Western
Pacific
Regional
Fishery
Management
Council

July 10, 2017

Monument Review, MS-1530
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Secretary Ryan Zinke:

Pursuant to the May 11, 2017, Federal Register Notice "Review of Certain National Monuments Established Since 1996," the Western Pacific Regional Fishery Management Council submits the following comments regarding the designation of the Northwestern Hawaiian Islands (NWHI) Marine National Monument (MNM), later renamed Papahanaumokuakea MNM as well as the attached correspondence of May 9, 2017, to Secretary of Commerce Wilbur L. Ross (Attachment 1) and Overview of Marine National Monuments in the U.S. Pacific Islands (Attachment 2) regarding the designations and expansions of the Papahanaumokuakea MNM and Pacific Remote Islands MNM and the designation of the Marianas Trench MNM and Rose Atoll MNM. These comments are in addition to those sent to Secretary Zinke on April 26, 2017. Each monument designation and expansion resulted in the restriction of public access to and use of Federal lands, curtailed economic growth and negatively impacted the surrounding lands and communities. These monuments engulf 52 percent of the nation's exclusive economic zone (EEZ) in the U.S. Pacific Islands, restrict commercial fishing in 51 percent of the EEZ in the U.S. Pacific Islands and place an unfair economic burden on the region's fishing and indigenous communities.

Table 1. Marine National Monuments in the Pacific Islands: Size and Year Established/Expanded

Marine National Monument (Proclamation No. and Year)	**Monument Size**	
Papahanaumokuakea MNM Total Size	**372,847,360 acres**	**582,574 miles^2**
Original Northwestern Hawaiian Islands Designation (Proclamation 8031 of June 2006); Amended and renamed Papahanaumokuakea (Proclamation 8112 of February 2007)	89,467,520 acres	139,793 miles^2
Expansion (Proclamation 9478 of August 2016)	283,379,840 acres	442,781 miles^2
Pacific Remote Islands MNM Total Size	**316,920,929 acres**	**495,189 miles^2**
Original Designation (Proclamation 8336 of January 2009)	55,608,320 acres	86,888 miles^2
Expansion (Proclamation 9173 of September 2014)	261,312,609 acres	408,301 miles^2
Marianas Trench MNM (Proclamation 8335 of January 2009)	**60,938,240 acres**	**95,216 miles^2**
Rose Atoll MNM (Proclamation 8337 of January 2009)	**8,608,640 acres**	**13,451 miles^2**
All Marine National Monuments in US Pacific Islands	**759,315,169 acres**	

Northwestern Hawaiian Islands Designation (Proclamation 8031 of June 2006)
Amended and renamed Papahanaumokuakea (Proclamation 8112 of February 2007)

1. **The requirements and original objectives of the Antiquities Act, including the Act's requirement that reservations of land not exceed "the smallest area compatible with the proper care and management of the objects to be protected"**

The purpose the Antiquities Act is to protect "historic landmarks," "historic and prehistoric structures" and "other objects of historic and scientific interest." The "object" to be protected in the original Papahanaumokuakea MNM is the coral reef ecosystem. It is questionable that 89,467,520 acres is the smallest area needed to properly care for and manage the NWHI coral reefs, whose potential habitat (0 to 100 meter depth) covers less than 4 percent of the area, i.e., about 3.5 million acres.[1] Instead, it appears the original Papahanaumokuakea MNM boundaries were based on the "Protected Species Zone" established in 1991 by the Western Pacific Regional Fishery Management Council (figure 1).

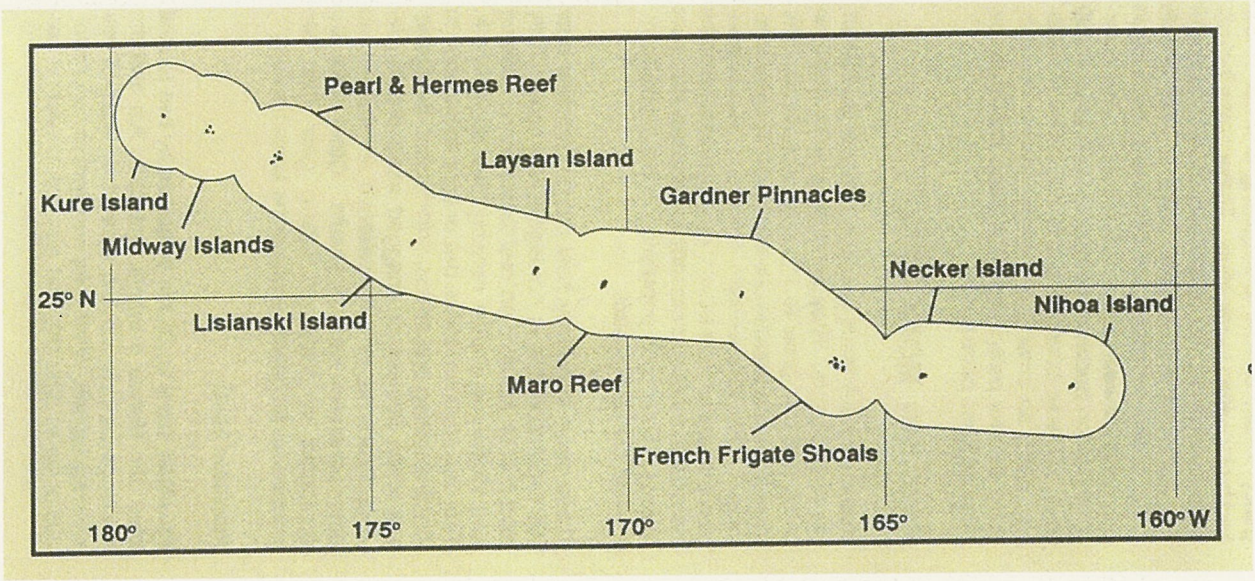

Figure 1: The NWHI Protected Species Zone established by the Western Pacific Regional Fishery Management Council in 1991.

The Council had developed the Protected Species Zone in February 1991 as an emergency closure to longlining in areas inhabited by Hawaiian monk seals. It includes waters with 50 nm of the islands and banks of the NWHI and certain 100-nm corridors used by monk seals when migrating between islands. The zone became permanent in October 1991 through an

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[1] Proclamation 8031 references Executive Order 13178, NWHI Coral Reef Ecosystem Reserve says 3.5 million acres of coral reefs are around the NWHI and incorrectly states that 70 percent of the US reefs are in the NWHI. This incorrect figure is from Hunter C 1995 Review of Status of Coral Reefs around American Flag Pacific Islands and Assessment of Need, Value and Feasibility of Establishing a Coral Reef Fishery Management Plan for the Western Pacific Region. Improved coral reef coverage data can be found in SO Rohmann et al. 2005 (The area of potential shallow-water tropical and subtropical coral ecosystems in the United States. Coral Reefs 24:370–383). According to Grigg R (2007), NOAA scientists estimate the coral reefs in the NWHI to comprise between 5 and 12 percent of the US total, depending upon the way coral ecosystems are defined (History of Marine Research in the Northwestern Hawaiian Islands: Lessons from the past and hopes for the future, p7. http://www.denix.osd.mil/denix/crid/Coral_Reef_Iniative_Database/NW_Hawaiian_Islands_files/Grigg,%202007.pdf).

amendment to the Pelagic Fishery Management Plan. The Protected Species Zone was not developed to protect the NWHI coral reef ecosystem, which was already protected by other management measures developed by the Council since the 1980s (see the Code of Federal Regulations, Title 50, Chapter VI, Part 665 Fisheries in the Western Pacific). Moreover, the Coral Reef Ecosystem Fishery Management Plan (FMP), which was being finalized by the Council at the time, would have added further management measures to the NWHI coral reef ecosystem.

The necessity of 139,793 square miles to protect the NWHI coral reef ecosystem is further questionable when one compares the size of the original Papahanaumokuakea MNM to that of the Florida Keys National Marine Sanctuary (NMS). The NWHI MNM boasts the protection of 7,000 species of marine life, while the Florida Keys NMS is said to protect 6,000 species of marine life. Yet, the Florida Keys NMS is only 2 percent the size of the NWHI MNM (i.e., 2,900 square miles versus 139,793 square miles). Moreover, while all fishing is forbidden except sustenance fishing (i.e., harvesting fish to be consumed while within the monument) in 100 percent of the original Papahanaumokuakea MNM, less than 7 percent of the Florida Keys NMS is no-take. Even the Great Barrier Reef Marine Park, which protects the world's largest coral reef system, is smaller (i.e., 133,000 square miles) than the original Papahanaumokuakea MNM. Coral reefs comprise about 7 per cent of the Great Barrier Reef ecosystem,[2] and no-take zones have covered between 5 percent and 33 percent of the area at various times.

The proclamation establishing the NWHI MNM does not explicitly name the 7,000 species or identify the abiotic elements that comprise the NWHI coral reef ecosystem. Many NWHI species (e.g., sea birds, sea turtles, sharks, monk seals, whales and pelagic fish) are highly migratory and do not stay within the boundaries of the NWHI MNM. Most of the submerged lands around the NWHI have not been explored. What criteria then were used to determine the "smallest" geographical area needed to protect the ecosystem and/or its various elements?

For example, under the Endangered Species Act, critical habitat for the Hawaiian monk seal in the Northwestern Hawaiian Islands is comprised of beach areas, sand spits and islets, including all beach crest vegetation to its deepest extent inland as well as the seafloor and marine habitat 10 meters in height above the seafloor from the shoreline out to the 200-meter depth contour around Kure Atoll, Midway Atoll, Pearl and Hermes Reef, Lisianski Island, Laysan Island, Maro Reef. Gardner Pinnacles, French Frigate Shoals, Necker Island and Nihoa Island.[3] The original monk seal critical habitat, designated in 1986 and revised in 1988 (i.e., the boundary that existed when the original Papahanaumokuakea MNM was designated), included waters out to 20 fathoms (approx. 36 meters depth)[4]. Hawaiian monk seal critical habitat also includes areas in the main Hawaiian Islands. The original Papahanaumokuakea MNM boundary extends beyond the 200-meter depth contour in the NWHI and does not take into account the critical habitat of the species in the main Hawaiian Islands. Protection of the species is already handled through the Endangered Species Act and Marine Mammal Protection Act, among other policies, which further questions the need of a monument under the Antiquities Act to protect this species.

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[2] The area of potential shallow-water tropical and subtropical coral ecosystems in the United States. Coral Reefs 24:370–383.

[3] NOAA Fisheries - Protected Species: Critical Habitat. http://www.fpir.noaa.gov/PRD/prd_critical_habitat.html

[4] www.fpir.noaa.gov/Library/PRD/Critical%20Habitat/HMS%20critical%20habitat%20final%20rule%201988.pdf

2. Whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest"

The Antiquities Act of 1906 authorizes the President of the United States in his/her discretion to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon lands owned or controlled by the Government of the United States to be national monuments. Dictionaries define "object" as something that is visible or tangible, usually not living. The first national monument to be created by the Antiquities Act protects such an object, i.e., "the lofty and isolated rock in the State of Wyoming, known as the 'Devils Tower."

The NWHI/original Papahanaumokuakea MNM aims to protect "historic and scientific objects" that are not specified in Proclamation 8031, which instead says they are identified in Executive Orders 13089, 13178 and 13196 as well as the process for designation of a National marine Sanctuary undertaken by the Secretary of Commerce. The purpose of Executive Order 13089 is to protect the "coral reef ecosystem and related marine resources and species (resources)" of the NWHI. While some elements of the ecosystem are visible or tangible, the ecosystem as a whole is not, which further questions the appropriateness of classifying it as an "object."

Figure 2. Honolulu Advertiser. 16 June 2006.

3. The effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. 1701(a)(7), as well as the effects on the available uses of Federal lands beyond the monument boundaries

The original Papahanaumokuakea MNM includes emergent and submerged lands and waters controlled by the Government of the United States in the NWHI. These are identified as including the NWHI Coral Reef Ecosystem Reserve, the Midway Atoll National Wildlife

Refuge/Battle of Midway National Memorial, and the Hawaiian Islands National Wildlife Refuge.[5] There has been a failure to note that the monument area also includes the Protected Species Zone and the other spatial management areas developed by the Western Pacific Regional Fishery Management Council, which are still in the Code of Federal Regulations. These include the Laysan Island No-Take Crustaceans Marine Protected Area (MPA), the Mau and Hoomalu Bottomfish Zones, Precious Coral Conditional and Established Beds and Refugia, Substrate Essential Fish Habitat (EFH) Limits and Pelagic Fishes Habitat Areas of Particular Concern Limits. As noted previously, the Council was finalizing other coral reef management measures, including no-take marine protected areas landward of 50 fathoms, in its draft Coral Reef Ecosystem Fishery Management Plan (figure 3). That plan was approved by the Secretary of Commerce in June 2002 except for the NWHI portion due to the NWHI Coral Reef Reserve established in 2000 by Executive Order 13178 by Clinton and finalized in 2001 by Executive Order 13196.[6]

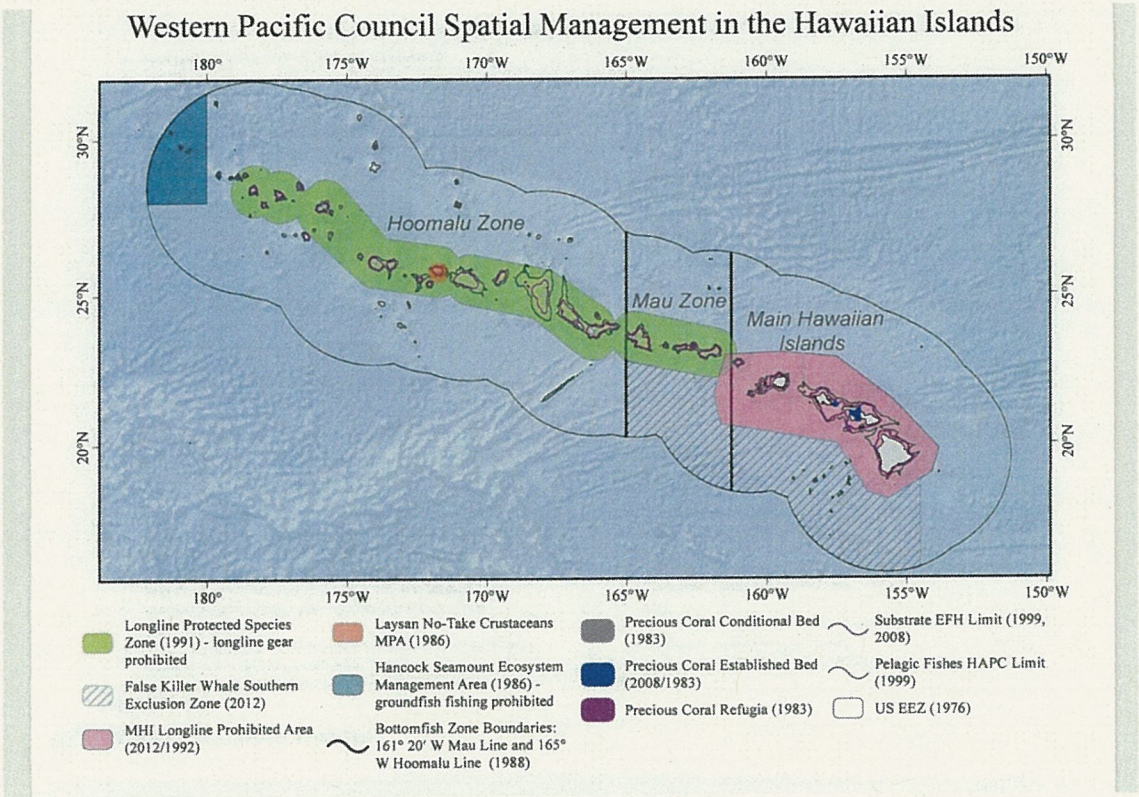

Figure 3. Spatial management measures are among the array of non-monument conservation and management regulations established through the Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, Marine Mammal Protection Act and Migratory Birds Treaty Act, etc. to provide protection to the resources associated with the NWHI coral reef ecosystem while allowing for multiple use. The original Papahanaumokuakea MNM, on the other hand, permits only a limited number of non-extractive uses.

The original Papahanaumokuakea MNM implements a zero annual harvest limit condition on the NWHI lobster fishery, the only significant commercial lobster fishery in the State, which was federally regulated and worth up to $1 million in annual landings. The monument phased out the federally regulated NWHI bottomfish fishery, which once accounted for half of the State's local landings of bottomfish prized by residents, especially during

[5] Federal Register Notice. 2006 August 29. Vol 71, No. 167.
[6] Federal Register Vol. 69, No. 36. 24February 2004. Rules and Regulations: 8336- 8349.

culturally significant events, and by the visitor industry as one of Hawaii's signature dishes. The monument banned the pelagic troll and bottomfish charter fisheries. Longline fishing was already banned by the Protected Species Zone established by the Western Pacific Regional Fishery Management Council. While there were promises that subsistence fishing would be allowed, in the final rule, it too was banned. The only fishing allowed was "sustenance fishing," coined to allow the catching of fish to be consumed while within the monument, e.g., by researchers. The monument also eliminated any opportunities for recreational fishing.

As fish inhabit specific depths and around specific features, the NWHI fishing vessels could not move just outside the monument, as some proponents of the monument argued. They were instead displaced to the federal and state waters around the main Hawaiian Islands. Fishing effort was concentrated into this smaller area near populated areas that was utilized by commercial, recreational and subsistence fishermen. The director of the NOAA Pacific Islands Fisheries Science Center expressed concern that closing the NWHI bottomfish fishery "may ultimately prove negative for the entire archipelago bottomfish population." He said NOAA Fisheries is "confident that the bottomfish in the Northwestern Hawaiian Islands remain in good condition based on over twenty-five years of monitoring, biological research and stock assessments" but "has expressed concern about the status of bottomfish stocks in the main Hawaiian Islands for over ten years."[7] Some bottomfish fishermen attempted to convert to longline fishing, but the NWHI bottomfish vessels were restricted in vessel size to 64 feet, which limited the ability of the vessels to reconfigure to accommodate the gear needed to longline. Other fishermen moved their vessels to the mainland or quit fishing. Imports increased, including bottomfish from Australia and Tonga. The end of the NWHI fisheries also resulted in discontinuation of the time-series of fishery-dependent studies on the targeted and non-targeted species in the NWHI. If the NWHI waters are not reopened to fishing, fishermen knowledge of specific species, underwater features and weather patterns in the NWHI will also be lost.

4. The effects of designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries

The original Papahanaumokuakea MNM contains waters and submerged and ceded lands that are not owned or controlled by the Government of the United States. These include the State of Hawaii's Northwestern Hawaiian Islands State Marine Refuge and Kure Atoll Wildlife Sanctuary as well as the submerged lands and ceded lands held by the State in public trust for Native Hawaiians through the Constitution of the State of Hawaii. John Craven, Esq., former Marine Affairs Coordinator for the State of Hawaii and Director of the Law of the Sea Institute, said that the monument is unconstitutional because the Hawai'i State Constitution declares that no sovereignty of Hawai'i can be conceded without ratification by the State legislature.[8] Inclusion of these non-federal waters and submerged and ceded lands within the monument curtails the ability of Hawaii residents to use and enjoy, particularly for sustainable, regulated fishing.

Craven and others have also questioned whether the Federal Government has "control" of the U.S. exclusive economic zone (EEZ) beyond the 12-mile Territorial Sea in light of Articles 61 and 62 of the Law of the Sea Treaty.[9] Article 61 states "The coastal State taking into account

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[7] NOAA Pacific Islands Fisheries Science Center. 2005 October 27. Response to questions concerning Hawaii's bottomfish populations.
[8] Pers. comm. with Mike Markrich. 2009 February 14.
[9] Pers. comm. with Kitty Simonds. 2006 August 16.

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." Article 62 adds, "The Coastal state shall 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." Designation of the original Papahanaumokuakea MNM prevents the U.S. Secretary of State from entering into Pacific Insular Area Fishery Agreements that would allow foreign countries to exercise their rights under Articles 61 and 62 of the Law of the Sea Treaty, as well as provide revenue to U.S. Territories in the Pacific Islands (Magnuson-Stevens Act).

Closure of the NWHI fisheries, particularly the bottomfish fishery, did not lead to a reduction of fish consumption. It displaced the fishing effort to other federal and state waters around Hawaii as well to the waters of foreign countries importing fish into Hawaii.

5. Concerns of state, tribal and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes and localities

Many prominent Hawaii politicians and Native Hawaiian leaders have long opposed efforts to proclaim the NWHI as a marine national monument and the closure of fisheries in the area. Their concerns, however, have been silenced by an eight-year well-funded campaign by the $5 billion Pew Charitable Trusts.[10]

The idea of a national monument in the NWHI was initiated under the administration of President Clinton. In May 2000, Clinton issued Executive Order 13158 Marine Protected Areas, which called for a scientifically based network of representative marine protected areas. According to Stephen Saunders, assistant deputy secretary for fish and wildlife, Department of the Interior, who co-drafted the order, the initiative was spearheaded by the Marine Conservation and Biology Institute (MCBI), which is an organization founded by Pew Fellow Elliott Norse. Saunders also co-authored a directive from Clinton, timed to be released with the executive order, which directed the Secretaries of Commerce and the Interior to develop a plan within 90 days to permanently protect the NWHI coral reef reefs. Saunders acknowledged that the Western Pacific Regional Fishery Management Council under its authority was controlling fishing but that anchoring from non-fishing boats, climate change and tourism could have impacts in the future.[11]

During the final days of his Administration, Clinton considered a NWHI monument. However, the idea was opposed by Rep. Neil Abercrombie and Patsy Mink (both D-Hawaii), Gov. Cayetano and former Gov. Waihee. Sen. Daniel Akaka (D-Hawaii) encouraged Clinton to consider the needs of commercial fishermen and Native Hawaiians. Sen. Daniel Inouye (D-Hawaii) along with Abercrombie and Mink supported a sanctuary that would allow the Western Pacific Regional Fishery Management Council to maintain management of fisheries in the area.[12] The Office of Hawaiian Affairs (OHA) opposed a national monument as it would bypass the National Environmental Policy Act and the required environmental impact statement (EIS) and could permanently close all commercial fishing without scientific basis or socioeconomic

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[10] PBS NewsHour. 2006 June 15. President Bush Declares National Monument in Hawaii. http://www.pbs.org/newshour/bb/environment-jan-june06-hawaii_06-15/
[11] *MPA News*. Vol. 1, No. 9. June 2000.
[12] Dorsey C. 2000 November 2. Hawaii Tribune-Herald.

analysis. Chairman Clayton Hee said OHA supported the continuation of the bottomfish limited entry program in the NWHI and the Council's efforts to set aside 20 percent of permits (i.e., two) to indigenous communities.[13] Support for continued fishing in the NWHI under the authority of the Western Pacific Regional Fishery Management Council also came from the National Fisheries Institute.[14]

Therefore, instead of proclaiming a NWHI national monument, Clinton issued Executive Order 13178 of December 4, 2000, establishing the NWHI Coral Reef Reserve, which capped fishing effort and provided for a 30-day public comment period.[15] William Brown, science advisor to Interior Secretary Bruce Babbitt from April 1997 to January 2001, said that the Reserve was possible due to a recent amendment by Congress.[16] He said that the Departments of Commerce (National Ocean Service) and the Interior together with the White House's Council on Environmental Quality (CEQ) "pushed the envelope of this mandate by preparing executive orders for the president with detailed, protective provisions. ... They were written to establish a baseline of protection below which the subsequent protection of a sanctuary could not fall."[17]

Dismay and opposition to the executive order came quick.

- Sen. Inouye in a press release issued the same day as the executive order noted his disappointment that final action would be taken in Washington, DC, before end of January. "This is hardly the level and extent of input and deliberation needed to ensure the level of buy-in I believe such a massive endeavor requires," he said. "This is especially the case because very little Hawaii public dialogue and discussion went into the development of the Executive Order before us today."

- Gov. Cayetano issued a press release that reiterated the need to balance "the protection of one of our most precious resources with the concerns of fishermen who rely on access to the area affected."

- The Hawaii Restaurant Association decried the Executive Order, noting that the Hawaii economy has been in a 10-year recession and that the request for public input appeared to be a "mere formality at best" as it would consider "recommendations for expansion" but not "recommendations to lessen the proposed areas."

- John Sibert, PhD, director of the Pelagic Fisheries Research Program at the University of Hawaii, in his December 11, 2000, written testimony said "President Clinton's Executive Order is an attempt to subvert the fishery management process intended by Congress."

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[13] 2000 November 9 letter from OHA Chairman Clayton Hee to President Clinton.
[14] NFI letter to President Clinton, 31 October 2000.
[15] Besides the continued inaccurate percent of the U.S. coral reefs contained in the NWHI, the executive order included other unsubstantiated statements that have been questioned, e.g., that approximately half of the 7,000 marine species in the NWHI are unique to the Hawaiian chain.
[16] S.1482 - National Marine Sanctuaries Amendments Act of 2000, Public Law No: 106-513 (11/13/2000) authorized the President to designate any NWHI coral reef or coral reef ecosystem as a coral reef reserve to be managed by the Secretary of Commerce. The legislation also required the Secretary to take certain action following such a designation, including establishing a NWHI Reserve Advisory Council. It also prohibited the permanent closure of any areas around such Islands without adequate public review and comment.
[17] Brown W. 18 June 2006. "Sanctuary a victory long in making." Honolulu Advertiser.

- Richard Grigg, PhD, University of Hawaii professor of oceanography in his testimony said that millions in revenue were lost. He called the executive order "a victory of ideology over critical thinking, of feel good environmentalism over science, of manipulation over truth" and "controlled propaganda ... to create a legacy for President Clinton."

- Jay Johnson, Esq., at the Dec. 11, 2000, public hearing said that "the President has no authority to regulate private activity that takes place within the U.S. exclusive economic zone by executive order and that sections 4 through 8 of the order were unconstitutional usurpations of Congressional authority to specify the manner in which regulations are issued that will govern fishing operations in the U.S. exclusive economic zone.

For the next five years, the Coral Reef Ecosystem Advisory Council created by the executive order worked to develop an EIS for the proposed NWHI NMS. The Western Pacific Fishery Management Council received the draft EIS from the Coral Reef Ecosystem Reserve Advisory Council on September 20, 2004, and, on April 14, 2005, transmitted draft fishing regulations to NOAA for review and consideration.

About the same time, the Pew Charitable Trusts began an intensified 18-month campaign to ensure that no fishing would occur in the NWHI. They hired a NWHI project director, two full-time professionals to build public support, a communications firm, a media consultant and several legal experts and undertook advocacy among Hawaii legislators and in Washington, DC, among others[18], [19] Jean-Michel Cousteau was invited to the White House and showed a video on the NWHI to President George W. Bush and the First Lady. It included footage of what was termed illegal "foreign fishing" in the NWHI, which in reality was a 80-year old single-handed Hawaii bottomfish fisherman legally operating.

On June 15, 2006, the Western Pacific Regional Fishery Management; NOAA National Marine Fisheries Service leadership in Hawaii and at headquarters in Silver Spring, Maryland; and environmental groups were taken by surprise by President George W. Bush unexpectedly proclaimed the NWHI a marine national monument, putting an end to the nearly six-year national marine sanctuary process coming to a conclusion. Dennis Heinemann, senior scientist for the Ocean Conservancy, said "Everybody in the conservation community was surprised."[20] CNN reported that the President the day before had still been planning to use the National Marine Sanctuary Act instead of the Antiquities Act.[21]

Native Hawaiian leaders, such as Walter Ritte and Charles Maxwell, opposed the ban on Native Hawaiian subsistence fishing. Ritte said, "The natural wealth of the Northwestern Hawaiian Islands, while it should be protected, should also be made available as a subsistence resource to the state's native people."[22]

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[18] J Reichert. "Anatomy of an Advocacy Campaign. August 2006. MPA News: Vol. 8, No. 2.
[19] Pew Prospectus 2007: 11-12
[20] Walton M. 2006 June 17. New designation of Hawaiian waters stirs controversy. CNN.com.
[21] CNN.com. 2006 June 15. 'Ecological jewel' now a national monument.
[22] Tenbruggencate J. 16 June 2006. Fishing in sanctuary divides Hawaiians. Honolulu Star-Advertiser.

6. Availability of Federal Resources to Properly Manage Designated Areas

Three years after the NWHI MNM designation, *Mother Jones* reported that the NWHI monument had inadequate funding, increased human traffic and lack of inter-agency coordination.[23] The USCG 14th District has had no funding increases for decades for monitoring and enforcement. It patrols the monument areas only as resources permit, typically once quarterly.

7. Other Factors

The original Papahanaumokuakea MNM implements a 100 percent no-take zone (except the newly coined "sustenance" fishing[24]). There is no scientific justification for this need. Moreover, it contradicts several other executive orders and policy decisions.

- Executive Order 13089 (Coral Reef Protection) of 1998 June 11 established the U.S. Coral Reef Task Force to "develop, recommend and seek or secure implementation of measures necessary to reduce and mitigate coral reef ecosystem degradation and to restore damaged coral reefs." The Task Force recommended that 20 percent (not 100 percent) of U.S. reefs, including those in Hawaii, be placed in ecological reserves.[25,26] The Western Pacific Fishery Management Council in developing the draft Coral Reef Ecosystem FMP and during the developing of the draft EIS for the proposed NWHI Sanctuary, had proposed several no-take reserve options in the NWHI.

- Executive Order 13158 (Marine Protected Act) of 2000 May 26 calls for "a scientifically based, comprehensive national system of Marine Protected Areas (MPAs) representing diverse U.S. marine ecosystems"; however, the monument in the NWHI accounted for virtually all of the MPA acreage, especially the no-take MPAs, in the United States. Until 2016, the additional MPA acreage, especially no-take MPAs, were also exclusively in the U.S. Pacific Islands (figure 4).

- Executive Order 13474 (Amendments to Executive Order 12962) of 2008 September 26 ensures "recreational fishing shall be managed as a sustainable activity in national wildlife refuges, national parks, national monuments, national marine sanctuaries, marine protected areas, or any other relevant conservation or management areas or activities under any Federal authority, consistent with applicable law."

- The United Nations Resolution 70/1. Transforming our world: the 2030 Agenda for Sustainable Development adopted by the General Assembly on 2015 September 25. Sustainable Development Goal 14.5 is to "by 2020, conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on best available scientific information."

- Executive Order 13777on Enforcing the Regulatory Reform Agenda of 2017 February 24 aims to alleviate unnecessary regulatory burdens placed upon the American people and

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[23] J Stein. 2009 Jan. 6. "Bush designates massive new marine monuments." Mother Jones.
[24] The Executive Order establishing the NWHI Reserve, on the other hand, allowed for non-commercial subsistence fishing and restricted commercial fishing only in the Reserve Preservation Areas.
[25] TenBruggencate J. 2000 March 2. Task force to protect 20% of reefs in U.S. Honolulu Advertiser.
[26] Altonn H. 2000 March 2. Reef-saving effort focuses on Hawaii. Honolulu Star-Bulletin.

carry out the regulatory reforms of Executive Order 13771 and 12866, which among other requirements call for cost-benefit analyses.

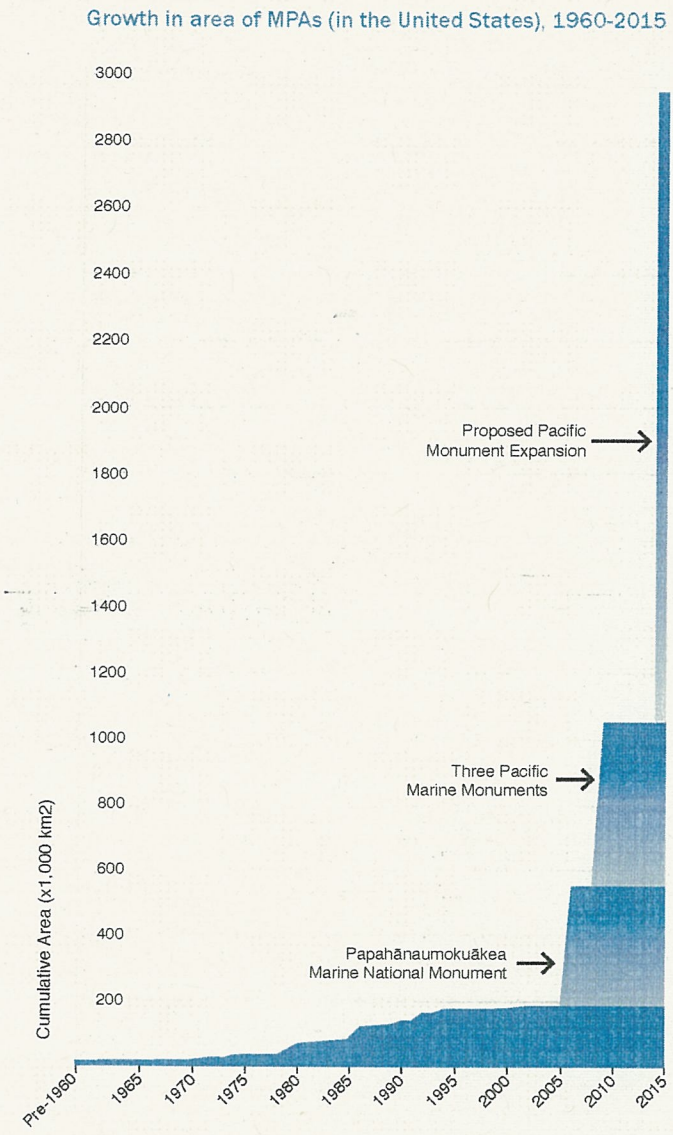

Figure 4. The designation of large MPAs by Presidential proclamation and only within the US Pacific Islands is in conflict with the Executive Order 13158 (Marine Protected Act) of 2000 May 26, which calls for "a scientifically based, comprehensive national system of Marine Protected Areas (MPAs) representing diverse U.S. marine ecosystems." This graph does not include the expanded Papahanaumokuakea MNM area. From "Conserving our Oceans One Place at a Time." marineprotectedareas.noaa.gov.

The bottom line is that Western Pacific Regional Fishery Management has managed the fisheries of the NWHI since the 1970s and has a record of accomplishments (Attachment 3) that transformed the NWHI from an unregulated area to one that has been characterized as "nearly pristine." Removing the fishing provisions or changing the monument boundaries will not leave a management void. There are existing regulations developed and implemented under the MSA that comprehensively manage fishery resources in the NWHI. These regulations can still be

found in the Code of Federal Regulations. Allowing regulated, sustainable domestic fishing in the U.S. EEZ in the NWHI and elsewhere in the U.S. Pacific Islands would support American fishing and coastal communities and reduce America's dependence on imports (now at more than 90 percent) as well as its $13 billion seafood trade deficit.

Sincerely,

Edwin Ebisui Jr.
Council Chair

Kitty M. Simonds
Executive Director

Attachments:

- May 9, 2017, correspondence to Secretary of Commerce Wilbur L. Ross
- Overview of Marine National Monuments in the U.S. Pacific Islands
- Accomplishments of the Western Pacific Regional Fishery Management Council

cc: Secretary of Commerce
Western Pacific Congressional Delegation
NOAA Assistant Administrator for Fisheries
Regional Fishery Management Councils