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Report of the Mariana Archipelago Fishery Ecosystem Plan CNMI Regional Ecosystem Advisory Committee Meeting

Friday, March 24, 2023

10:00 a.m. – 4:00 p.m. (ChST)

Azucena Room, Crowne Plaza Resort
Garapan, Saipan

1. Welcome and Introductions

John Gourley, CNMI Regional Ecosystem Advisory Committee (REAC) Chair and Council Chairman, opened the meeting at 10:00 a.m. and welcomed the members to the REAC meeting. Members in attendance included:

- Sheila Babauta-Friends of the Marianas Trench
- Eli Cabrera-Bureau of Environmental and Coastal Quality
- Tina Sablan-Office of the Governor
- Manny Pangelinan, Sylvan Igisomar-Department of Land and Natural Resources
- Zabrina Cruz-Division of Environmental Quality
- Gene Weaver-Tasi to Table
- Keona Castro-DPS
- Ray Dela Cruz-DPS
- Rodney Camacho-DCRM
- Steve McKagan-NMFS PIRO Habitat-CNMI Office
- Sarah Malloy-NMFS PIRO Acting Regional Administrator

Others in attendance included Kitty Simonds, Zach Yamada, Joshua DeMello, Mark Mitsuyasu, Asuka Ishizaki, Mark Fitchett, and Amy Vandehey (Council Staff); Lino Tenorio and Tony Guerrero (CNMI Advisory Panel); Jude Litulumar, Lyle Andrew, and Romana Chong (Friends of the Marianas Trench); Judith Guthertz (Guam Council Member); Michelle Chow (NMFS PIRO); Tia Brown and Rebecca Walker (NMFS PIFSC)

2. About the CNMI Regional Ecosystem Advisory Committee

Council staff presented an overview of the CNMI REAC and the Council's ecosystem approach to fisheries management. He explained the shift in direction from a single species approach to ecosystem approach with archipelagic-based management plans. The REAC brings together the agencies and groups that are involved in management and the fisheries to discuss issues and come up with solutions.

3. Current Fishery Ecosystem Issues

a. Introduction and Overview of ESA Critical Habitat

Lance Smith, NMFS PIRO, provided an introduction to the Endangered Species Act (ESA) and the designation of critical habitat for those species. The ESA was passed in 1973 and requires critical habitat to be designated for listed species occurring within the US as long as it's both "prudent and determinable." Critical Habitat is implemented by two federal agencies, NMFS and US Fish and Wildlife Service, and is specific areas within the geographical area occupied by the species at the time of

listing that contain physical or biological features essential to conservation of the species and that may require special management considerations or protection.

A REAC member asked what the difference is between a Marine Protected Area (MPA) and Critical Habitat. Smith said an MPA is a specific area with protections based on access, while critical habitat does not apply to access but instead is applied to minimize the impacts of federal actions.

REAC members asked for an explanation of what “prudent and determinable” means in terms of Critical Habitat designation. Smith said that it means that NMFS will look at the species and where they aggregate for whatever reason and those potential impacts to those areas. He also said that some Critical Habitat can be small or large and will be dependent on the species and the types of habitat it utilizes. He noted that critical habitat can only be designated in the US EEZ and not on the high seas.

One REAC member said that Critical Habitat will affect federal permitting and funding and asked what type of impacts have been experienced with permitting. Smith said that based on experiences from Critical Habitat consultations in Hawaii, NMFS has not modified a single federal action because of Critical Habitat.

REAC members asked how Critical Habitat is established for pelagic species. Smith answered that for the most part, Critical Habitat hasn’t been established specifically for pelagic species but there are pelagic areas established for false killer whales in Hawaii.

The REAC Chair asked for an update on coral Critical Habitat. Smith said that NMFS proposed Critical Habitat for corals in American Samoa, Guam, and CNMI in November 2020. Public comment from the territories provided new information on records of listed corals and NMFS worked with the territorial governments and US Fish and Wildlife Service (USFWS) to gather and review all records. They are now revising the proposed rule in anticipation of publishing a new/revised rule. He also said that the Critical Habitat for Green Sea Turtles will be co-published by NMFS and USFWS by June 30.

A REAC member asked if there was a timeline for a decision on coral Critical Habitat. Smith said there is no deadline right now.

Another REAC member asked if there is a plan to do scoping meetings on Green Sea Turtle Critical Habitat. Smith said NMFS wants to do outreach with USFWS and the territorial agencies and had sent letters to CNMI DLNR/DFW.

The REAC Chair noted the importance of Critical Habitat and its impact on local issues. He provided an example of a road needing to be paved in an area designated as Critical Habitat and the project ended up being abandoned due to the consultation process taking a long time. He said the CNMI should look at Critical Habitat and not just accept it because there could be unintended consequences.

b. Equity and Environmental Justice CNMI Report

Mia Iwane, NMFS PIFSC presented on NMFS efforts to develop a national strategy to address Equity and Environmental Justice (EEJ). NMFS conducted meetings last summer and incorporated public feedback into the national strategy. The next step is to develop an engagement plan which will be

released later this year. She provided feedback from last summer's public meetings in CNMI, Guam, American Samoa, and Hawaii. There was strong support for the strategy overall but NMFS took the opportunity to initiate discussions with the community in preparation for implementation. The CNMI meetings were held to solicit in-person feedback on the draft national strategy but also to initiate discussions with the community in preparation for the development of a regional implementation plan. NMFS met with over 60 people across Saipan, Tinian and Rota. Feedback included support for autonomy of territorial agencies; Take a bottom-up approach to research and management; support our fishing communities, improve communication and engagement; and other feedback. The next step is to develop a regional implementation plan and Iwane said they will form a working group, then create an engagement plan to engage partners and communities, resulting in a regional EEJ implementation plan.

The REAC had questions about the outreach process for this project. Iwane said that NMFS staff spent two days in Saipan and made overnight trips in Rota and Tinian. On-island staff from NMFS and the Council assisted in setting up meetings with the Mayors, Governor, agencies, and public meetings.

A REAC member said that the engagement plans should be tailored for each community as each island is different. Iwane said that she doesn't know what the end product would look like and certainly if resources were unlimited that would be ideal, but NMFS will continue talking to the agencies and communities in the development of the implementation plan.

c. Pelagic Fisheries

Council Staff provided a presentation on the status of pelagic fisheries and an explanation of international fishery management in the Western Pacific. He said that the Council's annual SAFE reports are available on the Council's website, wpcouncil.org, as well as at the Council's data portal at wpcouncildata.org. He also presented the status and trends of pelagic fisheries that are managed on an international level and how management occurs in these shared stocks. Staff reviewed the longline bigeye tuna limits and how the limits relate to the territorial fishing agreements that CNMI participates in with the Hawaii longline fleet. He also provided an update on the status of CNMI's bottomfish stocks and although it is not overfished and overfishing is not occurring, the uncertainty around the data is large and a new stock assessment is expected in 2025.

The REAC Chair explained the territorial fishing agreement process and noted that selling the CNMI's tuna quota to Hawaii doesn't mean Hawaii is overfishing, it is one Pacific stock. It also doesn't mean that Hawaii fishermen are coming to the CNMI and taking the fish.

A REAC member said that the pelagic stocks seem to be okay and asked if there are any permits for longline fishing in the CNMI. Staff responded that there have been permits in the recent past but to his knowledge there are no current permits. The member asked if any purse seiners fish in the CNMI. Staff said there are no US purse seiners in the area and there hasn't been any activity in the Marianas in a long time.

Another REAC member asked about data on Illegal, Unregulated, and Unreported (IUU) fishing. Staff replied that the US Coast Guard would have that information and that there hasn't been much of an issue for tuna fishing but is an issue for squid and smaller pelagic species. He also said that there is a Vessel Monitoring System (VMS) that tracks vessels in real time that the USCG has access to for IUU fishing.

The REAC discussed military training and exercises and how it affects fishing and fishing vessels. Staff noted that longline vessels normally don't fish around the training areas but the military does put out notices to mariners to stay out of those areas but agreed that in some areas it does interfere with fishing opportunities. He noted that the Council's annual SAFE reports mention some of those impacts to fishing but there isn't much tangible information or impacts on fishery performance and is rather more of a nuisance to fishing.

d. Status of CNMI Fisheries Stocks

Manny Pangelinan, DFW Director, provided an overview of the CNMI BMUS stock assessment. He said that it was determined that the fishery was deemed healthy in the stock assessment and no overfishing is occurring and it is not overfished. Two Pelagic species (Mahimahi and Wahoo) statuses are unknown, Pacific Blue Marlin is not considered overfished; Skipjack, Yellowfin, Bigeye Tuna are not considered overfished and there is no overfishing in the CNMI. The CNMI DFW works with NOAA to provide data and develop stock assessments.

A REAC member asked why the status is unknown for some species. Pangilinan said that for some species there is little data and thus lacking stock assessments, mainly due to the lack of resources to get the information.

e. Overview of Data Collection System and Efforts

Eric Cruz, NMFS PIFSC, provided the roles and responsibilities of data collection in the Marianas, noting that both territorial and federal agencies collect data. The federal government is the data users and the data belongs to the territory. He showed the REAC how the data flows to and from NMFS PIFSC for use in management and provided information on a review of the territorial creel survey design and the efforts to introduce electronic self-reporting in CNMI. PIFSC is taking a multi-faceted approach to increase oversight and monitoring, take advantage of emerging technologies, and increase outreach and training.

One member asked about the efforts by the Council, NMFS and DLNR to collect data from fishermen through the CatchIt-LogIt (CILI) smartphone app. A lot of fishermen are hesitant to provide information because it's difficult to log their catch after a long day but more importantly they do not have a clear understanding of what the program is really trying to achieve. They think that it is leading to limiting fisherman's catch. Pangelinan noted the concerns and said he will work with NMFS to make an effort to explain what the data is for when they continue their outreach.

Another member asked for the status of CILI in CNMI. Pangelinan provided a history of CILI and noted its inception with the Council and the transition to NMFS PIFSC. He said that the SellIt-LogIt (SILI) portion of the app is being improved in the first phase of the transition to assist with the CNMI's mandatory commercial data collection initiatives. After that, NMFS will work on CILI and implement it in the second phase. He said there are some tweaks that need to be made to CILI but encouraged fishermen to continue to use CILI.

A REAC member asked for clarification on the mandatory permit initiative. Cruz said that the CNMI's fish vendors are required to report and the SILI will be incorporating that collection effort.

f. Updates on Community Based Fishery Management

Council staff provided an update on the Council's efforts to engage communities to develop fishery management plans. These efforts support local communities and traditional fishing practices and are supported by the Council's mandates under the MSA. He reviewed the plans that were developed for Malesso and Yigo in Guam as well as the Northern Islands in CNMI and explained the process. The late Mayor Aldan wanted to assess the resources in the CNMI in anticipation of increased military activities and document their fishing practices to show that they were fishing in the Northern Islands. Although the process was disrupted they have continued to show interest.

4. Marianas Conservation Issues

a. Proposed Mariana National Marine Sanctuary

i. Status of Mariana Trench Sanctuary Nomination

The REAC Chair noted that it had been 11 months since the deadline for comments on the sanctuary nomination had passed. He made several inquiries on his own and has heard nothing. He asked if anyone else had heard anything. Other members said that they haven't heard anything either.

b. Area-based Management Update

Council staff presented on area-based management initiatives in the United States to conserve 30% of US waters by 2030 as mandated by President Biden. He showed that 51% of the US EEZ in the WP region is already designated as marine national monuments and in total 61% of federal waters likely have protection. Staff has worked with other fishery management council staff to develop a report on the areas managed in the US EEZ and the potential effectiveness of conservation of the areas in relation to the President's initiative.

Council staff also provided an overview of the recently convened UN Intergovernmental Conference on Marine Biodiversity on Areas Beyond National Jurisdiction (BBNJ) which concluded a final meeting of its fifth session earlier this month. Text for a new BBNJ agreement was passed and will go to the UN General Assembly for ratification. While it does not supersede RFMOs on authority to regulate fishing, it does provide the first framework to establish marine protected areas on the high seas, with RFMOs to make the decision to implement them. Major concerns also include protecting areas on the high seas from IUU fishing and risks posed by seabed mining. The Council will coordinate with the State Department on next steps or potential issues that affect our fisheries – if they may exist at this point.

A REAC member noted that Hawaii is moving away from using 30x30 as there have been discussions about what it actually means and the tangible effectiveness of management. She asked how do we know if the areas that are listed as protected are meaningfully managed. Staff replied that he agreed and that is the stance the Council has taken as the fishery management council actions are required to be monitored. Other protections, like monuments, are basically "set it and forget it" approaches to management. Conservation and economic benefits are theorized without fully monitoring the areas and evaluating if the goals are being achieved. He said it always depends on how "protection" and "managed" are defined and there is also a need to have the resources and capacity to monitor.

5. Public Comment

There was no public comment

6. Discussion and Recommendations

The CNMI Regional Ecosystem Advisory Committee made the following recommendations to the Council:

- Recommends the Council re-engage with the community based fishery management plan with the Northern Islands' Mayor Office and other stakeholders;
- Encourages NMFS to tailor its EEJ regional community engagement plan for each island in the CNMI (Saipan, Rota, Tinian and the Northern Islands); and
- Recommends the PIFSC FRMD and CNMI DFW communicate their plans and efforts for electronic data collection to the general public.

CNMI REAC requested staff to follow up on the following items:

- inviting military representatives and USCG to meet with the REAC to discuss fishery issues resulting from expanding military activities in the CNMI and USCG enforcement issues;
- More information on community-based fishery management, including examples from other island areas;
- Updates on the Micronesia Challenge ;
- Monument management plan updates; and
- Sanctuary Nomination of the Mariana Trench.

7. Other Business

A REAC member noted that NMFS will be coming to the CNMI to provide a report on the elder interviews conducted for the EEJ initiative and would let the group know when that will be conducted.

Meeting adjourned at 3:40pm.