



Resolution on Potential Impacts of Expanding the Papahānaumokuākea Marine National Monument to the Fisheries and Food Security of Hawai'i and the Management of Fisheries as Mandated by the Magnuson-Stevens Fishery Conservation and Management Act

Approved by the Western Pacific Regional Fishery Management Council on August 3, 2016

Whereas the Western Pacific Regional Fishery Management Council was established by Congress in 1976 through the Fishery Conservation and Management Act, which is known today as the Magnuson-Stevens Act (MSA), to have authority over fisheries in the Pacific Ocean seaward of the State of Hawai'i, Territory of American Samoa, Territory of Guam, Commonwealth of the Northern Mariana Islands (CNMI) and the Pacific Remote Island Areas and is comprised of 13 voting members of which 12 represent the local governments, fisheries and other stakeholders;

Whereas the Council and the National Marine Fisheries Service (NMFS) manage fish stocks throughout their range in Hawai'i under the Hawai'i Archipelago and Pacific Pelagic Fishery Ecosystem Plans, taking into account international measures established by the Western and Central Pacific Fisheries Commission and Inter-American Tropical Tuna Commission;

Whereas the Council has maintained sustainable fisheries and conserved resources through conventional fishery management measures such as limited entry programs, spatial zoning, catch limits, observer programs, catch reporting, protected species mitigation measures and gear modifications, and advanced satellite monitoring, such that NMFS has recognized fisheries management in the U.S. Pacific Islands as a global model of sustainability in large part due to the Western Pacific Regional Fishery Management Council;

Whereas the Council's guiding principles include recognizing the importance of island cultures and traditional fishing practices in managing fishery resources and fostering opportunities for participation, and, to that end, has conducted research on indigenous fishing rights and established an Indigenous Fishing Rights Committee, an indigenous fishing program, and regulations that reserved Northwestern Hawaiian Islands (NWHI) limited entry bottomfish fishing permits for Native Hawaiian communities, among many other related actions;

Whereas the Council adheres to the MSA whose provisions are consistent with the United Nations Convention on the Law of the Sea (UNCLOS), including Article 61, "The coastal State taking into account the best scientific evidence available to it shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over exploitation," and Article 62, "The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to Article 61 and further determine its capacity to harvest the living resources of the exclusive economic zone. When the coastal state does not have the capacity to harvest the entire allowable catch, it shall ... give other States access to the surplus of the allowable catch";

Whereas the Council in 1991, utilizing the MSA process of public participation and best available science to address potential interactions between Hawaiian monk seals and Hawai'i longline vessels, created the Protected Species Zone out to 50 nautical miles around all of the NWHI, encompassing a 100-nautical-mile (nm) wide by 1,200 nm long area that included all of the coral reef ecosystems, monk seal critical habitat, and seabird and sea turtle nesting sites in the NWHI;

Whereas the Antiquities Act of 1906 was used on June 15, 2006, by President George W. Bush to issue Proclamation 8031 to establish the 139,373 square-nautical-mile (nm) NWHI Marine National Monument (MNM, later renamed the Papahānaumokuākea MNM), overlaying the Protected Species Zone and which, among other provisions, permanently prohibits commercial, recreational and subsistence fishing that previously occurred in the NWHI, such as charter troll and limited entry bottomfish and lobster fishing, as well as other commercial activities and access within the entire monument area without authorization;

Whereas the Antiquities Act of 1906 "authorizes the President, 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 on lands which are owned or controlled by the Government of the United States, and to reserve thereof parcels of land the limits of which shall in all cases be confined to the smallest area compatible with the proper care and management of the objects to be protected";

Whereas the Antiquities Act does not require notice, public participation, environmental or socioeconomic analyses, or Congressional oversight and allows the President to sidestep the Administrative Procedure Act and the National Environmental Policy Act in designating national monuments;

Whereas the Antiquities Act was subsequently used to create and expand the Pacific Remote Islands MNM (490,343 square miles), the Marianas Trench MNM (96,714 square miles) and Rose Atoll (13,393 square miles), which with the current Papahānaumokuākea MNM constitutes all of the nation's MNMs and prohibits fishing in 30 percent of the U.S.

EEZ in the Western Pacific Region, while allowing fishing managed under the Council in some MNM areas that include only submerged lands or permit customary exchange, whereas prior to the monument designation customary exchange did not require a permit;

Whereas the Antiquities Act is now once again being invoked in a request to President Obama to expand the Papahānaumokuākea MNM, and Senator Brian Schatz (D-Hawai'i) in June 2016 proposed the expansion encompass the full extent of the exclusive economic zone (EEZ) around the NWHI north of 163 degree longitude;

Whereas the Council is concerned that the proposed monument expansion would increase the monument more than fourfold to 582,578 square nm, i.e., equivalent to 60 percent of the EEZ around Hawai'i, 13 percent of the nation's entire EEZ and the size of the combined land masses of Oregon, Washington, California and Texas, and that this proposed area may not be confined to the smallest area compatible with the proper care of the objects to be protected;

Whereas the Council is concerned that the proposed expansion is not based on the best available scientific information with regards to mitigating the effects of climate change and benefiting the conservation of pelagic fish, seabird, sea turtle and marine mammal populations and coral reef and pelagic ecosystems and does not take into account protection of pelagic fish and protected species populations and pelagic and coral reef ecosystems already required by the existing Papahānaumokuākea MNM, the MSA and other existing laws;

Whereas the Council is concerned that the proposed expansion would harm commercial pelagic fisheries, especially the Hawai'i longline fishery, by closing fishing grounds within the EEZ, making it likely that the fishery will become more dependent on the high seas, where it must compete with foreign longline fleets and may have to fish further from Hawai'i thus incurring additional costs, increased safety risks and a larger carbon footprint;

Whereas the Council is concerned that the proposed expanded monument would negatively affect the local seafood markets, food security, economy and livelihoods of thousands who are employed in the fishing industry and associated businesses in Hawai'i and would increase the nation's dependence on imported seafood;


Whereas the Council is concerned that the proposed expansion does not take into account requirements to achieve optimum yield from the sustainable US fisheries that are managed to prevent overfishing and consistent with requirements of other applicable laws and statutes and would undermine the Council's ability to continue to manage fisheries throughout their range and in an ecosystem-based manner;

Whereas the Council is concerned that the expanded monument is being promoted as full protection when, in fact, it would not protect against coral bleaching and ocean acidification; would not protect migratory species throughout their range; and would not have authority over military activities, the navigation of foreign vessels, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea under UNCLOS and customary international law;

Whereas the Council takes to heart the words of Chief Justice William S. Richardson of the Hawai'i Supreme Court, who emphasized at the Ho'ohano'ano I Nā Kūpuna Puwalu (Honor Our Ancestors Conference) that "traditional and customary practices can only be recognized by the courts and by policymakers if the practices remain vibrant and healthy and relevant to the lives of our people";

Now, therefore, be it resolved that the Western Pacific Regional Fishery Management Council requests that United States government address concerns presented herein related to potential monument expansion through a public, transparent, deliberative, documented, and science-based process that includes projections regarding the management resources and tools needed to effectively manage and administer an expanded monument and the technical, scientific, and socioeconomic costs and benefits from monument expansion on marine resources, residents of Hawai'i, and the Nation; and that, if any designations are made in the marine environment under authorities such as the Antiquities Act of 1906, that fisheries management in the U.S. exclusive economic zone continues to be developed, analyzed and implemented through the public process of the Magnuson-Stevens Fishery Conservation and Management Act.

Be it further resolved that a copy of this resolution shall be sent to the President of the United States, the White House's Council on Environmental Quality, Secretary of Commerce, Secretary of the Interior, Secretary of State, and other parties as appropriate.


Edwin Ebisui Jr.
Chair


Kitty M. Simonds
Executive Director