

**EXAMINING BARRIERS TO ACCESS  
IN FEDERAL WATERS: A CLOSER  
LOOK AT THE MARINE SANCTUARY  
AND MONUMENT SYSTEM**

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**OVERSIGHT HEARING**

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND  
INVESTIGATIONS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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**Tuesday, September 19, 2023  
U.S. House of Representatives  
Subcommittee on Oversight and Investigations  
Committee on Natural Resources  
Washington, DC**

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The Subcommittee met, pursuant to notice, at 10:17 a.m. in Room 1324, Longworth House Office Building, Hon. Paul Gosar [Chairman of the Subcommittee] presiding.

Present: Representatives Gosar; Stansbury, and Case.

Also present: Representative Radewagen.

Dr. GOSAR. The Subcommittee on Oversight and Investigations will now come to order.

Without objection, the Chair is authorized to declare the recess of the Subcommittee at any time.

Before we get started today, I just want to take a brief moment to recognize one of the members of our Full Committee that had planned to join us today, but due to very unfortunate circumstances could not make it. Representative Peltola from Alaska lost her husband in a tragic accident last week. And on behalf of all of the congressional community, myself and Ranking Member Stansbury, we would like to express our sincerest condolences to her and her family at this difficult time. We look forward to her joining us once again.

If you would just take a minute to put your thoughts together in a moment of silence.

[A moment of silence is observed.]

Dr. GOSAR. Thank you, everybody.

The Subcommittee is meeting today to hear testimony on examining barriers to access the Federal waters, and to take a closer look at the marine sanctuary and monument system.

I ask unanimous consent that all Members testifying today be allowed to sit with the Subcommittee and give their testimony and participate in the hearing from the dais: the gentleman from Alabama, Mr. Carl; the gentleman from Louisiana, Mr. Graves; and the gentlewoman from American Samoa, Mrs. Radewagen.

Without objection, so ordered.

Under Committee Rule 4(f), any oral statements at the hearing are limited to the Chairman and the Ranking Minority Member. I therefore ask unanimous consent that all other Members' opening statements be made part of the permanent record if they are submitted in accordance with Committee Rule 3(o).

Without objection, so ordered.

I now will recognize myself for my opening statement.

**STATEMENT OF THE HON. PAUL GOSAR, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF ARIZONA**

Dr. GOSAR. I want to thank our witnesses for traveling all the way to Washington, DC to testify on such an important topic.

When we think about the famous song, "America the Beautiful," and the line, "from sea to shining sea," this hearing really encapsulates this idea.

Marine Protected Area designations and the impacts they have on Federal waters, from the shores of Maine to the commercial fishing off the Pacific territories, whether we realize it or not, have negative downstream consequences for millions of Americans, their families, and their pocketbooks.

President Biden's weaponization of Marine Protected Areas, MPAs, designation is another example of his rampant abuse of executive authority to promote his radical climate agenda and social change initiatives without due consideration of the negative consequences for the economy, environment, and those of the working Americans.

As many of you know, the U.S. Regional Fishery Management Councils are tasked with managing our fisheries in Federal waters since 1976. So, I find it very troubling that the Biden administration and their so-called climate experts in the White House seem intent on setting oceans and fisheries policy while bypassing the expertise of the fishery management councils who have managed the fisheries in their respective regions for decades.

The best science available suggests that MPA designations are not an effective strategy for fishery management, and that most Federal waters are already protected through fishery management policies or the regulation of certain activities that harm the environment. I believe that we can find better solutions to strengthen fisheries management, and I encourage that conversation today.

That being said, I cannot approve of President Biden's harmful, reckless MPA designations that disregard the best science in order to further his political agenda.

President Biden and his Administration have also repeatedly failed to consider the economic effects of their misguided climate policies. MPA designations that prohibit commercial fishing can decimate entire communities that rely on fishing and related activities, such as seafood processing to remain economically viable. And that is not to mention mining, oil, and gas production, renewable energy development, and other resource development opportunities that are prohibited under many MPAs.

At the moment, the territories of the Pacific remote islands are preparing for the proposed designation of the Pacific Remote Islands National Marine Sanctuary, which would significantly expand the Pacific Rim Islands Marine National Monument established by President Obama in 2014. The proposed marine sanctuary would potentially further prohibit commercial tuna fishing in the Federal waters surrounding the Pacific remote islands, effectively decimating the entire tuna industry that the communities in the region depend on for their economic and food security.

President Biden often preaches about his Administration's progress on environmental justice. However, it seems the most disadvantaged communities are almost always the ones hit hardest by

these economically restrictive eco-policies. The Indigenous populations of American Samoa rely on commercial fishing for their livelihoods and to provide for their families. Yet, President Biden would massively reduce their fishing opportunities with this proposed marine sanctuary. We will hear testimony today how these reckless MPA designations damage critical industries for communities across the United States and its territories.

Meanwhile, President Biden's MPA designation only serves to help China and other foreign adversaries who encroach on U.S. waters and fisheries. Chinese vessels will take even more fish that should be caught by U.S. vessels in MPAs, and they will do so with total disregard for the environment, international maritime law, and proper fishing management.

A recent report from NOAA identified China as continuing to participate in Illegal, Unreported, and Unregulated fishing activities, as well as forced labor in their seafood sector. Let's think about this for a minute. Do you really want all of our seafood to be sourced and packaged in China?

Unfortunately, the Committee has repeatedly heard from the commercial fishing industry that this Administration has little to no interest in hearing their concerns regarding the effects of MPA designations.

Additionally, the Administration has made minimal efforts to conduct thorough public processes for these communities affected by several of their proposed marine sanctuaries and monuments.

In light of this, I implore President Biden and his Administration to listen closely and learn from the collective experience and knowledge of the witnesses before us. If the Administration abandons their uninformed, heavy-handed approach to water and fisheries management, I am confident they can achieve the proper balance between the effective fisheries management and supporting a robust, sustainable commercial fishing industry.

Let's entrust water and fisheries management to those who know it best, rather than to the climate-obsessed, inexperienced bureaucrats in DC. The U.S. regional fishery management councils, the commercial fishing industry, and the communities directly affected by these poorly-designed MPAs should be involved in deciding the direction of the Federal oceans and fisheries policies.

I now recognize Ranking Member Stansbury for her opening statement.

**STATEMENT OF THE HON. MELANIE A. STANSBURY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO**

Ms. STANSBURY. Thank you very much to the Chair, and good morning to everyone. I want to say thank you to our Administration witness who is here, and also to our other Members who are joining us this morning.

As we all know, protecting our oceans and our marine areas is more important than ever. Our oceans are critical to protecting biodiversity and addressing the climate crisis. Our oceans contain a quarter of a million known species and at least two times that estimate to be discovered. They are critical for mitigating climate change, and, in fact, the ocean has absorbed 90 percent of the heat

generated by rising emissions. And we have been seeing the effects of rising ocean temperatures, sea level rise, and other impacts and increases in natural disasters.

Our oceans are also critical to feeding the world. Nearly half of the world's population depends on fish for protein, and almost 60 million people worldwide work in the fisheries and aquaculture industries. The time has long since passed to ask if we should be protecting our oceans. Instead, we should be asking how do we use every tool possible to ensure that we are protecting them.

And that is one of the reasons why we have Marine Protected Areas. These areas, which include marine national monuments and national marine sanctuaries, are one of the most effective tools in defending and improving the resilience of our oceans, coral reefs, and fisheries.

Protected areas protect marine life and critical habitats. They support diverse ecosystems. They help build resilience against the impacts of climate change, and will help mitigate the long-term impacts of climate change.

As environmental stewards, we have a responsibility to sustainably manage our marine areas for current and future generations. In the past, both Democrats and Republicans have acted on this responsibility. In fact, it was President George W. Bush who used the Antiquities Act to create some of the world's most significant marine reserves, including the largest fully-protected conservation area in the United States and one of the largest marine conservation areas in the world. He claimed public credit for these accomplishments, as he should, because of their importance. These monuments safeguard hundreds of thousands of miles of marine ecosystems, as well as significant cultural resources for Indigenous peoples across the Pacific.

The Biden administration is now proposing to expand protections for these existing monuments, including the Pacific Remote Islands Marine National Monument, to further protect the valuable natural and cultural resources that these areas encompass. These proposals are supported by a broad coalition of individuals in the Pacific remote island areas, including residents of the islands, scientists, and cultural practitioners. But as we will hear today, there are folks who are working to undermine and challenge the ability to establish and maintain these protected areas and the impacts that they may bring with that.

I would like to say that I recognize and acknowledge the importance of our fisheries councils to protect the livelihoods of those who are in the fishing industry. I will always fight for the brave men and women who are working every day to put meals on our table, whether that is through fishing, farming, or ranching.

And that is why I was encouraged to see that the Biden administration's proposed designation would draw on the information of our Fisheries Council, and has determined that no impact on U.S.-flagged fishing fleets or their practices or catch on tuna cannery operations in Samoa will be impacted by this designation. In fact, what we do know is that spillover of healthier fish populations increase with the designation of marine national monuments, as we have seen in a designated monument near Hawaii, where an



astounding 54 percent spillover has occurred since the 2016 expansion.

You may hear today about fishery management councils, including the Western Pacific Regional Fishery Management Council known as WESPAC, opposing increased protection. I recognize the importance of this and other councils and their ability to manage our fisheries and strike a balance between independence and accountability, but also following the science and the needs of our communities so that we can continue to protect biodiversity, combat climate change, and feed the world.

Thank you, Mr. Chair, and I yield back.

Dr. GOSAR. I thank the gentlelady from New Mexico. I will now introduce our witness for the first panel, Ms. Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere of NOAA.

Let me remind the witnesses that under Committee Rules, you must limit your oral statements to 5 minutes, but your entire statement will appear in the hearing record.

To begin your testimony, please press the "on" button on the microphone.

We use timing lights here. When you first start, it will turn green. When it turns to yellow, start summarizing. And when it is red, please end.

I now recognize Ms. Bavishi for her 5 minutes. Thank you.

**STATEMENT OF JAINEY BAVISHI, ASSISTANT SECRETARY OF  
COMMERCE FOR OCEANS AND ATMOSPHERE, NATIONAL  
OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)**

Ms. BAVISHI. Good morning, Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee. My name is Jainey Bavishi, and I am the Assistant Secretary of Commerce for Oceans and Atmosphere at the National Oceanic and Atmospheric Administration.

Thank you for the opportunity to testify before you today on NOAA's stewardship of national marine sanctuaries and marine national monuments. These two types of Marine Protected Areas encompass many of our national treasures in the ocean and Great Lakes. They exemplify the ecological richness that underpins the prosperity of not just our nation, but also the Indigenous nations that preceded ours and endure to this day. They embody the maritime heritage that links us to the legacy of our national forebears, as well as Indigenous cultures whose roots trace to pre-history. And if we are effective stewards, they hold the promise of ecosystem services and nature-based solutions that will help our nation navigate the uncertainties of a future under climate change.

At NOAA, we are dedicated to conserving these special places, understanding them, and holding them in trust for current and future generations of Americans. NOAA designates sanctuaries under the National Marine Sanctuaries Act, and the President designates marine national monuments under the Antiquities Act. These Acts provide for different approaches to place-based protections of U.S. waters.

Sanctuaries provide for comprehensive management of marine resources, while allowing for multiple uses that are compatible

with resource protection. Comprehensive management includes building public awareness, enhancing community connections, restoring damaged resources, and facilitating sustainable use of resources. NOAA establishes national marine sanctuaries under a well-defined public process that is, as prescribed by statute, highly participatory. At multiple stages of this process, NOAA considers input from the public, tribes, stakeholders, and partners at various levels of government.

Designation and management of marine national monuments are under a different legal framework. Under the Antiquities Act, the President has final authority to establish national monuments. These Presidential Proclamations that established the five marine national monuments also serve as the basis for their management and regulation. NOAA shares responsibilities for their management with the U.S. Fish and Wildlife Service of the Department of the Interior, with input from other Federal agencies and relevant state and territorial governments.

National marine sanctuaries and marine national monuments allow different types of access and uses consistent with the purposes of their designation and the types of resource protections needed to conserve their values and unique characteristics. Enhancing access and sustainable use of important marine areas is generally a high priority for NOAA's management of these places, especially with respect to encouraging recreational use and continuance of cultural practices. National marine sanctuaries are highly valued for boating, diving, fishing, wildlife viewing, and more.

Of note, every national marine sanctuary provides opportunities for recreational fishing, and commercial fishing is also allowed in most areas of the National Marine Sanctuary System.

For Federal waters of sanctuaries, NOAA provides the appropriate regional fishery management council with the first opportunity to draft any fishing regulations that are needed to meet the proposed sanctuary's goals and objectives.

In addition, when considering changes to regulations and programs of existing sanctuaries, NOAA leans on advice from sanctuary advisory councils, which are composed of a diverse cross-section of community members, state and local governments, and stakeholders such as resource users. Far from being a barrier to access, NOAA's management of national marine sanctuaries enhances access to sanctuary resources by providing physical infrastructure, informational products and services, and public outreach to local communities and the visiting public. I have included examples of such enhancements in my statement for the hearing record.

For marine national monuments, NOAA manages these areas at the President's behest. If a proclamation establishing a marine national monument calls for fishing restrictions, NOAA works with the regional fishery management council to promulgate regulations under the Magnuson-Stevens Act. Nearly all marine monument proclamations call for continued access to recreational fishing. For these monuments, NOAA works with the regional fishery management councils to facilitate fishing access and support fishery management plans recommended by the councils and consistent with the proclamations.

To summarize, while the national marine sanctuaries and marine national monuments are established and managed differently, what they share is that NOAA's stewardship of these places ensures that future generations of Americans will be able to access their benefits. When making decisions on management actions within our discretion, NOAA carefully considers potential impacts on communities and resource users, and whenever possible we follow established processes to gather and consider views from other governmental entities, stakeholders, and the public.

Thank you again for the opportunity to discuss national marine sanctuaries and marine national monuments. I look forward to your questions.

[The prepared statement of Ms. Bavishi follows:]

PREPARED STATEMENT OF JAINEY K. BAVISHI, ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

### **Introduction**

Good morning, Chairman Gosar, Ranking Member Stansbury and Members of the Committee. Thank you for the opportunity to testify before you today. My name is Jainey Bavishi, and I am the Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy Administrator at the National Oceanic and Atmospheric Administration (NOAA).

NOAA is dedicated to the science-based stewardship of natural and cultural marine resources, including those that are in marine protected areas under our care. National marine sanctuaries and marine national monuments represent special areas of national significance, as well as cultural, historical, and scientific interest. In general, NOAA focuses its management of these places on actions that are necessary to conserve and protect their unique characteristics, and to meet the intents of their respective designations. In making these management decisions, NOAA carefully considers their impacts on surrounding communities and resource users, and follows established processes to gather and consider views from stakeholders and the public.

The purpose of my testimony is to provide an overview of NOAA's stewardship of the National Marine Sanctuary System designated under the National Marine Sanctuaries Act and marine national monuments designated under the Antiquities Act. NOAA manages these two types of marine protected areas as part of a larger ocean conservation and management framework that also includes the Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, Marine Mammal Protection Act, National Historic Preservation Act, and Coastal Zone Management Act.

I will also cover NOAA's processes for designating new national marine sanctuaries and establishing regulations in marine national monuments, and how both sanctuaries and monuments enhance community connections, economic benefits, and access.

### **The National Marine Sanctuary System**

The National Marine Sanctuaries Act (NMSA) authorizes the Secretary of Commerce to conserve areas of the marine environment that are of special national significance, and to manage these areas as the National Marine Sanctuary System. NMSA provides for comprehensive management of marine ecosystems while allowing for multiple uses that are compatible with the statute's primary goal of protecting resources.

NOAA has managed national marine sanctuaries in America's ocean and Great Lakes for nearly 50 years. Components of the National Marine Sanctuary System range in size from the site of a single shipwreck to a vast expanse of ocean surrounding remote coral reefs and atolls. From Washington State to the Florida Keys, and from the Northeast and Great Lakes to American Samoa, NOAA seeks to preserve scenic beauty, biodiversity, historical and cultural connections, and economic productivity of these underwater national treasures.

NOAA manages the Nation's 15 national marine sanctuaries to: (1) improve the conservation, understanding, and management of marine resources; (2) enhance public awareness and sustainable use of the marine environment; and (3) maintain

ecological and cultural resources, and the services that they provide, for future generations. Every American has a stake in these national treasures, from those who make their living from the use of sanctuary resources, to those who enjoy recreating in these special places, and to community groups who advocate for protection of these resources.

Of the five marine national monuments co-managed by NOAA, two are managed as part of the National Marine Sanctuary System: Papahānaumokuākea and Rose Atoll. As described below, marine national monuments are established by Presidential proclamation under a separate legal authority and are managed differently than national marine sanctuaries.

### **Process to Designate National Marine Sanctuaries**

To consider new sanctuaries to designate under the NMSA, NOAA established a sanctuary nomination process in 2014 that enables interested individuals or groups to identify and recommend special areas of the ocean or Great Lakes environment for designation as a national marine sanctuary. Nomination documents must identify the unique attributes of special places, identify the specific goal or intent for designation, and demonstrate broad support from a variety of stakeholders and interested parties. NOAA evaluates the merit of a nomination based on national significance criteria and management considerations. NOAA's acceptance of a nomination into its inventory signifies only that the nomination has sufficiently met these criteria, but does not indicate NOAA's intent to initiate a sanctuary designation process.

Sanctuary designation is a separate process that is, by law, public and highly participatory. It has multiple steps that often take several years to complete. With each designation, we are committed to engaging stakeholders through a robust and transparent public process. The process begins with public scoping, which is when NOAA announces its intent to designate a new national marine sanctuary and asks the public for input on potential boundaries, resources that could be protected, issues NOAA should consider, and any information that should be included in the resource analysis.

NOAA then develops the sanctuary proposal and draft designation documents, including a draft management plan, draft environmental impact statement that analyzes a range of alternatives, and a proposed rule that describes proposed regulations and boundaries. In some cases, NOAA may also form an advisory council during the designation process to help inform the development of the proposal and further facilitate stakeholder engagement. NOAA then presents the proposal for review and comment by the public, agency partners, and other stakeholders.

Finally, NOAA considers all input on the proposal and prepares the final management plan, final environmental impact statement, and final rule. Upon publication of the final rule, the designation does not take effect until after 45 days of Congressional session, as defined by the NMSA. During this review period, the governor of any affected state can stop any part of the designation from taking effect in the waters of that state. Congress also has the opportunity to review these documents during this period.

Separate from this administrative process for sanctuary designation, Congress has also passed legislation to enact statutory designations of three national marine sanctuaries that are currently in the System.

### **Marine National Monuments Co-Managed by NOAA**

Marine national monuments are established differently than national marine sanctuaries. The Antiquities Act of 1906 provides the President with authority to establish national monuments on lands owned or controlled by the U.S. Government, including submerged lands and the waters associated with them. Eighteen presidents of both parties have used the Act's authority more than 100 times to protect lands of significant importance.<sup>1</sup> Examples of national treasures that have been designated as national monuments include the Grand Canyon, the C&O Canal, and the Statue of Liberty. Management responsibilities for the five existing marine national monuments are shared across multiple government agencies, including NOAA and the U.S. Fish and Wildlife Service (USFWS) of the Department of the Interior, often in close coordination with other Federal, state and territorial partners.

The five marine national monuments are Papahānaumokuākea, Rose Atoll, Pacific Remote Islands, and Marianas Trench in the Pacific and Northeast Canyons and

<sup>1</sup>U.S. Congressional Research Service. National Monuments and the Antiquities Act (May 3, 2023), by Carol Hardy Vincent. <https://sgp.fas.org/crs/misc/R41330.pdf>; Accessed: September 15, 2023.

Seamounts in the Atlantic. As directed by the Presidential proclamations that established them, marine national monuments can provide broad ecological and national heritage protection.

For example, as described in the Presidential Proclamation 9478 of August 26, 2016, Papahānaumokuākea Marine National Monument (PMNM) provides protection to 7,000 marine species, one quarter of which are found only in the Hawaiian Archipelago. PMNM also has great cultural significance to Native Hawaiians and offers a connection to early Polynesian culture. Additionally, PMNM is the first site ever designated as a “cultural seascape” and is the only World Heritage Site that is both a natural and cultural site in the United States designated by the United Nations Educational, Scientific and Cultural Organization.

### **Process for Establishing and Managing Marine National Monuments**

Typically, ideas for areas to be established as national monuments originate in nearby local communities and are proposed to the Administration by local and state elected officials, congressional delegations, non-governmental organizations, scientists, or citizen groups. Final authority to designate national monuments lies with the President. NOAA’s role includes providing information on the resources, assessing those resources as objects of scientific interest, and assisting with public engagement. While not required by statute, NOAA and partner agencies have often conducted extensive public engagement prior to the establishment or expansion of marine monuments. For example, in 2014 when the Administration was considering how to expand protections around the Pacific Remote Islands Marine National Monument, the Departments of Commerce and the Interior held a public meeting in the region and accepted written public comments from all interested parties.

The Presidential proclamations that have established the marine national monuments have called for the development of management plans and, if necessary, regulations. Management plans establish the long-term vision and framework to guide the stewardship of the national monument’s unique ecosystem, marine life and natural, cultural and historical resources. The plans, analogous to national marine sanctuary management plans, typically encompass management, research, conservation, education, and outreach initiatives across a 10–15 year time frame. Managing agencies, primarily NOAA and USFWS, coordinate closely to develop and implement management plans with extensive interagency and intergovernmental input from other entities including the Department of Defense, U.S. Coast Guard, and if applicable, Tribal nations and state and territorial governments.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the primary law that governs marine fisheries management in U.S. Federal waters and enables enforcement of any fishing regulations in marine national monuments. If a Presidential proclamation calls for regulation of fishing in a marine national monument, the Secretary of Commerce, acting through NOAA’s Assistant Administrator for Fisheries, may promulgate fishing regulations under the MSA, utilizing advice and recommendations received from the appropriate regional fishery management council, as provided by the MSA. For example, nearly all the proclamations establishing marine national monuments call for continued access to recreational fishing. For these monuments, NOAA, in close coordination with the regional fishery management councils, facilitates access for any noncommercial fisheries and supports fishery management plans recommended by the councils in their advisory capacity.

The fishery management councils are critical advisors to NOAA. We acknowledge and appreciate their important role and expertise in our fisheries management processes, in protecting biodiversity, and in ending overfishing, with or without a pre-existing marine national monument designation. A good example of this is the North Pacific Fishery Management Council’s management plan for the Arctic, which was approved by the Secretary of Commerce on August 17, 2009 and implemented on December 3, 2009. This plan prohibits all commercial harvests of fish in Federal waters north of the Bering Strait until sufficient information is available to support the sustainable management of a commercial fishery.

### **Enhancing Access to NOAA-managed Marine Protected Areas**

National marine sanctuaries and marine national monuments allow different types of access and use, consistent with the purposes of their designation and the types of resource protections that conserve their values and unique characteristics. That said, enhancing access and sustainable use of important marine areas is generally a high priority for NOAA’s management of these places.

A key aspect of this objective is encouraging recreational use. National marine sanctuaries are highly valued for a variety of recreational activities, including boating, diving, fishing, wildlife viewing, and more. For example, all national marine sanctuaries and most marine national monuments provide opportunities for

recreational fishing within their boundaries. Beyond being one of the most popular sports in America and a favorite pastime for millions of Americans, sustainable recreational fishing can foster a lifelong appreciation for America's great outdoors and provide a source of economic vitality to coastal communities.

Like recreational fishing, commercial fishing is allowed in most of the National Marine Sanctuary System. NOAA regulates commercial fishing in national marine sanctuaries in coordination with state fishery management agencies and utilizing advice and recommendations from the regional fishery management councils, pursuant to authorities under the MSA and relevant state laws. For Federal waters of national marine sanctuaries, the NMSA requires NOAA to provide the appropriate regional fishery management council the opportunity, in its advisory capacity, to draft fishing restrictions for NOAA's consideration if general fishery management approaches need to be supplemented to meet the goals and objectives of a national marine sanctuary.

Far from being a barrier to access, NOAA's management of national marine sanctuaries enhances access to sanctuary resources by providing physical infrastructure, informational products and services, and public outreach to local communities and the visiting public. The following are a few examples:

- *Infrastructure to support access.* In some places in the National Marine Sanctuary System that experience heavy visitation, NOAA maintains critical infrastructure to facilitate easy access, enhance visitor experience, and protect sensitive resources. Such infrastructure includes mooring buoys, signage, and navigation markers. For example, in Thunder Bay National Marine Sanctuary located in Lake Huron, 42 buoys are installed seasonally for public use. In Florida Keys National Marine Sanctuary, NOAA maintains more than 500 mooring buoys available for year-round use on a first-come basis.
- *Information products and services for on-water visitors.* NOAA enhances user experience and facilitates understanding of resource protections by providing innovative smartphone apps, free of charge, to visitors of select sites. The most recent example is the Marine Sanctuary Explorer, which provides visitors to Florida Keys National Marine Sanctuary with information to plan their visits and experience the sanctuary. This smartphone app features location-tagged points of interest, push notifications for zones of special regulation, and easy-to-read guidelines. Another example is the Whale Alert app, a tool that Stellwagen Bank National Marine Sanctuary was a leader in developing. The app identifies whale "safety zones" and is a hub for citizen scientists to report whale sightings. This information not only facilitates whale watching by visitors, but also helps transiting mariners avoid impacts to whales and assists whale biologists and resource managers better understand whale feeding and migration patterns.
- *Visitor centers and interpretive resources.* NOAA maintains nine visitor centers across the country, in collaboration with partner organizations and local volunteers, to interpret and raise awareness of sanctuary resources among visitors and local residents who do not always have the means to access sanctuary waters. NOAA also partners with local organizations to provide and maintain interpretive tools such as signs, exhibits, and interactive kiosks.
- *Business Recognition Program/Blue Star.* Billions of dollars in annual sales and thousands of jobs in sanctuary gateway communities depend directly on healthy and thriving sanctuary resources. NOAA's Business Recognition Program for sanctuaries is a voluntary initiative that recognizes and promotes recreational operators that promote stewardship, awareness, and responsible enjoyment of our national marine sanctuaries among their clients. Participating recreational operators serve as voluntary "Ambassadors" that connect visitors to sanctuaries through recreation activities.
- *Educational opportunities.* NOAA works with public school systems and minority-serving groups to connect students from underserved areas with environmental experiences, field trips, and outdoor recreation opportunities in national marine sanctuaries. One such program is NOAA's Ocean Guardian School Program, which works with Title I and Free and Reduced-Price Lunch schools, among others in marginalized communities.

### **Connections to Communities**

For each national marine sanctuary, NOAA establishes local offices of staff who live and raise their families in the neighboring communities of these special places. It is in these communities that management plans are developed, implemented,

reviewed, and revised for each sanctuary, taking into account the specific needs and circumstances of that area. These management plans address resource protection, science, education, and outreach priorities.

The NMSA also authorizes NOAA to establish advisory councils for sanctuaries. These community-based advisory groups provide advice and recommendations to sanctuary superintendents on management, research, and use of sanctuary resources. Council members come from a broad cross-section of the local communities and represent diverse interests such as conservation, education, research, recreation, tourism, marine transportation, maritime industry, agriculture, and maritime heritage. They also include representatives from local, regional, state, Tribal, territorial and Federal agencies.

In places where NOAA must restrict access to specific sanctuary areas to conserve and protect resources, NOAA relies heavily on sanctuary advisory councils to supplement input from public notice and comment periods, community meetings, and other constituent engagement fora. For example, the sanctuary advisory council for Florida Keys National Marine Sanctuary has been an integral part of NOAA's process for the sanctuary's management plan review, currently in progress. The Sanctuary Advisory Council and its working groups, representing a broad range of community and stakeholder interests, have developed extensive recommendations for changing the sanctuary's approach to access in certain areas. These recommendations accounted for the condition of resources, changes to the environment and ecological threats, and use patterns in these areas.

NOAA collected public comments on the draft environmental impact statement (August 2019) and proposed rule (July 2022), and is working closely with its co-managers, the USFWS, and Florida state agencies toward a final rule. This effort, called the Blueprint for Restoration, is a critical step in bolstering the resilience of the sanctuary's ecosystems against the grave existential threats that they face, including this summer's marine heatwave that is impacting and potentially killing corals at an unprecedented scale.

Marine national monuments are not required to have an advisory council but often create forums, such as interagency committees, that also include community participation. For example, the Marianas Trench Monument Advisory Committee includes the Department of Defense, U.S. Coast Guard, and the Commonwealth of the Northern Mariana Islands government, and provides advice and recommendations to NOAA and USFWS on management of the Monument. The Pacific Remote Islands Marine National Monument (PRIMNM) managers convened a PRIMNM Community Group to solicit input in drafting the Monument management plan to ensure diverse perspectives were included on how best to manage this large part of the Pacific Ocean and its special features. In PMNM, a Reserve Advisory Council, established under the authority of the NMSA as part of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve that predated the marine national monument designation, continues to provide an important public forum for stakeholder consultation and deliberation on resource management decisions in the Reserve that may affect the Monument.

### **Benefits to Local and Regional Economies**

History has shown us that NOAA's conservation actions under the National Marine Sanctuaries Act, Magnuson-Stevens Act, and the Antiquities Act have produced positive economic, social, and cultural benefits. For example, NOAA economists have estimated that activities such as fishing, research, and recreation activities generate about \$8 billion annually in local coastal and ocean dependent economies across all the national marine sanctuaries. From restaurants, sporting goods stores, and hotels to aquariums and kayak outfitters, the success of many businesses and thousands of jobs depend directly on healthy, vibrant sanctuaries.

- In the 2007–2008 tourist season, more than 400,000 visitors and residents of the Florida Keys engaged in more than two million person-days of recreational sports fishing. These recreational fishers spent \$274 million in Monroe County/Florida Keys, approximately \$107 million of which was directly spent on fishing items.<sup>2</sup>
- Visitors to NOAA's Olympic Coast National Marine Sanctuary and the immediate area boosted the region's economy with \$102 million in spending, supporting nearly 1,200 jobs and generating \$46 million in local income for

<sup>2</sup><https://sanctuaries.noaa.gov/science/socioeconomic/floridakeys/recreation/linking08.html>

business owners and employees in 2014, according to a NOAA analysis using the most recent figures available.<sup>3</sup>

- According to a 2005 Michigan Sea Grant study, tourism and recreation expenditures in the tri-county area adjacent to Thunder Bay National Marine Sanctuary in Alpena, Michigan had an economic impact of \$92 million in sales, \$36 million in personal income to residents, \$51 million in value added, and 1,700 jobs.<sup>4</sup>

The community of Alpena, Michigan—home of Thunder Bay National Marine Sanctuary—was initially divided in opinion on the proposed sanctuary designation, but today celebrates the opportunities the Sanctuary brings to the local area. The community of Alpena has even adopted “Sanctuary of the Great Lakes” as a unified branding theme. A previous mayor of the city called the sanctuary “an anchor for downtown Alpena.” The visitor center, educational programming, and volunteer opportunities engage the public and draw visitors from all over the region and country. In 2017 the visitor center drew 92,943 visitors to a city with a population of 10,000.

While we do not currently have economic valuations of monuments based on resource uses, NOAA commissioned a peer-reviewed study in 2011 to estimate the non-use economic valuation of sanctuary and monument resources that are fully protected and restored.<sup>5</sup> This study found that the total economic value the American people hold for the coral reefs in the Hawaiian Islands is \$33.57 billion. Marine national monuments can fully protect and conserve these resources for the American people and hold them in trust for future generations.

### Conclusion

NOAA, through its stewardship of the National Marine Sanctuary System and co-management of the five marine national monuments, is committed to building a stronger, more resilient future for America’s coastal and Great Lakes communities, ecosystems, and economies. With the funding requested in the President’s Fiscal Year 2024 Budget, NOAA will invest in increasing conservation and protection in an expanded sanctuary system, which is an integral part of NOAA’s implementation of the America the Beautiful initiative. Sanctuaries and monuments protect nationally significant natural, historical, and cultural resources for the benefit of the public.

While the national marine sanctuaries and marine national monuments are established and managed differently, what they have in common is that our stewardship of these places ensures that future generations of Americans will continue to be able to access their benefits and ecosystem services for the long term. Both types of marine protected areas support and enhance a diverse suite of uses, including recreational and commercial uses, that are consistent with management and conservation goals.

Thank you again for the opportunity to discuss national marine sanctuaries and marine national monuments.

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QUESTIONS SUBMITTED FOR THE RECORD TO JAINEY BAVISHI, ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, NOAA

**Ms. Bavishi did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

### Questions Submitted by Representative Gosar

*Question 1. I understand that many Alaskan communities are concerned that NOAA may soon propose Alagum Kanuux for a marine sanctuary designation.*

*1a) Does NOAA intend to propose Alagum Kanuux for a marine sanctuary designation? If so, when will that process begin and what will it look like?*

<sup>3</sup><https://sanctuaries.noaa.gov/science/socioeconomic/olympiccoast/recreation.html>

<sup>4</sup> Ehler, Rod and Jordan Parrillo. Northeast Michigan Integrated Assessment Final Report: Socioeconomic Assessment. NOAA and Michigan Sea Grant. 2009.

<sup>5</sup> Richard C. Bishop, David J. Chapman, Barbara J. Kanninen, et al. 2011. Total Economic Value for Protecting and Restoring Hawaiian Coral Reef Ecosystems: Final Report. Silver Spring, MD: NOAA Office of National Marine Sanctuaries, Office of Response and Restoration, and Coral Reef Conservation Program. NOAA Technical Memorandum CRCP 16. 406 pp.



1b) *If not, what are the circumstances in which NOAA would move forward with the Alaġum Kanuux designation?*

1c) *Outside of the sanctuary nomination process, is the Administration considering any actions to designate the waters around St. Paul, or other waters off Alaska, as a National Marine Monument under the Antiquities Act?*

*Question 2. Over the last two years, the nation’s eight regional fishery management councils developed the first synthesis of conservation areas in federal waters off the United States, identifying hundreds of conservation areas created under fisheries management authority covering more than 72% of federal waters.*

2a) *Under the 30x30 Initiative, are NOAA and other agencies involved in the American Conservation and Stewardship Atlas development going to incorporate the conservation areas identified in the Councils’ report?*

2b) *How else is NOAA going to view and use the Councils’ report to address the objectives set out in 30x30?*

*Question 3. In a letter to Administrator Spinrad from March 2023, a broad group of Bering Sea stakeholders asserted that NOAA was mistaken in their assessment that the Alaġum Kanuux nomination enjoys “broad community-based support”, which the Office of National Marine Sanctuaries identifies as a necessary criterion before a nomination can be accepted and added to the inventory. Stakeholder input on this nomination reveals that the proposal actually had very limited support from other fishery dependent communities, Tribes in the region, stakeholders that rely on areas of the Bering Sea covered by the originally proposed sanctuary boundaries, and from others in the region who would be directly impacted.*

3a) *How did NOAA assess the interests and viewpoints of these critical stakeholders in the Alaġum Kanuux sanctuary proposal?*

3b) *Was the lack of affirmative support for the sanctuary proposal weighed carefully when attempting to quantify whether the “broad community-based support” threshold had been met?*

3c) *Did NOAA give disproportionate weight to form letters as part of the nomination packet from stakeholders outside of the region?*

*Question 4. The Magnuson-Stevens Act lays out ten statutory national standards that fishery management plans and plan amendments must comply with, including requirements that fisheries are not overfished, that bycatch is minimized to the extent practicable, that fishers and fishing communities are treated fairly and equitably, and to promote the safety of human life at sea. The National Marine Sanctuaries Act contains no substantive statutory requirements for managing fisheries inside a sanctuary.*

4a) *Does NOAA believe that a Sanctuary’s “goals and objectives” can be a viable basis for managing commercial fisheries, even if they conflict with the national standards in the Magnuson-Stevens Act?*

4b) *Can NOAA provide assurances that current or future federal administrations and current or future leaders of a sanctuary’s sponsors will not use a sanctuary’s “goals and objectives” and/or sanctuary management regulations to allow commercial fishing unrestricted by the statutory resource protections in the Magnuson-Stevens Act?*

4c) *Can a sanctuary’s management regulations be used to create specific economic benefits from a commercial fishery inside a sanctuary? For example, could sanctuary regulations require that all fish harvested inside a sanctuary be delivered for processing at a specific port?*

4d) *Is NOAA concerned that fishery participants and other stakeholders who do not get their way at a regional fishery management council will become sanctuary sponsors in an effort to achieve from NOAA’s Office of Marine Sanctuaries what they could not achieve at their regional council?*

4e) *In Massachusetts Lobstermen’s Association v. Raimondo, Chief Justice Roberts expressed skepticism about using the Antiquities Act to create new regulatory regimes over large areas of the ocean. How has Chief Justice Roberts’ statement affected NOAA’s decision-making when choosing a statutory basis for removing large areas of the ocean out from under the Magnuson-Stevens Act?*

*Question 5. In 2022, NOAA placed in inventory a proposed sanctuary, Alaġum Kanuux. As originally proposed, this sanctuary would cover more than 52,000 square miles in the Bering Sea. The current proposal for Alaġum Kanuux lacks any*

boundaries and the designation process, if undertaken, may lead to an even larger sanctuary.

5a) Has NOAA created up to five years of regulatory uncertainty for Bering Sea fishery participants by adding *Alagum Kanuux* to inventory? If not, please explain why.

5b) What percentage of U.S. fisheries landings occur in the Bering Sea?

5c) How many jobs does the Bering Sea fishing industry support?

Question 6. Earlier this year, NOAA Fisheries released its National Seafood Strategy which among other things, identifies as its Number One objective to: Maximize fishing opportunities and sustainable seafood production while ensuring the sustainability of fisheries through effective and efficient management.

6a) How does closing all U.S. waters around the U.S. Pacific Remote Island Area (PRIA), which historically have been important to the U.S. purse seine fleet and the Hawaii longline fleet, and displaces these fleets to fish on the high seas among foreign subsidized vessels, support NOAA's National Seafood Strategy?

6b) How does closing U.S. waters to commercial fishing in the Northeast Canyons and Seamounts Marine National Monument, which historically have been important to the U.S. swordfish and tuna longline fleet, support NOAA's National Seafood Strategy?

6c) How does closing all U.S. waters in the Northeast Canyons and Seamounts Marine National Monument to the red crab and lobster fisheries, which have operated there for over four decades while maintaining the "pristine" nature of the area, support NOAA's National Seafood Strategy?

Question 7. Large-scale negative impact on commercial fishing and coastal communities is currently anticipated from the more-than 2,000 proposed offshore structures to be constructed in connection with offshore wind energy production. Now, with the reimposition of commercial fishing restrictions in the Northeast Canyons and Seamounts Marine National Monument there is additional pressure on fishermen and those that rely on them for support.

7a) What is NOAA's National Marine Fisheries Service doing to study or in any way monitor what the cumulative impact of these proposals and conflicts will be on commercial fishing?

7b) What is NOAA's National Marine Fisheries Service doing to calculate the cost of these cumulative impacts on coastal communities?

Question 8. The stated purpose of the Northeast Canyons and Seamounts Marine National Monument is to protect the deep-sea canyons and sea mounts in the area.

8a) How does prohibiting the continued operation of sustainable commercial pelagic fisheries in the water column above the canyons and seamounts provide protection to these natural structures?

8b) If NOAA holds that banning fishing activities above the deep-sea canyons and seamounts somehow provides protection to these natural structures below, why is recreational fishing permitted, especially since there are instances in which recreational fishers use the same gear as commercial fisheries?

Question 9. What will be the statutory authority for regulations that prohibit commercial fishing in the Monument? What will be the enforcement mechanism?

If the authority for the regulations is derived from the Magnuson Stevens Act:

9a) What Fishery Management Plans are being modified and when will the National Marine Fisheries Service consult with the Fishery Management Councils on these changes?

9b) How do these regulations help achieve Optimum Yield?

9c) When will a fishery impact statement or NEPA document be completed to support these regulations, as required by the Magnuson-Stevens Act?

If the authority for the regulations is derived from the Antiquities Act:

9d) What is the penalty for violation these proposed regulations?

Question 10 New England Fishery Management staff attempted to estimate the economic impacts of the Northeast Canyons and Seamounts Marine National Monument, based on work that had been done for the Deep-Sea Coral amendment. That work demonstrated that the New England Deep Sea Coral amendment

protected a large percentage of the area covered by the Monument with fewer negative impacts.

10a) What work has NOAA's National Marine Fisheries Agency completed to estimate the commercial fishing impacts of the Monument and the proposed reimposition of a commercial fishing ban?

Question 11. Approximately 82% of the Northeast Canyons and Seamounts Marine National Monument is covered by the New England Deep Sea Coral Amendment. And an additional 5% is covered by the Mid-Atlantic Golden Tilefish Restricted Area. Accordingly, approximately 87% or 88% of the monument is already protected under the Magnuson-Stevens Act. The 12% of the Northeast Canyons and Seamounts Marine National Monument that is not protected by Magnuson-Stevens but included in Monument is essentially the plateau above the canyons. That area is a gently sloping mud plateau with no special objects of any kind, but there has been historical fishing on that area, or above that area for the past 40–50 years. Both the NGOs who advocated for the monument, and the Draft Management Plan and Environmental Assessment refer to the monument area as "largely pristine."

11a) Why is the 12% of the monument comprising the plateau included in the monument?

11b) What is the justification for considering this region part of the smallest area necessary to protect the canyons and seamounts?

11c) What is the purpose of banning commercial fishing in this area?

Question 12. The Draft Environmental Assessment included in the Draft Management Plan and Environmental Assessment for the Northeast Canyons and Seamounts Marine National Monument is almost completely silent on impacts to the commercial fishery.

12a) How is this consistent with NEPA guidance to evaluate cumulative effects of past, present, and reasonably foreseeable future actions?

#### **Questions Submitted by Representative Case**

Question 1. What are some of the benefits of overlaying a Marine National Monument with a National Marine Sanctuary?

#### **Questions Submitted by Representative Grijalva**

Question 1. There is a lack of clarity on how NOAA navigates the intersection of its various management authorities, such as the Office of National Marine Sanctuaries (ONMS) and the National Marine Fisheries Service (NMFS).

1a) How does the ONMS collaborate with other agencies to address activities outside of a sanctuary that impact the sanctuary's health (e.g., water quality)?

1b) How do ONMS and NMFS work together to address concerns when fisheries are found to be harming the health of sanctuary resources?

1c) How do NOAA and Department leadership engage to make sure the requirements of the National Marine Sanctuaries Act are met when protection may require fishery restrictions?

1d) Who within NOAA is responsible for ensuring that management actions to secure the health of fisheries resources within a national marine sanctuary are referred to the regional fishery management council for timely consideration and decision making?

1e) Who within NOAA is responsible for ensuring that fishery management council actions are sufficient to secure healthy sanctuary resources? What is the process for secretarial action when that standard is not met?

1f) What is the process for navigating instances of fishery management and resource protection overlap?

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Dr. GOSAR. Thanks, Assistant Secretary. I am now going to go to the Members for their 5 minutes. The first is Mrs. Radewagen, the gentlewoman from American Samoa.

Mrs. RADEWAGEN. Talofa lava. Thank you, Chairman Gosar and Ranking Member Stansbury, for allowing me to participate in today's hearing.

Fishermen, the Western Pacific Regional Fishery Management Council, or WESPAC, over 1,000 StarKist Samoa cannery workers, myself, our governor of American Samoa, and most other local officials representing ours and other Pacific territories are all pushing back against NOAA's plans for an expanded marine sanctuary around the PRIMNM, or Pacific Remote Islands Marine National Monument.

With unanimous consent, I would like to submit the testimony from Governor Lemanu on the effect that a closure of fishing area would have on American Samoa.

Dr. GOSAR. Without objection, so ordered.

[The information follows:]

**Statement for the Record**

**Lemanu P. S. Mauga**  
**Governor of American Samoa**

**September 16, 2023**

Dear Chairman Gosar, Ranking Member Stansbury, and distinguished members of the Committee, the National Oceanic and Atmospheric Administration ("NOAA") recently released its Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact Statement for the Proposed Designation of a National Marine Sanctuary for the Pacific Remote Islands (the "Notice"). These comments reflect the expected impact of that proposed designation and the position of the American Samoa Government.

The importance of fishing and the ocean to the people and culture of American Samoa cannot be overstated. Samoans landed on these shores 3,000 years ago and utilized the natural resources both on land and in the sea to build a rich community. The ocean and its marine resources have allowed *Fa'asamoa*, the Samoan way of life, to thrive for thousands of years. Samoan legends and cultural practices revolve around fishing and access to ocean waters. Fishing has provided Samoan people not just with food to eat but also a means to support families, especially during times of struggle.

This reliance on fishing and marine resources has continued for centuries and remains the single largest pillar of the American Samoa economy today. The tuna industry is the largest private sector employer and supports one-third of our workforce. Canned tuna makes up over 99% of the total value of exports for our territory and accounts for about 85% of our GDP.

Without the local StarKist cannery, the cost of living for American Samoa residents would sky-rocket. In addition to providing thousands of jobs, the tuna industry also subsidizes things like utility and shipping costs that makes it possible for the community to survive and thrive on these remote islands.

Unfortunately, the importance of these waters to the territory has been downplayed. Most of the fish caught in PRIA waters are landed in American Samoa. In turn, those fish provide jobs, support communities, and most importantly, put food on the tables of Samoan people.

In American Samoa, we are already experiencing the effects of losing access to oceans. Further restrictions on commercial fishing in the Pacific will discourage vessels from landing their catch in American Samoa. It will drive further loss for this community that already faces so many struggles. Without access to these waters, the tuna industry may very well sink here in American Samoa, and our economy with it.

As a small island community, we are keenly aware of the effects of climate change and the need for preservation of natural resources. The people of American Samoa see first-hand the devastating effects of extreme weather on physical infrastructure. We are vulnerable to widespread food and water insecurity, lack of access to social services and in the worst cases, forced displacements. Due to climate change, the ocean that has sustained American Samoans for centuries is now threatening our

daily lives. The carbon footprint of American Samoa is very small. Yet, we are bearing the brunt of these climate impacts due to the actions of industrialized nations. This designation, however well-intentioned, is not in the best interest of Pacific Islanders.

Marine National Monument expansions in 2009 and 2014 resulted in the loss of access to more than 50% of the US EEZs in the Pacific. Now, a designation of additional Pacific waters as a National Marine Sanctuary is being considered, which would effectively close access to nearly 777,000 miles of Pacific Ocean.

The United States and American Samoa have been partners in the Pacific for over 120 years. We have played an important role in national security in this region and we value our strong relationship with the United States and the federal government. As the state or territory with the most armed service members per capita, you will not find a more patriotic place than American Samoa. Unfortunately, federal actions taken without consultation of impacted communities can have unintended consequences. There is no equity when the people that these federal actions will impact have no say and no voice.

It must be acknowledged that the threats to the American Samoan economy, culture, and society identified hereinafter are exponentially multiplied by the concurrent proposed rulemaking related to the Effort Limit Area for Purse Seine Fisheries (“ELAPS”). These two proposals cannot be viewed individually, and any consideration must be based on their devastating combined effect. With that in mind, American Samoa provides these additional comments on the proposed designation:

#### A. Socioeconomic Effects:

##### 1. **The Tuna Industry is American Samoa’s Primary Economic Driver:**

The tuna industry, and specifically the StarKist cannery, the American Samoan fishing fleet, and their related support industries are the largest private sector employer in American Samoa. In fact, American Samoa’s non-governmental economy is almost entirely built on tuna related commerce. The tuna industry provides 83.8% of American Samoa’s private employment.<sup>1</sup> The StarKist cannery itself is the largest private employer in American Samoa and employs 2,631 individuals representing approximately 15.5% of the entire labor force.<sup>2</sup> Additionally, total tuna exports from American Samoa are valued at \$353 million per year, with canned tuna making up 99.5% of the total value of all American Samoa’s exports.<sup>3</sup> Further, the lone remaining cannery accounts for 85% of American Samoa’s GDP.<sup>4</sup> The American Samoa population is heavily dependent on the StarKist cannery to provide food security for the region.<sup>5</sup> Additionally, StarKist Samoa is the only tuna cannery that packs military pouches for Meals Ready to Eat (MRE). American Samoa prides itself with the highest enlistment rate per capita and service members are proud to see the American Samoa flag on these tuna pouches.

##### 2. **Impacts Caused by the Proposed Designation to American Samoa and the Fishing Industry Are Substantial and will Lead to Economic Catastrophe:**

The cumulative effects from the proposed restrictions on commercial fishing pose an existential threat to the future of the American Samoa-based tuna purse seine fleet and, as a result, a real and severe threat to the economy of American Samoa.<sup>6</sup> The proposed rules will likely result in the loss of the tuna industry in American Samoa leading to the loss of 5,000 jobs, a potential 40% increase in shipping freight and cost, and result in a significant loss in GDP. In the past three years, the U.S. tuna purse seine fleet has been reduced from 34 vessels to just 13 vessels operating today. The remaining vessels are based in American Samoa and support the local economy by delivering tuna to the StarKist facility thereby utilizing a range of goods and services provided by local businesses.<sup>7</sup>

The proposed rule will likely result in similar negative economic impacts caused by the 2015 ELAPS closure. A NOAA study evaluated the economic impacts of the 2015 ELAPS closure to purse seine vessels, canneries, and

<sup>1</sup>American Samoa PRIA Tuna Importance Presentation Page 3.

<sup>2</sup>WPRFMC Letter Page 3.

<sup>3</sup>See 2021 Statistical Yearbook Table 10.1 Page 128.

<sup>4</sup>American Samoa PRIA Tuna Importance Presentation Page 24.

<sup>5</sup>American Samoa PRIA Tuna Importance Presentation Page 3.

<sup>6</sup>ATA Comments on Proposed PRIMNM Page 2.

<sup>7</sup>ATA Comments on Proposed PRIMNM Page 2.

vessel support facilities in American Samoa. The estimated economic losses due to the ELAPS closure were valued up to \$110 million.<sup>8</sup> This was Eight (8) years ago, and the value of this loss today would be significantly higher. Further, American Samoa fishing efforts are predominantly located in the US EEZ. When the PRIA monument was expanded in 2014 & 2016, over half of the fishing ground was lost. Currently, approximately 57% of the US Pacific EEZ prohibits commercial fishing. The proposed rule will potentially increase that percentage to 70%, thus, having a disproportionately adverse effect on the American Samoa fishing fleet, which will likely lead to economic collapse.<sup>9</sup>

3. **American Samoa's Current Fishing Practices are Sustainable 10:**<sup>10</sup> American Samoa has a relatively small locally based tuna purse seiner fleet that supplies the majority of the raw material needs of the StarKist cannery, the lone remaining cannery located within American Samoa. These vessels are also bound by U.S. laws and standards to ensure minimal adverse effects on the environment—standards that exceed foreign and international requirements. The Pacific Remote Island Areas (“PRIA”), consisting of Howland and Baker Islands, Palmyra atoll and Kingman Reef, have been traditional fishing grounds for the U.S. fleet that supplied the local cannery even before the establishment of the PRIMNM. The proposed designation that would create a National Marine Sanctuary up to 200 miles out will have a devastatingly negative impact to the U.S. fleet. This will be especially hard on American Samoa. Without a sustainable fish supply, the American Samoa tuna industry will collapse, and its economy soon will follow. This would lead to an economic catastrophe that no U.S. state or territory has experienced in recent times.

Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.<sup>11</sup> The WPRFMC has established federal permitting and reporting, gear restrictions, protected species mitigation measures, no-take Marine Protected Areas (MPAs) which have successfully maintained the biodiversity and unique cultural and historical resources in the PRIA to this day without the additional restrictions being proposed.<sup>12</sup> The existing commercial fisheries in the region occur offshore in the open ocean (at least 50 NM from land) and have no interaction with or impact on the resources in the nearshore environment, coral reefs, oceanic seamounts, or other ecosystems and habitats needing protection.<sup>13</sup>

4. **Current Boundaries are the Result of a 2014 Compromise that Must be Respected:** The 2014 fishing boundaries, which are still in effect today, were a result of a compromise between the Obama administration, American Samoa, and the fishing industry which expanded the sanctuary to the specific islands while maintaining previous boundaries. These boundaries should be upheld as agreed upon by all interested stakeholders.<sup>14</sup>

In 2014, President Obama expanded that Monument to include the entire U.S. EEZ around Wake Island, Johnston Atoll, and Jarvis Island. The loss of fishing opportunities in Jarvis Island, in particular, dealt a significant blow to the industry, as the EEZ around Jarvis Island was among the richest traditional fishing grounds for the American Samoa-based fleet. Within two years of this action, one of the two canneries that operated in American Samoa at the time closed for good.<sup>15</sup> This is the reason the StarKist cannery is the lone operating cannery today, and evidences the fact that further restriction will likely result in the closure of this cannery as well.

5. **Additional Regulation Will Likely Force the American Samoa Fishing Fleet to Leave America Samoa:** The closure of U.S. waters within the current marine monument is one major reason why the American Samoa fleet is forced to pay as much as \$2M per vessel annually to Pacific Island nations to access the productive tuna fishing grounds within their waters, and further closures would further exacerbate this situation. The current financial situation recently forced the sale to foreign operators of multiple U.S. purse seine

<sup>8</sup>American Samoa PRIA Tuna Importance Presentation Page 15.

<sup>9</sup>American Samoa PRIA Tuna Importance Presentation Page 24.

<sup>10</sup>WPRFMC Letter Pages 1-3.

<sup>11</sup>WPRFMC Letter Page 1.

<sup>12</sup>WPRFMC Letter Page 1.

<sup>13</sup>ATA Comments on Proposed PRIMNM Pages 3-4.

<sup>14</sup>ATA Comments on Proposed PRIMNM Page 4.

<sup>15</sup>ATA Comments on Proposed PRIMNM Pages 2-3.

vessels (approximately 20% of the entire U.S. fleet) thereby reducing U.S. tuna production by approximately 70,000 tons and increasing the U.S. seafood trade deficit by up to \$100 million annually. Any additional constraints on the industry will likely result in a mass exodus of the American Samoa fishing fleet, closely followed by the closure of the cannery.

6. **American Samoa is Unaware of any Scientific Evidence that the designation of a National Marine Sanctuary in the PRIA Region Will Produce the Desired Ecological Results:** There is no scientific evidence to support the notion that large-scale closures in “blue water” open ocean ecosystems (such as the designation of a national marine sanctuary) have any impact on the sustainability of highly migratory species like tuna, are effective for protecting biodiversity in these dynamic ecosystems, or can mitigate stressors such as climate change. The existing commercial fisheries in the region occur offshore in the open ocean (at least 50 NM from land) and have no interaction with or impact on the resources in the nearshore environment, coral reefs, oceanic seamounts, or other ecosystems and habitats needing protection.<sup>16</sup> The Fisheries are highly regulated and monitored to ensure strict adherence to requirements and procedures to minimize interactions with marine mammals, sharks, rays, sea turtles, sea birds, and other marine fauna.<sup>17</sup>

At least two recent papers by highly respected scientific authorities (Hilborn, et al., 2022, and Hampton, et al., 2023) conclude that large, open ocean marine protected areas (MPAs) have little tangible benefit for the resources being managed.<sup>18</sup> Large, open ocean MPAs are designed to protect huge swaths of open ocean, but are a poor choice for efficiently and effectively managing fisheries.<sup>19</sup> “Because of their size and scale, [large, open ocean MPAs] garner lots of splashy headlines and notoriety for the conservation organizations and politicians who implement them,” but they “do nothing to alleviate” the “most pressing threats to biodiversity in the oceans” such as “climate change, ocean acidification, and land-based pollutants.”<sup>20</sup>

On the contrary, the result of large static area closures are a transfer of fishing efforts from one place to another, oftentimes at the expense of conservation. Instead of fishing in U.S. waters where they have privileged access, these U.S.-flagged vessels will have to fish elsewhere, likely further away from American Samoa, thereby increasing their costs and decreasing the control the U.S. will have over such vessels. This situation also exacerbates the “uneven playing field” the American Samoa fleet and fishing industry face while competing with heavily subsidized fishing industries such as China’s in waters that are already heavily fished.

7. **The Designation of a National Marine Sanctuary in the PRIA Region and Restrictions in Commercial Fishing in the Sanctuary Will Likely Result in a Material Drop in American Samoa’s Population and Additional Costs by the Federal Government.** American Samoa is highly dependent on the United States for financial assistance to support its infrastructure, harbors, airports, hospital, and schools. If the American Samoa tuna industry collapses, American Samoa’s unemployment will skyrocket, and its citizens will be forced to leave to find new opportunities elsewhere. This loss of jobs combined with the material decrease in population will result in fewer tax dollars being collected while more citizens will need government assistance. Considering that government employment already accounted for about 40.3% of all employment in American Samoa, and government jobs continued to climb in the last 5 years,<sup>21</sup> these additional restrictions could result in the virtual elimination of private industry in American Samoa, requiring it to become more dependent on U.S. financial aid.

<sup>16</sup> *ATA Comments on Proposed PRIMNM Pages 3-4.*

<sup>17</sup> *ATA Comments on Proposed PRIMNM Pages 3-4.*

<sup>18</sup> *ATA Comments on Proposed PRIMNM Pages 4-5.*

<sup>19</sup> *ATA Comments on Proposed PRIMNM Pages 4-5.*

<sup>20</sup> *ATA Comments on Proposed PRIMNM Pages 4-5.*

<sup>21</sup> *See 2021 Statistical Yearbook Page 127.*

## B. Effect of Spatial Extent/Geopolitical Effects:

1. **The Designation of a National Marine Sanctuary in the PRIA Region Will Hurt U.S. National Security Interests:** The activities of the American Samoa-based fleet provide a critical counterbalance to China's growing influence across the region. As a result, maintaining a viable American Samoa-based purse seine fleet operating in the Pacific Ocean contributes not only to the United States and American Samoa economy, but to regional food security, national security, and other vital national interests. For example, the StarKist cannery is one of the only, if not the only, cannery that is currently certified to perform tuna packs that meet the U.S. Military's requirements to supply tuna to U.S. servicemen and servicewomen. Any risk to the StarKist cannery therefore risks the ability of the U.S. Military to adequately provide safely sourced provisions for its fighting force which will have far reaching effects worldwide.
2. **The Designation of a National Marine Sanctuary in the PRIA Region Will Put American Samoa's Fishing Fleet at a Competitive Disadvantage vis-a-vis Its International Competition:** Further restrictions on commercial fishing (i.e. area restrictions proposed herein) will further discourage commercial vessels in American Samoa and decrease the fish landed back in American Samoa, further constraining the supply of fish to the cannery there. Canneries in Mexico and Ecuador would be the beneficiaries, to the detriment of U.S. interests.<sup>22</sup> Fishing prohibitions not only weaken U.S. fisheries but also increase seafood imports and jeopardize U.S. food and national security. The proposed National Marine Sanctuary would continue to displace U.S. fishing fleets to international waters where they must fish alongside and compete with foreign fishing fleets. Fishing vessels from China, Taiwan, Korea, and Japan are regularly observed fishing the border of the U.S. EEZ around American Samoa, Hawaii and the PRIA.
3. **Another Step in the US Ceding the Pacific to China:** China continues to build up its longline fleet in the Western and Central Pacific Ocean which has increased from around 100 vessels in 2007 to over 520 now (catching approximately 50,000 metric tons of tuna annually). China's fleet also includes 73 purse seine vessels. In comparison, there are 14 U.S.-flagged longline vessels and 13 U.S.-flagged purse seine vessels based in American Samoa. China is making a concentrated effort to integrate its economic, diplomatic, military and technological might to expand its influence throughout the Pacific. This approach by China appears to be very effective, as evidenced by the recent bilateral agreements made with our Pacific neighbors, including the Independent State of Samoa. Further restrictions will reduce US presence in the Pacific and allow China's presence to grow.<sup>23</sup> The presence of the US fleet in the Pacific has declined due to international regulations under the WCPFC that limit activities of US vessels on high seas which create a competition imbalance between US and China fleets.<sup>24</sup>

The U.S. Indo-Pacific Strategy highlights concern over China's influence in the Pacific region and its vulnerable island countries. If China succeeds in using the bilateral agreements with the island nations in the Pacific region, their heavily subsidized fishing fleets will harvest the fish supply from within the fishing zones that will be denied to the U.S. fishing fleet. The United States is losing influence in the international fisheries management organizations, such as the Western and Central Pacific Commission, due to weakened U.S. fisheries. These impacts are exacerbated by the loss of U.S. fishing grounds as a result of monument designations. Deterrence of foreign fishing fleet encroachment in the U.S. EEZ is compromised when U.S. commercial fishing vessels are removed from 70% of the entire U.S. EEZ that is now under monument protection. Reducing fishing grounds by designating a national marine sanctuary will aid this Chinese expansion by forcing our U.S. fishing vessels out of U.S. waters. This is the time for the United States to use American Samoa to increase the U.S. presence in the Pacific region to provide security and economic development to the island nations presently seeking or signing bilateral agreements with China.

<sup>22</sup> ATA Comments on Proposed PRIMNM Pages 2-3.

<sup>23</sup> ATA Comments on Proposed PRIMNM Pages 5-6.

<sup>24</sup> WPRFMC Letter Page 3.



### C. Cultural Effects:

1. **The Proposed National Marine Sanctuary Infringes on American Samoa's Traditional Fishing Grounds:** The PRIA and the high seas have been historically important traditional fishing grounds for the American Samoa people. Due to the creation of the Marine National Monument by President Bush in 2009 and expansion by President Obama in 2014 and 2016, more than 50% of the U.S. EEZs in the Pacific are closed to commercial fishing which includes the American Samoa-based U.S. flagged tuna vessels. The contemplated designation will increase the closed areas to approximately 70% of the U.S. EEZs in the Pacific.
2. **The Proposed National Marine Sanctuary Closes the Area to Traditional Seafarers and Navigators:** There is currently a cultural reawakening occurring in American Samoa, including traditional seafarers and navigators. The PRIA is in the historical and culturally significant sea routes, requiring this area to be open to the people of American Samoa.
3. **The Designation Could Result in the Loss of Kosher Tuna:** The StarKist is also one of the only canneries that are able to perform a certified kosher tuna pack. The potential loss of the cannery due to the expansion of the PRIMNM would have a significant effect on the Jewish population of the U.S. and it would eliminate a source of clean and healthy kosher protein.

### D. Legal Effects

1. **The designation is likely a violation of U.S. Law:** The designation of a National Marine Sanctuary in the PRIA region is likely a violation of U.S. Law, including but not limited to the Magnuson Stevens Act, the Western and Central Pacific Fisheries Convention Implementation Act, the Deeds of Cession, and/or multiple Executive Orders. Additionally, this policy change is inconsistent with the position of the Western Pacific Fishery Management Council, a likely violation of the Magnuson-Stevens Fishery Conservation and Management Act to make fishery-management decisions for the PRIA region.
2. **The Designation Will Disproportionally Burden American Samoa:** Any adverse impact to the American Samoa tuna industry will result in job losses and other residual effects that will further increase the poverty level of what is already by far the poorest territory or state in the U.S. and perpetuate inequities for years to come. The U.S. Pacific Island community should not carry the full conservation burden of the country under the "America the Beautiful" initiative outlined in Executive Order 14008. The proposal for the Marine Sanctuary designation states it will ensure over 30% of the conservation goal under "America the Beautiful." But this would be counter to Sec. 219 of Executive Order 14008 on securing an equitable future for the underserved American Samoa community. It would also run counter to Executive Order 13985, which makes it the policy of your administration to "pursue a comprehensive approach to advancing equity for all . . . including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality." The people of American Samoa fall under these categories of underserved and historically disadvantaged communities as approximately 57% of our population lives in poverty.

The Pacific region has already done more than its share to achieve the goals of the 30x30 Initiative. It is likely contrary to U.S. Laws including but not limited to the Magnuson Stevens Act, the Western and Central Pacific Fisheries Convention Implementation Act, the Deeds of Cession, and/or multiple executive orders for American Samoa to be singled out to bear the burden of the designation. That burden is a very heavy one for the people of American Samoa due to their dependence on fishing access of their fleets in these waters. The welfare of the U.S. Nationals who rely on and whose ancestors relied on fishing to sustain the local economy must be considered.

3. **American Samoa Is an Underserved Community That Requires Protection:** Under another but still current Presidential Executive Order 13537, the IGIA shall solicit information and advice from the elected leaders of the U.S. Insular Areas of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands and make recommendations to the President annually, or as appropriate, on the establishment or implementation of Federal programs concerning these

Insular Areas. Failure to do this prior to any expansion of the PRIMNM likely violates Executive Order 13537. This is also in line with Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities, such as American Samoa which is a prime example of an underserved community with more than 50% of our residents below the US poverty level.

4. **American Samoan Fishing Community Continues to Suffer from Unfair, Subsidized Competition by its Pacific Neighbors:** Further increasing the PRIMNM by over 50% would destroy our fishing economy. Yet thousands of foreign fishing boats, predominantly Chinese, surround that PRIA region border and often encroach and illegally fish upon it. The PRIMNM was one of the 6 recommended, and most commonsensically, to be managed under the long existing legal rubric Congress has prescribed under the Magnuson-Stevens Fishery Management Act. However, actions on other areas including those related to restoration of management and control of the PRIMNM to the Western Pacific Fisheries Management Council await and the American Samoan fishing community continues to suffer in the meantime from unfair, subsidized competition by its Pacific neighbors.

Accordingly, American Samoa respectfully submits this comment for the hearing titled "Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System."

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Mrs. RADEWAGEN. Thank you, Mr. Chairman.

To entertain further fishing restrictions and say that it will not put further jobs at risk in American Samoa is not credible.

That being said, we do appreciate all the hard work NOAA does in the Pacific, and my thoughts are with the crew of the Rainier, as I know surviving a fire can be a traumatic experience, and I hope they get a lot of R&R in my home district of American Samoa.

Secretary Bavishi, what science was used to conclude that the sanctuary would benefit tunas and other highly migratory species by closing commercial fisheries from 50 out to 200 miles?

Ms. BAVISHI. Thank you, Congresswoman Radewagen, for the question.

We just actually held a workshop in American Samoa last week, and co-chaired it with the Government of American Samoa, and we were really thankful for that partnership.

One thing that we stated at the workshop that I want to state for the record today is that we have not made any decisions regarding fishing regulations in the proposed sanctuary. What we communicated at the workshop is where we are in the process, is that we are developing alternatives that will be available for public comment with the draft environmental impact statement, which we plan to release in the spring of next year. Those alternatives will consider both regulatory actions, but also different options for boundaries of the sanctuary. And no decision has been made right now about prohibition of commercial fishing.

Mrs. RADEWAGEN. Can you elaborate on what data did NOAA use to evaluate the economic impacts on the U.S. tuna purse seine fishery and the economy of American Samoa before proposing the complete prohibition on commercial fishing in the sanctuary?

Ms. BAVISHI. Again, let me just clarify that we have not proposed the complete prohibition of fishing in the sanctuary. We are in a process of developing alternatives.

Mrs. RADEWAGEN. Thank you. My time is short. And lastly, did NOAA consider the issues of equity and environmental justice, as

outlined in various White House Executive Orders, when assessing the potential impact of the sanctuary on American Samoa?

Ms. BAVISHI. Absolutely. Environmental justice is of utmost importance to NOAA and to the sanctuary process, and that is why the sanctuary process is so highly participatory. We take into account public input at every step of the process. We have held a 45-day scoping period, where we received more than 50,000 comments, held seven in-person workshops across the region, as well as two virtual scoping sessions. And we also held a workshop, as I mentioned before, in American Samoa last week to continue to hear the concerns of stakeholders and community. We will continue to emphasize public input across the entire process.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I yield back. I may have additional questions that I will submit for the record.

Dr. GOSAR. I thank the gentlewoman from American Samoa. The gentleman from Hawaii, Mr. Case, is recognized for 5 minutes.

Mr. CASE. Thank you, Mr. Chair.

Ms. Bavishi, thank you for your testimony. I am just going to follow up on my colleague's question. How do you determine the economic impact when you are going through your evaluation, quickly?

Ms. BAVISHI. NOAA will work across line offices, first of all. So, it will not just be the Office of National Marine Sanctuaries, but we will work in close coordination with the National Marine Fisheries Service to evaluate economic impact. We will also take into account any data provided by our state and territorial partners, as well as public input.

Mr. CASE. And then the Chair in his opening remarks, I think, was critical that, and I am going to put words in your mouth, there was not actual public input, that these decisions were being made inside of, I forget what your characterization was, but inside of Washington. Can you just briefly outline again what you have done to date in this nomination for a sanctuary process?

You talked about a full 50,000 comments coming in. Is that what you said?

And where did those comments come in from, where were those eight meetings? Were they in Hawaii, throughout the Pacific? Just outline it.

Ms. BAVISHI. That is right. NOAA solicited comments during a 45-day public comment period. NOAA received, actually, approximately 57,000 comments during the scoping period. These comments came from a diverse cross-section of stakeholders in the region.

We also held seven in-person public meetings in the territories, as you mentioned, and in Hawaii, and two virtual meetings, as well, to gather public input.

And we had heard from the governor of American Samoa. I met with him personally in Honolulu last month, and I also have been in touch with the governors of Guam and CNMI, as well, to understand their concerns. And they had requested additional dialogue, so we held another workshop in American Samoa just last week.

Mr. CASE. What further opportunities in the process for public input? The public will get to comment all over again on your draft EIS and proposed options?

Ms. BAVISHI. That is right. When we release draft documents for the designation, which will be in spring of next year, we will release a draft EIS, any draft regulations, as well, and the public will have a chance to comment on those documents.

Mr. CASE. OK, thank you. One of the arguments forwarded against the sanctuary designation, and we will hear it in the next testimony, is that the U.S. purse seine fleet is going to be harmed, should there be an expansion of the sanctuary out to the full 200 nautical mile EEZ. And the purse seine fleet has declined precipitously over the last couple of years. Obviously, we have not expanded the sanctuary yet. My stats have it at 34 in 2019 down to about 13 today. That is a pretty significant decline in a very short period of time. Why is the U.S. purse seine fleet declining?

Ms. BAVISHI. There could be a number of reasons for the decline of the American purse seine fleet.

NOAA Fisheries closely monitors the fleet with daily records of catch, discards, and effort. In 2020, 10 vessels visited the PRIA, the Pacific Remote Islands Area, EEZs. Fewer vessels visited in 2021 and 2022 due to the continued reduction in size of the fleet.

There are several reasons that the purse seine fleet could be declining. It could be attributed to international competition. It could be attributed to the requirements of the cannery. It could also be attributed to the designation of the national marine monument, as well. We are taking the historical impacts of the monument into account as we move forward with the sanctuary designation, as well as any proposed management actions that the sanctuary designation would provide.

Mr. CASE. OK. So, there is a mix of reasons why it could be declining.

And do you have an assessment of how fish stocks are doing in the Pacific at present? I am focusing in particular on Papahānaumokuākea, where the argument at the time against the monument designation was that it would do irreversible damage to the availability of fish both in and out, obviously, in. Is there evidence that somehow fish stocks have been harmed in the area around that particular monument in the last almost two decades it has been in effect?

Ms. BAVISHI. No, there is no evidence that those fish stocks have been harmed that I know of.

Mr. CASE. OK. Thank you very much.

Dr. GOSAR. I thank the gentleman. The gentlewoman from New Mexico, Ms. Stansbury, is recognized, the Ranking Member.

Ms. STANSBURY. Thank you, Mr. Chairman. I would like to start by zooming out a little bit, and helping folks who are watching know the back story and sort of understand the NOAA process for designation, how certain places get nominated, how the process works, how stakeholders are engaged, how the science is developed, in particular because I think probably many of the folks watching may not be as familiar with the process.

So, if you could start out, Assistant Secretary, help us understand. How does NOAA identify prospective national marine monuments? Are they brought to NOAA? Is it something that NOAA initiates? How does the process work?

Ms. BAVISHI. Thank you for the question, Congresswoman Stansbury.

The nomination process starts with an organization or an individual submitting a nomination through the sanctuary nomination process. NOAA uses a set of criteria to evaluate whether a particular site is eligible for sanctuary designation. If it is deemed to be eligible, then it will be added to the NOAA inventory, but that does not indicate a prioritization or an intention to move forward with a designation process.

If the designation is moved forward, then during that designation process, public input is absolutely critical. And I can walk through that process, if you would like.

Ms. STANSBURY. What are some of the primary criteria that is used by any Administration to determine whether or not it is a good place to do a designation?

Ms. BAVISHI. It would depend on things like the biodiversity of the area, other ecological features. We want to make sure that we are focusing on areas whose ecological features are important to both the ecosystem, but also to other economic uses and human uses, as well.

Ms. STANSBURY. So, for the specific expansion that we have been talking about here this morning, the Pacific Remote Islands Marine National Monument, how did that become initiated? How did it become a priority? How did the process happen at NOAA, and where exactly are you in the process?

Ms. BAVISHI. The Pacific Remote Islands Sanctuary designation process started with a Presidential Memorandum to the Secretary of Commerce, where the President asked the Secretary to consider initiating a designation process for a national marine sanctuary.

We started with a scoping period that I have described already in my testimony. We started with 45 days of scoping, where the public was able to provide us with comments. All these comments are taken into consideration in subsequent phases of the process.

We will now prepare draft documents, including a draft environmental impact statement that identifies boundary and/or regulatory alternatives, a draft management plan, any notice of proposed rulemaking to define proposed sanctuary regulations. These documents will be followed by public comment, and then after the public comment we will prepare final documents. And then the sanctuary would take effect after 45 days of continuous session of Congress, during which Congress gets to review.

Ms. STANSBURY. And why expansion of this particular monument? What is special about this area?

And I know you have already touched on this in the previous question lines, but we have heard concerns raised by locals who are working and fishing in the area, and it sounds like there is an extensive public process in front of the Administration to even consider next movements on this particular designation.

But (1) tell us why this area is special? Why is it worthy of expansion and protection?

And (2) how will the Administration and the agency take into consideration these economic and fisheries impacts?

Ms. BAVISHI. This is an area that is rich in biodiversity and is incredibly important to managing climate change going forward. It can be an area that can provide storage and carbon sequestration.

But part of the reason that the White House chose to designate this area through a national marine sanctuary process instead of under the Antiquities Act is because of the emphasis on public participation. Sanctuaries allow for comprehensive management that allow for continual public input. So, once a sanctuary is designated, a sanctuary advisory council will also be appointed, and that will create an opportunity for ongoing dialogue with diverse stakeholders that will be absolutely critical to ensuring robust management of this area.

Ms. STANSBURY. Thank you. And I know I am out of time here, but I do want to acknowledge and thank Congresswoman Radewagen for hosting us in the Pacific Islands as part of our task force on issues involving those communities. And certainly, we support our island communities in American Samoa, but also want to make sure that we are protecting biodiversity and our fisheries for generations to come. Thank you.

Dr. GOSAR. Thank you.

Assistant Secretary, I am going to tell you a story. The story starts off with grazing leasing over in Arizona. Now, it is a far, far cry away from marine sanctuaries. My whole point was that we saw the decimation of the leasing program, grazing leases. We saw them reduce by 47 percent the first year, 45 percent the second year. And this was in light of a huge monsoon moisture project that came through.

So, we started to look at this, and it took bringing out the Forest Service Chief to actually enter into an MOU with the ranchers because there are some vital aspects here.

Tell me why we wouldn't go in an area like this to a pilot project on a smaller scale and expand it. What would you say about that?

Ms. BAVISHI. I am sorry, I cannot speak to leasing.

Dr. GOSAR. No, no, no, but it is the same principle. The same principle is that we overlooked a whole bunch of things that were not proper, and we had to go back and redo a Memorandum of Understanding between the Forest Service and the leasing.

My point here is why wouldn't we do something on a little smaller scale in this area as a pilot to understand the ramifications to the locals and to that process? Why wouldn't we do that?

Ms. BAVISHI. Well, I would say that the sanctuary process provides a framework for comprehensive management that is done in concert with a diverse set of stakeholders.

Dr. GOSAR. Let me stop you right there. Why would that be different than the current situation with the fisheries in consultation with the locals, and that kind of aspect?

What is so great about that aspect that it supersedes that consultation process?

Ms. BAVISHI. Fisheries management is one form of management of marine resources. It is focused on production. It is focused on production of healthy populations. The National Marine Sanctuaries Act provides another tool for management of marine resources. It provides the tool of conservation. So, what we are doing here is bringing another tool in our toolbox to bear.

The great thing about this tool, though, is that it provides us with a framework that allows us to work with the fisheries management council, in concert with the fisheries management council, as well as other stakeholders, to really come up with a comprehensive way of managing this area for this generation, but also to manage future threats that we know are coming.

Dr. GOSAR. So, I am just being devil's advocate here, particularly in this area, would you weight a consultation process one over another, say locals get a higher vantage point of weight on their consultation aspect versus maybe a cannery or whatever?

Ms. BAVISHI. No, our goal is to speak to all the stakeholders that are interested in participating in the process, and we are certainly creating venues to reach those stakeholders.

Dr. GOSAR. When I had a chance to talk to you, you were very keen about your consultation with the locals. Can you give us a little bit of an outline on that?

Ms. BAVISHI. Sure. I think one thing that we talked about, Chair Gosar, is the workshop that we held in American Samoa just last week. We held this workshop, like I said before, I met with the governor of American Samoa, Governor Mauga, and he expressed his concerns to me, and we said we really wanted to co-host with him a workshop to continue the dialogue with stakeholders and community in American Samoa. We did that last week, and there are a couple of takeaways that came out of that conversation.

First, the cannery is of utmost importance to American Samoa, and we hear that.

We also heard the desire among locals and American Samoa to diversify their economy. But we know that is going to take time.

And then I think the other thing that we really affirmed on both sides is that the goal for both NOAA and for the Government of American Samoa is to balance economic well-being and conservation, and we have to figure out what that right balance is, and we hope that this process will be a vehicle to do that.

Dr. GOSAR. Which brings me back to my point. Trust is a series of promises kept. Why wouldn't we start in a smaller scale, in a pilot project, instead of something so grand? That is just my point.

Ms. BAVISHI. Well, in some ways I would argue that the Pacific Remote Islands Marine National Monument did serve as that pilot project.

But I would say that what we are doing now is to create a framework that allows for more public participation than the monument does. Our hope is that a sanctuary designation will actually allow for continuous public participation, continuous input, not only during the designation process, but as I said before, after the designation we will appoint an advisory council that will allow us to continue to coordinate with key stakeholders in the region.

Dr. GOSAR. Well, once again, to be a devil's advocate here, when you look at the Horse and Burro Advisory Group, the Administration waited almost 3 years to reappoint five of the nine slots, so they couldn't get anything done. I guess my point is where in the system is it broken right now that you see needs to be fixed? What is broken?

Ms. BAVISHI. What we are aiming to do here is to provide a more comprehensive management framework.

Dr. GOSAR. I understand. But what is broken to demand that more comprehensive aspect?

Ms. BAVISHI. There are areas that are not protected by the national marine monument that will be protected by the sanctuary. And what we are aiming to do is to figure out the right balance of uses, and to accomplish our conservation goals.

Dr. GOSAR. I guess my last point is that once again comes back to why wouldn't we do a pilot study in those areas, those localized areas, instead of the whole grand scheme?

Ms. BAVISHI. As I said before, I think the monument in many ways was the pilot, and we are expanding from there.

Dr. GOSAR. OK. Well, I thank you very much for your testimony. You are dismissed. I thank you very much for being so candid with this group and this panel. And we are going to take a short recess until we get the next panel up and running. So, thank you very much, Assistant Secretary.

Ms. BAVISHI. Thank you.

[Recess.]

Dr. GOSAR. I will now introduce our second panel of witnesses.

First, we have Mr. Bill Gibbons-Fly, Executive Director of the American Tuna Boat Association; Ms. Florence Kargi, Regional Affairs Manager, Coastal Villages Regional Fund; Mr. William Johnson Aila, a Native Hawaiian fisherman; and Mr. Eric Reid, Fishing Industry Council.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please press the "on" button on your microphone so we can all hear you.

We use timing lights here, so when you see the green timing light you are ready to go. When you see yellow, start summarizing. And when it turns red, prepare to stop.

I will let all witnesses testify before Members start questioning.

I now recognize Mr. Gibbons-Fly for 5 minutes.

You are recognized.

**STATEMENT OF BILL GIBBONS-FLY, EXECUTIVE DIRECTOR,  
AMERICAN TUNABOAT ASSOCIATION, ANNAPOLIS, MARYLAND**

Mr. GIBBONS-FLY. Chairman Gosar, Ranking Member Stansbury, distinguished members of this Committee, thank you for the opportunity to testify before you this morning.

I am here to testify to the impact on the U.S. Pacific fishing fleets and to the economy of American Samoa from the designation of Pacific marine national monuments under the Antiquities Act, and the proposed creation of a Pacific Remote Islands Marine National Sanctuary under the National Marine Sanctuaries Act.

Put bluntly, these two pieces of legislation have been and are being used to bypass the rigorous fisheries management system established by Congress to the detriment of U.S. interests.

Mr. Chairman, the United States has the most robust and comprehensive fisheries management system anywhere in the world. The Magnuson-Stevens Act establishes an inclusive and science-based process with participation of officials from the Federal Government, state and territorial governments, scientists and



academics, and a wide range of private-sector stakeholders, all to ensure that U.S. fisheries are conducted in a responsible and sustainable manner.

Yet, what we are seeing is a disturbing trend to toss this entire congressionally-mandated system aside, and close vast waters under U.S. jurisdiction to commercial fishing with no scientific justification or rationale, and with little thought to the economic consequences to the U.S. economy, the economies of our U.S. territories, domestic and regional food security, and, yes, even national security.

This is important, Mr. Chairman, because our industry is struggling to survive and, with it, so is the tuna-dependent economy of American Samoa.

In the past 3 years, the U.S. tuna purse seine fleet has been reduced from 34 vessels to just 13 vessels operating today. The remaining vessels supply the vast majority of the tuna being processed in American Samoa, and otherwise support the local economy there. The economy of American Samoa is overwhelmingly dependent on the tuna industry and the related service industries.

Mr. Chairman, my written testimony highlights several important issues that it is simply not possible to address in this short oral statement. With the time available, I will focus on the economic impacts of the proposed Pacific Remote Islands Marine National Sanctuary, which, as currently envisioned, would close the entire U.S. Exclusive Economic Zone around seven Pacific remote islands to commercial fishing.

Recent information provided by NOAA makes abundantly clear that any assertion that the economic impact of the proposed sanctuary will be negligible or minimal is patently and demonstrably false. From 2020 to 2022, the purse seine fleet caught an average of 5,556 metric tons, approximately 10 percent of the fleet's total catch, in the Pacific remote islands' EEZs, with an average landed value of \$8.3 million. This represents over 25 million cans of tuna processed at the StarKist facility in American Samoa, with a retail value of approximately \$25 million and approximately 250,000 person hours at the StarKist plant.

Moreover, the proposed sanctuary is not an independent or isolated issue. Even if the assertion that the impact would be minimal is true, which it is clearly not, here again what is largely ignored is the cumulative effect of multiple actions, each justified in isolation on the basis of minimal impact. The analogy of death by a thousand cuts comes to mind, but the impact of the proposed sanctuary would not be a superficial cut. It would be a serious blow that would, in my view, pose an existential threat to the future of the American Samoa-based purse seine fleet and the tuna-dependent economy of American Samoa.

My written testimony also highlights the importance of the U.S. purse seine fleet as a critical counterbalance to China's growing influence across the region, and I refer Committee members to that testimony for more on that subject.

In conclusion, Mr. Chairman, the use of the Antiquities Act and Marine Sanctuaries Act to close vast areas of commercial fishing without scientific justification or rationale erodes the economic viability of our commercial fishing industry, jeopardizes domestic

and regional food security, and opens the door for China to continue to increase its influence and presence across the Pacific to the detriment of U.S. economic and national security interests.

The terrible irony, Mr. Chairman, is that even as our U.S. fleets are shrinking, the U.S. consumer is not eating less seafood. The United States simply imports that much more seafood from countries that have nothing close to the same management, regulatory enforcement, and environmental standards as those that apply to the United States' own domestic fisheries.

Thank you for your consideration of these comments, and I am happy to answer any questions.

[The prepared statement of Mr. Gibbons-Fly follows:]

PREPARED STATEMENT OF WILLIAM GIBBONS-FLY, EXECUTIVE DIRECTOR, AMERICAN TUNABOAT ASSOCIATION

Chairman Gosar, Ranking Member Stansbury, distinguished members of the Committee, thank you for the opportunity to testify before you this morning. I am William Gibbons-Fly, Executive Director of the American Tunaboat Association (ATA). ATA represents the owners and operators of the U.S. flag tuna purse seine vessels operating in the Pacific Ocean, the last true "distant water fishing fleet" operating under U.S. flag. ATA members are multi-generational, family-owned businesses with a long and storied history as an important part of the U.S. fishing industry. As the sole witness from the Pacific Ocean fishing industries and fleets, my testimony also reflects the views of the Hawaii Longline Association, and my understanding of the views of other Pacific fisheries interests including those based in both Hawaii and American Samoa.

I am here today to testify to the significant adverse impact on the U.S. Pacific fishing fleets and to the economy of American Samoa resulting from the previous designation of Pacific Marine National Monuments under the Antiquities Act and the proposed creation of a Pacific Remote Islands National Marine Sanctuary under National Marine Sanctuaries Act. Actions under these two pieces of legislation have been and are being used to bypass and override the rigorous, science-based, and participatory fisheries management system established by Congress over several decades. Moreover, these actions are being taken with little thought to the economic consequences to an important sector of the U.S. economy, the economies of our U.S. territories, domestic and regional food security, and yes, even U.S. national security.

Mr. Chairman, the United States has the most robust and comprehensive fisheries management system anywhere in the world. Through the legislative framework established under the Magnuson-Stevens Fishery Conservation and Management Act, the eight Regional Fisheries Management Councils oversee an inclusive and science-based process with participation of officials from the Federal Government, State and Territorial governments, scientists and academics, economists, industry stakeholders, local communities, environmental advocacy groups and individuals, among others. The focus of these efforts is to ensure that U.S. fisheries are conducted in a responsible and sustainable manner, while mitigating impacts on non-target species, marine mammals, sea turtles, sea birds and other marine life. To this end, our fisheries are governed not only by the Magnuson-Stevens Act, but by a series of strict regulatory mandates promulgated under the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, among other pieces of legislation.

And yet, what we are seeing is a disturbing trend to toss this entire, congressionally mandated system aside and close vast waters under the jurisdiction of the United States to commercial fishing with no scientific justification or rationale and without adequate consideration of the impacts on the fishing industry and local communities whose livelihoods are negatively affected through these actions.

Much of this is intended to meet the Administration's stated goal of protecting thirty percent of waters under U.S. jurisdiction by 2030, or "30 by 30." Thirty percent is itself an arbitrary number with no scientific basis, rationale, or demonstrable need. That issue aside, 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 (see attached fact sheet), Marine Monuments currently cover 53 percent of the U.S. exclusive economic zone (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 independent of the extensive infrastructure, science, and economic considerations established by Congress that have proved so successful in managing our nation's commercial fisheries.

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.

With that introduction, I will review actions by past Presidents to establish a series of Pacific Marine National Monuments under the Antiquities Act, and then discuss the current proposal for the creation of Pacific Remote Islands National Marine Sanctuary that would cover an area much greater than the existing marine national monument and, as currently envisioned, prohibit commercial fishing throughout the entire U.S. EEZs surrounding the Pacific Remote Islands of Wake Island, Johnson Atoll, Howland and Baker Islands, Kingman Reef and Palmyra Atoll, and Jarvis Island. As described later in this testimony, and contrary to the assertions of its proponents, this latter action, in conjunction with other parallel actions being undertaken by the Administration, would have a devastating impact on the American Samoa-based purse seine fleet and, as a direct consequence, on the tuna dependent economy of American Samoa itself.

#### **PACIFIC MARINE NATIONAL MONUMENTS**

There are four currently Marine National Monuments within the Pacific Islands Region: The Papahānaumokuākea Marine National Monument in the Northwest Hawaiian Islands (NWHI), established in 2006 and expanded in August 2016; and the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments, established in January 2009; with the Pacific Remote Islands being expanded in September 2014. In this testimony, I will focus on the monuments in the Northwest Hawaiian Islands and The Pacific Remote Islands, in the U.S. EEZ surrounding the islands previously described.

The Northwest Hawaiian Islands Marine National Monument (Papahānaumokuākea) was established in 2006 by President George W. Bush. The original boundaries of the monument extended approximately 50 miles from the chain of islands comprising the NWHI archipelago from Nihoa Island to Kure Atoll. In 2016, President Obama significantly expanded the monument to include all waters within the U.S. EEZ surrounding the NWHI from 163 degrees West Longitude to the westernmost extent of the archipelago. With this expansion, the Northwest Hawaiian Islands Marine National Monument covers an area of 600,000 square miles; larger than Alaska and twice the size of Texas!

The expanded monument resulted in a loss to the Hawaii-based longline fleet of fishing grounds that historically produced approximately 10 percent of the fleet's annual catch. To compensate for this loss of fishing grounds, the fleet has been forced to fish farther from home, on the high seas competing with highly subsidized foreign fleets, resulting in lower catch rates, greater costs, increasing safety risks for vessel crew, and higher fuel consumption thus increasing its carbon footprint.

The Pacific Remote Islands Marine National Monument was established in 2009, also by President Bush. The initial designation of the monument included waters surrounding each of the Pacific Remote Islands out to approximately 50 nautical miles. These boundaries, although not insignificant in terms of fishing effort in the region, did not impact the operation of the tuna purse seine fleet between 50 nautical miles out to the 200 nautical mile boundary of the U.S. EEZ.

However, in September 2014, President Obama expanded the area of the monument to include the entire U.S. EEZ around Wake Island, Johnson Atoll, Jarvis Island; leaving only the areas around Howland and Baker Islands, and Kingman Reef and Palmyra Atoll from 50 to 200 nautical miles available to the U.S. fleet. The loss of fishing access in Jarvis Island, in particular, was a significant economic loss to the American Samoa-based purse seine fleet, as this has been the single richest fishing ground for the fleet within any U.S. EEZ.

Within two years of the expansion of the Pacific Remote Islands Marine National Monument, including the entire EEZ around Jarvis Island, one of the two tuna canneries operating in American Samoa at the time closed its doors for good, resulting in the loss of 800 jobs. A GAO Report published in 2020 (GAO 20-467) found that following the closure of the cannery in 2016, American Samoa's gross domestic product fell 5.8 percent in 2017, citing lower tuna exports as a principal cause.

During the two years prior to the closing of the cannery, the cannery operators made numerous petitions to the Federal government regarding the consequences of

the fisheries closures for the economy of American Samoa, and engaged in multiple efforts to attain some relief for American Samoa from the increasingly restrictive environment in which the U.S. fleet was compelled to operate, all to no avail.

Moreover, Jarvis Island shares an extensive maritime boundary with the Republic of Kiribati. Excluded from the U.S. EEZ around Jarvis Island, U.S. vessels must pay \$13,000 per vessel per day for access to the EEZ of Kiribati, on the other side of an imaginary line in the ocean. Kiribati also licenses and charters approximately 15 large Chinese purse seine vessels (more than the entire remaining U.S. purse seine fleet) that fish freely just across the same line from the U.S. EEZ around Jarvis Island.

In addition, the expansion of the Pacific Remote Islands monument fully closed the U.S. EEZ around Johnson Atoll, an area within which the Hawaii-based longline fleet historically averaged approximately 12 percent of its catch. When added to the 10 percent loss from the Northwest Hawaiian Islands, the cumulative loss to the Hawaii longline fleet was an area accounting for approximately 22 percent of its historical catch.

The Rose Atoll monument reduced fishing grounds in the U.S. EEZ around American Samoa resulting in an estimated annual loss to the American Samoa longline fleet of \$237,000, according to information provided by the Western Pacific Regional Fisheries Management Council.

Because these monuments are established under the Antiquities Act, the process is exempt not only from the requirements of U.S. fishery management legislation, but also from the requirement to use the best available scientific evidence, as well as the requirements of the Administrative Procedures Act, the National Environmental Policy Act, and other legislation, all of which are established by Congress to ensure fair, transparent, and science-based decision making for the management of the nation's fisheries and the effective conservation of living marine resources. It pains me to think what Senators Warren Magnuson, Ted Stevens, Daniel Inouye, Congressman Don Young, and other ardent supporters of our nation's sustainable, responsible, and science-based commercial fisheries, would think of such a development.

Beyond these domestic actions, a new treaty recently adopted at the United Nations raises the prospect of large-scale marine protected areas being established for vast areas of the high seas, thus potentially further restricting access by U.S. fleets to important fishing grounds. In addition to the direct effects described above, it is the cumulative effects of this series of both domestic and international actions, each justified in isolation on the basis of minimal or negligible impact, that are largely ignored. And yet they serve collectively to further undermine and erode the viability of the U.S. fishing industry, not just in the Pacific Islands Region, but across the nation.

#### **PROPOSED PACIFIC REMOTE ISLAND NATIONAL MARINE SANCTUARY**

I will now address the potential impact of the current proposal to establish a Pacific Remote Islands National Marine Sanctuary that, as currently envisioned, would close the entire U.S. EEZ around the seven Pacific Remote Islands to commercial fishing. On June 2, 2023, in response to a Federal Register Notice published by NOAA on April 18, ATA submitted comprehensive comments on the proposed sanctuary. Those comments, submitted with this testimony, made clear that ATA supports science-based conservation and management measures to conserve living marine resources, including the fragile, unique, and endemic nearshore marine resources and deep-sea habitats that the current monument and proposed marine sanctuary are intended to protect. However, ATA is extremely concerned about any proposal that would further restrict or prohibit the well managed and highly sustainable commercial fishing in the remaining areas of the U.S. EEZ that are not already closed under the existing marine national monument.

This is important, Mr. Chairman, because our industry is struggling to survive, and with it, so is the tuna dependent economy of American Samoa. In the past three years, the U.S. tuna purse seine fleet has been reduced from 34 vessels to just 13 vessels operating today. The remaining vessels supply the vast majority of the tuna being processed in American Samoa and otherwise support the local economy there by utilizing a range of goods and services provided by local businesses. The economy of American Samoa is overwhelmingly dependent on the tuna industry and the related service industries that support both the StarKist tuna processing facility and the vessels that are based there.

ATA's June 2 comments addressed not only the economic impacts of the proposed sanctuary, but the lack of scientific justification for large open ocean ecosystems to conserve highly migratory species; the complete lack of interaction between the purse seine fishery and near-shore and deep-sea habitats; how the diminishing U.S.

purse seine fleet opens the door for China to expand its influence across the region; broader conservation initiatives being undertaken by the fleet; and other issues.

In this testimony, I will focus primarily on the economic impact of the proposed sanctuary, in particular with respect to information that was not available to us at the time ATA submitted comments on June 2 of this year. It is also apparent that this information was not available to or considered by the Administration when it proposed closing the entire area of the sanctuary to commercial fishing.

That information, provided by NOAA's own Pacific Islands Fishery Science Center, makes clear that assertions that the economic impact of the proposed sanctuary will be "negligible" or "minimal" are patently and demonstrably false. From 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. Historically, 84 percent of the catch caught in these areas has been landed in American Samoa; for some years it has reached 100 percent. For the U.S. market, one metric ton of tuna yields approximately 113 cartons of 48 cans of tuna. Thus, 84 percent of the average annual catches represents over 25 million cans of tuna processed at the StarKist facility in American Samoa with a retail value of approximately \$25 million. This quantity of fish reportedly equates to approximately 250,000 person-hours at the StarKist plant.

Moreover, Mr. Chairman, it is also important to understand that the proposed sanctuary is not an independent or isolated issue, but is happening in parallel with other actions, both current and proposed, that create an increasingly restrictive operating environment for the American Samoa-based purse seiner fleet. In particular, under a separate action, the Administration is seeking to divide what is currently a combined level of fishing effort by the U.S. fleet, for the high seas and the U.S. EEZ, into two separate limits that would have further significant impacts on the viability of the fleet.

To explain further, the treaty-based organization that manages the international fisheries throughout the Central and Western Pacific establishes a limit for the U.S. purse seine fleet of 1,270 fishing days on the high seas, and a limit of 558 days for the U.S. EEZ. Historically, the United States has implemented these two limits as a single combined limit of 1,828 fishing days, which can be fished by the fleet either on the high seas or in the U.S. EEZ. Because some other countries with obvious financial self-interest have complained about this, the Administration is now proposing to split the single combined limit into two separate limits for the high seas and EEZ. (It is important to note that these complaints have no scientific or conservation basis, they are simply an effort to reduce the U.S. fleet's access to the high seas, so that vessels must purchase access to fish elsewhere.)

In combination, these actions would have the perverse effect of taking 558 fishing days currently available to be fished on the high seas, and requiring that they be fished only in the U.S. EEZ, while at the same time closing the entirety of the EEZ to commercial fishing. Thus, these fishing days would simply disappear, and the fleet will lose nearly one third of the fishing days available to it, with the only alternative being to purchase access to fish in the waters under the jurisdiction of the Pacific Island States at a cost of up to \$13,000 dollars per vessel per day.

Further, the closure of the remaining portions of the U.S. EEZ and the complete loss of 558 fishing days could mean that vessels have little option but to shift operations to the eastern Pacific Ocean, significantly further away from American Samoa, where such limits do not apply. Less of this fish would then be landed back in American Samoa, further constraining the supply of fish to the cannery there. Canneries in Mexico and Ecuador would be the beneficiaries, to the detriment of U.S. interests.

In my view, this illogical series of events poses an existential threat to the future of the American Samoa-based tuna purse seine fleet, with a direct and consequential impact on the tuna dependent economy of American Samoa.

#### **COUNTERBALANCE TO CHINA**

In addition, Mr. Chairman, maintaining an active and economically viable U.S. tuna purse seine fleet operating in the strategically important Central Pacific Ocean is a critical counterbalance to China's growing influence across the region. China has focused strategically on developing direct commercial ties with many Pacific Island States through investments in the fisheries sector, both through the activities of its vessels as well as shoreside investments. China understands that building commercial and industry ties is the single most important vector for political and economic engagement with the strategically located Pacific Island States.

The U.S. tuna purse seine fleet operates across large areas of the Pacific Ocean under a treaty between the United States and the Pacific Island States of the

region. The treaty is not only an access agreement but has become an increasingly important vector for U.S. strategic engagement with the Pacific Island States on a range of issues of common interest, including to combat illegal fishing, address impacts of climate changes, support enhanced fisheries management, and others. Further reduction in the U.S. purse seine fleet will continue to erode U.S. influence in the region and leave the door open for China's influence to continue to grow, to the detriment of regional stability, responsible governance, and strategic engagement with the Pacific Island States.

As a result, the American Samoa-based tuna purse seine fleet operating in the region contributes not only to the United States economy and, especially the American Samoa economy, but to regional food security, national security, and other vital national interests. The fleet also operates as several additional sets of "eyes and ears" across vast reaches of the Pacific Ocean.

#### **SCIENCE AND CONSERVATION**

Finally, Mr. Chairman, I will touch briefly on two additional issues raised in ATA's June 2 comments to NOAA on the proposed sanctuary.

The Nominating Document for the sanctuary makes a strong case for the protection of resources such as the "nearshore environment" including "pristine coral reefs," "reef fish populations," "sea bird nesting colonies," as well as "open ocean seamounts," "deep-sea corals," and the "important spawning grounds and biodiversity hotspots" provided by many seamounts in the U.S. EEZ.

In this regard, the Nominating Document itself states clearly:

*"Specifically, protection of the deep-water ecosystems, reefs, and open-ocean seamounts of the proposed [sanctuary] is likely the most important part of this nomination."*

The existing commercial fisheries in the region occur offshore in the open ocean (at least 50 NM from land) and have no interaction with or impact on the resources in the nearshore environment, coral reefs, oceanic seamounts, or other ecosystems and habitats needing protection. The fisheries are highly regulated and monitored to ensure strict adherence to requirements and procedures to minimize interactions with marine mammals, sharks, rays, sea turtles, sea birds, and other marine fauna.

Moreover, although the Nomination Document makes a strong case for additional protection for fragile nearshore and deep-sea habitats, the case for protecting highly migratory species in the open ocean does not hold up. At least two recent papers by highly respected scientific authorities (Hilborn, et al., 2022, and Hampton, et al., 2023) conclude that large, open ocean marine protected areas (MPAs) have little tangible benefit for the resources being managed. I refer you to ATA's attached June 2 written comments to NOAA for further elaboration on this point.

#### **SUMMARY**

In summary, Mr. Chairman, the use of the Antiquities Act and the Marine Sanctuaries Act to override our rigorous fisheries management regime established by Congress, and to close vast areas of waters under U.S. jurisdiction to commercial fishing without scientific justification or rationale, erodes the economic viability or our commercial fishing industry, jeopardizes domestic and regional food security, and in the Pacific Ocean, opens the door for China to continue to increase its influence and presence across the region, to the detriment of U.S. interests.

In particular, a prohibition of commercial fishing for highly migratory species like tuna throughout any Pacific Remote Islands marine sanctuary, in combination with other current and pending actions, would further jeopardize the viability of the American Samoa-based purse seine fleet and the tuna dependent economy of American Samoa, while yielding no discernable conservation benefit for the living marine resources in the open ocean from fifty to two hundred miles offshore.

The terrible irony, Mr. Chairman, is that, despite the reduction in the size of a number of U.S. fleets, including the U.S. flag tuna purse seine fleet, the U.S. consumer is not eating less seafood. For every U.S. vessel owner that decides it is no longer possible to swim against this tide and leaves the business, the United States simply imports that much more seafood from countries that have nothing close to the same management, regulatory, enforcement, and environmental standards as those that apply to the United States' own domestic fisheries. Thus, such efforts directed at "conservation," can have precisely the opposite effect of what is intended.

Thank you once again for the opportunity to testify and for your consideration of these comments.

## Attachments

ATA's June 2, 2023, comments to NOAA on the proposed Pacific Remote Islands National Marine Sanctuary

Fact Sheet on the "Impacts of Marine National Monument Fishing Prohibitions on US Fisheries Managed under the Western Pacific Regional Fishery Management Council"

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**ATTACHMENTS**

**American Tunaboat Association  
San Diego, CA**

June 2, 2023

Mr. John Armor, Director  
Office of National Marine Sanctuaries  
National Ocean Service  
National Oceanic and Atmospheric Administration  
Silver Spring, MD 20910

Re: Comments from the American Tunaboat Association on the Proposed Pacific Remote Islands National Marine Sanctuary

Dear Mr. Armor:

The following comments are provided on behalf of the American Tunaboat Association (ATA) in response to Federal Register notice "NOAA-NOS-2023-0052," regarding the "Notice of intent to prepare a draft environmental impact statement" for the establishment of a National Marine Sanctuary in the Exclusive Economic Zone (EEZ) surrounding the Pacific Remote Islands of Wake Atoll, Johnson Atoll, Howland and Baker Islands, Kingman Reef and Palmyra Atoll, and Jarvis Island.

ATA is an industry association representing the owners and operators of the U.S. flag tuna purse seine fleet based in American Samoa. ATA supports science-based conservation and management measures to conserve living marine resources, including the fragile, unique, and endemic nearshore marine resources and deep-sea habitats that the current monuments and proposed marine sanctuary are intended to protect. However, ATA is extremely concerned about any proposal that would further limit or prohibit commercial fishing in the remaining areas of the U.S. EEZ that are not already closed under the existing Pacific Remote Islands Marine National Monument (PRIMNM).

ATA understands that the designation of a National Marine Sanctuary does not, in and of itself, mean a prohibition on commercial fishing. In fact, it is our understanding that commercial fishing in sanctuaries is not exceptional but prevalent, with appropriate safeguards in place to ensure such activity does not undermine the goals of the sanctuary itself. As a result, and for the reasons outlined below, ATA urges NOAA to establish a management plan for any Pacific Remote Islands sanctuary that does not further restrict commercial fishing in areas where such activity is not already prohibited.

**Impacts to Industry and to American Samoa are not Negligible**

The argument that the impact of any proposal to ban commercial fishing would be negligible is simply false. This proposed action is not happening in isolation, but is just one of a series of past and proposed future actions, the *cumulative effects* of which pose an existential threat to the future of the American Samoa-based tuna purse seine fleet and, as a result, a real and severe threat to the economy of American Samoa.

In the past three years, the U.S. tuna purse seine fleet has been reduced from 34 vessels to just 13 vessels operating today. The remaining vessels are based in American Samoa and support the local economy by delivering tuna to the StarKist facility there, the largest private sector employer in the territory, and by utilizing a range of goods and services provided by local businesses. The economy of American Samoa is overwhelmingly dependent on the tuna industry and the related service industries that support both the StarKist facility and the vessels based there. The future of the U.S. purse seine fleet and the future of American Samoa are inextricably and undeniably linked.

To grasp the potential impact of any proposal, it is important to understand the full range of past, current, and proposed actions affecting the American Samoa-based fleet. In 2008, President Bush created the Pacific Remote Islands Marine National Monument, closing waters of the seven Pacific Remote Islands to commercial fishing out to 50 NM. In 2014, President Obama expanded that Monument to include the entire U.S. EEZ around Wake Island, Johnson Atoll, and Jarvis Island. The loss of fishing opportunities in Jarvis Island, in particular, dealt a significant blow to the industry, as the EEZ around Jarvis Island was among the richest traditional fishing grounds for the American Samoa-based fleet. Within two years of this action, one of the two canneries that operated in American Samoa at the time closed for good.

The current proposal would further expand the fisheries closures to include the entire U.S. EEZ around the remaining islands, shutting the U.S. fleet entirely out of waters under U.S. jurisdiction in these areas. Each of these actions, including the current proposal, has been advanced using the argument that the impact on the U.S. fishing industry is negligible. However, the cumulative effect of these and other actions has had a significant adverse impact on the American Samoa-based purse seine fleet.

As a prime example of this, the Administration, under a separate action, is seeking to divide what is currently a combined level of fishing effort by the U.S. fleet, for the high seas and the U.S. EEZ, into two separate limits that would have further significant impacts on the viability of the fleet. To explain further, the United States is a member of the Western and Central Pacific Fisheries Commission (WCPFC), a treaty-based organization that manages the international fisheries throughout the region. The WCPFC conservation measure for tropical tunas establishes a limit for the U.S. purse seine fleet of 1,270 fishing days on the high seas, and a limit of 558 days for the U.S. EEZ. Historically, the United States has implemented these two limits as a single combined limit of 1,828 fishing days, which can be fished by the fleet either on the high seas or in the U.S. EEZ. Because some WCPFC members have complained about this, the Administration is now proposing to split the single combined limit into two separate limits. (It is important to note that the objections of certain WCPFC members have no scientific or conservation rationale; they simply want to limit the fishing days available to the U.S. fleet, thus forcing the fleet to pay exorbitant fees to fish in waters under their jurisdiction.)

In combination, these actions would have the effect of taking 558 fishing days and requiring that they *only* be fished in the U.S. EEZ, while simultaneously closing the entirety of the EEZ to fishing. This illogical series of events would be a devastating blow to the fleet by any measure.

Statements pointing to the current level of fishing effort in the U.S. EEZ miss the point entirely. First, the level of effort reflects the fact that most of the EEZ is *already* closed to fishing. However, under the split quotas for the high seas and U.S. EEZ, vessels fishing in the area will have to utilize the days in the U.S. EEZ or pay up to \$13,000 per day to fish in waters under the jurisdiction of certain Pacific Island States. Ironically, some of these waters are immediately adjacent to the U.S. EEZ that is or would be closed to the U.S. fleet.

Under a worst-case scenario, if the fleet had to pay for \$13,000 per day for 558 fishing days no longer available, either on the high seas or in the U.S. EEZ, the total cost would be over \$7.2 million dollars. Even at the current “low” level of fishing effort, 143 days as recently as 2020, the loss to the fleet would be \$1.9 million dollars. Anyone arguing that impacts within this range would be “negligible” has never tried to a run business that historically operates at razor thin margins.

Further, the closure of the remaining portions of the U.S. EEZ and the complete loss of 558 fishing days would mean the fleet would have little option but to shift operations to the east, significantly further away from American Samoa, into the area governed by the Inter-American Tropical Tuna Commission (IATTC) where such limits do not apply. Less of this fish would then be landed back in American Samoa, further constraining the supply of fish to the cannery there. Canneries in Mexico and Ecuador would be the beneficiaries, to the detriment of U.S. interests.

### **Fishing Prohibition is Unnecessary to Protect Fragile Ecosystems**

The Nominating Document makes a strong case for protection of resources such as the “nearshore environment” including “pristine coral reefs,” “reef fish populations,” “sea bird nesting colonies,” as well as “open ocean seamounts,” “deep-sea corals,” and the “important spawning grounds and biodiversity hotspots” provided by many seamounts in the U.S. EEZ.



In this regard, the Nominating Document itself states clearly:

*“Specifically, protection of the deep-water ecosystems, reefs, and open-ocean seamounts of the proposed [sanctuary] is likely the most important part of this nomination.”*

The existing commercial fisheries in the region occur offshore in the open ocean (at least 50 NM from land) and have no interaction with or impact on the resources in the nearshore environment, coral reefs, oceanic seamounts, or other ecosystems and habitats needing protection. The fisheries are highly regulated and monitored to ensure strict adherence to requirements and procedures to minimize interactions with marine mammals, sharks, rays, sea turtles, sea birds, and other marine fauna.

### **Current Boundaries are the Result of a 2014 Compromise that must be Respected**

When President Obama sought in 2014 to expand the boundaries of the Pacific Remote Islands Marine National Monument, the original proposal was to include all of the waters of the U.S. EEZ, in the same way as the current proposal. Representatives of the fishing industry and the Western Pacific Fisheries Management Council met at the White House with then Chief of Staff John Podesta to voice many of the concerns expressed here and by other industry sectors with respect to the current proposal. The result of that discussion was a compromise that provided for the expansion of the monument to include the entire EEZ around Wake Island, Johnson Atoll, and Jarvis Island, while leaving the previous boundaries intact around the remaining islands.

As noted previously, the loss of Jarvis Island, in particular, was a huge blow to the purse seine fishery, as it lies within the archipelago of the Line Islands, among the richest tuna fishing grounds in the Pacific. The EEZ around Jarvis Island is immediately adjacent to the EEZ of the Republic of Kiribati, where U.S. vessels must pay \$13,000 per day for access. Kiribati also provides access to other fleets, including from China, Korea, Taiwan, and elsewhere. These fleets operate at nothing close to the level of regulatory oversight and enforcement of both national and international requirements that apply to the U.S. fleet.

The proponents of the Sanctuary are now seeking to overturn that compromise by once again seeking to ban all commercial fishing within the U.S. EEZ. We urge the Administration to honor in good faith the agreement reached in 2014.

### **The Science does not Support Large Scale Open Ocean MPAs**

Although the Nomination Document makes a strong case for additional protection for nearshore habitats, coral reefs, oceanic seamounts, deep-sea corals, and other fragile habitats, the case for highly migratory species in the open ocean does not hold up. At least two recent papers by highly respected scientific authorities (Hilborn, et al., 2022, and Hampton, et al., 2023) conclude that large, open ocean marine protected areas (MPAs) have little tangible benefit for the resources being managed.

A supplementary paper, from the school of fisheries at the University of Washington, cites the clear benefits from inshore and nearshore MPAs, but goes on to say,

*“Large, open ocean MPAs are designed to protect huge swaths of open ocean, but are a poor choice for efficiently and effectively managing fisheries. . . . From a fishery management perspective, [such MPAs] are unnecessary: already, most tuna and billfish stocks are sustainably managed by international organizations called regional fishery management organizations (RFMOs) and a large majority of tuna and billfish stocks are already biologically sustainable.”*

Among the highly migratory fish stocks known to be healthy and fished on a sustainable basis are all of the stocks of tuna fished by the American Samoa-based tuna purse seine fleet.

The same paper notes:

*“Because of their size and scale, [large, open ocean MPAs] garner lots of splashy headlines and notoriety for the conservation organizations and politicians who implement them,”*

*but they “do nothing to alleviate” the “most pressing threats to biodiversity in the oceans” such as “climate change, ocean acidification, and land-based pollutants.”*

And finally, the paper notes that, by reducing the amount of fish caught, which has a much lower carbon footprint than land-based food sources, large, open ocean—

*“ . . . MPAs may actually contribute to climate change and ocean acidification.”*

Similarly, Hampton, et al, 2023 found, contrary to other studies using flawed methodology, that the establishment of the Phoenix Islands Protected Area (PIPA) in Kiribati, touted as the world’s largest MPA at the time it was established, had no measurable benefit for the tuna stocks in the region. (Kiribati has since abolished the PIPA and has allowed commercial fishing to again take place in much of this area, subject to specific limits and conditions.)

One analysis of the paper notes:

*“The study . . . is the first quantitative assessment of a no-take marine protected area (MPA) on tropical tuna and has implications for many of the world’s largest MPAs.”*

And further, that:

*“The authors of Hampton et al. 2023 are a veritable Who’s Who of the Pacific tuna research community. Several of the researchers work for the Pacific Community (SPC), an intergovernmental organization of 27 Pacific countries and territories tasked with managing collective resources. They are responsible for performing stock assessments on each Pacific tuna species—no other organization has a better grasp of the state of Pacific tuna than they do. Authors also include a member of Kiribati’s Ministry of Fisheries and Marine Resources Development.”*

#### **Another Step in the United States Ceding the Pacific to China**

The activities of the American Samoa-based fleet provide a critical counterbalance to China’s growing influence across the region. China has focused strategically on developing direct commercial ties with several Pacific Island States through investments in the fisheries sector, both through the activities of its vessels as well as shoreside investments. China understands that building commercial and industry ties is the single most important vector for political and economic engagement. As a result, maintaining a viable American Samoa-based purse seine fleet operating in the Pacific Ocean contributes not only to the United States and American Samoa economy, but to regional food security, national security, and other vital national interests. The fleet also operates as several additional sets of “eyes and ears” across vast reaches of the Western and Central Pacific Ocean.

And yet, the American Samoa-based fleet faces a number of challenges that risk further significant reductions in the number of vessels operating in the region. The fleet operates on an increasingly uneven playing field with respect to its international competitors, in particular China. China and other flag states are able to exempt their vessels from a range of international regulatory requirements by reflagging or entering into charter arrangements with Pacific Island States who themselves are exempt from these requirements. And yet, although the underlying Convention requires that “Participating Territories” such as American Samoa be afforded the same treatment as the Pacific Island States, the American Samoa-based fleet is not afforded the same treatment, creating a vastly disproportionate burden on the American Samoa economy.

It is often said, because it is undeniably true, that fisheries are as central to the politics of the Pacific as oil is to the Middle East. Unless the United States is prepared to withdraw completely from engagement with the Pacific Island States on these strategically important fisheries issues, thus contributing to China’s growing dominance in the Pacific, these trends affecting the American Samoa-based fleet must be addressed and reversed, and soon.

#### **ATA Vessels are Supporting a Number of Conservation Efforts**

ATA member vessels are currently engaged in range of activities to address potential impacts of fishing activity on the marine environment. First, in a joint project with the International Seafood Sustainability Foundation (ISSF), ATA vessels are working develop new gear and techniques to reduce the impacts on shark and rays caught incidental to fishing operations. This includes testing prototype sorting grids to allow large animals to be returned to the water without harm; tagging animals to better determine their post-release survival rates and migratory patterns; and genetic sampling to assist with species identification, stock structure and population dynamics.

In a second project, jointly with ISSF and the Secretariat of the Pacific Community (SPC), ATA vessels are testing designs for biodegradable fish aggregating devices (FADs) to reduce the impacts of FADs that are lost and persist in the marine environment. Testing at sea by experienced fishing crews is critical to enhancing and improving the design of these devices to ensure they meet their intended purpose.

Finally, ATA vessels are working with The Nature Conservancy on a project to track FADs that drift into the nearshore environment around Palmyra Atoll so that they can be removed by TNC participants. The success of this project has recently resulted in its expansion to include fishing fleets of other countries, and the potential expansion into waters around American Samoa and waters under the jurisdiction of other Pacific Island States.

### Summary

A prohibition of commercial fishing throughout any Pacific Remote Islands marine sanctuary, in combination with other current and pending actions, would further undermine the viability of the American Samoa-based purse seine fleet and the tuna dependent economy of American Samoa, while yielding little to no conservation benefit for the living marine resources in the open ocean from fifty to two hundred miles offshore. Fish not caught within the U.S. EEZ will eventually move to the high seas where they will be caught by vessels from China, Taiwan, Korea and other flag States and entities. Thus, the benefits of the sacrifice by U.S. fleet will accrue to these other parties, at the expense of U.S. interests.

Therefore, as stated at the outset, ATA urges NOAA to establish a management plan for any Pacific Remote Islands sanctuary that does not further restrict commercial fishing in areas where such activity is not already prohibited. We welcome an opportunity to participate in the discussions and deliberations as the process for establishing any marine sanctuary moves forward.

Thank you for your consideration of these comments.

Sincerely,

WILLIAM GIBBONS-FLY,  
*Executive Director*

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## IMPACTS OF MARINE NATIONAL MONUMENT FISHING PROHIBITIONS ON US FISHERIES MANAGED UNDER THE WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

**Pacific Marine Monuments Comprise 26% (892,241 square nautical miles) of  
Federal U.S. Exclusive Economic Zone<sup>1</sup> and 90% of the America the  
Beautiful '30 by 30' Goal<sup>2</sup>**

**Marine Monuments Comprise 53% of the US EEZ in the US Pacific Islands  
Region<sup>3</sup>**

**61% of the US EEZ Around the Hawaii Archipelago is Closed to Commercial  
Fishing due to Monument Designation**

### IMPACTS

- Monument regulations prohibit commercial fishing for key US tuna fisheries (US purse seine fleet, Hawaii longline, American Samoa longline)
  - NWHI monument expansion area produced on average around 10% of the catch harvested by the Hawaii longline fishery
  - PRIA monument eliminated fishing grounds for the Hawaii longline fishery that comprised over 12% of the fishery's landings

<sup>1</sup>All Marine National Monuments have been designated by Presidential Proclamations issued under the Antiquities Act of 1906. The United States has the second largest EEZ at more than 4.3 million square miles.

<sup>2</sup>U.S. Department of Interior Report. Conserving and Restoring America The Beautiful, 2021

<sup>3</sup>The US Pacific Islands region includes: Hawaii, American Samoa, Guam, Northern Mariana Islands, Pacific Remote Island Areas (Wake, Johnston, Palmyra, Howland, Baker, Jarvis Islands, Kingman Reef)

- PRIA monument closed fishing grounds to US purse seine that historically delivered tuna local canneries in American Samoa
  - One of American Samoa's two canneries ceased operations in December 2016 as a result of reduced supply of US caught tuna
  - 5,500 jobs in American Samoa supported by fishing, of a workforce of 18,000
- Rose Atoll monument reduced fishing grounds in US waters around American Samoa, resulting in annual loss of \$237,000 of fish to the American Samoa longline fleet
- Displaced fishing increases trip costs and poses greater safety at sea risks
- Disproportionate burden of a '30 by 30' goal carried by underserved Pacific Island communities

**MONUMENT FISHING PROHIBITIONS WEAKEN U.S. FISHERIES, INCREASE IMPORTS AND JEOPARDIZE U.S. FOOD AND NATIONAL SECURITY**

- Monuments displace U.S. fishing fleets to international waters where they must fish alongside and compete with foreign fishing fleets
  - Longline vessels from China, Taiwan, Korea, and Japan are regularly observed fishing the border of the US EEZ around the Hawaii Archipelago and the US Pacific Remote Islands.
- China continues to build up its longline fleet in the WCPO, which was at around 100 vessels in 2007 to now over 480 longline vessels, catching approximately 45,000 mt of tuna annually
  - In comparison, the Hawaii longline fishery consists of 145 vessels catching nearly 8,000 mt of tuna
- Deterrence of foreign fishing fleet encroachment in the U.S. EEZ is compromised when U.S. commercial fishing vessels are removed from a quarter of the U.S. EEZ now designated as monuments
- Monuments weaken key US tuna fisheries which in turn impacts national food security
  - 90% of seafood consumed in the US is imported from foreign sources, of which 30% is estimated to be from Illegal, Unregulated, and Unreported fisheries.
- Displaced U.S. commercial fishing vessels could also concentrate effort and increase potential gear conflicts in the reduced areas of fishable U.S. waters that are also fished by recreational and small boat fishermen
- The United States is losing influence in the international fisheries management organizations such as the Western and Central Pacific Commission due weakened US fisheries and impacts exacerbated with the loss of US fishing grounds as result of monument designations.

**MONUMENT FISHING REGULATIONS CAUSE REGULATORY DUPLICATION AND LACK CONSERVATION BENEFITS**

- NWHI monument was an overlay of the Protected Species Zone established under the MSA
- PRI monument overlay the 0 to 300-foot depth no-take and low-take zones established under the MSA and 0 to 3 mile refuges established by the U.S. Fish & Wildlife Service in many of the islands
- Rose Atoll monument overlay the Large Vessel Prohibited Area established under the MSA
- Marianas Trench monument's Islands Unit overlay the Commonwealth of the Northern Mariana Islands' conservation zone
- All coral reef, deep-reef slope, and pelagic ecosystems in federal waters were subject to comprehensive fishery ecosystem management regulations established under the MSA prior to monument designation
- Monuments and other large-scale static marine protected areas DO NOT provide more effective conservation benefits to marine resources, especially

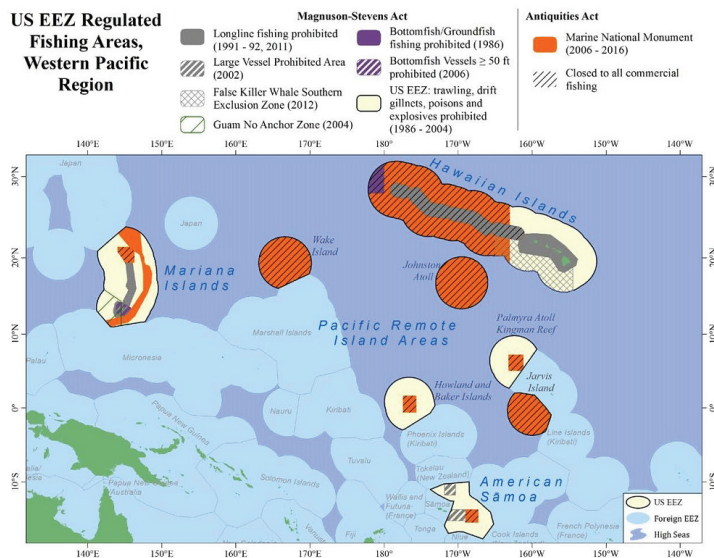
for highly mobile species<sup>4,5</sup> such as tunas, billfish and sharks versus other fishery management tools<sup>6</sup>

#### UNITED NATIONS CONVENTION ON PROTECTING HIGH SEAS BIOLOGICAL DIVERSITY

- Legally binding framework, Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction established in 2023
  - UN Convention on Biological Diversity goal to conserve 30% of lands and waters by 2030
- Proponents are calling for Marine Protected Areas in 30% of the high seas, which if implemented in high seas areas fished by US fleets in the Pacific Ocean, in combination with Marine National Monument prohibitions, these hugely important fleets would be decimated and left with nowhere to fish

#### NO PUBLIC PROCESS, TRANSPARENCY OR ADAPTIVE MANAGEMENT OPPORTUNITIES

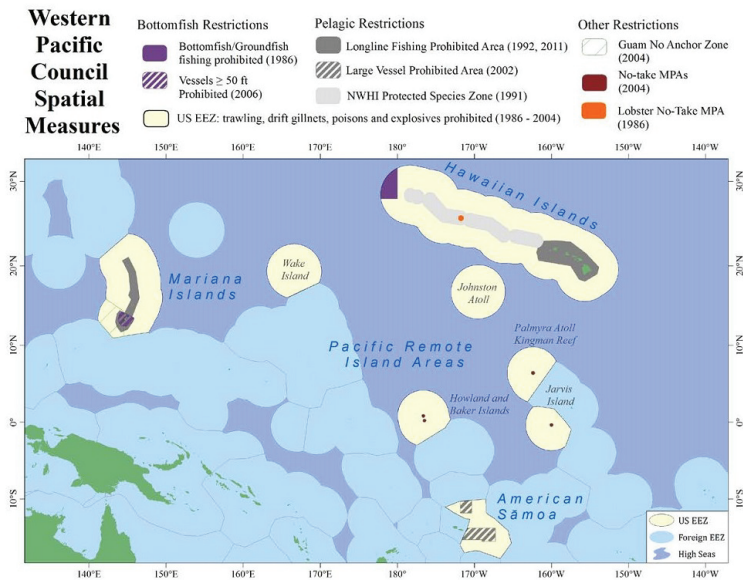
- Monuments are established under the Antiquities Act of 1906, with Presidential Proclamations and directives to various agencies to implement regulations under their respective authorities. The National Environmental Protection Act and the Administrative Procedures Act are not required in the designation of monuments nor is the requirement is to utilize the best scientific information available



<sup>4</sup>Hampton J., et al. 2023. Limited conservation efficacy of large-scale marine protected areas for Pacific skipjack and bigeye tunas. *Front. Mar. Sci.* 9:1060943. doi: 10.3389/fmars.2022.1060943

<sup>5</sup>Gilman, E., et al. 2020. Ecological responses to blue water MPAs. *PLoS ONE*. 15. e0235129. 10.1371/journal.pone.0235129.

<sup>6</sup>Pons, M., et al. 2022. Trade-offs between bycatch and target catches in static versus dynamic fishery closures. *Proceedings of the National Academy of Sciences*, 119 (4).



QUESTIONS SUBMITTED FOR THE RECORD TO MR. GIBBONS-FLY

**Questions Submitted by Representative Radewagen**

*Question 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?*

Answer. 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.

*Question 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?*

Answer. 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 long-standing 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.

*Question 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?*

Answer. 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.

*Question 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?*

Answer. 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 lopsided 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.

*Question 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?*

Answer. 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 Submitted by Representative Case

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

*1a) 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?*

Answer. 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.

*1b) Are the vessels primarily crewed by U.S. nationals or foreign workers?*

Answer. 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.

*Question 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.*

Answer. 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.

*2a) 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?*

Answer. 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.)

*2b) 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?*

Answer. 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.

*2c) 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?*



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

*2d) 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?*

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

*2e) What percentage of tuna processed by the Starkist Cannery in American Samoa is caught by U.S. flagged ships?*

Answer. 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.

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

*3a) How do vessel owners decide where to land their catch?*

Answer. 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.

*3b) 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?*

Answer. 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.

*3c) What other ports does the U.S. Purse Seine fleet land its catch at?*

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

*3d) Are there other major ports in the Pacific or in Asia that purchase significant quantities of tuna?*

Answer. 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.

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Dr. GOSAR. Thank you very much, Mr. Gibbons-Fly. I now recognize Ms. Kargi for 5 minutes.

You are recognized.

**STATEMENT OF FLORENCE KARGI, REGIONAL AFFAIRS MANAGER, COASTAL VILLAGES REGION FUND, ANCHORAGE, ALASKA**

Ms. KARGI. Mr. Chairman, members of the Subcommittee, my name is Florence Kargi. I am the Regional Affairs Manager for Coastal Villages Region Fund, which is one of six non-profit CDQ groups.

The Western Alaska Community Development Quota Program gives Bering Sea villages a chance to invest in the fishing industry and use those earnings for economic development and related programs. Congress added CDQ to the Magnuson-Stevens Act in 1996. There are 65 villages with nearly 30,000 residents in the CDQ program. CVRF is the largest of the six groups. We serve more than 9,000 residents in 20 villages, including my hometown of Hooper Bay.

Growing up in western Alaska was hard. We had no running water in our home. We hauled water for washing dishes and filling the Danby washer. Our toilet was a honey bucket, a 5-gallon bucket with a plastic bag and a toilet seat on top. When I was 12, I got to empty the honey bucket along with my other chores. I

thought this was normal. Even today, only six of CVRF's 20 villages have piped water and sewer systems. However, CVRF was recently able to help one of our villages, Tununak, qualify for Federal and state investment in a water system.

As a middle schooler, I looked up to high schoolers in our village as role models. Unfortunately, the youth suicide rate in our region was many times higher than the national average. Again, I thought this was normal. Later, I realized I wanted something different for myself. CVRF gave me hope. I applied for and received a college scholarship in 2009, and began working there full-time in 2013. Today, CVRF employs hundreds of teenagers during the summer. We keep them active and engaged, learning new job skills and maintaining Alaska Native cultural activities.

I am so grateful for the leaders from our region who fought to create CDQ. Harold Sparck and others like Louis Bunyan and Joe Paniyak, who didn't even speak English well, they showed up at government meetings and convinced stakeholders to support this important program. Thanks to them, CVRF owns and operates its own vessels in the Bering Sea. We sell seafood around the globe, earning \$75 to \$90 million in revenue, and \$12 to \$15 million for our benefits programs.

CVRF offers many different benefits. We help our residents acquire and maintain equipment like ATVs, snow machines, and small boats for commercial fishing and subsistence use. We run mechanic and welder shops in our villages, and we even provide warranty repairs on some Honda products. We also provide fuel oil to heat homes in late winter, when people start to run out.

We partnered with BIA and USDA on a housing program that convinced banks to offer mortgages in our communities. And we buy salmon from different parts of Alaska for people who live in villages where salmon runs are struggling. We believe CVRF is the largest private-sector employer across our region.

The six CDQ groups all have different benefits programs that fit their regions, but we all get our resources from the Bering Sea. CDQ depends on a healthy fishing industry and sustainable fisheries management under the Magnuson-Stevens Act.

The proposed Pribilof Island Sanctuary in the Bering Sea threatens sustainable fisheries management and the CDQ program. It would let a single tribe with less than 400 people overrule the North Pacific Fishery Management Council inside the sanctuary. But there are 64 other CDQ communities and nearly 30,000 people who benefit from the CDQ program.

Every CDQ community has a tribe, and almost every resident is a tribal member. We struggle with extreme poverty, lack of infrastructure, and climate change. CDQ is one of the few bright spots helping address these challenges.

CVRF and three other CDQ groups representing a strong majority of CDQ communities and residents are on record opposing the sanctuary. We urge NOAA to support the CDQ program and not designate a sanctuary in the Bering Sea.

[Speaking Native language.] Thank you.

[The prepared statement of Ms. Kargi follows:]

PREPARED STATEMENT OF FLORENCE KARGI, REGIONAL AFFAIRS MANAGER, COASTAL VILLAGES REGION FUND

Mr. Chairman, Members of the Subcommittee, my name is Florence Kargi. I am the Regional Affairs Manager for Coastal Villages Region Fund (CVRF).

The Western Alaska Community Development Quota program (CDQ) gives Bering Sea villages a chance to invest in the fishing industry and use those earnings for economic development and related programs. Congress added the CDQ program to the Magnuson-Stevens Act in 1996.

Sixty-five villages with nearly 30,000 residents participate in the CDQ program through six non-profit CDQ Groups. CVRF is the largest of the six groups. We serve more than 9000 residents in 20 villages, including my hometown of Hooper Bay.

Growing up in western Alaska was hard. We had no running water in our home. We carried in water for washing dishes and filling the Danby Washer. Our toilet was a honey bucket—a 5-gallon bucket with a plastic bag inside and a toilet seat on top. When I turned 12, I got to empty the honey bucket outside along with my other chores. I thought this was normal in America.

Even today, only six of CVRF's 20 villages have piped water and sewer systems. However, CVRF was recently able to help one of our villages—Tununak—qualify for federal and state investment in a water system. We were able to demonstrate enough economic activity in the community to make the metrics work and justify this investment.

As a middle schooler, I looked up to the high schoolers in our village as role models. Unfortunately, the youth suicide rate in our region was many times higher than the national average. We were losing young people at an alarming rate. Again, I thought this was normal. Later, I realized I wanted something different for myself. CVRF gave me hope. I applied for and received a college scholarship in 2009 and began working there full time in 2013.

Today, CVRF employs hundreds of teenagers in our villages during the summer. We keep them active and engaged, learning job skills and Alaska Native cultural activities. We try to make a difference by addressing issues in our communities in ways that government programs often can't do.

I am so grateful for the leaders from our region who fought to create CDQ. Men like Harold Sparck, Louis Bunyan, Joe Paniyak, and others who didn't even speak English well showed up at government meetings and convinced stakeholders to support this important program. Today, thanks to them, CVRF owns and operates its own vessels in the Bering Sea. We sell seafood around the globe, earning \$75–\$90 million in revenue and \$8–\$10 million for our benefits programs every year.

CVRF offers many different benefits programs. We help our residents acquire and maintain equipment like ATVs, snowmachines (snowmobiles), skiffs, and outboard motors for commercial fishing and subsistence use.

We run mechanic/welder shops in our villages and we even provide warranty repairs on some Honda products. We also provide fuel oil to heat homes in late winter when people start to run out.

We have partnered with BIA and USDA on a housing program that included banks offering mortgages in our villages. And we buy salmon from other parts of Alaska for villages where the salmon runs are struggling.

We believe CVRF is the largest private sector employer in our villages.

The six CDQ groups all have different benefits programs that fit their regions. But we all get our resources from the Bering Sea.

CDQ depends on a healthy fishing industry and sustainable fisheries management under the Magnuson-Stevens Act.

The proposed Pribilof Islands Marine Sanctuary in the Bering Sea threatens sustainable fisheries management and the CDQ program. A single tribe in a village of less than 400 people could over-rule the North Pacific Fishery Management Council inside the proposed sanctuary. This is because the National Marine Sanctuaries Act says fishery management council decisions and even the National Standards in the Magnuson-Stevens Act will not apply if they are inconsistent with the goals and objectives of the sanctuary.

There are 65 CDQ villages and nearly 30,000 people who benefit from the CDQ program. Every CDQ village has a tribe and almost every resident is a Tribal Member. We struggle with extreme poverty, lack of infrastructure, and climate change. CDQ is one of the few bright spots helping address these challenges.

CVRF and three other CDQ groups, representing a strong majority of CDQ villages and residents, are on record opposing the proposed Pribilof Islands sanctuary. We urge NOAA to support the CDQ program and not designate a sanctuary in the Bering Sea.

Dr. GOSAR. Thank you very much, Ms. Kargi. I now recognize Mr. Aila for 5 minutes.

**STATEMENT OF WILLIAM JOHNSON AILA, NATIVE HAWAIIAN FISHERMAN, WAIANAE, HAWAII**

Mr. AILA. Hello and good morning, Chairman Gosar, Ranking Member Stansbury, Member Case from Hawaii, and distinguished Subcommittee members. Thank you for the opportunity to join you today to express my support for Marine Protected Areas.

You have my written comments and introduction. However, I want to share some additional comments on who I am. I am a son, I am a grandson, I am a great grandson. I am a father, a grandfather, and a great grandfather. I say that for context because it is these generational connections that lead me in my decision-making and in my advocacy.

I have been a member of the Western Pacific Fisheries Advisory Councils for many, many, many years, serving on the advisory panel for bottomfish, pelagics, ecosystem management, and Native Hawaiians, and have been advocating for the protection of biocultural resources for more than half a century. I have the white hair to prove that.

The Antiquities Act, the Marine Sanctuaries Act, and the Magnuson-Stevens Act are all tools, as stated earlier by Representative Stansbury.

I wish, if I could, have your comments included in the record as mine.

When one tool doesn't work, you apply another tool. So, having had all that experience with the Western Pacific Fisheries Management Council, watching them mismanage the lobster fishery, its collapse, mismanaging the bottomfishery to its near collapse, not listening to the citizens that it is supposed to listen to, you use another tool. So, the Antiquities Act and the Marine Sanctuaries Act were requested by citizens, I have never heard citizens mentioned today. All of these Acts, all of these management systems are based upon input and request, and the desire by citizens to make sure that resources are protected in perpetuity.

Also watching the Western Pacific Fisheries Management ignore simple suggestions from fishermen when dealing with interactions with endangered species. The simple application of a tuna circle hook by longliners would have prevented the killing of thousands of sea turtles, seabirds, and mammals. It took many years for other groups to sue the Western Pacific Fisheries Management Council in court before the longliners were forced to utilize the suggestion of the advisory panel fishermen. Just ask fishermen. They know what is going on.

It is citizens that have asked the government to create the Pacific Remote Islands Marine National Monument. It is citizens that have advocated for and created the Papahānaumokuākea Marine Monument that protects ecosystems on a large-scale basis. Magnuson has its limitations on management.

Pacific-wide, large-scale Marine Protected Areas work. I am not alone in recognizing the benefits of MPAs. More than 80 percent of Americans, regardless of demographics, regardless of political

party, or geographic location believe that we should do more to protect the ocean, ensure that activities do not harm the environment.

Because 5 minutes goes by really fast, as a Native Hawaiian, there is an ancient cultural mandate to conserve, and it has served us well. Preserving biocultural resources is the responsibility that is passed on from one generation to another.

The Magnuson is not bad, the Antiquities Act is not bad, sanctuaries are not bad. It is the misapplication of these tools that create problems. So, I would just urge the Committee to consider all of the tools, to consider the opportunity for citizens to help advise you, and request for you to apply the appropriate tool to each area, and that no Marine Protected Area is the same, and that citizens can ask for their representation in each MPA.

Thank you very much for the opportunity to testify.

[The prepared statement of Mr. Aila follows:]

PREPARED STATEMENT OF WILLIAM J. AILA, JR., NATIVE HAWAIIAN FISHERMAN

### **Introduction**

Aloha and good morning, Chairman Gosar, Ranking Member Stansbury, and distinguished subcommittee members. Thank you for the opportunity to join you today to express my support for marine protected areas (MPAs).

I am a Native Hawaiian fisherman who has fished commercially, recreationally, and for cultural/religious ceremonies; a public servant who has held leadership positions at the Hawai'i State Department of Land and Natural Resources and the Hawai'i Department of Hawaiian Homelands; a member of the Pacific Remote Islands (PRI) Coalition; and a longtime supporter of MPAs in the Pacific. I have served on the Papahānaumokuākea Marine National Monument (PMNM) advisory committee for more than 20 years, and was Chairman for half of that time. I am also a founding member of the Native Hawaiian Cultural Working Group, serving as its First Chair. The working group provides advice to the state of Hawai'i, Office of Hawaiian Affairs, and the PMNM Advisory Committee. I have been fortunate to spend most of my life living on the Waianae Coast on Oahu, engaging in cultural, personal, and professional activities related to the ocean.

In my various roles within my community and with the government, I have come to understand the importance of MPAs in providing economic benefits to communities, while protecting our precious ocean resources. This protection honors our ancestors and recognizes our stewardship obligations for future generations.

There is much about the Marine Sanctuary and Monument System that we could discuss in this hearing, but I have focused my remarks on the economic, scientific, and cultural facts. These facts clearly demonstrate the increased access to ocean resources that monuments and sanctuaries provide, as well as the unequivocal value of MPAs for the prosperity of people and places across the United States.

### **Overall Value of Marine Protected Areas**

Billions of people worldwide depend on our ocean economically, ecologically, and culturally. Americans in particular care deeply about the ocean and its health. Regardless of demographics, political party, or geographic location, more than 80% believe we should do more to protect the ocean and ensure activities do not harm ocean life.<sup>1</sup> In addition to preserving specific areas, habitats, or resources in the marine environment, MPAs are a proven tool to support the sustainability of ocean fisheries and all who depend on them.

<sup>1</sup>Nat'l. Marine Sanctuary Found., Ocean Protection in the United States: Exploring the Public's Thoughts, NORC at the Univ. of Chicago (Sept. 2022), <https://marinesanc.wpenginepowered.com/wp-content/uploads/2022/09/National-Marine-Sanctuary-Foundation-Survey-Report-FINAL-1.pdf>.

### Economic Value of Marine Protected Areas

The United States exclusive economic zone is the largest in the world, encompassing over 13,000 miles of coastline and 3.4 million square nautical miles of ocean—greater than the land area of all fifty states combined.<sup>2</sup> Marine protected areas can provide economic benefits through tourism, fishing, biodiversity protection, and a range of ecosystem services (e.g., climate mitigation). In 2021, the market-based marine economy accounted for \$432.4 billion of United States gross domestic product. Tourism and recreation accounted for the most significant portion—\$231.8 billion—of the gross output, a 27.3 percent increase from the 2020 gross output. According to the office of National Marine Sanctuaries, about \$8 billion annually is generated in local economies from diverse activities, jobs, and businesses in the commercial fishing, research, and tourism/recreation sectors across all National Marine Sanctuaries.<sup>3</sup>

Despite clear economic benefits of MPAs, fishing communities often fear short-term income losses associated with area closures, and thus may oppose MPAs. However, studies have shown that the value of a fully protected<sup>4</sup> MPA (as measured by increased tourism and fishing in adjacent areas) often exceeds the pre-protection value, and that economic benefits can offset the costs in as little as five years.<sup>5</sup>

Specifically, in areas with high fishing effort, protected areas have been found to provide fishery benefits and subsequent revenue gain. For example, a recent study from PMNM showed a “spillover effect”<sup>6</sup> occurring outside of the MPA. Catch rates of yellowfin and bigeye tuna increased by 54% and 12% just outside of the monument’s boundaries, respectively, benefiting the ecosystem and commercial fishermen as well.<sup>7</sup> In California, a 35% reduction in fishing area resulting from MPA designation was compensated for by a 225% increase in total catch after six years.<sup>8</sup> These examples are not limited to the United States. In the Galápagos Marine Reserve, findings showed that protection positively impacted the productivity of yellowfin and skipjack tuna fisheries. Together, these data demonstrate that large MPAs can benefit both slow moving and highly migratory species, and that the trade-off of fishing ground for no-fishing zones can benefit the fishery.

At the *ahupua’a*, or village level, it is hard to comprehend large scale commercial fisheries because the intent of the local fishermen is to feed his family and the village. With that mindset, sustainable fishing is the custom or rule—do not take more than your village needs. I heard this from several elder Samoan fishermen during the PRI scoping session in American Samoa. I have also heard them state that since the development of the purse seine fishery, their catch rates, and thus their ability to feed the village, have declined. In the many one on one meetings with Samoans from different villages, once the distance of more than 1,000 miles to the proposed sanctuary was understood, they all indicated that the proposed sanctuary would not impact their cultural practices.

A similar situation occurred in the 1990s in Hawai’i when there was a large influx of longline fishing vessels to territorial waters. The pelagic species fisheries have improved recently due to new regulations that separated the longline fleet from the local fishermen by moving the longlines out to beyond 70 miles from shore. There was a lot of talk that the longline fishery would collapse, but it did not. The expansion of the boundaries of PMNM brought the same cries from longliners, but they continue to fill their annual quotas, including the quotas that they purchased from American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. Longline fishing near the new boundary in PMNM has resulted in an increase in yellowfin tuna catch, indicating that the protected area works.

<sup>2</sup>Office of General Counsel, *Map of the U.S. Exclusive Economic Zone*, Nat’l Oceanic and Atmospheric Admin., [https://www.gc.noaa.gov/documents/2011/012711\\_gcil\\_maritime\\_eez\\_map.pdf](https://www.gc.noaa.gov/documents/2011/012711_gcil_maritime_eez_map.pdf) (last visited Sept. 18, 2023).

<sup>3</sup>*National Marine Sanctuaries and Local Economies*, Nat’l Oceanic and Atmospheric Admin., <https://sanctuaries.noaa.gov/science/socioeconomic/factsheets/welcome.html> (last visited Sept. 18, 2023).

<sup>4</sup>*Using the MPA Guide*, Protected Planet, <https://mpa-guide.protectedplanet.net/UsingTheMPAGuide2pp.pdf> (last visited Sept. 18, 2023).

<sup>5</sup>Enric Sala et al., *A General Business Model for Marine Reserves*, 8:4 PLOS ONE (2013), <https://doi.org/10.1371/journal.pone.0058799>.

<sup>6</sup>A “spillover effect” occurs when the population of a particular species inside a protected area becomes so abundant that it “spills over” the protected area boundaries and can be targeted by fishermen.

<sup>7</sup>Sarah Medoff et al., *Spillover benefits from the world’s largest fully protected MPA*, Science (Oct. 20, 2022), <https://www.science.org/doi/10.1126/science.abn0098>.

<sup>8</sup>Hunter S. Lenihan et al., *Evidence that spillover from Marine Protected Areas benefits the spiny lobster (*Panulirus interruptus*) fishery in southern California*, 11 Scientific Reports (2021), <https://doi.org/10.1038/s41598-021-82371-5>.

### Scientific Value of Marine Protected Areas

Marine protected areas provide many biological and ecological benefits. A meta-analysis on 124 marine reserves in 29 countries showed that, on average, marine reserves cause increases of 21% in the number of species, 28% in the size of organisms, 166% in number of individuals per unit area, and 446% in biomass, relative to unprotected areas nearby.<sup>9</sup> In predatory fish, biomass increases can be even greater than the average values,<sup>10-12</sup> rehabilitating a degraded state typical of intensely fished sites and enhancing ecosystem resilience by promoting the recovery of populations of functionally important species. While some pelagic predator species found in these areas appear to be at a fraction of their historical norms, likely due to regional fishing pressure (e.g., yellowfin tuna, oceanic whitetip, and bigeye tuna), other parts of the predator community are still relatively intact with high biomass of top predators, especially reef sharks and some tuna species (e.g., skipjack).<sup>13,14</sup> The PRI are providing critical information on baseline functioning of reef and pelagic systems with robust predator communities.

Fisheries benefit from protected areas when they help replenish nearby habitats through spillover of adult organisms and dispersal of larvae.<sup>15</sup> By providing a safe haven for organisms to reach maximum size and reproductive output,<sup>16,17</sup> protected areas actually contribute to increasing seafood supply while simultaneously achieving many other benefits (e.g., habitat protection and climate resilience). In fact, fishermen's behaviors are changing to demonstrate MPAs work. Historically, the waters surrounding PRI were lightly fished by commercial fishers. Before 2014, the catch from these waters accounted for less than 5% of the longliners' total annual harvest according to Western Pacific Regional Fishery Management Council's 2013 annual report. Since the PRI boundaries were expanded in 2014, the longliners have exhausted their quota every year, and effectively zero percent of the Hawai'i longline fishing effort comes from the area. The area also accounts for less than 5% of effort and catch for the purse seine fleet. In four of the last six years, the area accounted for less than 0.5% of purse seine effort.<sup>18</sup>

MPAs offer a proven solution to rehabilitating declining populations and remediate adverse climate impacts. They can protect settings that store massive amounts of carbon; buffer coastlines and coastal communities from storm impacts; provide a refuge for resources that may be harmed by consequences of a changing climate; and, depending on their size and layout, protect species moving due to climate impacts. They can also protect some of the last healthy, remote ocean places on the planet. For example, the waters of the PRI are home to an array of threatened, endangered, and critically endangered species including sharks, rays, whales, seabirds, and turtles. The unprotected areas are home to 98 seamounts, which are known to be ecological hotspots with species never seen before. Protecting this area will safeguard swaths of open ocean ecosystems that are intricately connected to nearshore coral reefs and protect habitats for endangered and threatened species, such as sharks and birds, who travel far beyond the current boundaries to breed,

<sup>9</sup>Sarah E. Lester et al., *Biological Effects Within No-Take Marine Reserves: A Global Synthesis*, 384 Marine Ecology Progress Series (2009), <https://doi.org/10.3354/meps08029>.

<sup>10</sup>Paolo Guidetti & Eric Sala, *Community-wide effects of marine reserves in the Mediterranean Sea*, 335 Marine Ecology Progress Series (2007), <https://www.int-res.com/abstracts/meps/v335/p43-56/>.

<sup>11</sup>Fiorenza Micheli et al., *Trajectories and Correlates of Community Change in No-Take Marine Reserves*, 14:6 Ecological Applications: Ecological Soc. of Am. (2004), <https://doi.org/10.1890/03-5260>.

<sup>12</sup>Garry R. Russ & Angel C. Alcala, *Marine reserves: long-term protection is required for full recovery of predatory fish populations*, 138 Oecologia (2004), <https://doi.org/10.1007/s00442-003-1456-4>.

<sup>13</sup>Stuart A. Sandin et al., *Baselines and Degradation of Coral Reefs in the Northern Line Islands*, 3:2 PLOS ONE (2008), <https://doi.org/10.1371/journal.pone.0001548>.

<sup>14</sup>Douglas J. McCauley et al., *On the prevalence and dynamics of inverted trophic pyramids and otherwise top-heavy communities*, 21:3 Ecology Letters (2018), <https://doi.org/10.1111/ele.12900>.

<sup>15</sup>Sarah E. Lester et al., *supra* note 9.

<sup>16</sup>Michelle J. Paddock & James A. Estes, *Kelp Forest Fish Populations in Marine Reserves and Adjacent Exploited Areas of Central California*, 10:3 Ecological Applications: Ecological Soc. of Am. (2000), [https://doi.org/10.1890/1051-0761\(2000\)010\[0855:KFFPIM\]2.0.CO;2](https://doi.org/10.1890/1051-0761(2000)010[0855:KFFPIM]2.0.CO;2).

<sup>17</sup>Trevor J. Willis et al., *Protection of exploited fish in temperate regions: high density and biomass of snapper *Pagrus auratus* (Sparidae) in northern New Zealand marine reserves*, 40:2 J. of Applied Ecology (2003), <https://doi.org/10.1046/j.1365-2664.2003.00775.x>.

<sup>18</sup>Environmental Markets Lab, *Analysis of historic fishing activity within the proposed National Marine Sanctuary for the Pacific Remote Islands*, University of California, Santa Barbara, [https://emlab.ucsb.edu/sites/default/files/documents/pri\\_proposed\\_sanctuary\\_report.pdf](https://emlab.ucsb.edu/sites/default/files/documents/pri_proposed_sanctuary_report.pdf), (last visited Sept. 18, 2023).



forage, and rest. This setting meets all 8 criteria for implementing an MPA: location; content (ecological, cultural, economic); size; remoteness; time; connections; compliance; and enforcement.

As climate change impacts continue to increase as a result of global warming, it becomes ever more critical to identify the locations best suited for adding to the Pacific inventory of MPAs. The expansion of the Western Pacific Warm Pool is pushing migratory pelagic fishes to the east, hence the PRI are ideally located to provide a suitable area for enhancement of these populations as the “principal” that will generate the reproductive output, or interest, that can be sustainably harvested by fishing the line.

### **Cultural Value of Marine Protected Areas**

As Native Hawaiians, there is an ancient cultural mandate to conserve and it has served us well. Preserving biocultural resources is a responsibility passed down from one generation to the next. Preventing overharvesting perpetuates culture by having fish, birds, and other species that show no fear of humans. This allows practitioners to observe their natural behavior and record this behavior in *oli* (prayers), *mele* (songs), and *hula* (dances). These cultural ways of passing on knowledge (i.e., the values that bind and maintain our culture) are inclusive of our relationship with the fish, birds, and other species that we relate to.

As Pacific Islanders, we all come from the same genealogy—one of care for people, place, and resources. It is because of this practice that we have been able to subsist from, and live in harmony with, our ocean. Historically, however, our communities have been excluded from conversations related to protection. Now, there is a growing awareness and desire for conservation in Pacific Islanders, likely caused by a resurgence of ocean voyaging. For centuries, remote ocean waters have been used for passage by Polynesians, Micronesians and possibly Melanesians who relied on the intact ecosystems for voyaging. To navigate wide expanses of open ocean, seafarers in the region had a deep and nuanced understanding of ocean currents, winds, skies, and wildlife. They used marine corridors to reach remote islands throughout the Pacific, including those of the PRI. As stopping points for resources, temporary shelter, and cultural practice, the PRI have a deep legacy of voyaging and the potential to perpetuate its practice into the future.

*Hökūle‘a*, the Polynesian voyaging canoe, is currently on a pacific-wide voyage to educate and collect examples of Indigenous resilience so that these examples may be shared with current and future generations. As part of this awakening, Pacific Islanders want to have a part in the management of their marine resources. Marine protected areas are a natural management tool because most island cultures have experience with resource protection and protected areas. It is a part of their cultural traditions. Resource management is critical so that future generations always have access to biocultural resources. And, sometimes it means that the current generation has to harvest less, ensuring that future generations have biocultural resources to perpetuate their way of life. Not all natural resources need to be removed and converted into capital. Instead, and more importantly, we need to maintain cultural capital and the rich history woven into it.

This history, and the service and sacrifice of Pacific Islanders, is captured in several places, including the *Hui Panalā‘au*. From 1935 to 1942, 130 young men from Kamehameha School were sent to Howland, Baker, and Jarvis Islands to colonize them for the United States. These Native Hawaiian men meticulously documented the environmental conditions of the islands and their waters, recorded weather patterns, and surveyed seabirds, laying the foundation for future discoveries. With limited medical access and exposure to bombings during World War II (WWII), three members of *Hui Panalā‘au* lost their lives as a result of their service.

The PRI and its surrounding waters also hold the final resting places of shipwrecks and other abandoned historic sites ranging from the whaling era in the 19th century to WWII. Expanding protection of this area would allow for further exploration and potential discovery of wrecks, WWII-era ordnance, and other artifacts of historic and cultural value.

Ocean protection not only honors and preserves the history of lands, waters, and the people who cross them, but allows for continued exploration, discovery, and perpetuation of culture.

### **Conclusion**

The security and growth of our ocean economy are dependent upon the health and well-being of our ocean ecosystem and the communities reliant upon it. Monuments and sanctuaries increase access to people, businesses, and communities beyond the fishing fleets, allowing ongoing access to biocultural resources for the generations

that follow us. As such, it is critical that we continue to protect and restore marine habitats while investing in communities.

Efforts to protect our ocean, and the derivative value to the economy, ecosystem, and community, are not new. Since the creation of the PRI Marine National Monument by President Bush in 2009, support for expansion has continued to grow. This support resulted in President Obama expanding protections in 2014 after the United States government's public consultation saw strong public support for expanding and fully protecting these waters. More than 135,000 United States citizens, including Hawaiian residents, business owners, and nonprofit organization representatives, sent messages supporting the plan. Many Hawaiian and Pacific leaders also voiced strong support. Once again, the government opened a public comment period in the spring of 2023 to scope the possibility of creating a National Marine Sanctuary that expands protections to the PRI. The comments offered broad, deep, and overwhelming support from communities across the Pacific and the country for the designation of the new National Marine Sanctuary, with over 80% of the posted comments expressing strong support. The support continues to grow from cultural practitioners across the Pacific, scientists, elected officials, businesses, recreational fishing organizations, youth organizations, zoos and aquariums, and local, regional and national organizations.

We must give thanks to the things we care about, so that they may continue to provide for current and future generations and continue to support traditional ways of knowing and being.

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QUESTIONS SUBMITTED FOR THE RECORD TO WILLIAM JOHNSON AILA JR., NATIVE  
HAWAIIAN FISHERMAN

### Questions Submitted by Representative Grijalva

*Question 1. What actions can Congress take to help strike a balance between achieving our conservation goals and supporting local economic stability and growth around marine protected areas in the Pacific?*

Answer. Marine protected areas (MPAs) have the broad goal of conserving biodiversity, wildlife, and underwater landscapes that face unprecedented impacts from climate change. There are many types of MPAs, with a range of goals and effectiveness, and the issues and the conservation outcomes from one MPA type will differ from another. Some MPAs prohibit all extractive activities, while others permit almost all types of extraction.

The higher the level of protection, the greater the potential to conserve and restore healthy and biodiverse ecosystems, and the benefits they provide to people. For example, fully and highly protected areas<sup>1</sup> are expected to result in restoration of ecological interactions; recovery of habitat; increased abundance, size, and reproductive output of previously exploited species; and enhanced climate adaptation and resilience potential. These types of MPAs can also serve as reference areas for evaluating the impacts of extractive and destructive activities outside of the protected area, buffers against mismanagement or environmental changes, and savings accounts for fisheries outside of the MPA. In the case of the Pacific Remote Islands (PRI), a highly protected area (i.e., one that allows only light extractive activities that have low total impact and minimizes all other abatable impacts) is being proposed. Implementing a highly protected PRI national marine sanctuary will allow the species and ecosystems within the sanctuary boundaries to recover and flourish, and ultimately provide opportunities for the continuation of sustainable cultural, traditional, and spiritual practices; economic growth; and ecological resilience.

While fully and highly protected MPAs are expected to produce the strongest conservation benefits, MPAs are not a panacea for conservation; they are one tool that can be used alongside other techniques to protect, conserve, and sustain ocean and coastal resources and ecosystems for current and future generations. Where marine protected areas take a holistic approach to protecting nature and ecosystems, other tools like fishery conservation and management prioritize the extraction of the highest sustainable catch of target species over time. Despite this difference in goals, highly protected MPAs have been shown to also contribute to the maintenance and replenishment of fisheries stocks.

<sup>1</sup>Using the MPA Guide, Protected Planet, [https://mpa-guide.protectedplanet.net/UsingTheMPAGuide\\_2pp.pdf](https://mpa-guide.protectedplanet.net/UsingTheMPAGuide_2pp.pdf) (last visited Sept. 18, 2023).

To help strike a balance between achieving our conservation goals and supporting local economic stability and growth around marine protected areas in the Pacific, Congress should invest in more, strategically located and effective MPAs. Such investments are needed to ensure a healthy ocean now and for future generations and could include developing scientific evaluation of and planning for the existing marine protected areas in the Pacific; understanding how they function in terms of a connected network of marine protected areas; developing wildlife corridors; and connecting important habitats for the various life stages of marine species. Congress should support, strengthen, and protect proven conservation methods, like the National Marine Sanctuary System and Marine National Monuments, that have demonstrated time and time again that they provide benefits to local “blue economies.” As an example, Congress could encourage NOAA to create the proposed Pacific Remote Islands National Marine Sanctuary with strong protections in the Howland and Baker and Palmyra and Kingman areas. Congress then, through funding the National Marine Sanctuaries Program via annual appropriations, has the capacity to resource critical conservation programs in the Pacific including cultural programs, habitat restoration, scientific discovery, education programs, enforcement of existing regulations, and more. Protecting PRI would help ensure the survival of critically endangered species including sharks, rays, whales, seabirds, and turtles while simultaneously bolstering important, economy driving fisheries, including yellowfin and bigeye tuna.

Congress also has the ability to reauthorize tax credits that, in the past, played a key role in supporting fishery-based businesses. Most helpful of these tax credits is the American Samoan Economic Development Credit, also known as the section 30a tax credit provision, which for years helped the largest private sector employer in American Samoa, the Starkist Cannery, operate successfully.

Congress could make investments in the sustainable blue economy of American Samoa, providing financial incentives to support a diversified economy. There are a variety of labor issues that Congress could explore, from minimum wage, foreign labor force, and mandating or incentivizing the U.S. flagged vessels to offload tuna catch at the cannery in American Samoa. These changes would ensure a consistent and regular delivery of fish to support a sustainable operation, addressing gaps in supply due to periods of time where vessels choose to deliver to other canneries.

Finally, Congress could advocate for an increased tuna catch quota for U.S. fisheries in the Western Pacific or consider supporting pathways for American Samoa to gain more favorable status under the Western and Central Pacific Fisheries Commission.

### Questions Submitted by Representative Case

*Question 1. What available data supports the idea that expanding the Pacific Remote Islands National Marine Sanctuary will benefit pelagic fisheries in the Pacific?*

Answer. The primary purpose of expanding protections for the Pacific Remote Islands (PRI) is to create a nature preserve that protects and preserves Indigenous culture and cultural practices in one of the world’s only remaining pristine ocean areas. It is extremely rare to have such an intact and healthy ocean ecosystem where large fish swim, whales are free from entanglement, and navigators can rely on the natural cues of the surrounding wildlife to guide long distance voyages, allowing the perpetuation of cultural practices that have plied the waters for centuries.

We also know that protecting areas from commercial fishing, especially at industrial scales, means 1000s of tonnes of fish and other wildlife unintentionally caught in fishing nets the size of football fields will not be killed in this area each year. These fish are then able to grow, thrive, and reproduce, resulting in robust and healthy populations that can spill over into areas that are open to fishing.

There is also evidence from commercial fishermen’s own records that demonstrate benefits of large scale marine protected areas (MPAs). Commercial fishermen are required to report their “catch rates” (i.e., the estimated number of fish caught per unit of effort) when fishing in different areas. This publicly available fishing data tells us two important things:

- After the expansion of the Papahānaumokuākea Marine National Monument in 2016, catch rates for yellowfin tuna (*Thunnus albacares*) and bigeye tuna (*Thunnus obesus*) improved in the waters surrounding the protected area. Specifically, catch rates in the waters near the new monument boundary saw a dramatic increase of 0.5 bigeye tuna per 1000 hooks (a 12% increase over

pre-expansion levels), 0.6 yellowfin per 1000 hooks (a 54% increase over pre-expansion levels), and 1.9 fish of any species per 1000 hooks.<sup>2</sup> This means that fishermen are catching fish with far less effort, which can translate into safer and more profitable fishing trips and a benefit to the fishery.

- The U.S. purse seine and U.S. longline fleets have spent less than 0.5% of their fishing effort (total amount of fishing activity on the fishing grounds over a given period of time) inside the proposed protected areas of the Pacific Remote Islands National Marine Sanctuary according to automatic identification system vessel monitoring data obtained through Global Fishing Watch (GFW) from the last ten years (2013–2022). Western and Central Pacific Fisheries Commission-reported catch data indicates that only 0.10% of the U.S. purse seine fleet’s catch came from within the proposed Sanctuary. A report by the Environmental Markets Lab within the University of California, Santa Barbara outlines these findings.<sup>3</sup>

Based on this publicly available fishing data, it is clear that expanding protections for the Howland and Baker and Palmyra and Kingman areas by creating the Pacific Remote Islands National Marine Sanctuary would not greatly impact the U.S. flagged fishing fleets’ existing practices and catch, nor would it restrict how many days fishing vessels can fish or how much a vessel can catch. United States vessels—which operate on a quota-based system—will continue to be able to fish in other places, with many fishing grounds already located closer to home ports.

Additionally, because of climate change, the western Pacific warm pool is expanding, resulting in the movement of pelagic fish populations to the east and north. The PRI are the ideal location for a large-scale MPA due to the strategic location as a recipient site for migrating fish populations where they can grow and the associated opportunity for protecting large female fish will result in increased reproductive output for population replenishment.

*Question 2. Despite being a former WESPAC member yourself, you have raised questions about WESPAC’s ability to sustainably manage a fishery. Why is that? In your opinion, does the Council adequately balance commercial, recreational and conservation interests? What other tools can the government use to ensure the sustainable management of our fisheries for future generations?*

Answer. According to the Magnuson-Stevens Act, all fishery management councils must implement “conservation and management measures [that] shall prevent over-fishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.” The Western Pacific Fisheries Council (WESPAC) has demonstrated that it has an inability to balance optimum yield and conservation and a clear bias towards commercial fishing as evidenced by:

- Rapidly expanding the longline fleet;
- Resisting to enact regulations that placed a cap on the number of vessels, require a log book, or institute a vessel monitoring system;
- Resisting efforts to create a longline closure area to separate longliners from local fishermen until there were incidents of violence;
- Mismanaging the Northwestern Hawaiian Islands bottom fish fishery until it was eventually phased out;<sup>4</sup>
- Mismanaging the lobster fishery, resulting in the collapse of both the spiny and slipper lobster stocks and the placement of a zero quota by President Bush.<sup>5</sup>

Luckily, the U.S. has several other tools at hand that can help protect economic livelihoods and preserve irreplaceable natural resources. One such option is amending the Magnuson-Stevens Fishery Conservation and Management Act, making all council executive directors federal employees and subject to federal ethics regulations. Another option is the creation of a national marine sanctuary.

<sup>2</sup>Sarah Medoff et al., *Spillover benefits from the world’s largest fully protected MPA*, Science (Oct. 20, 2022), <https://www.science.org/doi/10.1126/science.abn0098>.

<sup>3</sup>Environmental Markets Lab, *Analysis of historic fishing activity within the proposed National Marine Sanctuary for the Pacific Remote Islands*, University of California, Santa Barbara, [https://emlab.ucsb.edu/sites/default/files/documents/pri\\_proposed\\_sanctuary\\_report.pdf](https://emlab.ucsb.edu/sites/default/files/documents/pri_proposed_sanctuary_report.pdf), (last visited Sept. 18, 2023).

<sup>4</sup>Teresa Dawson, *New Rules for Bottomfish: Are They Too Little, Too Late?*, Environment Hawai’i (June 1998), <https://www.environment-hawaii.org/?p=3398>.

<sup>5</sup>*POACHERS R US: Overfishing of lobster pushes Hawaiian monk seals toward extinction. Who’s accountable*, Cascadia Times, <https://times.org/poachers-r-us-overfishing-of-lobster-pushes-hawaiian-monk-seals-toward-extinction-whos-account>

Having seen WESPAC's failures in the past, Native Hawaiians and other Pacific Islanders have proactively proposed the creation of the Pacific Remote Islands National Marine Sanctuary. The proposed sanctuary would, among many other benefits to the local environment and economies of the Pacific, help ensure the longevity of critical fisheries.

*Question 3. Can you elaborate on the cultural practices and traditions that we risk losing should we fail to properly protect and sustain the waters of the proposed Pacific Remote Islands National Marine Sanctuary?*

Answer. The culture of wayfinding by Hawaiians, Chamorro, Carolinians, Marshallese, and other Pacific Indigenous groups would suffer negative impacts, or irrevocable loss, if the ecosystems of the Pacific Remote Islands (PRI) are not protected. A clear consequence of failing to properly protect and sustain the PRI waters would be the reduction of seabirds by overfishing and destructive fishing techniques. Navigators rely on a healthy seabird population to provide signs as to the proximity of islands, especially low-lying islands. A healthy seabird population is dependent upon a healthy tuna population as tuna and sea birds work together to feed on schools of smaller fish. Seabird feces are a critical source of nitrogen to the plants that inhabit PRI and in turn provide the basis of a food chain that leads to healthy coral reefs and healthy coral reef ecosystems, each interrelated and dependent on each other. There are many voyaging stories that need to be collected from all of the Pacific Indigenous groups and in those stories additional cultural practices will be brought forward. However, those practices cannot be perpetuated without healthy PRI ecosystems, and those healthy PRI ecosystems cannot be sustained without proper protection.

*Question 4. Can you elaborate on the opportunities for co-management with the State of Hawai'i and the Native Hawaiian Community that marine protected areas in the Pacific have offered?*

Answer. Papahānaumokuākea has always been closely managed with Native Hawaiian influence. Native Hawaiians were made co-trustees by President Obama during its expansion phase in 2016. The Office of Hawaiian Affairs (OHA) represents Native Hawaiians at the management level and works cooperatively with the State of Hawaii and its federal partner agencies. This partnership is unique within the national marine sanctuary system and has allowed for co-trustees to leverage funding, share ship space, and participate in other creative cooperative projects. A result of this unique co-management was the successful designation of Papahānaumokuākea as a World Heritage site based on its biological and cultural treasures as well as the completion of the *Mai Ka Pō Mai*.<sup>6</sup> As co-managers, Native Hawaiians—specifically the Papahānaumokuākea Native Hawaiian Working Group—through the Office of Hawaiian Affairs completed *Mai Ka Pō Mai* in 2021. The resource, which provides a Native Hawaiian perspective and guidance that uses traditional concepts and cultural traditions as a foundation for management in Papahānaumokuākea, is a culmination of 10 years of discussion and collaboration. Designating the PRI National Marine Sanctuary presents a new opportunity to protect these special, connected areas and have representation from, and co-management with, Hawaii, the U.S. Pacific territories, and possibly independent Pacific nations. A strong relationship and shared *kuleana*, or responsibility and privilege, could improve our Pacific relations and buffer China's increasing influence.

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Dr. GOSAR. Thank you very much, Mr. Aila. I now recognize Mr. Reid for his 5 minutes.

<sup>6</sup>Office of Hawaiian Affairs, National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, and State of Hawai'i, *Mai Ka Pō Mai: A Native Hawaiian Guidance Document for the Management of Papahānaumokuākea*, Office of Hawaiian Affairs (2021), [https://www.oha.org/wp-content/uploads/MaiKaPoMai\\_FINAL-web.pdf](https://www.oha.org/wp-content/uploads/MaiKaPoMai_FINAL-web.pdf).

**STATEMENT OF ERIC REID, CHAIR, NEW ENGLAND FISHERY  
MANAGEMENT COUNCIL, NORTH KINGSTOWN, RHODE ISLAND**

Mr. REID. Good morning, Mr. Chair and members, thank you very much for allowing me to testify today. My name is Eric Reid, and I am a fisheries consultant based in Rhode Island, a long way from my three other panelists.

I am also the Chair of the New England Fisheries Management Council, and my testimony today may include information in publicly available documents produced by the Council and others. But Mr. Chairman, my comments and opinions are my own.

My experience is with the implementation of both the Antiquities Act and the Magnuson-Stevens Act in Federal waters, particularly in southern New England. So, let's start with the older one first.

The Antiquities Act of 1906 is a 1-page document that does provide in section 2 that the President is hereby authorized, in his discretion alone, to declare national monuments, the limits of which shall be confined to the smallest area compatible with proper care and management of the objects to be protected. However, the Act does not require the President to produce an evidentiary record nor follow specific procedures and analysis such as APA, NEPA, and others, including Magnuson.

On September 16, 2016, the President used the Act to designate the Northeast Canyons and Seamounts National Monument, an area of 4,914 square miles located southeast of New England. The process that was used to develop the monument began in September 2015 in Providence, Rhode Island, at a town hall meeting. At that time, the monument was only an idea, and it lacked clear shape, form, or detail, making for any specific or informative comments by stakeholders difficult at best. And that was the only public meeting held on that issue.

Then, in August 2016, a proposal was presented to the public that only included location information and little else. Forty-three days later, the monument was proclaimed. Extractive activities such as mining, et cetera are prohibited in the monument. Also, commercial fishing of any kind is also prohibited in the monument. But recreational fishing is allowed, and this includes, especially in fisheries like the tuna fishery, the ability for recreational fishermen to use fishing gear identical to commercial gear.

Now, by comparison, we have the 169-page Magnuson Act, the primary governing marine fisheries management in Federal waters, and is considered by many to be the gold standard in worldwide fisheries management guidance. The requirements of the MSA and the 10 national standards contained in the Act mandate that the councils protect fish stocks and their ecosystems, maintain sustainable fisheries and the communities that depend on them, promote safety at sea, and also ensure the long-term socio-economic benefits to commercial and recreational fisheries and the nation as a whole.

MSA further mandates that management be an open, transparent, and robust process that is reliant on science and collaboration with stakeholders and allowing for extensive public input.

Lastly, while not exactly nimble, Magnuson does provide for regulatory flexibility in the face of change, including climate change.

Under the authority of the MSA, also late in 2015, the New England Council began the development of a discretionary, not a mandatory, action to protect vulnerable deep sea ecosystems, including corals and their habitat. This process, over the course of many years, included dozens of open and public meetings of the Council and its committees, as well as extensive socioeconomic analysis, including NEPA.

On July 26, 2012, the Omnibus Deep Sea Coral Amendment went into effect. The document, all 600-plus pages, detailed the rationale behind designating an area of 25,153 square miles, five times bigger than the monument, for protection of deep sea ecosystems. More importantly, the amendment also considered both intended and unintended consequences to stakeholders, as well. A freeze-the-footprint approach allowed historical fishing grounds to remain accessible to fishermen, which in turn maintained the socioeconomic benefits to the nation as a whole, while also protecting corals.

In summary, it should be obvious that the Antiquities and Magnuson Acts have very different requirements. Antiquities allows an individual, the President, to declare a national monument with little or no public involvement. The only requirement of the Act limits the size of a monument to the smallest area compatible with proper care and management. And given that the Antiquities Act has been used to proclaim four monuments in the Western Pacific Ocean that cover 1,182,717 square miles, even the phrase "smallest compatible" is left to individual interpretation.

Conversely, Magnuson is without question a more deliberate process with multiple steps at many levels. The process is very thorough, and can be quite lengthy in order to meet all the requirements of Magnuson. However, in contrast to Antiquities, Magnuson mandates that an open, transparent, and robust public process must be used, even in the smallest action, and thus should not be over-ridden in favor of a non-public process better suited to protect shards of pottery.

That ends my oral presentation, Mr. Chairman. My written comments are in your binder, and I am happy to answer any questions on my presentation. Or if you want to wander into America the Beautiful, I am fine with that, too.

[The prepared statement of Mr. Reid follows:]

PREPARED STATEMENT OF ERIC REID, FISHING INDUSTRY CONSULTANT

I am a Fishing Industry Consultant based in Point Judith RI. Prior to that I spent over 50 years in both recreational and primarily the commercial fishing industry. Currently, I am also a third term member and Chair of the New England Fisheries Management Council (NEFMC). Although my testimony today may include information in publicly available documents produced by NEFMC and others, my comments and opinions are my own.

My experience on the topic at hand is with the implementation of both the Antiquities Act of 1906 (AA) and the Magnuson-Stevens Fishery and Conservation Management Act (MSA) in Federal Waters particularly in Southern New England and the Mid Atlantic.

Starting with the older of the two, the AA is a one page document that does provide in Section 2 "That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the

limits of which shall be confined to the smallest area compatible with proper care and management of the objects to be protected.”

The Act does not require the President to produce an evidentiary record nor follow specific procedures and analysis such as the Administrative Procedures Act (APA), National Environmental Policy Act (NEPA) and others including the MSA.

On September 16, 2016, the President used this Act to designate the Northeast Canyons and Seamounts National Monument (Monument) located in the Atlantic Ocean southeast of New England. The process that was used to develop the Monument began on September 15, 2015 in Providence, RI at a “town hall” meeting. This was the only public meeting on the issue. At that time the Monument was only an idea and lacked any clear shape, form or detail making any specific or informative comments difficult at best. The meeting was attended by a wide variety of interested parties who were allowed 2 minutes to provide oral comments during the two hours meeting.

After that event, only a few small meetings were held by the Council on Environmental Quality (CEQ) but still without any geographic, spatial, or temporal data and detail.

On August 8, 2016 a proposal was presented to the public that only included a picture of the area under consideration and location information. Again, public input was hampered given the lack of details and the evidentiary record and analysis is unknown.

Thirty-nine days later the Monument was proclaimed. The process was one year and one day long start to finish. The Monument has two separate areas that total 4,914 square miles and includes several prohibitions on extractive activities such as mining, oil/gas operations, etc.

Also, commercial fishing of any kind, with a temporary exemption for lobster/crab pot fishing which has now expired, is prohibited in the Monument. However, Recreational fishing is allowed. This includes, particularly in the Highly Migratory Species fisheries such as tuna, the ability for recreational fishermen to use fishing gear identical to commercial gear.

Aside from the prohibitions listed in the declaration, a management plan for the Monument was required to be developed jointly between the Departments of Interior and Commerce within three years of the proclamation. Seven years later, draft management guidance is just now emerging.

By comparison we have the 169-page long MSA which is the primary law governing marine fisheries management in U.S. federal waters and is considered by many to be the “gold standard” for worldwide fisheries management guidance. The requirements of the MSA and the 10 National Standards contained in the Act mandate that the Council(s) prevent overfishing, rebuild overfished stocks, maintain sustainable fisheries and the communities that depend on them, promote safety at sea and also ensure the long-term socio-economic benefits to commercial and recreational fisheries and the Nation as a whole. The MSA further mandates that management be an open, transparent, and robust process that is reliant on science and collaboration with fisheries and other stakeholders and allowing for extensive public input. Lastly, while not exactly nimble, the MSA does provide for regulatory flexibility in the face of change, including climate change.

Under the authority of MSA in late 2015 the NEFMC began, in earnest, the development of a discretionary not mandatory action to protect vulnerable deep sea ecosystems including corals and their habitat. Over the course of almost 4 years including dozens of public Council, committee, advisory panel and plan development team meetings plus extensive scientific and socio-economic analysis include NEPA and, of course the MSA and the 10 National Standards the Omnibus Deep Sea Coral Amendment was approved for submittal to NOAA for final vetting and approval. (Attachment 3) The document itself is 566 pages plus 8 appendices long detailing the rationale behind designating an area of 25,153 square miles, five times larger than the Monument, for protection of vulnerable deep sea ecosystems including corals. More importantly, the Amendment also considered both the intended and unintended consequences to stakeholders as well. A “freeze the footprint” approach allowed historical fishing grounds to remain accessible to fishermen which, in turn, maintained the socioeconomic benefits to the Nation as a whole.

On July 26, 2021, the Omnibus Deep Sea Coral went into effect. (Attachment 4)

In summary, in the two cases above it should be obvious that the Antiquities Act and the Magnuson-Stevens Fishery Conservation and Management Act have very different requirements. The AA allows an individual, the President, to declare a National Monument. This can be done with little or no public involvement other than the proclamation itself. The only requirement of the AA limits the size of a Monument to “in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected”. Given that the AA has



been used to proclaim four National Monuments in the Western Pacific Ocean that cover 1,182,717 square miles, even the phrase “smallest compatible” is left to individual interpretation.

Conversely, the MSA is without question a more deliberate process with multiple steps at many levels. As shown in the Omnibus Deep Sea Coral Amendment, the process is very thorough and can be quite lengthy in order to meet all the requirements of MSA and the National Standards. However, in contrast to the AA, Magnuson mandates that an open, transparent, and robust public process must be used even in the smallest action.

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QUESTIONS SUBMITTED FOR THE RECORD TO MR. ERIC REID, FISHING INDUSTRY  
CONSULTANT

**Questions Submitted by Representative Grijalva**

*Question 1. In your testimony, you describe the shallow canyon head areas less than “300 fathoms” (1800 feet depth) of the Northeast Canyons Marine National Monument as a “gently sloping mud pit.” Maps and documentation produced by the Fisheries Management Council, on which you serve as Chair, demonstrate the presence of complex habitats, outcrops, and attached species sensitive to disturbance, occurring in those areas. There is also evidence that trap gear used in trap fisheries report coral as bycatch.*

*1a) Are you aware of these Fisheries Management Council produced maps and documentation?*

Answer. Yes, I am aware that a series of maps and documentation were produced. I was not the Chair of the Council at that time.

*1b) Can you clarify your statement that the canyon heads are “mud pits”?*

Answer. In my testimony I clearly referenced the Plateau located inshore of and shallower than the canyon heads. This area is primarily mud, slit and sand and has been commercially fished for decades.

*Question 2. You suggest the Fishery Management Council deep-sea coral amendments protect an area larger than the Monument. These amendments are valuable actions, but unlike the Magnuson Stevens Act (MSA) authorities used for these designations, protections from Monument designation are in perpetuity.*

*2a) Is it true that the Fishery Management Council designations utilize the discretionary deep-sea coral provisions under the MSA?*

Answer. Yes, Both the NEFMC and the MAFMC used discretionary action.

*2b) Since these designations are not considered essential fish habitat, do they have any requirements for consultation to other agencies for future non-fishing related impacts, like oil-gas and mineral mining?*

Answer. Regardless of whether the areas are EFH or not, the MSA does not grant the authority to manage anything other than what is mandated by that Act to the RFMO's.

*2c) Is access to these areas for fishing anything more than a framework amendment hidden under Fisheries Management Council action?*

Answer. What is implied by this question? In both my testimonies (written and oral) I outlined the process for the use of the Antiquities Act ( AA) as well as MSA. The AA of 1906 has been used to override the MSA. Which makes the question irrelevant.

*Question 3. In your testimony, you note the severe economic and social consequences of the Northeast Canyons and Seamounts Marine National Monument designation, along with resultant needs to hunt for new fishing grounds, gear conflicts, and problems with safety at sea. However, published economic analyses (see J. Lynham, 2022, Scientific Reports, 12:917) concluded “little if any” economic disruption to squid/butterfish, mackerel, and tuna fisheries around the Monument. The brief reopening of the Monument to fishing by President Donald Trump was also found to provide little tangible economic benefits to the fisheries.*

*3a) What evidence is there of negative economic and social impacts directly resulting from Monument designation? Please include appropriate citations.*

Answer. What I noted was the loss of opportunity as well as hunting, gear conflicts and safety at sea. Even the Author (J. Lynham) notes in his first sentence "Evaluation of the economic impacts of marine protected areas is hampered by the fact that it is impossible to observe what would have happened if the protected area had never been closed to fishing." The methods used are not specific to the fleet of boats that traditionally fished in the offshore grounds but a conglomeration of the entire coast. The vessels from the Mid Atlantic were only used as a control and not an effected entity even though they fish in the offshore grounds as well. A major offshore fishery for (*Illex illecebrosus*) Squid was not even considered. Finally, the used of AIS as a tracking mechanism is interesting. The use of AIS is only required on vessels greater than 65 feet in length and is only mandatory to be turned on within 12 miles of the coast. This certainly should raise some question as to the validity of the work.

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Dr. GOSAR. Thank you very much, Mr. Reid. I now recognize the gentlewoman from New Mexico for her 5 minutes.

Ms. Stansbury.

Ms. STANSBURY. Thank you, Mr. Chairman, and I want to welcome and say thank you to all of our witnesses, especially I know some of you have traveled great distances to be here with us today, and we do very much appreciate it.

Mr. Aila, I want to focus a little bit more on your testimony and ask some additional questions. I know today a focus in this hearing has been around the Pacific Remote Islands effort, and I know that you are a member of the coalition that helped to initiate the nomination for the expansion of this monument. And I wonder if you could tell us more about why this is an important action for the Administration to take. Why did you nominate this particular place, and who are some of the groups that are involved in this process?

Mr. AILA. Thank you very much for that question. Groups range from individuals, to mothers, to PTA staff, and just a wide range of people who actually believe that the expansion, and the expansion is really around two sets of islands, Howland Baker and Palmyra. The other three areas are already protected out to 200 miles. That is all that we are talking about right now.

Some of the most unknown areas in the world, we only know that there are about 98 seamounts. There is so much science, there is so much more knowledge that PRI has in store for we as a people. It is one of the most remote places, where science can be done to have a control so that we can measure changes that are occurring in other places of the world, in other oceans of the world. That, in and of itself—it has megafauna, it has birds.

We teach our children about the nitrogen cycle, seabirds that travel thousands of miles to feed and then come back to the islands to lay their nests. And their poop now provides nitrogen for the coastal lands. As an environmental place, it is one of the most remote and most promising areas to provide answers to us in terms of climate change, in terms of biocultural diversity, in terms of the benefits of Marine Protected Areas.

Ms. STANSBURY. And you mentioned in your testimony some of the specific fisheries that have declined in recent years, and I wonder if you could touch a little bit more on how you see creating and expanding this area is protecting those fisheries not only within the designated area, but opportunities for partnerships with

commercial fishermen and subsistence fishermen to protect fisheries overall.

Mr. AILA. Marine Protected Areas, without a doubt, produce more fish, produce more larva. The opportunity for “increased access” by fishermen to this area is simply to fish the boundaries. You mentioned 54 percent more yellowfin tuna caught on the boundaries of Papahānaumokuākea. That is one clear example.

Could you repeat the second part of that question, please?

Ms. STANSBURY. In the previous panel, which I think you all were here for, we heard from our NOAA witness about the extensive public process that is unfolding currently, which includes scientific review, economic analysis, and consultation with the communities. So, given the evidence that we have seen, the other expansions of monuments and protected areas have helped to protect and support expanded fisheries.

Given that, with the public process that engages fisheries and stakeholders, what opportunities do you see to enhance fisheries in the area beyond just protecting the fish themselves?

Mr. AILA. Thank you for that. The fact that these islands are more than 1,000 miles away from either Hawaii or American Samoa clearly indicates that myself and my 22-foot boat can’t go there. So, most people can’t access the area. That, in and of itself, is good protection.

However, how can I explain this? When you go to Papahānaumokuākea and you jump in the water, and this 100-pound fish swims up to you, literally this close, looks you in the eye and says, “Who gave you permission to swim in my ocean,” that is an experience that is recorded in Mele, in Hula, in Pule, those qualities of that fish, that experience, gets generated to the next generation, and perpetuates culture.

So, in the preparation of culture, you have additional benefits and additional protections that never make its way into Magnuson.

Ms. STANSBURY. Thank you, sir.

I yield back.

Dr. GOSAR. I thank the gentlewoman. The gentlewoman from American Samoa is recognized for her 5 minutes.

Mrs. RADEWAGEN. OK. Thank you, Mr. Chairman.

[Chart.]

Let’s see, before I start, and speaking as a proud Samoan and Native Hawaiian as well, I wanted to show just how much the Biden administration is taking from Native Samoans and other Indigenous people in the Pacific Islands in expanding the PRIMNM, or the Pacific Remote Islands Marine National Monument. We will lose nearly all USC’s EEZs in the Pacific. And at this critical time, with China gaining a real serious foothold in this region, the United States is going to quickly become nothing more than a passive bystander in the world’s largest fishery.

In the previous panel, Secretary Bavishi mentioned that they are working with the governors of the Northern Marianas, Guam, and American Samoa, which is really very good. I just wanted to add that I believe these three governors are united in being against the expansion. And interestingly enough, it is a very bipartisan effort. Two of those governors are Democrats and one governor is a Republican. I believe we do have a letter from all of them, as well.

But I would like to applaud NOAA's efforts toward conservation, and share the desire to protect and preserve our nation's marine environment and natural resources, especially in the Pacific region. American Samoa is my home, after all.

The cannery has been the economic foundation of the island for over half a century. Further fishing restraints will topple the industry, and we are a one-industry economy. And along with that toppling of the industry, our economy goes down the drain, period.

We have the best fisheries management in the world. We can find reasonable accommodations to serve the needs of conservation and food security to protect our kids' school lunch program, our military rations, and our local American Samoan community, which depends on our tuna exports.

Mr. Gibbons-Fly, your written testimony talks about the cumulative effects of multiple actions on the industry and the economy of American Samoa. Can you provide some specific examples of such impacts?

Mr. GIBBONS-FLY. Certainly, thank you very much for the question.

With respect to the current national marine monuments, they started out at 50 miles around most of the islands, and they were expanded to 200 miles in many of the islands, and now there is a proposal to expand it, the rest of those, out to 200 miles.

And I did note the comment from the Assistant Secretary that NOAA has made no decision about commercial fishing within the monument. But everything I have read and everything I have heard on this suggests extremely strongly that that is the intention of this Administration, to extend those boundaries out.

In terms of the cumulative impacts, on the map behind you that southernmost red area represents Jarvis Island, which was closed in its entirety in 2014 with the expansion of the national monument in that region. That, historically, had been one of the richest fishing grounds for the tuna purse seine fleet, and we have now been excluded completely from that area.

You will note that it is immediately adjacent to the EEZ of Kiribati. Kiribati licenses up to 15 Chinese large purse seine vessels that can fish right across that line from where the U.S. fleet is prohibited from fishing. So, any of the conservation benefits that accumulate as a result of no fishing by the U.S. fleet, if that fish migrates across the line to Kiribati, it is China that catches that fish. It is not U.S. vessels.

Furthermore, with respect to the cumulative impacts, I know that with respect to the Hawaii longline fleet, the cumulative effect of the closure of the expansion of both the Northwest Hawaiian Islands Monument and the Pacific Remote Islands Marine National Monument resulted in a loss of their historical fishing grounds that accounted for approximately 22 percent of their catch. That is just with respect to the monuments.

Then we have the increasingly strict regulatory environment, both domestic and international. We can't fish on fish aggregating devices for 3 months out of the year. We can't fish on fish aggregating devices on the high seas for another 2 months. It is as if there is a ratchet that is being cranked, and it only goes one way.

It only gets tighter, and tighter, and tighter. It never goes back the other way.

And each one of these actions is justified, as I said in both my written and oral testimony, "Well, the impact will be minimal." Crank the ratchet. "The impact will be minimal." Crank the ratchet. But the cumulative effect, it is killing us. It really is killing us.

Mrs. RADEWAGEN. Thank you. I am out of time.

Thank you, Mr. Chairman. I did want to say one last little point, and that is that, with regard to this, 51 percent of this 2 million-square-mile U.S. Exclusive Economic Zone has been designated by a Presidential Proclamation. Thank you, Mr. Chairman.

Dr. GOSAR. I thank the gentlewoman. The gentleman from Hawaii, Mr. Case, is now recognized for 5 minutes.

Mr. CASE. Thank you, Chair.

Mr. Gibbons-Fly, good to see you again. I think we were talking about the South Pacific Tuna Treaty when last you were here. On that one you, me, and my colleague, Mrs. Radewagen, are completely aligned, and we definitely want to give you continued access to those areas covered by the treaty. So, we hope to close that soon.

The implication has been, externally in some cases, that NOAA and its sanctuary designation evaluation has not fully accounted for and listened to the concerns of the various parties. Do you feel that you have been able to provide all information that you want to provide, that you have been able to access all of the public hearings, all of the other information, and that you have had your say with NOAA? I want to know whether you think that or not.

And if you don't, I want specific recommendations to NOAA as to how your views can be heard.

Mr. GIBBONS-FLY. Thank you very much for that question and, yes, thank you for your support. I did not have a chance during the previous hearing to thank you for your support for our industry as support for the legislation introduced by Congresswoman Radewagen and yourself.

In response to your question, the sole input that my organization has had into the process up to date has been to submit comments in response to a Federal Register notice. On April 18, NOAA published a Federal Register notice, a scoping document for the Environmental Impact Statement to establish the sanctuary. We submitted written comments in response to that notice, and those comments, I believe, were circulated with the written testimony that I submitted. That is the sole input that my organization has had into this process.

I have not had any input or interaction directly with any officials at NOAA up to this point. We understand that there will be likely opportunities for that down the road.

Mr. CASE. Well, there is a process going on. You responded to the Federal Register. You had an opportunity to participate in the public hearings and the scoping, et cetera. You are going to have an opportunity to comment on whatever—

Mr. GIBBONS-FLY. Well, we have submitted written comments. I don't know what the process is going forward to have further input.

Mr. CASE. Here is my concern, sir.

Mr. GIBBONS-FLY. Yes.

Mr. CASE. I just want to make sure that you don't come back in 6 months or whenever it is and say that you didn't have an opportunity to be heard. So, if you feel you are not having an opportunity to be heard, I certainly will help you to do that, because I don't want the argument that somehow people are getting excluded from this process.

I believe this has been a tremendously inclusive process, exhaustively inclusive process, 57,000 comments tells some of that story. So, obviously, the public is being given an opportunity to be heard.

You have serious concerns. You have a position, and I don't want you to come back and say you haven't been heard. That is my comment there. I just leave it at that, because I need to move on. So, tell me if that is the case, and I personally will try to deal with that.

Mr. Aila, this sounds like déjà vu all over again, to be honest. I feel like we are back in 2004, 2005, 2006, 2007, 2010 on Papahānaumokuākea. I heard that the Hawaii longliners industry was going to crash. I heard that creating the monument was going to fundamentally somehow alter the course of the sea and there weren't going to be as many fish. And the history doesn't prove that.

I am looking at my stats, which show that in 2000 the Hawaii Longliners Association had 123 boats. Today, they have 147 boats out there. So, obviously, they are not crashing as a result of the creation of this monument.

We have had a number of scientific studies that have shown, transference, I think, is the term of art, meaning that because we increase biodiversity, because we increase fish stock there actually was a corresponding increase in fish stock beyond the monuments that were, of course, accessible to our longliners.

I mean, what is your comment on the fear that somehow a sanctuary designation is going to crash industries and create great disruption to fish stocks?

Mr. AILA. My experience, Representative Case, is that it hasn't. The Hawaii tuna longline boat fishery has met its quota every year since the protections went in place. Not only do they meet their quota catching their quota in Hawaiian waters or the Hawaii quota that is assigned to Hawaii, they also are able to catch, from the same areas, fish to satisfy the quota from the Pacific territories: American Samoa, Guam, CNMI. They are able to meet these quotas every year.

So, it is very difficult for me to understand how they can say that it is bad for them.

And they meet these quotas early because they are trying to meet the high Christmas prices.

Mr. CASE. OK. Thank you very much.

Mr. AILA. Thank you.

Dr. GOSAR. I thank the gentleman from Hawaii.

Ms. Kargi, based upon your experiences and your livelihood up in Alaska, how has the CDQ program benefited the participating Native communities?

Ms. KARGI. Thank you for your question, Mr. Chair.

The CDQ program, we do have one board member and several staff in each of our 20 villages, and they bring the issues to our

attention. And from there we look to see if there is a government program that can help. And if not, then we develop ideas, and then our board directs us to look into programs.

And a lot of the programs that we provide to our communities or our subsistence activities, those are very popular. And for one example, we have a People Propel Program that helps residents acquire equipment like ATVs, snow machines, and outboard motors. And with that influx that comes into the villages, they have to be maintained and repaired, so we provide mechanic and welder shops, and they help maintain this equipment.

We don't have a Whole Foods or Safeway in rural Alaska, so we get our meat by living off the land and the water. Subsistence is very expensive. You have to buy guns, ammunitions, nets, expensive fuel, and transportation. Food stamps don't pay for these things, so our access to the Bering Sea for CVRF provides access to food for our residents.

Dr. GOSAR. The CDQ program is a vital part of coastal Alaska's economy. How would a potential sanctuary designation impact CVRF and the communities that you serve?

Ms. KARGI. Thank you for your question, Mr. Chairman.

The Magnuson-Stevens Act requires that fisheries are sustainable, and that fishing communities are treated fairly, and the National Marine Sanctuaries Act does not require sustainability or fairness.

The Bering Sea fisheries funds our programs. So, if the Bering Sea is not managed under the Magnuson-Stevens Act, then our programs are at risk.

Dr. GOSAR. Got you.

Mr. Reid, if you had a moment to talk about the sanctuary in your experiences, what would it be? What kind of professional courtesy would you extend to the sanctuary?

Mr. REID. The sanctuary, Mr. Chairman, or the monument in the Atlantic, sir?

Dr. GOSAR. The monument.

Mr. REID. Professional courtesy?

Dr. GOSAR. What would you say? What would be your comments to them after your experience on the East Coast?

Mr. REID. Well, I am assuming that my comments would not be all that professional or courteous, Mr. Chairman.

The issue with the monument, there has been a lot of discussion about the value or the analysis of things that are allowed in the monument. What is not considered is unintended consequences.

When fishermen are excluded from one area, they are not going to just go home and stay home. They are going to go fishing in another area which may be already occupied by other fishermen. So, you have the potential for gear conflicts and other adverse effects to the industry.

I mean, you have to go hunting. We go hunting for things. And the more you have to hunt, the further you have to travel. What is not considered is the cost of that. It reduces safety at sea, it increases operating costs. And in some cases, it can also be detrimental to fisheries product that are landed shoreside.

So, I hope that answers your question, but—

Dr. GOSAR. It does.

Coming from Arizona, we have lots of national monuments and withdrawal areas. So, I can tell you it is a huge impact on a state to have to take.

My next thing is I want to ask each one of you. What was the question you came prepared today to be asked, and what was the answer?

So, if we would start with you, Mr. Fly, we would go from there.

Mr. GIBBONS-FLY. If I understand the question correctly, what question would I want to have been asked that we haven't heard asked yet?

Dr. GOSAR. Yes, and what is the answer?

Mr. GIBBONS-FLY. Well, I think we did hear some of the questions that I wanted to hear asked of the Assistant Secretary, and that is what data NOAA used to determine the need to expand protections for highly migratory species from 50 miles out to 200 miles. What data did they take into account with respect to the potential impact on the economy of American Samoa? And how will that be weighed as part of their decision-making process?

I am sure there are other questions out there that we could think of, but I think those, at least to me, are the two critical questions that I would like to know more about.

And in response to Mr. Case's comments, I would like to know what the future process will be for my organization and others to have more input into this process other than just submitting written comments. When we submitted those comments we didn't have a lot of the information we have now about the potential impact and this very specific data that NOAA provided for the catches within the PRIA EEZ.

I am sorry, I don't mean to monopolize the time. I will stop there.

Dr. GOSAR. Thank you.

Ms. Kargi?

Ms. KARGI. Thank you, Mr. Chairman.

So, listening to the previous witness, Ms. Bavishi from NOAA, I would like to know how NOAA outreached to all of these 65 communities in remote, rural Alaska.

Oftentimes, we talk to staffers all the way back here in DC, and they say, "Yes, I have been to Alaska, I have been to hub communities known as Juneau, Fairbanks, and Anchorage, Kenai, Soldotna," but you don't often hear of them traveling to rural Alaska. So, I would like to know what NOAA has done as far as outreach efforts and getting input from the other 64 communities all along the western coast of Alaska. Thank you, Mr. Chairman.

Dr. GOSAR. Well, I definitely am addicted to the life below zero. I will tell you that. It is not always Alaska, I will tell you that.

Mr. Aila?

Mr. AILA. Yes, Chair Gosar, I would have hoped that you had asked the question of how can Congress help mitigate some of the concerns that you hear expressed by both sides at the table, and my answer would be Congress has the power to provide tax breaks to the cannery in American Samoa. They just lost their tax break.

So, reinstall their tax break, help the cannery stay successful, irregardless of how much fish they get to harvest. And then the people of American Samoa can be successful and be happy, and we



can protect the resources at the same time. Thank you very much for the question.

Dr. GOSAR. Mr. Reid?

Mr. REID. Thank you, Mr. Chairman. I have a lot of questions, but most of them have already been asked. And I had a lot of answers to a lot of questions already.

But the question I was really hoping would be asked is what other protection has been done under Magnuson in the Atlantic to protect the deep sea coral ecosystems that were purported in the Antiquities Act? And the answer to that would be in the Mid-Atlantic they used the Magnuson-Stevens Act under a similar process as New England to protect 41,444 additional square miles.

And as a subset to that question, how much of the monument is covered in Magnuson actions? And the answer to that, sir, is under the New England deep sea count, Deep Sea Amendment, 82 percent of the monument is encompassed in that. And when you include additional actions by the Mid-Atlantic Council, the total rises to 88 percent.

So, my question really is, why can't I have back that 12 percent? It has nothing to do with corals. It has nothing to do with deep sea ecosystems. It is the inshore portion of that monument that is from about 50 fathoms out to about 300 fathoms of water, which is essentially a gently sloping mud pit. And there are no objects of particular interest to anybody except for the commercial fishing industry, which has historically been fishing there for over 50 years. And even the NGOs say that area is still pristine.

Thank you, Mr. Chairman.

Dr. GOSAR. I thank everybody. I guess my last comment I would say is, it seems like the system is actually working. And then my question to the Assistant Secretary, why wouldn't you start with a pilot program? Why wouldn't you start there? Because it seems awful problematic when you just do this large-scale ecosystem without understanding the full ramifications of it.

Arizona has taken it on the chin over, and over, and over again from administration after administration in regards here. So, I would love to see something more to scale.

Members of the Committee may have more additional questions for the witnesses, and we will ask you to respond to these in writing. Under Committee Rule 3, members of the Committee must submit questions to the Subcommittee Clerk by 5 p.m. on September 22. The hearing record will be held open for 10 days for these responses.

If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 11:47 a.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

**Submissions for the Record by Rep. Gosar**

**American Sword & Tuna Harvesters  
Washington, DC**

June 29, 2021

The Honorable Deb Haaland, Secretary  
Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Dear Secretary Haaland:

According to recent reports in the Washington Post, your Department sent a confidential memo to the White House urging a rescission of former President Trump's Proclamation 10049 from June 5, 2020, which reopened the Northeast Canyons and Seamounts Marine National Monument to commercial fishing.

As companies that take part in fishing off the waters of New England and the Mid-Atlantic, we would like to take this opportunity to share some of our concerns.

Through the years, we have made it clear that the management decisions that affect our livelihoods should be made through democratic, science-driven processes that encourage stakeholder engagement. We were therefore encouraged by the Executive Order President Biden signed on Inauguration Day stating it is "the policy of my Administration to listen to the science . . .".

The fishing industry cares deeply about protecting the marine ecosystems that provide for and sustain fishing families, but there is a right way and a wrong way to do it. Management decisions through the Highly Migratory Species Division of NOAA adhering to the international obligations created by the Atlantic Tunas Convention Act and the Magnuson-Stevens Act already require compliance with a wide range of substantive legal requirements, including the Administrative Procedure Act, the National Environmental Policy Act, the Regulatory Flexibility Act, the Marine Mammal Protection Act, the Endangered Species Act, and the Unfunded Mandates Act.

The Council process allows for stakeholders, scientists, and concerned citizens to review and debate policy decisions in a transparent manner. In contrast, the Antiquities Act authorizes the President to take away public areas and public resources with no public input. Using executive authority, the President can close any federal lands and waters in an opaque, top-down process that too often excludes the very people who would be most affected. It is important to note that every single fishery management council and NOAA oppose regulating fisheries in this manner.

We understand the Biden-Harris Administration position that former President Trump illegally subverted former President Obama's authority under the Antiquities Act to declare the marine monument. However, in light of the hardship that harvesters of swordfish, tuna, and squid will face, in addition to potential harm to lobster and crab producers when the original seven-year moratorium runs out, we ask that the damage done to our industry due to COVID-19 and the subsequent government-mandated closure of restaurants, be considered in any recommendations to the White House.

Also keep in mind the seafood harvesters who don't necessarily fish in the monument area, such as scallopers—the nation's most valuable federally managed fishery—who will be negatively affected when those displaced by the ban move to their areas to fish.

We ask that if you advise a rescission of last year's proclamation, that you recommend a three-year moratorium before the commercial fishing ban is reimposed. This will provide an opportunity for the hard-working men and women in our seaports to recoup some of the losses these fishing families endured due to COVID-19 related closures. And, in keeping with President Biden's January 20, 2021 Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, which stated that "the Federal Government must be guided by the best science and be protected by processes that ensure the integrity of Federal decision-making", this would allow our industry some time to commission a scientific review of commercial and recreational fishing, and its impact on the area of the monument, which to date has not been done.

A three-year moratorium on the re-imposition of the commercial fishing ban allows the Biden-Harris Administration to rescind the Trump Administration action, as well as allowing our industry to re-coup our losses suffered during COVID-19.

In the past few years, we had the opportunity to meet directly your two immediate predecessors. Unfortunately, before you were confirmed by the Senate, representatives of our fisheries were only granted five minutes each on a one-hour phone call with Interior staff to defend our livelihoods.

We respectfully request that you meet with us in-person before the White House considers any recommendation from the Department concerning the commercial fishing ban.

We look forward to speaking more about this with you and your staff.

Sincerely,

*Jim Budi (ret.),*  
Eagle Eye Fishing Corp.  
Beaufort, SC

*Scot Drainowicz,*  
Eagle Eye II Corp  
Swampscott, FL

*James Busse,*  
Seafood Atlantic Inc.  
Cape Canaveral, FL

*Patrick Fehily,*  
FV White Water, LLC  
Lavallette, NJ

*John Caldwell,*  
Eagle Eye II Corp.  
Melbourne, FL

*Tommy Forte,*  
Pescaderia Cataño  
Cataño, PR

*William A. Cox,*  
Yonges Island Fish Company  
Yonges Island, SC

*Michael Foy,*  
FV Rebel Lady  
San Juan, PR

*Tony Geisman,*  
Dei Gratia Inc.  
Charleston, SC

*Kevin McLaughlin,*  
Fairhaven Shipyard North  
Fairhaven, MA

*Pat Kornahrens,*  
FV Yellowfin Corp  
Marathon, FL

*Gary Mills,*  
Mills Marine  
Valrico, FL

*Richard Kornahrens,*  
White Water Seafood  
Duck Key, FL

*Charlie Nagle,*  
John Nagle Co.  
Boston, MA

*Michael Machado,*  
Boston Sword & Tuna  
Boston, MA

*Fred Osborne,*  
Marine Electric  
New Bedford, MA

*Tim Malley (ret.),*  
Osprey One Fisheries  
Hingham, MA

*George Purmont,*  
Pura Vida Inc.  
Little Compton, RI

*Putnam MacLean,*  
Eagle Eye Fishing Co.  
Marshfield, MA

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**CITY OF NEW BEDFORD**  
**Jonathan F. Mitchell, Mayor**

October 2, 2023

Hon. Bruce Westerman, Chairman  
 House Natural Resources Committee  
 1324 Longworth House Office Building  
 Washington, DC 20515

Hon. Paul Gosar, Chairman  
 Subcommittee on Oversight and Investigations  
 House Natural Resources Committee  
 1324 Longworth House Office Building  
 Washington, DC 20515

Dear Chairman Westerman and Subcommittee Chairman Gosar:

Thank you for this opportunity to submit testimony in conjunction with the Subcommittee on Oversight & Investigation's hearing entitled "Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System."

The management of marine fisheries in federal waters within the Northeast Canyons and Seamounts Marine National Monument is a matter of vital importance to the Port of New Bedford, Massachusetts—America's top-valued commercial fishing port.

As Mayor of the City of New Bedford and the Chairman of the New Bedford Port Authority, I have followed closely the Marine Sanctuary and Monuments policy discussion since the proposal for a Northeast Canyons and Seamounts Marine National Monument first came to light in 2016; and I have shared my views with a broad array of federal entities including the White House Council on Environmental Quality, NOAA Fisheries, and Congress.

As the Subcommittee undertakes its assessment of federal policy in this area, I encourage members to take into account the unique role that New Bedford plays nationally in commercial fishing. Our harbor serves not only the needs of the vessels that call New Bedford their home port, but also the needs of numerous East Coast vessels from North Carolina to Maine which land their catch in our port at different times during each fishing season. The proper management of our nation's marine fisheries is therefore crucial to the vitality of our port and our local and regional economy, but also to the nation, as we service the needs of an industry whose vessels operate up and down nearly the entirety of the East Coast.

The position of the Port and City of New Bedford has been consistent since 2016. We maintain that marine fisheries in federal waters everywhere, including in national monuments, should be managed under the Magnuson-Stevens Fishery and Conservation Management Act (MSA), the 169-page long legal instrument that governs marine fisheries management in U.S. federal waters. Originally enacted in 1976, the MSA has been amended and improved by several Congresses in its nearly 50-year history and is considered by many worldwide to be the "gold standard" for fisheries management.

The MSA and its accompanying ten National Standards establish specific requirements for the eight regional Fishery Management Councils. These requirements compel the Councils to address several key objectives, which include preventing overfishing, facilitating the recovery of overfished stocks, promoting the sustainability of fisheries and the communities dependent on them, enhancing safety at sea, and ensuring the long-term socio-economic benefits for both commercial and recreational fisheries, as well as the entire nation.

The MSA emphasizes that the management process should adhere to principles of openness, transparency, and robustness. It relies on scientific input and fosters collaboration with fisheries and various stakeholders while allowing for extensive public engagement and input. Importantly, the MSA does allow for regulatory adaptability in response to changing circumstances, including the challenges posed by climate change.

In contrast, the Antiquities Act of 1906 (AA) is a single page. Section 2 of this Act grants the President of the United States the authority to publicly proclaim historic landmarks, historic and prehistoric structures, and other objects of historic or scientific significance situated on government-owned or controlled lands, as national monuments. The President is also empowered to set aside portions of land within these monuments, with the caveat that the boundaries must be limited to

the smallest area necessary for the proper preservation and management of the protected objects.

Notably, the Antiquities Act does not impose a requirement on the President to create an evidentiary record or follow specific procedures and analyses akin to those mandated by the Administrative Procedures Act (APA), National Environmental Policy Act (NEPA), and others, including the Magnuson-Stevens Act (MSA).

The following side-by-side comparison of how the Antiquities Act and the Magnuson-Stevens Act were applied to the waters comprising the Northeast Canyons and Seamounts Marine National Monument are illuminating and provide a clear example of why the Antiquities Act pales in comparison to the MSA in appropriateness for the management of marine fisheries.

Management by Antiquities Act	Management by Magnuson-Stevens Act
<p>On September 16, 2016, the President employed the Antiquities Act to establish the Northeast Canyons and Seamounts Marine National Monument (Monument) in the Atlantic Ocean, located to the southeast of New England. The process for creating this Monument commenced on September 15, 2015, with a “town hall” meeting held in Providence, RI. Notably, this was the sole public meeting on the matter at that time. During this initial meeting, the Monument was merely a conceptual idea, devoid of any defined shape, structure, or specifics. Consequently, providing specific or informative feedback was challenging at best. Attendees at the meeting, representing a wide range of interested parties, were allotted a brief two-minute window to deliver oral comments, despite the meeting lasting two hours.</p>	<p>Under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), in late 2015, the New England Fishery Management Council (NEFMC) initiated a comprehensive effort to develop a discretionary, non-mandatory measure aimed at safeguarding fragile deep-sea ecosystems, including corals and their habitats.</p>
<p>Following this event, the Council on Environmental Quality (CEQ) organized only a few smaller meetings, which still lacked essential geographic, spatial, or temporal data and details.</p>	<p>This extensive undertaking spanned nearly four years and encompassed numerous public Council meetings, committee sessions, advisory panel gatherings, and plan development team meetings. It also involved in-depth scientific and socio-economic analyses, incorporating procedures such as the National Environmental Policy Act (NEPA) and adhering to the MSA and its ten National Standards. Ultimately, this effort resulted in the approval of the Omnibus Deep-Sea Coral Amendment for submission to the National Oceanic and Atmospheric Administration (NOAA) for final review and approval.</p>
<p>On August 8, 2016, a proposal was presented to the public, comprising solely a picture of the area under consideration and location information. Once again, the lack of detailed information hindered public input, and the details of the evidentiary record and analysis remained undisclosed.</p>	<p>The Amendment itself comprises 566 pages along with eight appendices, providing a thorough justification for designating an area spanning 25,153 square miles for the protection of vulnerable deep-sea ecosystems, including corals. Importantly, the Amendment also considered both the intended and unintended consequences for various stakeholders. A “freeze the footprint” approach was adopted, preserving access to historical fishing grounds for fishermen, thereby sustaining socio-economic benefits for the entire nation.</p>
<p>A mere 39 days later, the Monument was officially designated. The entire process, from inception to proclamation, spanned one year and one day. The Monument encompasses two distinct areas, totaling 4,914 square miles, with numerous restrictions imposed on extractive activities, including mining and oil/gas operations.</p>	<p>On July 26, 2021, the Omnibus Deep-Sea Coral Amendment came into effect.</p>

Management by Antiquities Act	Management by Magnuson-Stevens Act
<p>Moreover, commercial fishing of any kind, apart from a temporary exemption for lobster/crab pot fishing (which has since expired), is prohibited within the Monument. Nevertheless, recreational fishing remains permitted, even extending to Highly Migratory Species fisheries like tuna, where recreational fishermen can use gear identical to that used in commercial fishing.</p>	
<p>In addition to the prohibitions outlined in the declaration, a management plan for the Monument was supposed to be collaboratively developed by the Departments of Interior and Commerce within three years of its establishment. However, seven years later, draft management guidance is only now beginning to surface.</p>	

The Magnuson-Stevens Act has been developed for the express purpose of managing marine fisheries. The Antiquities Act was passed to give President Theodore Roosevelt the authority to protect American Indian artifacts.

As is evident from a comparison of the texts of the MSA and the AA, and by the comparison of the restrictions included in the Northeast Canyons and Seamounts Marine National Monument waters, the Antiquities Act is simply inadequate for the proper management of marine fisheries.

The fishery management amendments described above which were created under the MSA protected approximately 88% of the sea bottom, canyons, and sea mounts currently in the monument area. The remaining 12% is the historic fishing grounds of the offshore lobster and red crab fisheries. These fisheries have been operating in this area for over 50 years, and yet these areas are asserted to be “pristine” by the advocates of protections within the monument area.

Commercial fishing in the water column above the seamounts and canyons was historically regulated under the MSA provisions covering highly-migratory species such as swordfish and tuna. The management of these species has been successfully implemented by NOAA Fisheries until Presidential actions under the Antiquities Act imposed a ban on commercial fishing.

The commercial fishing ban creates a number of difficulties for affected fisheries:

- In years when highly migratory species such as swordfish and tuna are traversing the monument region, our longline fishermen are likely to be unable to harvest their internationally-negotiated quotas.
- Harvesters targeting quid, butterfish, and other fisheries are forced to travel for hours across the monument unable to fish until they exit the far side of the monument passing schools of these species that they can easily see in the monument waters. This wastes time and fuel, and unnecessarily increases their carbon footprint.
- Although the Atlantic scallop industry—the most valuable federally-managed wild-caught fishery in the nation—does not operate in the Northeast Canyons and Seamounts Marine National Monument, the commercial fishing ban is moving the offshore lobster industry from the region and leaving them nowhere to go except onto scallop grounds, creating a potential for conflict between fisheries.
- The Atlantic red crab industry, which is sustainable and has brought an underutilized species to market, relieving pressure on over-exploited species can no longer harvest in areas where they have successfully harvested for decades.

For all these reasons, I remain convinced that fisheries management under existing Magnuson-Stevens authority, is the most sensible approach to managing fishing activity within the Northeast Canyons and Seamounts Marine National Monument.

Thank you again for your consideration of this important issue.

Sincerely,

JON MITCHELL,  
*Mayor, City of New Bedford*  
*Chairman, New Bedford Port Authority*

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**SAVING SEAFOOD**  
**Washington, DC**

October 2, 2023

Hon. Bruce Westerman, Chairman  
House Natural Resources Committee  
1324 Longworth House Office Building  
Washington, DC 20515

Hon. Paul Gosar, Chairman  
Subcommittee on Oversight and Investigations  
House Natural Resources Committee  
1324 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Westerman and Subcommittee Chairman Gosar:

Thank you for convening the September 19, 2023, hearing on Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System in the Subcommittee on Oversight and Investigations.

My colleagues and I at Saving Seafood have worked with the domestic seafood industry for years to urge the use of the provisions of the Magnuson-Stevens Act to manage fisheries in all Federal waters, including in marine monuments. When the Northeast Canyons and Seamounts Marine National Monument was first proposed in 2016, we worked with numerous elected and appointed officials toward this goal, but ultimately, President Obama included a ban on commercial fishing in the monument designation.

The difference between how members of the Trump Administration, and members of the Biden-Harris Administration handled examining the effects of the commercial fishing ban could not be more different.

We began working with members of the Trump Administration to request a reversal of the commercial fishing ban in the Spring of 2017. This led to a June 16, 2017, meeting in Boston for affected fishing interests with Secretary of the Interior Ryan Zinke, and subsequent meetings in Washington, DC. Secretary Zinke recommended that the President remove the commercial fishing ban later that year. A series of White House meetings began in March 2019 and continued for over a year, in which Administration staff requested a great deal of information regarding the effect of the commercial fishing ban, and additional data and analysis from independent respected fishery scientists.

In June 2020, President Trump removed the ban on commercial fishing, creating fairness and parity between commercial and recreational fishing interests.

In March 2021, before the Biden-Harris Administration had a confirmed Interior Secretary in place, two conference calls were held in which members of the nation's fishery management councils, and members of the fishing industry were given just one hour to explain their reasons for opposing a reimposition of the commercial fishing ban.

In June 2021, after Secretary Deb Haaland was confirmed by the Senate, we requested a meeting with the Secretary so that members of the swordfish and tuna longline industry could explain why analyses funded by environmental interests claiming that the commercial fishing ban had no negative effect on their fisheries were inaccurate. Our letter was acknowledged via email by Shantha Ready Alonso, Director of the Office of Intergovernmental and External Affairs (OIEA) at the Office of the Secretary, U.S. Department of the Interior. Despite numerous follow up calls and emails, there was no response to the letter. On Columbus Day, 2021 the commercial fishing ban was reimposed. We received a response in December 2021. It was a form letter merely describing that the ban had been reimposed.

Our nation's commercial fishing industry deserved to be heard.

Sincerely,

ROBERT B. VANASSE,  
*Executive Director*

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**SAVING SEAFOOD**  
**Washington, DC**

September 23, 2021—*The following is an excerpt from an article published in National Fisherman by Dr. Roger Mann, professor of Marine Science at the College of William and Mary's Virginia Institute of Marine Science. It is based on an article published by the Journal of Shellfish Research. That paper, "An Ecosystem is Not a Monument, and Other Challenges to Fishing in the 21st Century," is based on a talk given by Dr. Mann at the annual meeting of the National Shellfisheries Association.*

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**Close Quarters: Ocean Zoning Pushes Fisheries to the Brink**

Managing fisheries is no longer simply about [the Magnuson Stevens Act's] directives to "conserve and manage" a sustainable resource to serve the "social and economic needs of the States." It is about managing fisheries in a changing landscape of competition for ocean resources, where the environment is changing faster than in living history, and species footprints are on the move.

Part of this changing landscape is the creation of large, no-take MPAs, like the Northeast Canyons and Seamounts Monument off the coast of Cape Cod. Designated by President Obama with the sweep of a pen using the Antiquities Act of 1906, the 4,913 square miles of the monument are now managed by multiple federal agencies under a bewildering patchwork of legislation, including Magnuson, the Endangered Species Act, the Marine Mammal Protection Act, the National Wildlife Refuge System Administration Act, the Refuge Recreation Act, Public Law 98-532, and Executive Order 6166. Then there is the National Marine Sanctuaries Act, through which the government can designate and protect marine areas of national significance.

This plethora of confusing legislation lacks uniform definitions. It is not clear on how—or even if—MPA designations are required to be revisited, even when species move. In addition, it does not state who has precedent over whom in the management hierarchy.

Even as questions remain over existing MPAs, activists are pushing for more with a "30x30" campaign to protect 30 percent of our nation's land, inland waters and oceans as conservation areas by 2030. But what is "protected" in this context? Is a region protected only by excluding fishermen through a no-take MPA? Or does the Magnuson Act directive to "conserve and manage the fishery resources" and "exercise sound judgment in [their] stewardship" rise to the level of protection? If so, then is not the entire exclusive economic zone already protected?

MPAs are far from the only competition fishermen are facing in the ocean. Environmental advocacy, communications corridors, mining, national defense, and shipping all threaten fishermen's access to ocean resources. Perhaps the biggest incursion of all is offshore wind development: the U.S. East Coast continental shelf already has 1.7 million acres of federal bottom under lease for offshore wind, with the Biden administration seemingly poised to expand such efforts along the Atlantic, Pacific and Gulf coasts. Offshore wind projects have a projected life span of 50 years, with turbine spacing restricting access for both commercial fishing vessels towing mobile gear and federal survey vessels. Stock assessment surveys will be compromised, resulting in reduced quotas for fishermen.

With so many competitors muscling their way into the ocean, who will be the winners and losers? Over what time frames will winners emerge? Where does preservation of the fishing industry sit in the pecking order? At the bottom?

The "space" for fisheries is shrinking. Commercial fishing won't be the largest economic player as development of our oceans continues, but it is historically an important part of the economic and social structure of coastal communities. Fisheries are based on moving species distributions that do not function well within fixed boundaries, like those being zoned for MPAs and offshore wind.

Read the full article at [National Fisherman](#)

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## An Ecosystem is Not a Monument, and Other Challenges to Fishing in the 21st Century

*BioOne Digital Library*, September 14, 2021 by Roger Mann

*J. of Shellfish Research*, 40(2):185–190 (2021). <https://doi.org/10.2983/035.040.0201>

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### Abstract

The continental shelf of the United States was once the preserve of commercial fishermen. This is no longer the case. The exclusive economic zone is increasingly becoming the focus of other economically powerful, sometimes incompatible uses, including green energy, shipping, communications, mining, military exclusion zones, and conservation regions. These other uses generally have fixed boundaries. The distribution of fished species moves in relation to warming of shelf waters, presenting challenges to both federal regional fishery management councils and industry alike. There is need for continued engagement between user groups with respectful use of guiding science and legal structure to ensure reasoned access for all, and stability for economies that are reliant on ocean shelf resources, including the fishing industry.

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*“Which of the following is not like the others: (1) a monument, (2) an antiquity [defined as a ‘relic or monument of ancient times’, Webster’s International Dictionary of the English Language 66 (1902)], or (3) 5,000 square miles of land beneath the ocean?” wrote Chief Justice John Roberts. “If you answered (3), you are not only correct but also a speaker of ordinary English,” he said. “In this case, however, the government has relied on the Antiquities Act of 1906 to designate an area of submerged land about the size of Connecticut as a monument—the Northeast Canyons and Seamounts Marine National Monument.”*

The harvest of fish from the sea is a human activity as old as recorded history. Transoceanic expeditions to Newfoundland Grand Banks in search of cod began shortly after the European discovery of North America and continued through the 15th and 16th centuries by French, Portuguese and Spanish fleets. Fishermen have long epitomized the image of hardy individuals seeking to make a living in freedom at sea, but this freedom is facing increasing stricture as the continental shelves and exclusive economic zones (EEZ) become the focus of multiple, sometimes incompatible uses. In this complex debate, fishermen and the fishing industry compete with economic giants, a plethora of political and social philosophies, and a diversity of scientific opinion. Fisheries are becoming the minority economic player in this debate. The rules of engagement dictating both survival of the fishing industry as a sustainable biological and economic enterprise, and the broader needs of society served by other ocean users are neither stable nor arguably responsive to the minority (fishing) constituency. The misuse of the Antiquities Act is but a single example. An ecosystem, defined by Merriam Webster as “the complex of a community of organisms and its environment functioning as an ecological unit,” is not a monument. There is need for continued engagement between user groups with respectful use of guiding science and legal structure to ensure reasoned access for all, and stability for economies that are reliant on ocean shelf resources, including the fishing industry.

How did we get here? When did oceans become national, rather than international territories? When did we start zoning the ocean? Where will this process end, and who will be winners and losers? A little history provides useful context, and it starts in the North Atlantic as World War II came to an end.

Iceland officially remained neutral throughout World War II, but it was strategically too important to North Atlantic shipping to remain untouched. British forces invaded Iceland on May 10, 1940. The defense of Iceland was transferred from Britain to the United States on July 7, 1941, 5 months before the latter joined the Allied effort. On June 17, 1944, Iceland ended the Act of Union with Denmark, declared independence, and established the Republic of Iceland. The end of World War II and economic support from the Marshall Plan ushered in a period of economic growth for Iceland. Among Iceland’s most significant natural resources was its cod fishery, but postwar competition for this resources with the United Kingdom intensified, and the 1948 “Cod Wars” were characterized by fishing vessels accompanied by military escorts and more than one instance of vessels being rammed by counterparts from the opposing side. Iceland began to flex its proverbial muscles

with respect to its marine resources, and sequentially extended its maritime jurisdiction from 6 to 12, and subsequently to 200 miles. In doing so, it set the example of a 200-mile EEZ that the world would eventually follow. Little did they realize the implications of this boundary in years to come.

United States jurisdiction over fishery resources on continental shelves was codified in 1976 with passage of the Magnuson Stevens Fishery Conservation and Management Act (MSA). To place the gravity of this action in context, the 200-mile EEZ footprint covers approximately 4.42 million sq. miles, exceeding that of the entire U.S. landmass at approximately 3.79 million sq. miles. The MSA contains strong and authoritative wording. Its purpose, taken from 1996 amended reauthorization, is to “provide for the conservation and management of the fisheries, and for other purposes,” thus:

(1) to take immediate action to conserve and manage the fishery resources found off the coast of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dates March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources [, and fishery resources in special areas]. . .

Indeed, it was the MSA in part that led to the first seizure of a foreign vessel harvesting fish in U.S. territorial waters. The Soviet trawler *Taras Shevchenko* arrived in Boston, MA, on April 11, 1977. The MSA thus became a tool of international diplomacy in the Cold War era. Implicit in this inclusion is that fish and fisheries become items to be bartered to obtain larger, national, and international political goals (witness the continuing evolution of selective import quotas and tariffs, not always responsive to home industry or entity needs).

In addition to codifying international boundaries, the MSA proceeded to establish a structure for stewardship, thus:

“establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States. . .”

Each Council would have three members from each of the represented states, to include both standing memberships plus nominated and then appointed citizen members who serve 3 y terms. Although there is commendable inclusion here for citizen members, the diversity of contributing challenges subsumed in just fishery management alone is daunting, and underscores a continuing and pressing need for communication and listening skills in both council members and affected constituents—not just fishermen, but everyone with social and economic interest in a sustainable coastal zone economy and food security.

I served as an appointed member for the Commonwealth of Virginia on the Mid-Atlantic Fisheries Management Council (MAFMC) from 2016 through 2019. Despite a career as a fisheries biologist, the diversity of challenges that I encountered in this period were considerable, and on more than one occasion, I questioned how much of the information provided by witnesses was useful to the Council. Scientists are trained to test hypotheses, and then deliver facts, rather than opinions, in a specific format with statistically defensible boundaries. They have their own vocabulary replete with exquisite terms, often marginally or completely unintelligible to the layperson. Consider the following as examples. What is essential fish habitat, if not water? What is the difference between overfished and overfishing? What is SSB (spawning stock biomass, but scientists love acronyms)? Should the stock recruit curve be Beverton-Holt or Ricker? Who cares about steepness and why? Should we use parametric or non-parametric approaches, or maybe Bayesian? Is an MPA a Marine Protected Area or a Master of Public Administration (if you Google it there are 144 definitions). What is the difference between weather and climate? Sitting in Council public hearings, I was more than once reminded of Tolkien:

*“In one thing you have not changed, dear friend, said Aragorn: you still speak in riddles. What? In riddles? said Gandalf. No! For I was talking aloud to myself. A habit of the old: they choose the wisest person present to speak to; the long explanations needed by the young are wearying.”*

J. R. R. Tolkien, *The Two Towers*, Part II: Lord of the Rings.

The collective lack of progressive response of governmental bodies stands as testament to the fact that the scientists, us, are still, at least part of the time, speaking in riddles and need to improve the communication skills.

Despite these not being inconsiderable challenges, the regional Councils endeavor to manage fish stocks in a sustainable manner. How well are they doing in just this task (I will address the large challenges of multiple competing users later in this text)? Each geographic region faces unique challenges. I will focus a few comments on the status of stocks managed by the MAFMC and the New England Fisheries Management Council (NEFMC). It is relevant to start with an overview of the oceanography of the Council jurisdictions. The mid-Atlantic and New England shelf is part of a complex ocean ecosystem integrating physical signals from a yet wider region, given that its source water is the cold Labrador Current (LC). The Labrador Sea has been warming since the early 1800s (Moore et al. 2017). The Gulf of Maine (GOM) is supplied by westward flowing water from the LC across the Scotia Shelf (SS). Water exits the GOM through the Great South Channel to the Georges Bank (GB). In turn, the Mid-Atlantic Bight (MAB) is supplied by continuing southwesterly flow of this water mass. The warming signal from LC source water was recorded in ocean quahog shells for the MAB and GB, and accelerating growth rates continue to this day (Pace et al. 2018). The mid-Atlantic and New England subunits are far from uniform in physics and geology, driving differing responses in biologically exploitable resources. The central GOM is relatively deep and has counterclockwise circulation. The shallow western coastal rim is modest in area. The GB has clockwise circulation, is relatively shallow, and well mixed vertically. The MAB is notable for a very large annual temperature range combined with strong seasonal stratification, and the presence of a unique cold pool (Houghton et al. 1982) that permits southern extensions of the range of boreal (northern) species and structures the cross-shelf distribution of the benthos (Brown et al. 2012).

Returning to the fisheries managed by the MAFMC, the council is responsible for the Atlantic mackerel, chub mackerel bluefish, spiny dogfish, summer flounder, golden and blueline tilefish, surf clam, butterfish, ocean quahog, *Illex* and longfin squids, scup, black sea bass, and monkfish. Of these, only the Atlantic mackerel and bluefish are technically overfished (i.e., the stock is depleted below the overfishing threshold: a stock-specific biological reference point where biomass is less than half that estimated to sustain maximum sustainable yield,  $B_{msy}$ , where less than  $\frac{1}{2}$   $B_{msy}$  is overfished), and only the Atlantic mackerel is being overfished (i.e., the fishing mortality rate,  $F$ , exceeds the fishing mortality rate commensurate with maximum sustainable yield,  $F_{msy}$ , so overfishing is a rate where  $F/F_{msy}$  is  $>1.0$ ). The MAFMC manages conservatively, and it has a conservative risk policy where, simply stated, a “buffer” is considered between estimated stock available for harvest and actual quota allowed. The MAFMC manages through single-species assessments, implemented by the Northeast Fisheries Science Center, and reviewed by a Science and Statistical Committee that provides recommendations on overfishing limits. This highly structured process typically involves periodic major assessments every 3 y or so (sometimes more depending on species) with annual updates from the Northeast Fisheries Science Center and Science and Statistical Committee to guide revision, if required, on overfishing limits and quotas. Although this process has strong attributes—the number of overfished stocks is commendably low—it focuses on short-term projections in an environment, literally and metaphorically, where environmental baselines are no longer stable but driven by warming climate, and the reality that multispecies interactions will always compromise single-species approaches. The NEFMC is, by contrast, challenged by overfished stocks of the Atlantic cod, winter flounder, yellowtail flounder, Atlantic halibut, Atlantic wolffish, witch flounder, windowpane flounder, and ocean pout among the Northeast Multi-species groundfish. Rebuilding plans are in place. The point to make, again, is that the biology of the MAB is different from that of GB and GOM, challenges are species specific, the NEFMC has to address trans-boundary stock management with Canada to the north, and it is also in flux as the GB and GOM warm with climate change. Stock assessment models designed to project stock status in changing environments are in their infancy and the subject of much research, but that does not negate the here-and-now challenges of “simply managing fisheries” because this is not simple.

It is known that the MAB, GB, and GOM have been warming for a long time (Saba et al. 2016) and that species footprints are moving inexorably north and east (Kleisner et al. 2017). Species-specific sensitivity to climate change has received much attention (Hare et al. 2016) but future species distributions are not driven by temperature alone. Habitat changes over this range, as does the distribution of both predators on and prey of target species (McHenry et al. 2019). Many species will suffer contraction of their footprint, given changes in bottom geology north of GB.

Food web impacts on early life history stages may be particularly vulnerable, given that adult spawning may be cued to temperature, whereas food availability may be driven by seasonal day length resulting. The fact that such a mismatch can result in recruitment failures has been well documented since the early contributions of Johan Hjort (Hjort 1914, 1926). In a recent webinar, Jason Link (Link 2021) suggested cod might be largely absent from the GOM within a decade, with lobsters all moving to Canada within a few decades. Can you imagine Cape Cod with no cod? So, the Councils will be managing species that are not in their designated region; in the case of NEFMC, stocks may have moved across the Hague Line and be outside of U.S. management all together! The overlap of species distributions between Council regions is not new, but wholesale migration of their distributions arguably is new within the time frames of the MSA. Immediate challenges to Council structures are thus emerging in the cross-regional arena: Who acts as lead Council where species move? How can a common strategy on single-species versus ecosystem-based assessments be implemented? How can choke species, that is species for which the available quota is exhausted (long) before the quotas are exhausted of (some of) the other species that are caught together in a (mixed) fishery, be accommodated? What time frames should be considered for adaptation of management structure?

But managing fisheries, with the MAFMC and NEFMC as examples, is no longer about just MSA directions to “*conserve and manage*” as a sustainable resource that serves the “*social and economic needs of the States.*” It is about managing fisheries in a changing landscape (seascape?) of competition for ocean shelf resources where the environment is changing faster than in living history and species footprints are moving inexorably north and east. The competition includes marine monuments and sanctuaries, environmental advocacy, communications corridors, mining, national defense, shipping and, the elephant in the room—green energy in the form of wind farms. Who will be the winners and losers in this competition? Over what time frames will winners emerge? How will the fishing industry be represented in this debate? A few examples will be examined.

The Northeast Canyons and Seamounts National Monument referred to by Justice Roberts comprises 4,913 square miles, approximately 130 miles east-southeast of Cape Cod. It was created by President Obama in 2016 by a sweep of the pen using the Antiquities Act of 1906. The Monument is managed cooperatively by NOAA and USFWS employing a bewildering mix of legislation including MSA, the Endangered Species Act, the Marine Mammal Protection Act, the National Wildlife Refuge System Administration Act as amended, the Refuge Recreation Act, Public Law 98-532, and Executive Order 6,166. And then there is the National Marine Sanctuaries Act that, under Commerce, can be used to designate and protect marine areas of national significance, so assigned based on their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. There are probably a few more relevant pieces of legislation that I have, in my ignorance, left out. This is a plethora of confusing, at least to the inquisitive laymen, federal legislation that both creates forms of exclusion zones to fisheries and appears to lack uniform definitions [e.g., the Coastal and Marine Ecological Classification Standards of 2012 (NOAA 2012) do not appear where Essential Fish Habitat designation is used in delineating Habitat Management Area, for that task NEFMC employs the Swept Area Seabed Impact (NEFMC Habitat Plan Development team 2011) model], and is not clear on how or even if such designations are required to be revisited, even when species move, or clearly state who has precedent over who in the agency and legislative structure. A recent and unquestionably substantial addition to this arsenal is the Biden administration goal of “30% by 2030” of the nation’s land, inland waters, and oceans (by that read EEZ) protected as conservation areas (Executive Office of the President 2021). Public polling indicates that 80% of voters nationwide view this as a reasonable goal that will be good for the economy (NRDC 2021). What is “protected” in this context? Is a region protected only at the exclusory level afforded by Monument status, or do the words of MSA directing to “. . . *conserve and manage the fishery resources*” and “*exercise sound judgment in the stewardship . . .*” rise to the equivalency of protection? If so, then is not the entire EEZ already protected under MSA? Does 30% need to be set aside in Marine Protected Areas (MPA)? Although MPAs have their support in constituencies arguing for preservation of biodiversity (Lester et al. 2009, Edgar et al. 2014) in addition to associated social and economic benefits (Davis et al. 2019), the debates over MPAs as universal positive tools in fishery management are far from resolved (Hilborn et al. 2004). Whereas the sustainability of managed fisheries is regularly stated, bottom trawling has recently been cast as a demonic activity releasing annually approximately 1 billion metric tons of carbon from the seafloor, equivalent to that released by air travel globally, to contribute to acidification of the ocean (Sala et al. 2021).

Copper communication cables were relegated to the scrapheap of history when satellite communications enabled connectivity world-wide, but the advent of high-speed fiber optics facilitating breathtaking data transmission rates has reinvigorated the use of cables in communication, including undersea communication corridors. An underwater network of electricity cables has been functioning as part of the national grid for many years, mostly in shallower waters, well before wind turbines were considered as a major element of the national energy strategy. Both of these exist as significant economic drivers and are respectfully avoided by fishermen operating mobile gear.

The mid-Atlantic hosts the largest naval base in the world (Norfolk, VA) in addition to other military installations serving all arms of the Department of Defense (DOD). The U.S. Navy operates DOD danger zones and restricted areas where the Atlantic Fleet conducts training exercises and tests. These are modest in area, but deserving of respectful use. Most other operational regions of limited access concerns, such as shock boxes and submarine transit lanes, are in deeper waters than typically occupied by fishing fleets.

Offshore sand mining for beach replenishment to maintain coastal infrastructure and serve tourism is expected to increase along the mid-Atlantic coastline with sea level rise and climate change-driven increases in coastal storm activity. Although these represent modest offshore target zones for dredging source material, they are none the less in depth ranges commensurate with fishing, and represent a vital resource in significant local coastal economies.

The recent stranding (March 23–29, 2021) of the container vessel *Ever Given* in the Suez Canal has highlighted the fragility of the global supply chain for cargo of all kinds. International trade relies on immediate access of these behemoths to docking facilities with short turnaround times. The specifications of such vessels are impressive. The *Ever Given* was built in 2018; is 400 m long, about 59 m wide, and 15.7 m deep; can carry a total of 220,940 tons; and has a capacity of 20,388 standard-size 20-foot containers (a TEU). She represents ship design driven by economies of scale in transport costs that have been in progress since 2008. As an example, cost savings per TEU carried between Asia and Northern Europe decreased from ~\$1000/TEU for a mid 1990's 8,000 TEU vessel to \$700 for a 2013 18,000 TEU vessel. These economies are increasingly offset by rising port costs and port access challenges driven by, among other things, access channel depths (a fully loaded 20,000 TEU vessel draws 16.5 m necessitating dredging at most U.S. east coast ports) and limited clearance under existing bridges, in some instances necessitating raising bridges to facilitate access. The profitability of international megaship-based trade balances on the status of capacity (or overcapacity) for transport, fuel oil prices, and the global economy (Kapoor 2016). Yet this race for ever larger ships continues driving scenarios of safety and access that dictate exclusion zones where and when they operate.

*"It's the economy, stupid"*—James Carville, 1992, presidential campaign strategist for Bill Clinton.

James Carville's words place the role of fishing in the EEZ in contrast to other uses described earlier. Consider that the MAFMC manages fisheries with a value of approximately 2 billion dollars annually. The port of New York and New Jersey handled 3.77 million inbound TEU in 2019. The Ports of Virginia handled 1.36 million inbound TEU in 2019. If a \$15,000 value is assigned to the contents of each TEU, approximating to filling each with potatoes at the average 2020 U.S. retail price of \$0.75/pound, the throughput of the Ports of Virginia VA port alone exceeds the value of the fisheries under MAFMC management. The shipping economy dwarfs the fishing economy.

The proverbial elephant in this room is green energy in the form of offshore wind farms. The U.S. east coast continental shelf has 1.7 million acres of federal bottom under lease for the development of offshore wind energy (MARCO 2020, Munroe et al. 2021). The Biden administration moved quickly to permit the Vineyard Wind 1 offshore wind farm and is poised to continue its support for additional expansion (White House 2021). Offshore wind farms have a projected life of 50 y. Optimal physical spacing of individual structures restricts access by both commercial vessels towing mobile gear and federal survey vessels. Stock assessment surveys will be compromised, and both fishery footprints and concomitant quotas will be reduced. The modification of local flow fields and sediment transport, with impacts on water column dispersal processes and benthic community composition and productivity, remains subjects of research. Offshore wind farms are not inaccessible to Coast Guard aerial rescue operations, but they do present significant limitations for the use of helicopters. Exclusion zones or setback advisories for transmission cables beyond the wind farm footprint, between farm and shoreline, are of the order of 500

m or three times bottom depth (Best & Kilcher 2019); thus, a 500-m setback results in each kilometer of cable excluding 1 km<sup>2</sup> of bottom. The fishing industry has formed a broad membership-based coalition committed to improving compatibility of offshore development with their businesses (RODA 2021). Whereas the development of offshore wind power remains a dynamic area of technology and public policy, the economic impact estimates for the offshore wind energy economy are enormous and equal in stature to that of shipping.

*“According to the U.S. Department of Energy, the Atlantic Coast offshore wind project pipeline is estimated to support up to 86,000 jobs, drive \$57 billion in investments, and provide up to \$25 billion in economic output by 2030.”*

*“New York expects a \$6 billion in-state industry by 2028, and Massachusetts projects up to \$80 million in direct economic impacts (Forbes Magazine 2018) . . .”*

Perhaps the most breathtaking projection is the following:

*“Offshore wind is projected to meet 90% of U.S. energy demand at full build out (Electrek Green Energy Brief 2021)”*

The impacts of such an achievement would radically change national energy policy, arguably negating the need for a U.S. fossil annual fuel subsidy approaching \$649 billion, a number more than 10 times federal spending on education (Ellsmoor 2019), and this does not include “savings” from reduction in greenhouse gas emissions. The subsidy estimate does not include annual spending of \$81 billion on defending oil supplies from the around the world (DiChristopher 2018). Elimination of U.S. dependency on foreign oil would allow not just economic savings but also a major revision of everything from domestic and defense spending through foreign policy on human rights, where the latter would no longer include turning a proverbial blind eye to ongoing abuses in oil-supplying nations. As noted at the beginning of this text, the MSA enabled the inclusion of fisheries access as a tool of international diplomacy in the Cold War era. Wind energy-facilitated independence from foreign oil supply will become yet another addition to this toolbox, but one of far greater economic impact than fishery access. This prompts the question, where does preservation of the fishing industry sit in this pecking order? At the bottom?

Fishery management in support of a sustainable industry that supports coastal communities and contributes to food security faces a growing list of challenges. With respect to just managing the fishery resource, two important questions arise:

1. How difficult is it to quantify response of a target species or species complexes to changing climate and thereby “conserve and manage the fishery resources?”
2. How difficult is it to translate this information in a proactive manner to management plans that serve the “social and economic needs of the States,” and by that I include preservation of a sustainable fishing industry?

How much of the “zoned” resource will be accessible to the fishing industry? The EEZ is being zoned with fixed boundaries with respect to wind farms that have projected 50 y operational time frames until decommissioning. Fisheries are based on moving species distributions and do not function well with fixed boundaries. Where will the fish be, and how will a management structure to ensure access be developed? The “space” for fisheries is shrinking. Fisheries will not be the largest economic player as development of the EEZ continues, but they are historically an important part of the economic and social structure of coastal communities. To reiterate one of my opening statements, there is need for continued engagement between user groups with respectful use of guiding science and legal structure to ensure reasoned access for all, and stability for economies that are reliant on ocean shelf resources, including the fishing industry.

#### **ACKNOWLEDGMENTS**

This commentary grew out of an invitation to present a plenary lecture at the 113th Annual Meeting of the National Shellfisheries Association. The presentation focused on the need for fishery biologists to expand their field of knowledge and participate in decision-making processes that serve societal needs. This manuscript attempts to distill some of the diverse challenges facing the fishing industry as an example of the need for greater, balanced participation by the marine science community in these debates. I thank Sandy Shumway for the invitation to both present the plenary and offer this commentary in written form. This is Contribution Number 4018 from the Virginia Institute of Marine Science.

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## SAVING SEAFOOD

### Northeast Canyons & Seamounts Marine National Monument Teleconference

**Friday, March 12, 2021**

On March 12, 2021 representatives of several East Coast fisheries participated in a teleconference with Department of the Interior staff and NOAA Fisheries leadership to provide input about the Northeast Canyons and Seamounts Marine National Monument. They raised several concerns about the fairness of potential new monument restrictions, its potential impact on their communities, and the lack of scientific basis for further fishing restrictions. Specifically, the industry members, who represented a wide variety of fisheries from up and down the Atlantic, testified that continuing to allow fishing in the Atlantic monument area is consistent with the Biden Administration's goals of following the best available science, as well as its commitment to economic and environmental justice.

This discussion followed a DOI monument review listening session the previous day for the leadership of the New England Fishery Management Council, the Mid Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. During that session, both Councils and the Commission, which in total represent every state from Florida to Maine, endorsed the use of the Magnuson-Stevens Fisheries and Conservation Management Act (MSA) and the open and public process which it mandates for fisheries management, over the use of the Antiquities Act of 1906 which has no such requirements.

A recording of this session is attached, and a summary of the participant's comments appears below. Participants included (time of their presentation during the recording in parenthesis):

- David Borden (3:20)—Executive Director, Atlantic Offshore Lobster Association (RI, NH, MA)
- Greg DiDomenico (9:18)—Lund's Fisheries (NJ, MA, CA)
- Jonathan Williams (12:54)—Atlantic Red Crab Fisheries (MA, ME)
- Glenn Delaney (21:53)—Blue Water Fishermen's Association (entire east coast)
- Laurie Nolan (26:59)—F/V Seacapture (NY)
- Grant Moore (30:52)—Broadbill Fishing, F/V Direction. President of Atlantic Offshore Lobstermen's Association (RI, NH, MA)
- Katie Almeida (35:21)—Town Dock (RI)
- Meghan Lapp (37:27)—SeaFreeze Shoreside (RI)
- Martin Scanlon, (43:02)—Blue Water Fishermen's Association (entire east coast)
- Chris Roebuck (44:19)—Owner/Operation of Two Offshore Trawlers
- Dan Farnham (46:28)—Mid Atlantic Fishery Management Council Member, Commercial Fisherman
- James Budi (50:20)—American Sword and Tuna Harvesters

#### SUMMARY OF SEAFOOD INDUSTRY STATEMENTS

##### **David Borden (3:20)—Executive Director, Atlantic Offshore Lobster Association**

- "What the Interior Department recommends to President Biden on this issue really matters, not only to the environment, but to the fabric of a number of coastal communities and minority ethnic groups."
- Supports restoration of management provisions that were in President Obama's original monument declaration, with the exception of its fisheries provisions
- Fisheries should revert to being managed by NOAA; under the Magnuson-Stevens Act, fisheries must be managed with the best available science
- Interior Department should acknowledge new developments in habitat and fisheries management that occurred between President Obama's Executive Order and President Biden's Executive Order
- Recent habitat protections in New England were established through the regional Council process, including stakeholder input. Unlike an Executive Order, the Council process requires impact analysis

- These concerns are not partisan. Both Democratic and Republican presidential candidates supported the creation of five marine monuments through the Antiquities Act
- Several large coastal cities, with large minority and immigrant populations, will be negatively affected by any closure of the area to fishing
  - Best example is New Bedford, which supports a community of recent immigrants from Central America
- A large number of immigrants are employed by fishing vessels and processing plants in New Bedford
- “I have no doubt that any closure of this area will have a disproportionate impact on ethnic minorities in the city.”
- Closure of Atlantic monument area will move gear into areas with higher number of right whales
- Interior Department can also recommend that the New England Fishery Management Council coral amendment, which will protect an additional 25,000 square miles of habitat, be adopted

#### **Greg DiDomenico (9:18)—Lund’s Fisheries**

- Biden Administration Executive Order requires agencies to “make evidence-based decisions guided by the best available science and data.”
- From the Executive Order: “Scientific and technological information, data, and evidence are central to the development and iterative improvement of sound policies, and to the delivery of equitable programs, across every area of government. Scientific findings should never be distorted or influenced by political considerations. When scientific or technological information is considered in policy decisions, it should be subjected to well-established scientific processes, including peer review where feasible and appropriate, with appropriate protections for privacy. Improper political interference in the work of Federal scientists or other scientists who support the work of the Federal Government and in the communication of scientific facts undermines the welfare of the Nation, contributes to systemic inequities and injustices, and violates the trust that the public places in government to best serve its collective interests.”
- Only way to follow the scientific integrity provisions of the Executive Order is to have these types of habitat protections come through the Council process, which includes the expertise of the Council staff and outside scientists, as well as input from all stakeholders
- Councils have preserved the most sensitive habitat via two Council amendments, while not harming the fishing industry

#### **Jonathan Williams (12:54)—Atlantic Red Crab Fisheries**

- Deep sea red crab fishing takes place in quarter-mile wide ribbon passing through the length of the monument, in depths of 600–800 meters
- The Atlantic marine monument bisects deep sea red crab fishing grounds, effectively closing off an area equal to the size of the monument directly to the east of the monument’s location
- The deep sea red crab fishery was given a 7 year exemption by the Obama Administration, likely because the impact on the environment has been negligible
- “The fishery is deemed sustainable, nobody will ever dispute that.”
- Red crab is not an industrial fishery, it is consolidated and has reduced in size of the last 20 years
- “We have never overfished.”
- “10 years ago, the same supporters of this monument deemed this fishery on their websites an ocean-friendly fishery. Now we are listed on the same websites as industrial fishermen”
- “Of the 5000 square miles of the monument, we are present in 5% of just 1% of the monument. That’s five one hundredths of a percent of the area of the monument.”
- The fishery stays away from coral areas when it fishes
- No documented marine mammal interactions or entanglements in the fishery
- The area of the monument, after 40 years of fishing, is still considered pristine

- The fishery represents \$25–30 million. It is based out of New Bedford, where the unemployment rate is 20% higher than the national average, and employs up to 150 people, many of them first-generation Americans
- This is not a science-based initiative. None of the experts on the red crab fishery and its interactions with the benthic environment have had a voice in this process. These experts include Dr. Ray Hilborn, Dr. Richard Wahle, Dr. Daniel Kauffman, Dr. Indu Sharma, Dr. Bradley Stevens, Dr. Fred Surchek, Dr. Joseph Dealteris, Dr. Imam Syuhada, Dr. Shelley Tallack, and Dr. David Pierce

**Glenn Delaney (21:53)—Blue Water Fishermen’s Association**

- The pelagic longline fishery is a surface fishery that has zero interaction with or impact on the deep-sea benthic ecosystem
- A truly objective, science-based analysis by NOAA would confirm that the US Atlantic pelagic longline fishery has no adverse impact on the Atlantic marine monument
- The monument provides no intrinsic benefit to the conservation of the highly migratory species of fish targeted by the fishery, such as swordfish and tuna
  - Conservation is achieved by NOAA through an intensive science-based management, monitoring, and enforcement regime that is the global model for sustainability
- As much as 50% of the annual income of some of our fishermen has been derived from fishing in the monument area
- Anything that reduces U.S. fishermen’s ability to fully harvest their sustainable quotas presents the risk of two negative consequences for conservation:
  - Unused quota will be reallocated to nations whose monitoring, control, and surveillance capacities are far inferior to those of the US.
  - The U.S. will import even more tuna and swordfish from Illegal, Unreported, and Unregulated (IUU) fisheries, and nations with sub-standard conservation practices
- Collective efforts to reduce IUU fishing will be undermined by keeping pelagic fisheries out of the monument
- A decision to close the monument to fisheries would actually be counter-productive to efforts to reduce the effect of climate change
- The static closure of this monument to our fishery is unresponsive to climate-driven dynamics, and would present a barrier to an effective response

**Laurie Nolan (26:59)—family operates the F/V Seacapture in the Golden Tilefish fishery out of Montauk, NY. Former MAFMC member, served 18 years.**

- Losing access to these grounds is an economic loss and hardship to our businesses, as well as the shoreside infrastructure and the marketing businesses that we support
- When the Council takes actions, it is not a closed-door, stroke-of-the-pen action. It is a very thorough, public, and science-based process
- The Councils are protecting the ecosystem, habitats, corals, and fish stocks while allowing fisheries to feed the nation
- The Executive Order Antiquities Act process is not the way to manage our nation’s resources, ecosystems, habitats, and industries
- The Council Coordination Committee, which includes the Chair, Vice Chair, and Executive Director of the 8 Regional Fishery Management Councils and represents 29 states, Puerto Rico, and the U.S. Virgin Islands, all agree that the Council process should manage and protect the marine monuments.

**Grant Moore (30:52)—Broadbill Fishing, Owner F/V Direction. President of Atlantic Offshore Lobstermen’s Association**

- Only 5 vessels have fished in the Atlantic monument area; despite 40 years of fishing, the area is still considered pristine
- There is very little scientific evidence that these fisheries cause habitat damage
- There was never a compelling need, or immediate threat, to justify closing out the domestic fishing fleet via President Obama’s Executive Order

- Council process is public and considers both economic and environmental analysis
- Pending NOAA closures were endorsed by fishing fleets because they were developed with public input and considerations of the complexities of the ecosystems. They are science-based strategies that were also pro-American business and support the employment needs of coastal communities
- Fairhaven and New Bedford support a large immigrant population, with 23% of residents below the poverty level. These communities rely on the fishing industry for a variety of jobs
- “I’d like to see this Administration support the existing fishing management process, foremost by immediately finalizing the 25000 square mile coral closure, which addresses both the 30x30 and Buy American Executive Order goals.”

**Katie Almeda (35:21)—Town Dock, Point Judith, RI**

- “The fishing industry is very concerned about additional closures, as we are seeing the start of a wind energy build-up, along with a recent mention of expansion in the waters off of southern New England.”
- “With squid, we fish small mesh nets, which means we are only allowed to fish in certain areas. A large portion of that area is slated for wind farms.”
- “Due to our mesh size, we cannot just move to another area to fish for squid, even if squid are available there.”
- “The threat of losing additional acreage is a major economic concern for us and the workers that depend on our ability to fish for squid.”

**Meghan Lapp (37:27)—GM and Fisheries Liaison for SeaFree Shoreside**

- “For decades, the monument has been an extremely important fishing area for our vessels.”
- “Due to this [Council] process and strict federal standards, U.S. commercial fisheries are the most sustainable fisheries on the planet.”
- According to a study by George Mason University, fisheries are the 7th most regulated industry in the US., more than oil and gas, and pharmaceutical manufacturing
- “When one area closes, we do not simply have the ability to relocate due to existing closures and regulations established by Regional Fishery Management Councils.”
- “Arbitrary executive closures with no analysis of impacts to effective users have huge economic impacts on our vessels, their future viability, and therefore our land-based facilities.”
- “The cumulative effect of new and existing closures, combined with a basic reality of fisheries that fish are migratory and not found evenly disputed in the ocean, means that you create a situation where you have fully removed all fishing opportunities for a species.”
- “To do that arbitrarily and behind closed doors with no analysis of impacts to fishing communities put the survivability of those affected businesses and communities in danger.”
- Our vessels and land based businesses support many American families; Fishermen should be commended and rewarded, not punished as a result
- Councils have approved sweeping conservation measures through the coral amendment.
  - These measures were developed over years of scientific analysis, deliberation, and public participation from a wide variety of stakeholders
- Magnuson-Stevens Act involves intensive scientific analysis, but the Antiquities Act has no such standard
- “To move from a transparent and scientific process to a closed-door executive process with no scientific deliberation would be a move backwards, rather than forwards.”

**Martin Scanlon (43:02)—Blue Water Fishermen’s Association**

- Establishing the monument hinders our ability to avoid interactions with protected species
- “The number one and number two ways for us to avoid unwanted interactions, including protected species is to one, communicate the protocol

amongst the fleet, and the ability of the fleet to move to avoid those interactions. You put that monument in there or you put in any closed areas on a fishery like we have, you hinder our ability to do that.”

- Both of those recommended techniques come from the Pelagic Longline Take Reduction Team

**Chris Roebuck (44:19)—Owner/Operation of Two Offshore Trawlers**

- “Closing this area would be a huge loss for us.”
- Although the Council process can be frustrating and drawn-out, it is science-based and allows for stakeholder input
- Managing this area under the Antiquities Act is the wrong way to regulated the fisheries that are already managed sustainably by the Council process

**Dan Farnham (46:28)—MAFMC Council Member, Commercial Fisherman**

- “Economically, the area is extremely important to the industry as a whole.”
- The installation of new wind farms is reducing areas where fishermen can operate
- It has been proven that the fish stocks in the area are healthy.
- The area is pristine even though it has been commercially fished for decades
- “We fish responsibly, as a nation our stocks are healthy.”
- “The less fish we harvest in our waters just means that that we will import more fish from other countries that do not harvest fish as sustainably as we do as a whole.”

**James Budi (50:20)—American Sword and Tuna Harvesters**

- “The no-fishing ban in the monument is what we consider a monumental mistake.”
- “Industrial fishermen, we are not. We are akin to small family farmers.”
- “We feel that the review should be delayed until the Secretary of the Interior is in place per President Biden’s request.”
- “A commercial fishing ban serves no conservation benefit.”
- Per NOAA’s website, “pelagic longline gear used to catch swordfish has no impact on habitat.”
- Fishing impact on the monument below us is like a bird flying over the Grand Canyon
- “There is no peer-reviewed literature that demonstrates the conservation benefit of the monument’s fishing restrictions to the highly migratory stocks that are targeted.”
- The ban on commercial fishing within the marine monument waters causes fishermen to travel further offshore, with increased operational expenses and higher safety risk
- “It’s a matter not only of U.S. trade deficit and conservation, but of national security that America protects and promotes its domestic food sources.”
- A fishing ban would severely impact the livelihoods of the underserved class that make up the majority of swordfish boat crews. In addition, minorities and immigrants working in support businesses such as packing houses and shipyards would suffer from the loss of business.
- In his study “The Environmental Cost of Food,” Dr. Ray Hilborn shows the ecological impact of commercial fisheries not only far outperforms beef, pork and poultry farming, but even soy production. The carbon footprint of today’s longliner as measured against recreational boats catch per unit fossil fuel is estimated to be on the order of four times more efficient.

**Seafreeze Ltd.**  
**North Kingstown, Rhode Island**

September 26, 2023

Hon. Bruce Westerman, Chairman  
 House Natural Resources Committee  
 1324 Longworth House Office Building  
 Washington, DC 20515

Dear Chairman Westerman:

I am submitting this testimony as regards the Northeast Canyons Marine Monument to the Committee along with a series of comment submissions. Seafreeze vessels have sustainably fished in the Monument area for decades, pursuant to the high federal standards of the Magnuson Stevens Act, under which US fisheries are the 7th most regulated industry in the United States.<sup>1</sup> In fact, when the Monument was initially designated, our vessels fished in the area right up until the day they were evicted. I even received a phone call from our vessel's satellite phone offshore, with the captain asking me how much longer they had until they were required to leave.

Since 2015, we have submitted comment after comment to the federal government detailing the serious impacts that the Monument would have, and has had, on our commercial fishing vessels. Included in this comment are:

1. Two emails submitted to NOAA's Monument "comment portal" in 2015, which was an unofficial process with changing goalposts for comment submission deadlines, and the details of which nobody at NOAA could explain. The confidential vessel data, provided to NOAA in the comment portal, have been removed.
2. Testimony provided to this Committee's Subcommittee on Water, Power and Oceans on May 17, 2016 on this issue, along with the official Committee invitation notice to testify.
3. A 2016 joint letter from the Rhode Island Congressional delegation to CEQ raising the very real fisheries issues for RI vessels that would arise from Monument designation.
4. Two letters to the Secretary of the Interior and Secretary of Commerce in 2017 on the topic of this Monument.
5. Testimony provided to the Biden Administration in 2021 on the impacts of the Monument to Seafreeze vessels and our fisheries.

I personally have fished in the monument on board one of our fishing vessels and witnessed the impacts. During that trip, we steamed for hours across the Monument to look for fish on the other side. After not finding the species we were targeting, we were then forced to steam for hours back across the Monument. It didn't matter even if the captain could see fish inside the Monument itself; we were forced to waste time, fuel, expense, and effort rather than be allowed to sustainably harvest our target species in the area that our vessels have worked since they were built. Removing historic fishing grounds, opportunity and income through an Executive Order is punitive to hard-working U.S. commercial fishermen, who are held to the highest fisheries standards in the world.

Thank you for your attention to this very important matter. Sincerely,

Sincerely,

MEGHAN LAPP,  
*Fisheries Liaison*

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<sup>1</sup> See <https://www.mercatus.org/research/data-visualizations/mclaughlin-sherouse-list-10-most-regulated-industries-2014>.

**From: Meghan Lapp**  
**To: atlanticconservation@noaa.gov**  
**Subject: National Monuments Written Comment**  
**Date: Tuesday, September 15, 2015 9:05:21 PM**

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On behalf of Seafreeze Ltd, I would like to make the following comments:

Seafreeze Ltd, based in Davisville RI, is the East Coast's largest producer of illex squid, mackerel and butterfish. We are also one of the East Coast's largest producers of loligo squid. We own and operate two freezer trawlers that spend one quarter to one third of any given year fishing in the canyon areas proposed as National Monuments. In some years it is an even greater percentage. We have been steadily fishing these areas for squid, mackerel and butterfish for 30 years. Our company supports 95 employees both on our vessels and on land. The United States cannot afford to lose jobs in the tough economic times in which we live. These 95 jobs depend on fishing access to these areas which we have historically and currently fished.

Attached is a chart showing fishing activity and fishing vessel transit in the areas proposed for closure. This data has been compiled from the electronic charts of various vessels in various fisheries in New England. It is by no means inclusive of all activity, but it serves to make it very clear that significant fishing activity occurs in the New England canyon regions. Unfortunately, due to the lack of advance notice of NOAA's intention to consider the National Monument proposals, and the deadline of September 15 for comments, we were unable to download fishing activity information from our own vessels; they have been out to sea. Closing the New England canyon fishing areas without any economic assessment as to their importance to fishing vessels and businesses would be inappropriate.

As recently as this June, the Mid Atlantic Fishery Management Council completed its Deep Sea Coral Amendment, designed to protect the deep sea canyons of the Mid Atlantic. It was a deliberative process that included science, stakeholder input, extensive analysis, and collaboration. Seafreeze was actively involved in this process, and it is the process any such deep sea canyon protection should follow. An executive order would circumvent this important and legislatively designed process.

We therefore request that executive designation as a National Monument not be considered. Rather, all such fishery management actions should be developed through the Fishery Management Council process as congressionally directed by the Magnuson Stevens Act.

Sincerely,

Meghan Lapp,  
Fisheries Liaison  
Seafreeze Ltd.

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**From: Meghan Lapp**  
**To: atlanticconservation@noaa.gov**  
**Subject: National Monument Designation Comments**  
**Date: Friday, October 2, 2015 8:03 PM**

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On behalf of Seafreeze Ltd, I would like to make the following additional comments:

As stated in our previous comments, Seafreeze Ltd. is a fishing and seafood production company based in Davisville, RI. We also have a Shoreside facility in Point Judith, employ 95 Rhode Islanders, and help support many other local businesses and jobs. The recent proposal to designate certain New England offshore deep sea canyons and seamounts as a National Monument could mean the loss of our company and the jobs that we provide, as the areas proposed for closure are extremely valuable to our fishing operations.

One of the most concerning aspects of this entire process is that there has been virtually no transparency. A short time ago, an unexpected email blast went out from NOAA announcing possible National Monument designations and a Town Hall meeting in Providence for the public to submit verbal comments, where every participant was limited to a two minute time slot. Although an email address has been created for submission of written comments, we have no idea how these comments will be reviewed, by whom, to whom they will be presented, how long the comment period will remain open, or any information as to what kind of process is being followed. As a company who has participated many times in public process, especially on fisheries issues, it is disturbing that we were left completely in the dark with an issue that has the potential to put us out of business. Unfortunately, NOAA staff has also been unable to answer our questions on this subject. This is deeply disturbing, considering NOAA is administering the comment portal.

Furthermore, we were not even sure what was being proposed, because no boundary lines had been drawn or even hinted at. We were asked to comment on a theory during this comment period, not an actual proposal. NOAA has shown no proposed boundary coordinates, no regulatory provisions, no depth contours, no actual evidence to show the necessity of closure of any area. At NOAA's Town Hall meeting in Providence we were informed that no actual proposals or boundary lines had been drawn, and that NOAA was collecting comments on the concept of National Monument designations in these areas. However, new evidence shows that this has not been the case, as discussed below.

As mentioned in our previous comment letter, Seafreeze participated extensively in the development of the Mid Atlantic Fishery Management Council's Deep Sea Corals Amendment, which designated protections similar to what is being sought after by executive order. However, unlike an executive order or the current public participation process for a possible National Monument designation, the process was collaborative and included scientific input, fisheries stakeholder input, environmental group input, legal input, university input, governmental input, and a true public deliberation that took place over the period of time needed to thoroughly investigate the issue. Through this process, which included a Deep Sea Coral Workshop to develop protection boundaries, both deep sea corals and historic fishing areas were preserved. A similar type of deliberative process was anticipated as the New England Deep Sea Coral Amendment went forward. However, now our fishing vessels and our business are being out in a very precarious position. If the executive designation removes deep sea canyons protection from the process necessary to include the proper science and stakeholder involvement, it could mean the loss of many jobs. To continue with a National Monument designation would be arbitrary and insupportable at this point in time, when the New England Fishery Management Council has been preparing to undertake the issue pursuant to a Memorandum of Understanding between the New England, Mid Atlantic, and South Atlantic Fishery Management Councils, which can be accessed here:

<http://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/51e6c21ae4b0e93105b1f07d/1374077466016/June+2013+Final+DSC+MOU.pdf>

The Council process is the appropriate vehicle to afford protections to deep sea canyons while addressing stakeholder needs as well. A National Monument designation is not.



Attached to this email are several images designed to demonstrate current fishery management and fishing activity. Important to note when viewing these images is the fact that they are merely a snapshot and are by no means comprehensive. Not all fish prefer the same temperature/depth, so what is represented on these charts may show activity from one fishery but not another (meaning some vessels may need to fish in more areas/deeper areas depending on what species is being targeted). Also important to note is the fact that current activity is already limited to certain areas and depths due to fishing restrictions already in place. Adjacent areas may show different activity.

The first picture is a chart showing all of the closed areas on the north side of Georges Banks and in the Gulf of Maine; the second is showing closed areas on the south side of Georges Bank and to the south. These are taken off a standard electronic fishing chart. All of the colored boxes represented are closures to fishing. Some are permanent, some are seasonal, some are gear restricted areas (GRAs). It is very easy to see that any claims that there are “no protections” from fishing activity in the New England region are false. In fact, more area is off limits or of limited access than is actually open or free from area management.

The third picture is of Oceanographer, Gilbert and Lydonia canyons, and of the Tilefish GRAs in place in both Oceanographer and Lydonia canyons. Bottom trawling is already prohibited in these GRAs, so claims that the areas need protection from bottom trawling are spurious. Since the areas are already off limits to ours and other bottom trawl vessels, any current bottom trawl fishing activity demonstrated subsequent images is going to be limited to areas outside the GRA.

The fourth image is activity by just one of our freezer vessels in the Oceanographer, Gilbert, and Lydonia canyon area; this is considerable activity by a single vessel. This area has been extremely productive for Seafreeze’s primary target species of Loligo squid, Illex squid, butterfish, and mackerel. In fact, some of our most productive seasons in our 30 year history have occurred in this very area. We are already prohibited from fishing in the tilefish GRA and the areas detailed on the first two images; we do not need to lose any more fishable area. Furthermore, due to the fact that no actual proposals have been made public by NOAA, we do not know the scope of what is proposed for closure.

The fifth picture is fishing activity by just one of our Shoreside customers around Oceanographer, Gilbert, and Lydonia canyons. Again, this is substantial activity. The fifth image is of the canyons, but on a different plotter with activity from several vessels. As demonstrated by these several charts, fishing activity varies vessel to vessel. Some of the areas fished are relatively the same, some are different, based on the species targeted. That is why the entire issue of canyon protection needs to be remanded back to the New England Fishery Management Council—these areas are very important to different people, but also in different places. It is an extensive issue that needs the proper time and deliberation to ensure protection for fishing communities and businesses as well as the environment.

Additional concerns include maneuverability and transit. Vessels need room to maneuver. Although they are no longer fishing and the gear is no longer on the bottom, trawl vessels need extra area to haul back their nets, wires, etc., while the vessel is kept on a straight course. Consideration of weather conditions during fishing activity—i.e. the high winds, significant wave height, strong tides—is also necessary. Buffers need to be considered for maneuverability. Transit capabilities are of additional importance, as it can cost many hours and gallons of fuel to steam around an area rather than through it.

While compiling this information and acting in good faith during the public comment process, we have been made aware that the individuals/groups involved in supporting the National Monument designation have not been. They not only had a planned time frame for this action (next week after the Chile Our Oceans Conference), but also planned boundary lines. The emails in the second link below detail key individuals involved, including Monica Medina, NOAA Principal Deputy Undersecretary for Oceans and Atmosphere. Apparently, there have been exact proposed lines, actual GPS coordinates, an “economic data report”, etc, which NOAA personnel had and refused to make public—prior to NOAA’s Town Hall meeting held in Providence. Since the initial announcement, we were told that nothing was known about any of this process or what exactly was being proposed, etc., even by NOAA personnel. Now we know this is not the case and that not only did top NOAA officials have access to this information, they collaborated in it. We could not effectively comment because we didn’t know exactly even what we were commenting on, although we stand to be a heavily affected party to the decision. Our Rhode Island

Senators outlined this very issue in their request to the President for transparency. However, this entire process has been a deliberate attempt at non-transparency. The last page of the second link below shows the proposed boundary lines on a bathymetry chart. The Oceanographer, Gilbert and Lydonia canyon boundaries cut off ALL of our tows in the area. Does the referenced "economic data report" include the huge economic losses our business would sustain as a result of this closure? This is highly unlikely.

[http://www.eenews.net/stories/1060025612?utm\\_source=EMILY+YEHLE%3A+Greens+hopes+for+quick+win+on+New+England+monument+fade&utm\\_campaign=Emails+obtained+by+SS&utm\\_medium=email](http://www.eenews.net/stories/1060025612?utm_source=EMILY+YEHLE%3A+Greens+hopes+for+quick+win+on+New+England+monument+fade&utm_campaign=Emails+obtained+by+SS&utm_medium=email)

We cannot support any executive action that would designate the New England canyon areas as a National Monument. Our business has too much at stake. We have been open and transparent about our activity in the area by submitting our charts, and we expect our government agencies to do the same. We cannot support any designation or action that is non-transparent and conducted behind closed doors, absent stakeholder collaboration and involvement. We demand an honest and transparent process.

Meghan Lapp,  
Fisheries Liaison  
Seafreeze Ltd.

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PREPARED STATEMENT OF MEGHAN LAPP, FISHERIES LIAISON, SEAFREEZE LTD.  
 ON "THE IMPLICATIONS OF PRESIDENT OBAMA'S NATIONAL OCEAN POLICY"  
 HOUSE SUBCOMMITTEE ON WATER, POWER AND OCEANS HEARING  
 MAY 17, 2016

Mr. Chairman, Ranking Member, and Members of the Subcommittee, thank you for the opportunity to testify before you today. My name is Meghan Lapp, and I represent Seafreeze, Ltd., the largest producer and trader of sea frozen fish on the U.S. East Coast. We operate two freezer vessels out of Davisville, RI, that fish from the Canadian line to North Carolina.

I am here today to tell you that the implications of President Obama's National Ocean Policy (NOP) are already being felt and implemented through the Fishery Management Councils and NOAA/NMFS science and policy, even prior to any finalized regional Ocean Action Plan by a Regional Planning Body. Rather than detail every specific, I would like to relate my personal experiences thus far, and the increased concerns I have as the process moves forward.

NOAA science is the driving force of fisheries management, and has embraced the "fundamental shift" to ecosystem-based management. Therefore, fisheries regulatory bodies such as the Fishery Management Councils have also been forced to embrace this fundamental shift. As a result, the New England Fishery Management Council now has an "Ecosystem Based Fisheries Management Committee", which is conducting a eFEP (experimental Fishery Ecosystem Plan), much as is outlined in the National Ocean Policy Implementation Plan, i.e. to "implement pilot projects that use an ecosystem-based approach" (p.20; "Pilot projects will . . . enable decision makers and managers to understand how ecosystem-based management can be most effectively implemented at regional scales . . ."). The Mid Atlantic Fishery Management Council now has an Ecosystems and Ocean Planning Committee, of which I am an Advisory Panel member. To date as an AP member, I have been asked to give input on policy towards industrial ocean use, as well as habitat impacts/policy, and potential tradeoffs, much as is discussed in the Task Force Recommendations on Coastal and Marine Spatial Planning. While incorporating ecosystem considerations in fishery management is not a new concept, it has only been recently that directed management efforts have been concentrated on implementation. While the National Ocean Council and National Ocean Policy are touted as non-regulatory, they are clearly controlling the agenda of regulatory agencies and bodies. This will result in regulations to the end user.

One serious concern from a fishery stakeholder perspective is the policy's commitment to the "reduction of cumulative impacts from human uses on marine ecosystems"(Task Force, p. 33) and the "conservation of important ecological areas, such as areas of high productivity" (Task Force, p. 44). Currently, as part of data collection for the National Ocean Policy, confidential fisheries data has been compiled into public charts that detail where concentrated commercial fishing activity takes place, aka areas of high productivity. For the sake of NOP "conservation", does that mean we will lose access to our fishing grounds? (Will state or federal Fishery Management Plans be required to close these areas, due to the fact that NOAA, which must comply with these Task Force Recommendations, has the final say on FMPs? And that the States and Fishery Management Councils on the Regional Planning Bodies will be bound by RPB Plans? The Northeast Regional Planning Body has a chart on its webpage that states : "Regulatory: Use of Ocean Plan Data in NEPA and regulatory processes", and documents containing the Task force mandate as well as potential corresponding regulations for fishery management.) According to the Task Force, the specific questions and concerns of those who rely on marine resources will be addressed "as implementation progresses" (Task Force, p. 9). I find this outrageous.

My experience at a Northeast Regional Planning Body (RPB) meeting does not serve to ease my concerns. It was very apparent from the discussion that the push was to get the RPB Plan done at all costs by 2016. After the public comment period during which I raised real fisheries issues with the process, data, and impacts to fisheries from both an equity and ecological perspective, one RPB member stated that the short timeline had reduced the RPB's ability to be transparent and do stakeholder engagement, and that they were just going to create a plan because of a timeline without the credibility needed. To this, one of the Co-Chairs responded, "We're going to produce a plan and it's going to get adopted" (by the NOC), to which the NOC Director responded by nodding. As a stakeholder, this tells me that my interests don't matter and that the only goal is implementation by 2016. Another comment that "at the end of 16 months you want to make this so hard to shut off"

tells me that the Plan is designed to be railroaded through regardless of future objections.

The Administration's top down approach cannot be made clearer than through the recent Marine Monument discussion. Last year, an unexpected email announcement went out over NOAA's Greater Atlantic Regional Fisheries Office listserv. It gave stakeholders a two week notice that there was consideration by the Administration to designate several deep sea canyons as Marine National Monuments, one reason of which was protection of deep sea corals. This came soon after the Mid Atlantic Fishery Management Council had completed a Deep Sea Corals Amendment, which included extensive stakeholder input, including an interactive workshop to draw boundary lines. (Seafreeze was a participant in this workshop.) It was also right about the time when the New England Fishery Management Council intended to resume work on its own Deep Sea Corals Amendment in that very area, during which stakeholders expect a similar interactive process. Many of the environmental NGOs who had taken credit for collaboration in the Mid Atlantic workshop were among those championing a National Monument designation and a bypassing of the New England Council process. The canyon areas under consideration as Marine Monuments are extremely productive and of great economic importance to Seafreeze. Holding just one public meeting to allow for stakeholder input, NOAA released a comment portal through which to submit further comment. (The original meeting notice stated that comments through the portal had to be submitted by the date of the meeting. The day after the meeting, a notice was released that asked for further comments to be sent "as soon as possible".) In a frenzied attempt to protect Seafreeze's interests, I submitted not only written comments but proprietary/confidential charts documenting our vessels' fishing activity in the area as an argument that our fishing grounds needed to be kept open. When I asked, no one at NOAA could tell me how long the comment period would remain open. Neither could anyone at the agency inform me how or why this discussion was initiated (whether executive request, response to petitions, etc), if there was any specific process being followed, who would be reviewing our comments, who would be presenting them, and to whom. It was like a black hole; we had no idea what was going on. This is disturbing especially considering the type of confidential information I felt necessary to submit. From a current stakeholder's perspective, this is the antithesis of how decisions should be made. We still live in the uncertainty of what may happen with this.

Since this Policy, we have had less input into our future, not more. Thank you and I would be happy to answer any questions.

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UNITED STATES SENATE  
Washington, DC

September 7, 2016

Christy Goldfuss, Managing Director  
Council on Environmental Quality  
722 Jackson Place NW  
Washington, DC 20503

Dear Director Goldfuss:

We understand that President Obama will soon designate the first national marine monument in the Atlantic Ocean. Since the Administration began to discuss an Atlantic monument a year ago, we have urged the Administration to have as open a process as possible. We have also asked the Administration to carefully consider the effects on Rhode Island's fishing industry, which has fished in the New England Coral Canyons for decades while leaving the area in a condition that environmental organizations routinely describe as "pristine".

As the President finalizes the boundaries for a monument, we write to emphasize the opportunity before him to designate an area that protects both New England's unique coral habitats and its proud fishing heritage.

While we would have preferred a more open process, we appreciate CEQ's efforts to speak with our fishermen and state experts through your meetings in Providence earlier this year and additional conversations held in Washington, DC. Over the past few months, our offices have also conducted extensive outreach to fishermen in Rhode Island who will be most significantly affected by a monument designation. The proposal put forward by the Connecticut congressional delegation has generated considerable concern about how a monument could affect the economic viability of fishing in southern New England. Though the seamount portion of the proposal poses limited effect on Rhode Island fishermen, the canyons are very challenging. If this proposal were adopted outright, lobster, squid, butterfish, Jonah crab, whiting, and other segments of Rhode Island's fishing industry would be forced out of a productive and well-managed area without recourse or compensation.

The Rhode Island Department of Environmental Management (RIDEM) estimates that over 20 active fixed gear vessels with homeports in Rhode Island fish in the area proposed by the Connecticut delegation. These vessels lay 1,000 to 2,000 traps each. Each vessel can bring in up to \$1.5 million annually in lobster and crab. In addition, around 22 mobile gear boats docked in Rhode Island fish an average of a quarter of their days at sea in the area proposed by the Connecticut delegation. Each of these boats, which include fishermen harvesting squid, butterfish, and mackerel, can produce approximately \$1 million in landings annually with some boats producing up to \$5 million in a year. Our fishermen estimated the total economic output from direct landings and associated economic activities from fishing in the proposed monument area to be in the tens of millions of dollars. We understand these data from RIDEM and fishermen have also been shared with CEQ.

Relocation is not a realistic solution to the restrictions that come with a monument designation. Displacement of fishing effort to areas outside the monument is likely to trigger notable increases in conflict with protected species, bycatch, and among fishermen themselves.

As you know, New England's fisheries have been among the most challenged in the nation. Fishermen have contended with depleted and shifting stocks, gear restrictions, difficult quota reductions, and increased monitoring expenses. Though much of the fishing industry's frustrations with these issues has been focused on federal and state regulators, we have still seen progress in building trust between the two sides. Leadership and staff at RIDEM and NOAA's Greater Atlantic Regional Office and our fishermen have worked diligently to rebuild damaged relationships. With an emphasis on process and sound science—tenets of the President's regional ocean planning efforts—some of these wounds have started to heal.

Despite their deep misgivings about the monument designation process, our fishermen came to the table with thoughtful, reasonable ideas to utilize the Antiquities Act to maximize conservation goals while protecting an important segment of our state's economy. We have also witnessed unprecedented cooperation among fishermen and support for the work of the New England Fishery Management Council under the Magnuson-Stevens Fishery Conservation and Management

Act (MSA). However, the threat of a monument designation that inadequately reflects the input and concerns of fishermen puts all of this hard work and trust building at risk. It would be unfortunate to let the momentum building among fishermen in support of conservation go to waste by designating a monument that does not balance environmental preservation with fishing interests.

Most recently, fishermen have presented CEQ with isobaths for the coral canyons that they believe would protect deep sea corals while allowing fishermen to sustain their businesses. The proposal includes an understanding that the Massachusetts red crab fishery, which fishes deeper than the other fixed gear or mobile gear fleets, would be considered separately in any designation. It reflects the fishermen's cooperative attempt to find a balance between the MSA and Antiquities Act. Not only would this compromise guarantee limited consequences for New England fisheries, but it would also protect a majority of the marine mammal and biodiversity hotspots as identified by the researchers at the New England and Mystic Aquariums. We urge CEQ to give the revised compromise proposal offered by the fishermen sincere and full consideration.

We also want to emphasize that a monument designation that gives deference to our fishermen's recommendations offers President Obama the opportunity to set a positive tone for successful fisheries management and environmental stewardship under the MSA. Indeed, it will bolster industry support for additional protections, such as the New England Fishery Management Council's Deep Sea Coral Amendment process, which the members of the fishing industry have repeatedly supported throughout the discussions of a monument. It could also build support for sustainable fishing in the region through increased investment in cooperative research, new fishermen training, electronic monitoring, and management that is capable of quickly reacting to the changes we are seeing in our oceans, such as northward shifts in black sea bass and other valuable species.

Finally, responding to the concerns of our fishermen will honor the spirit of the regional planning process under President Obama's National Ocean Policy, which has been so successfully implemented in New England. It will leave this process intact to pay conservation dividends long into the future, producing a better conservation result rather than damaging it with what may look to participants like a breach of faith over a monuments designation.

Thank you for the serious consideration you have given to our fishermen and state experts as you develop a proposal for the President. We look forward to seeing a well-balanced monument that protects corals, marine mammals, and our fishermen for generations to come.

Sincerely,

*Jack Reed,*  
United States Senator

*Sheldon Whitehouse,*  
United States Senator

*James R. Langevin,*  
Member of Congress

*David Cicilline,*  
Member of Congress

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**Seafreeze Ltd.**  
**North Kingstown, Rhode Island**

July 6, 2017

Hon. Ryan Zinke, Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Secretary Zinke:

Thank you for undertaking a review of the Northeast Canyons and Seamounts Marine Monument enacted by President Obama in 2016. Seafreeze Ltd. is a family-owned fishing company based in Rhode Island. We own and operate two fishing vessels that freeze at sea, as well as a shore-based dealer facility, and are the largest producer and trader of sea frozen fish on the U.S. East Coast. Our vessels have fished in the area now designated as the Northeast Canyons and Seamounts Monument since the 1980s, and derive a considerable amount of our annual revenue from that area. The Monument area is our place of business, and since losing access to our historic fishing grounds there in 2016, our vessels and business have financially suffered as a result.

We participate extensively in the Regional Fishery Management Council process, as established through the Magnuson Stevens Act. This process requires certain scientific thresholds for fishery management decisions, as well as economic analysis, policy standards, and other legal requirements necessary for good decision making. Executive use of the Antiquities Act to unilaterally close productive, historic fishing grounds and overrule a legally required public fishery management process is unacceptable and threatens the future financial stability of our business. We cannot have a business plan for the future if our historic fishing grounds, and therefore sources of income, can be taken away without warning at any given moment.

On May 17, 2016, we testified to this before the House Committee on Natural Resources as the potential for a Marine Monument on our fishing grounds was ongoing. See <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=400425> and [https://naturalresources.house.gov/uploadedfiles/testimony\\_lapp.pdf](https://naturalresources.house.gov/uploadedfiles/testimony_lapp.pdf). We also published an editorial in the September 2016 Massachusetts Lobstermen's Association Newsletter, highlighting the scientific and factual inaccuracies with pro-Monument claims. See page 22 at [http://lobstermen.com/wp-content/uploads/2013/11/MLA\\_WEB\\_September2016.pdf](http://lobstermen.com/wp-content/uploads/2013/11/MLA_WEB_September2016.pdf); hard copy attached. Despite any factual evidence or any due process, the Monument designation was made and our vessels were forced to leave the area.

Commercial fishing in the United States is a highly regulated industry that supports thousands of jobs and communities coast-wide. It is also an important food source for our nation. It is a disservice to those who economically rely on this resource to strip them of their source of income, as well as to remove a food source from the people of the United States. We respectfully request that the Northeast Canyons and Seamounts Monument be removed and our historic fishing grounds restored.

Sincerely,

MEGHAN LAPP,  
*Fisheries Liaison*

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**Seafreeze Ltd.**  
**North Kingstown, Rhode Island**

August 15, 2017

Hon. Wilbur Ross, Secretary  
U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, DC 20230

Dear Secretary Ross:

Thank you for undertaking a review of the Northeast Canyons and Seamounts Marine Monument enacted by President Obama in 2016. Seafreeze Ltd. is a family-owned fishing company based in Rhode Island. We own and operate two fishing vessels that freeze at sea, as well as a shore-based dealer facility, and are the largest producer and trader of sea frozen fish on the U.S. East Coast. Our vessels have fished in the area now designated as the Northeast Canyons and Seamounts Monument since the 1980s, and derive a considerable amount of our annual revenue from that area. The Monument area is our place of business, and since losing access to our historic fishing grounds there in 2016, our vessels and business have financially suffered as a result.

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Sincerely,

MEGHAN LAPP,  
*Fisheries Liaison*

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**Statement for the Record**

**Meghan Lapp  
on Behalf of Seafreeze Ltd. and Seafreeze Shoreside  
Regarding Northeast Marine Monument**

My name is Meghan Lapp and I am the General Manager of Seafreeze Shoreside, a fish plant in Point Judith, Rhode Island, that unloads fresh seafood from commercial fishing vessels. I also serve as the Fisheries Liaison for both Seafreeze Shoreside and Seafreeze Ltd., a sister facility in North Kingstown, Rhode Island. Our companies own and operate three commercial fishing vessels that harvest sustainably managed U.S. seafood in the Monument area. In fact, our two freezer vessels have sustainably fished the Monument area since the 1980s, including for Atlantic butterfish and squid, which are both projected to be climate change winners according to the Northeast Fisheries Science Center.<sup>1</sup> For decades, the Monument area has been an extremely important fishing ground for our vessels. In certain seasons it can be one of our most important harvest areas.

In my role as Fisheries Liaison, I serve on two Advisory panels for the New England Fisheries Management Council, two Advisory Panels for the Mid Atlantic Fishery Management Council, and one Advisory Panel for the Atlantic States Marine Fisheries Commission. I continually participate in what is a public, transparent and science-based process of U.S. fisheries management federally established under the Magnuson Stevens Act. Due to this process and strict federal standards, U.S. commercial fisheries are the most sustainable fisheries on the planet. According to a George Mason University study, U.S. fisheries are the 7th most regulated industry in the United States, more so than oil and gas extraction and more so than pharmaceutical manufacturing.<sup>2</sup>

Many of these fisheries regulations are, in fact, spatial as well as biological. We do not have the opportunity to relocate our vessels to just anywhere; we are highly spatially regulated. When one area closes, we do not simply have the ability to relocate due to existing closures and regulations established by the regional Fishery Management Councils. Arbitrary executive closures such as the Marine Monument with no analysis of impacts to affected users have huge economic impacts on our vessels, their future viability, and therefore our land-based facilities. Loss of opportunity is not just a loss of opportunity in that area. The cumulative effects of new and existing closures, combined with the basic reality of fisheries that fish are migratory and are not found evenly dispersed in time and space, means that you can create a situation where you have fully removed all fishing opportunity for a species, time or season.

To do that arbitrarily and behind closed doors with no analysis of impacts to fishing communities puts the survivability of those affected businesses and communities in danger. Our vessels support a lot of American working families. Our land-based facilities do the same. Our land-based facilities provide good paying and steady jobs to a lot of environmental justice communities—those people from minority demographics with little education or resources other than their work ethic. We provide them the opportunity to make a living and support a family. Without fish coming through the doors of our plants, those people have no jobs, and they don't have the same opportunity as more highly educated or skilled workers to just simply find work elsewhere. As I said, Seafreeze vessels have sustainably harvested fish in the Monument area for decades. Because we do harvest sustainably and responsibly, that area remains pristine and productive. Our fishermen should be commended and rewarded, not punished, as a result.

Both the Mid Atlantic Fishery Management Council and the New England Fishery Management Council have, through the federal fishery management process, approved sweeping conservation measures in their Coral Amendments, one of which actually covers the vast majority of the Monument area.<sup>3</sup> These habitat protection measures were developed over years of scientific analysis, deliberation and public participation from a wide spectrum of stakeholders. The Antiquities Act was never developed or intended for use in managing fisheries. While it is certainly appropriate in some applications, it is not a sustainable way to manage our fisheries resources, whether fish or people. The Magnuson Act was developed specifically to

<sup>1</sup> See [https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/572d00f2c2ea51215901defa/1462567158802/2\\_ClimatVulnReport\\_journal.pone.0146756.pdf](https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/572d00f2c2ea51215901defa/1462567158802/2_ClimatVulnReport_journal.pone.0146756.pdf).

<sup>2</sup> See <https://www.mercatus.org/publications/regulation/mclaughlin-sherouse-list-10-most-regulated-industries-2014>.

<sup>3</sup> See <https://www.nefmc.org/library/omnibus-deep-sea-coral-amendment> and <https://www.mafmc.org/actions/msb-am16>.

manage these resources, in a scientifically based manner, and that science includes social science and economic science. The Antiquities Act contains no such standards.

We support the continuance of federal fisheries management under the Magnuson Act, rather than the Antiquities Act. To move from a transparent and science-based process to a closed-door executive process with no scientific deliberation would be a move backwards rather than forwards for our nation's fisheries resources. I know that the Biden Administration has stated that it will manage by science. I hope this includes the fisheries science and social sciences of the Magnuson Act over the non-scientific edicts of the Antiquities Act. The Monument area has supported healthy, productive and well-managed fisheries for decades, providing pure, organic food for the American people and supporting jobs up and down our East Coast. We hope that it will continue to do so for many decades to come and that the Administration will value our nation's hard working fishing industry, value our jobs, value domestic food production and value the federal fisheries process that sustains it. We respectfully request that the Biden Administration continue to allow our fisheries to be managed under the Magnuson Act rather than the Antiquities Act. Thank you for the opportunity to comment.

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**Submissions for the Record by Rep. Stansbury**

**Aleut Community of St. Paul**

September 22, 2023

House Committee on Natural Resources  
Subcommittee on Oversight and Investigations  
1324 Longworth House Office Building  
Washington, DC 20515

Dear Gosar and Ranking Member Stansbury:

The Aleut Community of St. Paul Island (ACSPI) submits this letter and attachment to the record for the September 19, 2023 hearing entitled “Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System.”

The Aleut Community of St. Paul Island is the title by which the federal government formally recognizes our tribal sovereignty; a nation born, living, and self-governing before the United States was conceived. Our Tribal Government is the venue through which Unangax of St. Paul Island can fulfill our intrinsic rights and responsibilities, and support, recollect, practice, and pass on our culture. The ACSPI Tribal Government promotes, maintains, and protects cultural practices, awareness, preservation, self-governance, and self-determination for the tribal members of ACSPI.

ACSPI elevates Tribal voices and Indigenous Knowledge in management decisions that affect our terrestrial and marine resources, and the decision to pursue a nomination of a national marine sanctuary in our waters is part of that effort. We understand that our submission has engendered concern and misunderstanding, much of which has been voiced from outside our region. To address these concerns, we are continuing outreach efforts to help ensure that marine conservation efforts, including the potential for a sanctuary designation, are aligned with the needs of the Pribilof Unangax.

In addition, ACSPI is working with federal agencies to reach a common understanding about co-management and commercial fisheries management. In part, these conversations should help ensure that a sanctuary, if designated, would be equitable and responsive to the economic, cultural, and other needs of our people. To very clear, ACSPI has no intention of using a sanctuary nomination to undermine the North Pacific Fishery Management Council process. We would not agree to the designation of a sanctuary that did so, and it is clear based on a plain reading of the law and historical precedent that the National Marine Sanctuaries Act creates a legal pathway to prevent “undermining” that process.

ACSPI was not notified of this hearing or invited to participate. It is noteworthy that there was no participant from our region. By contrast, we have attached a letter sent to members of the fishing industry, Community Development Quota entities, including Coastal Villages Region Fund, and several others. The letter was sent in response to a letter those entities submitted to National Oceanic and Atmospheric Administration Administrator Spinrad on March 24, 2023. It explains the efforts being undertaken by ACSPI and is intended to foster a dialogue among those who believe they are affected. We are firm in our belief that open, respectful, and clear lines communication and understanding are the best way forward.

Sincerely,

AMOS T. PHILEMONOFF, SR.,  
*President*

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**ATTACHMENT****Aleut Community of St. Paul**

July 18, 2023

Dear Colleagues:

The Aleut Community of St. Paul Island Tribal Government has received a copy of the letter you submitted to Administrator Spinrad on March 24, 2023. We appreciate the explanation of your concerns and hope that this correspondence can be the reopening of a dialogue among us. We write directly to you, in the spirit of collaboration and respect, with the intention of providing context, sharing information, and seeking common ground.

The Aleut Community of St. Paul Island (ACSPI) is the title by which the federal government of the United States formally recognizes our tribal sovereignty; a nation born, living, and self-governing before the United States was conceived. Our Tribal Government is the venue through which Unangan (“The People of the Sea” or “The Aleut Peoples”) of St. Paul Island can fulfill our intrinsic rights and responsibilities, and support, recollect, practice, and pass on our culture. The ACSPI Tribal Government promotes, maintains, and protects cultural practices, awareness, preservation, self-governance, and self-determination for the tribal members of ACSPI.

Unangax have stewarded our ocean and its resources long before there were commercial fisheries or government agencies. While there may be other ties to our community, we represent our people and bear witness to economic challenges, the need for cultural connection, and a rapidly changing marine environment. We have taken, and will continue to take, the steps necessary to ensure a vibrant future for the people of St. Paul Island.

As part of fulfilling that commitment to our people, we chose to submit a nomination for a National Marine Sanctuary in our waters. We did so after we conducted extensive research and in consideration of the tools available to us to elevate Unangax voices in management decisions that affect our ocean and resources. We believe that a sanctuary could provide funds and a public profile that can enhance tribal-led research; locally led tourism and education activities; workforce development, including jobs within a sanctuary office in the Pribilof Islands; and improved co-management of our marine resources. Additionally, our marine area is recognized as an incredibly productive and richly diverse habitat; designation would provide formal recognition for the area and honor the waters our people have stewarded for millennia.

Through the process of pursuing sanctuary designation, we have come to realize there are a number of shared questions and concerns related to co-management and commercial fisheries. We seek to work collaboratively with the federal government, fishing industry, and our community to answer those questions and create a shared and supported understanding. We hope that this letter provides additional clarity and evidences our commitment to collaboration and cooperation.

**Co-Management**

We are committed to co-management that incorporates Indigenous and local knowledge into resource management decisions and facilitates approaches that are more culturally and ecologically appropriate. This includes consensus decision-making, equitable representation, and a true partnership between federally recognized tribes and the federal government at the highest levels. We believe that the sanctuary process creates a path to government-to-government agreement that can effectuate this goal and elevate our Tribal Government management perspectives to an equal level with federal partners.

As a people who have endured decades of distrust at the hands of the federal government, we too seek clarification about what co-management means to the U.S. federal government. We seek a commitment to equitable, consensus-driven co-management decision-making authority in which responsibilities are shared among the tribal and non-tribal government signatories. It remains to be seen whether the federal government shares those goals.

Unequivocally, we do not seek to use a co-management agreement to change the fishery management process in any way. We share some of the same questions you have expressed about the mechanisms that might be used or limits that might be applicable. Again, we are working to address these questions in a collaborative way and would not support designation of a sanctuary that created economic or other hardship by affecting fishery management.

### **Management of Commercial Fisheries in a Sanctuary**

As has been stated on several occasions, ACSPI has no intention of using a sanctuary nomination to undermine the North Pacific Fishery Management Council (the Council) process. We would not agree to the designation of a sanctuary that did so, and we believe that the National Marine Sanctuaries Act creates a legal pathway to prevent the concern you express about the potential for “undermining” that process. We agree that the federal government should be very explicit about the primacy of the Magnuson-Stevens Act process and have been working with the federal government to do so. We will not support the designation of a sanctuary until we have this assurance, and we would welcome your ideas about how best to achieve it.

Similarly, concerns have been expressed that assurances or partnership with ACSPI is insufficient because the federal government could proceed to designate a sanctuary or change fisheries management even without ACSPI’s support or consent. We agree with these concerns and agree that designation and any future management decisions or changes should be undertaken with participation from the Council and broad public engagement. Moreover, a co-management agreement would ensure that ACSPI will be engaged in any designation and ongoing management of a sanctuary.

Finally, to the extent we seek changes in fishery management, we are committed to working through the Council process to achieve them. We do believe, for example, that western science and our traditional and Indigenous knowledge show that there is some level of prey competition between lactating female fur seals and commercial fishing during the B season. We would welcome the opportunity to discuss this science and explore potential actions that could be supported in the Council process to alleviate competition that may be occurring.

It is our priority to get clarification from the federal government on these issues, and we do not seek to advance a sanctuary without the needed assurances. We understand and appreciate the importance of commercial fisheries and other economic opportunities for St. Paul, and we will not participate in a designation or other process that puts those opportunities at risk.

A sanctuary nomination is only one part of our work to ensure the economic, environmental, and cultural future of Unangan. While seeking clarification from the federal government on the issues above, we continue to work through existing processes to advance shared community priorities related to northern fur seals, birds, local fisheries, science, marine debris, and other ocean issues. In all these efforts, we intend to move forward together with Tribal, industry, and other partners.

We appreciate the concerns expressed in your letter and hope that we can have an ongoing dialogue about these issues. Our door is open, and we remain available to explore collaboration, seek answers to questions, and to hear concerns.

Sincerely,

AMOS T. PHILEMONOFF, SR.,  
*President*

