

**Committee on Natural Resources Subcommittee on Oversight and  
Investigations Oversight Hearing  
1324 Longworth House OfAice Building  
September 19, 2023  
10:15 AM**

**Oversight Hearing titled** *“Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System.”*

**Questions from Rep. Radewagen** for Mr. Gibbons-Fly

1. Are you familiar with the concept of the “30 by 30” policy, and can you describe how that policy affects the current efforts by the Administration with respect to these sanctuaries and monuments?

A. Yes, the concept of “30 by 30” refers to global efforts to “protect” 30 percent of the Earth’s oceans by 2030. Many countries, including the United States under the Biden Administration, have adopted a similar goal at the national level. But very clearly, in the United States the “30 by 30” effort is being applied to an exceptionally disproportionate degree on fisheries and underserved communities in the Pacific Islands Region (Hawaii, American Samoa, Guam, Northern Marianas, and the Pacific Remote Islands). According to information provided by the Western Pacific Regional Fishery Management Council, Marine Monuments currently cover 53 percent of the U.S. EEZ in the Pacific Islands Region; and further, 61 percent of the EEZ around the Hawaiian archipelago is currently closed to commercial fishing due to monument designation; all of this to the detriment of the U.S. commercial fishing industry and independent of the extensive infrastructure, science, and economic considerations established by Congress that have proved so successful in managing our nation’s commercial fisheries.

Moreover, this severely disproportionate burden on U.S. Pacific Islands seems directly at odds with President Biden’s focus on environmental equity and justice through multiple Executive Orders, in particular with respect to the needs of marginalized and underserved communities, such as the U.S. Pacific territories.

2. While the administration is proposing the expansion of the PRIMNM, they are also proposing to amend the combined 1,800 fishing days allowed for fishing on both the high seas and the EEZ, to a bifurcated limit specified to a certain number of days allowed for EEZ fishing and a certain number of days allowed for high seas fishing. These rules appear to be in conflict, as the administration is telling fishers to only fish in the EEZ on certain days, then prohibiting fishing in the EEZ. How are fishers supposed to recoup these days meant to fish in the EEZ if they can’t fish in the area due to monument expansion?

To expand on the background above, under the Western and Central Pacific Fisheries Commission (WCPFC), the U.S. tuna purse fleet is allocated 1,270 days on the high seas and 558 days in the U.S. EEZ. Historically, the United States has implemented these quotas as a combined limit of 1,828 days, that could be fished either on the high seas or in the U.S. EEZ. This is because NOAA

recognized that the primary conservation objective is to limit the total level of effort, and that whether the effort occurred on the high seas or in the U.S. EEZ was irrelevant from a scientific or conservation perspective.

Recently, some WCPFC member have complained about this, not because of any conservation concern, but simply because they want to limit U.S. access to the high seas and force the U.S. fleet to pay exorbitant prices, up to \$13,000 per vessel per day, to fish in waters under their jurisdiction. Inexplicably, NOAA has decided to reverse its longstanding policy and has proposed to separate these two allocations in 1,270 days on the high seas, and 558 days that could *only be fished in the U.S. EEZ*.

At the same time, under the Sanctuary proposal, the Administration is proposing to close the remainder of the U.S. EEZ to fishing by the purse seine fleet! The effect of these two actions, in combination, would be that the U.S. fleet would instantly lose almost one third of the days currently available to it on the high seas and in the U.S. EEZ. The only option for the fleet continuing to operate in the WCPFC area will be to pay for access to the EEZ of the Pacific Island States (again, up to \$13,000 per vessel per day). As stated in my written testimony, this combination of events poses a serious and possible existential threat to the American Samoa-based tuna purse seine fleet.

3. Can you expand on the differences between countries regarding enforcement of environmental and IUU fishing standards, and how the closure of fishing in the U.S. EEZ would impact adherence to environmental standards in the industry?

No other country with fishing fleets operating in the Pacific Ocean applies the same rigorous standards of management, monitoring, enforcement, and environmental protection as the United States does with respect to U.S. flag vessels. All of the factors contributing to the reduced size of the U.S. fleet, including the loss of fishing grounds are the PRIAs, simply open the door for China and other fleets to fill the space formerly occupied by the U.S. fleet. China's record for flaunting rules, engaging in IUU fishing, and undermining good governance in developing States is well documented. Other flag States that fail to enforce the rules with respect to their vessels simply exacerbate these issues.

4. How have previous marine monument expansions impacted U.S.-based fishing in the past in terms of the number of U.S.-flagged vessels?

The reduction in the size of the U.S. fleet is the result of a number of complex factors including the loss of fishing opportunities, an increasingly rigorous regulatory environment, and increased foreign competition under increasingly lop-sided and disadvantageous conditions. Although quantifying the relative contribution of these individual factors to the reduction of the U.S. fleet is difficult, the loss of access to key fishing areas is certainly a significant contributing factor.

5. As previously mentioned, American Samoa's economy is extremely reliant upon the ability of fishers to operate in the proposed monument expansion area and is already contending with the decline of the American Samoa-based fleet due to other burdensome regulations decreasing the island's competitiveness.

How will closure of this fishery as a result of monument expansion impact the American Samoa-based fleet and its operations?

As explained further in response to questions from Mr. Case, for every fishing trip, the single largest variable cost is fuel, up to and recently exceeding one-half million U.S. dollars per trip. Vessels will seek to catch and land fish, while maximizing the efficient use of fuel.

When vessels are able to operate in areas closer to American Samoa, including the high seas and U.S. EEZs around the PRIAs, they will return to American Samoa to offload their catch. Conversely, if vessels are further pushed out of these areas, either by losing high seas access or access to the PRIAs, landings in American Samoa will also be reduced. Maintaining the greatest access possible by the U.S. fleet to these closer areas is critical to ensuring a steady and sufficient supply of fish to support the cannery operation in American Samoa.

QUESTIONS FROM MR. CASE ON FOLLOWING PAGE.

## Questions from Rep. Case for Mr. Gibbons-Fly

1. In your testimony you shared that there are currently 13 vessels operating today in the U.S. tuna purse seine fleet.

- a. Of the 13 vessels operating today, how many are owned by residents of American Samoa? How many are owned by individuals or corporations that are based outside of American Samoa? Are there any owners who own multiple vessels in the fleet?

The 13 U.S. flagged tuna purse seine vessels are owned by U.S. companies with headquarters in California, Nevada, Washington state, and Florida. One entity owns and operates six vessels, another owns and operates two vessels, and the rest are single vessel operators.

However, 12 of the 13 vessels are based in American Samoa, not only supplying the cannery there, but supporting the local economy through the use of an extensive array of support services for fuel, supplies, maintenance, net repair, housing, etc. All 12 of these vessels have now received a tuna landing license issued by the Government of American Samoa under a recent law intended to document what is truly an American Samoa-based purse seine fleet. Although the landing license is a new development, most of these vessels have been based in and delivering to American Samoa for years, some for as long as 40 years over multiple generations for some family-owned vessels.

- b. Are the vessels primarily crewed by U.S. nationals or foreign workers?

The vessels are crewed by a combination of U.S. and foreign crew, all in accordance with applicable U.S. law. Certain officers are required by law to be U.S. nationals. Others may be a combination of U.S. and foreign nationals. Deck crew is largely foreign nationals, many from the Pacific Islands, Philippines, and other countries.

2. In your testimony you wrote that, “[f]rom 2020-2022, the purse seine fleet caught an average of 5,556 metric tons (mt), approximately 10 percent of the fleet’s total catch, in the Pacific Remote Islands EEZs with an average landed value of \$8.31 million dollars.” This statistic suggests an economic impact of the proposed sanctuary but is limited to a three-year window in time.

Yes, I provided data for the three most recent years as, in my view and subject to the explanations provided below, more recent data give the most accurate picture of potential impacts going forward.

- a. Can you share trends in purse seine vessel participation in the tuna fishery (i.e., the number of vessels participating per year) and catch data over the last 30 years?

With respect to the number of vessels, in 1988 there were 50 U.S. purse seine vessels operating under U.S. flag in the Pacific Ocean. By 2007, the fleet had dropped to 11 vessels, but then rebuilt to 34 vessels under joint venture arrangements with companies in Taiwan. Those joint venture arrangements are no longer in operation and, as a result, the fleet has again dropped to its current level of 13 vessels, including the 12 based in American Samoa.

Regrettably, the catch and effort data you are requesting for the U.S. fleet are not readily available to my organization, the American Tunaboat Association. NOAA's response to our initial request for catch and effort data in the Pacific Remote Islands Areas (PRIAs), in particular, was that we would have to file a Freedom of Information Act Request. The information subsequently provided, and which I cited in my testimony, was produced in response to a request from the Governor of American Samoa. I understand that this same information has been provided to your office. (NOAA has very recently provided some additional information that I believe would have been provided to your office as well.)

b. In the last 30 years, what proportion of total landings have come from the proposed expansion area around Howland and Baker Islands and Kingman Reef and Palmyra Atoll?

According to NOAA, and for the period for which NOAA provided data, 84 percent of the catch from the PRIAs has been landed in American Samoa.

c. Starkist was recently fined \$100 million for price fixing and \$65 million for violations of the Clean Water Act. This financial burden was caused by company business practices not access to fishing grounds. In your opinion, how are business practices affecting the viability of the cannery?

With respect, I am not qualified to answer this question as I have no direct knowledge of the business practices of the StarKist cannery.

d. What is the average annual catch delivered to the cannery (including by vessels not within the U.S. Purse Seine fleet) over the last 30 years?

Again, ATA does not have ready access to this data. NOAA and or StarKist would be the best sources for this information.

e. What percentage of tuna processed by the Starkist Cannery in American Samoa is caught by U.S. flagged ships?

According to information provided by StarKist, for the past three years, the percentage of light meat tuna supplied by U.S. vessels to the cannery was 97.8 percent in 2020, 72.5 percent in 2021, and 76.6 percent in 2022, for a three-year average of 82.3 percent.

3. The U.S. tuna fleet has choices on where to land their fish, and often it is not in American Samoa.

a. How do vessel owners decide where to land their catch?

Where a vessel decides to land its catch is based on a number of factors, the two most important being price and distance. For every fishing trip, the single largest variable cost is fuel, up to and recently exceeding one-half million U.S. dollars per trip. Vessels will seek to catch and land fish, while maximizing the efficient use of fuel.

For the past three years, the oceanographic conditions in the Pacific Ocean have resulted in concentrations of fish in the Central Pacific Ocean, north of American Samoa (this according to scientists from the Secretariat of the Pacific Community, or SPC). As a result, the fleet has been able to operate largely in areas relatively closer to American Samoa: on the high seas, in the U.S. EEZ and, when purchasing access from the Pacific Island States, in waters under the

jurisdiction of Kiribati, the Cook Islands, Tuvalu, and Tokelau. Barring some exceptional circumstance, vessels operating in these areas will return to American Samoa to offload their catch.

However, there are circumstances that require vessels to operate further from American Samoa, such as the prohibitions on setting on FADs established by the WCPFC, during which the vessels may move to the Eastern Pacific Ocean where the WCPFC restrictions do not apply (although separate requirements do apply as established by the Inter-American Tropical Tuna Commission, or IATTC.) In such cases, vessels may return to American Samoa, but in some cases may head to Mexico or Ecuador to offload, once again depending on the distance to be traveled, the price paid at a particular port, and other factors.

b. Is there more that can be done to encourage the U.S. fleet to offload a greater portion of their catch in American Samoa to support the cannery?

YES, absolutely! The two most important things that can be done to encourage more fish being delivered to the cannery in American Samoa are as follows:

First, to maintain as much access as possible to the fishing grounds closest to American Samoa. This includes maximizing access for U.S. vessels to fish on the high seas AND in the U.S. EEZ around the PRIAs. The greater the fishing opportunities in these areas, the more of that fish will be offloaded in American Samoa. Conversely, if vessels are further pushed out of these areas, either by losing high seas access or access to the PRIAs, landings in American Samoa will also be reduced.

As noted in my written testimony, one of the consequences of the 2014 monument expansion in the PRIAs was the closure of the entire U.S. EEZ around Jarvis Island and other islands. A modification to the existing monument, to allow the purse seine fleet to operate from 50 to 200 miles in the EEZ surrounding Jarvis Island, would be a significant step, with no risk to the unique, endemic, reef, near-shore and deep-sea habitats the monument is intended to protect.

Second, to work to ensure that the American Samoa-based tuna purse seine fleet is treated in the same way as the other fleets operating in support of “small island developing States and Territories,” or SIDS. The Convention establishing the WCPFC makes clear the obligation of the Commission to ensure that such States and Territories are afforded the same treatment and that no such State or Territory shoulders a “disproportionate burden” as a result of conservation and management measures adopted by the Commission. The Commission has not lived up to its obligation to American Samoa in this regard.

Under these provisions, the Pacific Island States exempt vessels flying their flags or operating under Charter arrangements from key requirements of the WCPFC conservation measures. These include the three-month FAD closure from July through September, the additional two-month high seas FAD closure, and limits on access to fishing on the high seas. Many of these flag or charter vessels are not from Pacific Island States at all, but from China, Korea, Taiwan, and the Philippines. And yet, these vessels are exempt from the requirements on the basis of some loose affiliation, often no more than a piece of paper, with a Pacific Island State that has SIDS status. If the U.S. purse seine fleet is to compete and survive against this increasingly

uneven foreign competition, the playing field must be leveled, and the American Samoa-based fleet must be treated in the same way as other SIDS fleets.

Finally, it is important to note that over the long term, to reestablish American Samoa's status as the processing hub that it once was, some future growth will be required in the size of the U.S. fleet. Some groups have expressed concern about such an increase, but these groups seem to forget or ignore that the U.S. fleet is the most rigorously managed, thoroughly monitored, and strictly enforced fleet operating anywhere in the Pacific. U.S. consumers should be interested in buying as much tuna as possible caught by U.S. flag vessels, rather than from foreign competition that operates at nothing close to the same standards.

- c. What other ports does the U.S. Purse Seine fleet land its catch at?

When fishing in the Eastern Pacific Ocean, vessels may occasionally offload fish in such ports as Manta, Ecuador; or Mazatlán or Manzanillo, Mexico.

- d. Are there other major ports in the Pacific or in Asia that purchase significant quantities of tuna?

The major fish processing centers in the Western Pacific and Asia are Bangkok, Thailand; General Santos, Philippines; and Papua New Guinea. When the U.S. fleet was larger, some vessels would transship their catch to Bangkok or General Santos through ports in the Marshall Islands or the Federated States of Micronesia. However, the current fleet does not use these ports. On rare occasions, vessels may also offload or transship in the Solomon Islands or in Kiribati, but this is not the norm.

As noted above, Ecuador and Mexico are the two principal canning centers in the Eastern Pacific Ocean.