta (OHA)

RAC Non-Voting Members Absent: Paul Badgley (Ocean-Related Tourism alternate), Heather Howard (Education alternate)

ONMS Staff and Others Present: Athline Clark (ONMS-PMNM), Malia Evans (ONMS-PMNM), Eric Roberts (ONMS-PMNM), Kristina Kekuewa (ONMS-PIR), Alyssa Miller (ONMS-PMNM), Kanoe Morishige (ONMS-PMNM), Pua Borges (NOAA-NMFS-PIRO), Uluwehi Chung (NOAA-PMNM), Andy Collins (NOAA-PMNM), Phillip Howard (ONMS-PMNM), Randall Kosaki (ONMS-PMNM), Kaipō Perez (NOAA-NMFS-PIRO), Silvia Hussey (OHA), Kitty Simonds (WPRFMC), and Paula MacCutcheon (Public)

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**Welcome (Ailā, Jr.)**

The meeting opened with a welcome by Chair Ailā, and an opening protocol conducted by Malia Evans.

**Roll call, Introductions, Review and Approval of Agenda (Ailā, Jr.)**

Roll call was taken by Eric Roberts.

Review and approval of the agenda was conducted by Chair Ailā.

Representative Paul moved to accept the agenda, and Representative Gaffney seconded the motion. The agenda was adopted unanimously.

**Review & approval of June 29, 2022 Meeting Minutes (Ailā, Jr.)**

Review and approval of the meeting minutes were conducted by Chair Ailā. Representative Gon moved to accept the minutes as amended, and Representative Gaffney seconded the motion. The minutes for the June 29 meeting were adopted unanimously.

**Review & Summary of Previous Issues, Action Items and Status (Clark)**

1. State of Hawaii Action: Keep RAC informed on *30x30 Initiative*
  - Marine Coral Reef Task Force (Aug 27, 2022 - September 3, 2022) to discuss 30x30 initiatives.
2. ONMS Action: Keep RAC informed of NFWF funding and activities
  - President Biden's new Bipartisan Infrastructure Bill allocates \$30 million to marine debris work with funding over a five year period. The Benioff Institute will joint match for marine debris work within Papahānaumokuākea Marine National Monument.
3. NMFS Action: Keep RAC informed of any changes to the Magnuson-Stevens Fishery Conservation and Management Act
  - Athline Clark requested NMFS address any fisheries and Magnuson-Stevens updates.

**Monument Co-Trustee/Management Agency Updates/Highlights**

- NOAA Office of National Marine Sanctuaries (Athline Clark)
  - Mokupāpapa Discovery Center (MDC): welcomed nearly 9,000 visitors from the reopening of our facility in June to August.
  - The E Kū Ana Ka Paia: Workshop for Building Climate Change Resilience brought together 60 middle and high school teachers from Hawai'i, Maui, Moloka'i, O'ahu, and Kaua'i to provide tangible NOAA-based climate change classroom activities and explore student engagement opportunities.
  - ONMS educators joined NOAA educators from Fisheries and the Office of Coastal Management to facilitate 5th-12th grade teachers from Guam, CNMI, Hawai'i and American Samoa in a three day virtual workshop focused on engaging students in climate change and community resilience activities.
  - PMNM staff, along with Ko Olina Resort and other community partners, hosted a Get Into Your Sanctuary Day Celebration at Mā'ili Beach Park in Wai'anae where more than 150 people enjoyed activities including a beach

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- cleanup, marine debris art show, and ocean education and sustainability activities.
- Two Hollings Preparatory Program interns with Papahānaumokuākea presented on the work they are doing for the monument at the NOAA intern symposium.
  - The Bishop Museum opened a new exhibit, “Taxonomy: Our Lives Depend On It” which features a display on new species of algae collected by PMNM’s deep reef rebreather team.
  - Research scientists from the PMNM, the Univ. of Hawai‘i, and the College of Charleston [published the description of a new species of red algae](#) named *Gibsmithia punonomaewa* which is a combination of several words in ‘Ōlelo Hawai‘i (Hawaiian language).
  - Rachael Orben, Assistant Professor (Senior Research) with Oregon State University shared her research on novel radar detecting used to identify albatross-vessel encounters within and surrounding Papahānaumokuākea at the [Mokupāpapa Third Thursday](#) by the Bay Lecture Series.
  - Kiloaulani Ka'awa-Gonzales, an E. Gordon Grau Fellow with UH Sea Grant, provided a biocultural overview of Lalo (French Frigate Shoals) and shared the progress of NOAA Region, PMNM and our climate collaborators to identify priority climate stressors as well as adaptive management options as part of the [Mokupāpapa Third Thursday](#) by the Bay Lecture Series.
  - Over 375 people gathered to honor the memory of local robotics mentor Kenyan K. Beals and to officially open the Kenyan K. Beals Community Robotics Center at Mokupāpapa Discovery Center.
  - PMNM and University of Hawai‘i at Hilo MEGA Lab scientists published a study documenting seven years of successional changes in the benthic community after a mass coral bleaching and mortality event at Kapou (Lisianski Island) in 2014.
  - PMNM staff supported NFWF funded research to investigate and identify *Chondria tumulosa* as well as other commonly misidentified species at Kuaihelani (Midway Atoll).
  - PMDP field team returned to Honolulu aboard the M/V Imua with 97, 295 pounds of marine debris removed from reefs and beaches of PMNM.
  - The United States Postal Service unveiled a new National Marine Sanctuaries postage stamp collection in celebration of the National Marine Sanctuary System’s 50th anniversary showcasing the unique species and ecosystems of the network of 17 underwater parks and monuments.
  - NOAA Fisheries (Malia Chow)
    - There has been a lot of movement with Magnuson Stevens but no concrete changes yet.
    - Sarah Malloy is the new acting Pacific Islands Regional Office Regional Administrator.
  - NOAA Fisheries (Richard Hall)
    - In 2022, there were 50 Hawaiian monk seal births recorded. This is the first year rehabilitated seals have given birth to pups of their own.

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- The July south swell resulted in an evacuation of Pearl and Hermes to Midway Atoll where research will continue until a pickup is complete.
- Fifty female turtles were counted this season at French Frigate Shoals, which is half of last seasons' count.
- The science center is conducting cetacean and ecosystem research as part of the Summer/Fall 2022 survey.
- FWS Refuges (Eric Roberts provided highlights for Jared Underwood)
  - FWS and partners are reengaging on the Midway Seabird Protection Project to eradicate the non-native house mouse from Sand Island of Midway in 2023.
  - Two successful field camps concluded this summer on Kamole (Laysan) and Kapou (Lisianski). Interesting findings include: the team confirmed that the endemic land snails persist on the island; Miller Birds continue to thrive on the island; some invasive plant species have expanded their range over the last 10 years.
  - Successful events were carried out on Midway and at the National Memorial Cemetery of the Pacific to honor two 99-year-old veterans in person, and to honor all those who served on Midway during the battle.
  - Midway staff supported NOAA and University of Hawaii staff in efforts to understand the extent of nuisance algae Chondria around Midway Atoll.
- FWS Ecological Services (Eric Roberts provided highlights for Dan Polhemus)
  - We have entered a rather unusual third year of La Nina conditions, which has kept the equatorial Pacific cool, but to some extent shunted heat to the north. While El Nino is not on the horizon at the present time, heat has accumulated in the North Pacific, and the models are showing that some degree of coral damage from bleaching is quite likely during late summer and into fall.
  - In regard to cyclone activity, nothing has been able to make it very far west this year although the potential for a storm to develop south of the MHI that moves northward into the Monument cannot be excluded.
  - Diurnal air temperatures have been a bit more moderate in the MHI this year than during the past two summers with daily lows a couple of degrees cooler. It has been very dry, and since average temperatures, despite the more moderate summer this year, are higher overall than they used to be.
  - Coral bleaching is likely, there is some potential tropical storm risk, and drought continues.
- Additional Comment on Climate (Mark Hixon, Research Primary Member):
  - Three years of La Niña conditions are keeping the main islands cool which is unprecedented. A large El Niño event is ready to sweep back toward us with really warm water from the west Pacific. Very warm water is coming in the near future.
- Office of Hawaiian Affairs (Kealoha Pisciotta)
  - The Native Hawaiian Cultural Working Group with guidance from OHA has been working on fishing regulations to prepare for the upcoming WPRFMC meeting (September 20-22, 2022).

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- OHA is working with individual members to prepare for an international workshop on indigenous peoples with the United States and Chile.
- Western Pacific Regional Fishery Management Council
  - The Council is meeting weekly to finalize the details of the fishing regulations. They are all working to make sure the fishing regulations revisions and discussions go smoothly.
  - The Council will look at the recommendations and comments in their September meeting to possibly take initial action with the hope to finalize everything by the end of the year for ONMS and NMFS approval and EIS incorporation.

**Planning, Evaluation, and Sanctuary Designation Subcommittee Presentation**  
(Athline Clark and Linda Paul)

Background on Fishing Regulations and Sanctuary Designation (Athline Clark)

- On November 19, 2021, ONMS sent a letter to the Western Pacific Regional Fishery Management Council (WPRFMC) to initiate the 304(a)(5) process under the National Marine Sanctuaries Act to prepare draft fishing regulations for the proposed Sanctuary. On March 22, 2022, WPRFMC responded with a letter with proposed draft regulations that was shared with the RAC by ONMS staff, at the subsequent RAC meeting. The RAC discussed these regulations and requested that the Planning, Evaluation and Sanctuary Designation Subcommittee (PES) work on drafting a set of recommendations to be shared before the full RAC for discussion and approval.
- The PESS met to review the WPRFMC draft regulations and provide recommendations to incorporate in the final draft. Athline Clark mentioned that the two Councils have different requirements and processes in order to move forward, so PES prepared recommendations in a presentation format to share with the full RAC for discussion and approval.

Presentation on WPRFMC Draft Regulations for Northwestern Hawaiian Islands Sanctuary  
(Linda Paul)

- The PESS provided their general findings and analysis of WPRFMC Draft Regulations with recommendations to amend, keep, or omit specific regulations. Josh DeMello (WPRFMC) was in attendance to provide clarification and updates per topic since the Council has started revisions since its initial draft regulations from March 22, 2022. *Please see the detailed recommendations attached for more information.*

RAC General Findings and Recommendations Regarding the WPRFMC Proposed Fishing Regulations in the letter dated March 22, 2022

1. Under the National Marine Sanctuaries Act (NMSA), new fishing regulations proposed by WPRFMC may be more restrictive, but not less, than current protections under the presidential proclamations and 50 CFR Part 404.
2. WPRFMC's proposed fishing regulations must comport with the provisions in the two proclamations and the Executive Order currently in effect for the monument and the reserve, and not automatically default to Magnuson-Stevens Fishery Conservation and

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Management Act (MSFCMA) provisions. There are incongruities between language in WPRFMC's document and what is written in presidential proclamations and existing regulations. For example, proclamations are more detailed and/or restrictive than some of the WPRFMC terms.

3. WPRFMC's proposed fishing regulations must also be in accord with the proposed sanctuary goals and objectives (NMSA 304(a)(5) requirement).
4. Fishing regulations in the original monument area under 50 CFR 404 are adequate and do not require further changes. The focus of WPRFMC's new regulations is the Monument Expansion Area. There are inconsistencies among the WPRFMC document's three sections regarding geographical areas of coverage.
5. There are typos, and issues with definitions that need to be corrected. These are described below.

Analysis of WPRFMC's 'Summary of Recommendations' Section (page 2 of the letter)

1. WPRFMC's Commercial Fishing

- **RAC Analysis:**

- WPRFMC's recommendation is consistent with the existing presidential proclamations and regulations. The RAC may have related recommendations to make at a future date.

- **Discussion:**

- The WPRFMC is considering prohibiting commercial fishing from 50-200 miles in the Monument Expansion area. (Josh DeMello)

2. WPRFMC's Commercial Fishing

- **RAC Recommendation:**

- Postpone a discussion and final decision about fishing regulations in areas outside of the monument but within any sanctuary boundaries, until after the draft environmental impact statement (DEIS) for the proposed sanctuary assesses the biological, economic, and sociocultural impacts of a range of alternative boundaries.

- **Discussion:**

- WPRFMC has not had discussion on commercial fishing outside the Monument. Pending any Sanctuary boundary changes, the Council would solicit further recommendations if necessary. (Josh DeMello)

3. WPRFMC's Non-Commercial Fishing

- **RAC Analysis:**

- This recommendation is inconsistent with the presidential proclamations, as discussed below.

4. WPRFMC's Native Hawaiian Practices

- **RAC Analysis:**

- This recommendation is inconsistent with presidential proclamations, and existing regulations, as discussed below.

Corrections and Clarifications Needed of WPRFMC's 'Summary of Recommendations' Section

1. Monument Expansion Area name - Change the name for the Monument Expansion Area, throughout the draft regulations. It is incorrectly referred to as the 'NWHI Expansion'.

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The correct name is the Papahānaumokuākea Marine National Monument Expansion area.

2. Presidential Proclamation 9478 is incorrectly referred to as ‘9704.’
3. Throughout the document there is unclear and inconsistent language about ‘violation of commercial fishing regs.’
4. There is inconsistent language regarding the area to be covered by the WPRFMC regulations. While some portions of the draft refer to the Monument Expansion Area, others refer to both the Monument Expansion Area (2016) and the original Monument boundary (2006). The focus of the new fishing regulations should be the Monument Expansion Area.
  - **RAC Recommendation:**
    - A new proposal should include all the above corrections. The RAC recognizes that the WPRFMC has already started incorporating some of these recommendations.
  - **Discussion:**
    - Members urged the importance of making sure the recommendation includes all corrections to the new draft.
    - WPRFMC acknowledges that their initial draft regulations were not final. The final regulations will include corrections and more in depth references. (Josh DeMello)

Analysis of WPRFMC’s Definitions

1. Non-Commercial Fishing
  - **RAC Recommendation:**
    - Include ‘sustenance’ fishing, as described and defined in Presidential Proclamation 8031, in the definition of non-commercial fishing. Regulations should stipulate that sustenance fishing in the MEA may occur only during transit.
    - The RAC understands that the Native Hawaiian Cultural Working group is drafting an additional letter to the Council in response to its March 22, 2022 letter and draft proposed fishing regulations. The RAC defers to the Native Hawaiian Cultural Working Group regarding whether or not ‘subsistence’ fishing should be included as a category in the non-commercial fishing definition. The RAC also defers to the Native Hawaiian Cultural Working Group regarding a definition, but reserves the right to comment at a later time.
    - Delete ‘traditional indigenous’ fishing from the non-commercial fishing definition. This fishing is not defined in federal or State of Hawaii statutes and is not referenced in Presidential Proclamation 8031 or Presidential Proclamation 9478.
    - Delete ‘recreational’ fishing from the non-commercial fishing definition (see following discussion in item 2).
  - **Discussion:**
    - Sustenance fishing is included in the definition of non commercial fishing as per Code of Federal Regulations (CFR). WPRFMC will reference the

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CFR definition or non-commercial fishing for the Monument Expansion Areas (MEA). Subsistence and sustenance is not federally defined, only non commercial fishing is. Recreational fishing is included in [EO 12962](#) as amended by President Bush that says rec fishing should be sustainable activity in [...] national monuments and national sanctuaries. (Josh DeMello)

- The PESS was not aware of subsistence in CFR so they referenced the Office of Hawaiian Affairs definition: Subsistence—The customary and traditional native Hawaiian uses of renewable ocean resources for direct personal or family consumption or sharing (L 1994, c 271, §1). (Donald Schug)
- WPRFMC has their own definitions defined by federal regulation as compared to the PESS using presidential proclamation. (William Ailā)

2. Recreational and Charter Fishing

- **RAC Recommendation:**

- Delete the categories of, and references to, recreational fishing and charter fishing in the proposed fishing regulations.

- **Discussion:**

- NOAA considers charter fishing as recreational fishing through national saltwater fishing policy. NMFS will refer to charter and head boat activities, often. (Josh DeMello)

3. Native Hawaiian Practices

- **RAC Recommendation:**

- Eliminate the category of, and references to, fishing for Native Hawaiian practices in the proposed fishing regulations.

- **Discussion:**

- WPRFMC has already begun revising this section. If it is a Native Hawaiian fishing activity, a non-commercial fishing permit is required in the MEA as per the current procedure. (Josh DeMello)

4. Customary Exchange

- **RAC Recommendation:**

- Eliminate the category of, and references to, customary exchange in the proposed fishing regulations.

- **Discussion:**

- Customary exchange has not been changed in the new draft. If there are additional comments, WPRFMC can incorporate them into a new copy. However, this section has not changed with guidance from NOAA general counsel in reference to regulations within Rose Atoll Marine National Monument and Marianas Trench Marine National Monument. Customary exchange does not make its definition into non commercial fishing. If the RAC decides to go forward with changes, it will have to stand in front of NOAA general counsel for NMFS and ONMS. (Josh DeMello)
- The presidential proclamation language is very different from CFR. The regulations from Rose Atoll Marine National Monument and Marianas



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Trench Marine National Monument were created for a very different situation and goals which should not be used for PMNM. (Athline Clark)

- The RAC should not consider the precedent of using Rose Atoll MNM and Marianas Trench MNM regulation as our own. (Solomon Kaho‘ohalahala)
5. Research Fishing
- **RAC Recommendation:**
    - Eliminate the category of, and references to, research fishing in the proposed fishing regulations. We note that WPRFMC has already considered this and has begun incorporating this recommendation.
  - **Discussion:**
    - ONMS and NMFS confirmed that research fishing could continue in the MEA and is not hampered by permits.
    - Athline Clark confirmed that fishing activities under research permits would be approved as it already follows current procedure.
6. Vessel Monitoring System in Monument Expansion Area
- **RAC Recommendation:**
    - Include similar requirements in the proposed fishing regulations for the MEA. For domestic vessels under the United States flag, or foreign flagged, when applying for a permit.
  - **Discussion:**
    - Vessel Monitoring System is required in most of our fisheries which will be included in alternative and draft regulations moving forward.
    - Linda Paul called on Eric Roberts to advise as a previous US Coast Guard member. Eric explained that innocent passage is always carved out in regulations, however this does not apply.
    - Athline Clark recommends revising language to allow permitting for vessels flying a US flag.

**Public Comment**

There was no public comment registered nor was there any public commenter present at the meeting.

**Wrap Up, Decisions (Ailā, Jr. and Clark)**

Decision-making on content of RAC letter to ONMS, regarding draft fishing regulations.

- Motion to approve all PESS recommendations was made by Linda Paul and seconded by Rick Gaffney and unanimously passed.

**Summary of Decisions:**

The final content to be included in the recommendations letters to ONMS is as follows:

- Letter A: A letter to include the full PESS recommendations voted on by the RAC to ONMS Director, John Armor for acknowledgment and support.
- Letter B: A letter from the Native Hawaiian Cultural Working Group to recommend a definition of non-commercial fishing as it pertains to customary

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exchange and research fishing. The RAC defers to the CWG but reserves the right to comment at a later time, if necessary.

- The RAC recommends that all PESS recommendations are shared with ONMS for acknowledgment and support. The RAC further recommends the letter be shared with WPRFMC and Kitty Simonds, Executive Director of WPRFMC, for further consideration at their upcoming September 2022 Council Meeting.

**RAC Meeting Planning:**

The following dates were discussed as potential meeting times for the next meeting:

- November 16, 2022 - November 30, 2022.

Staff shared a scheduling poll to determine the best available date.