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June 1, 2023

Nicole R. LeBoeuf
Assistant Administrator
NOAA National Ocean Service
1305 East-West Hwy
Silver Spring, MD 20910

Dear Ms. LeBoeuf,

On behalf of the Hawaii Longline Association (HLA), thank you for the opportunity to provide scoping comments on the proposal to designate the Pacific Remote Islands (PRI) as a National Marine Sanctuary including expanding boundaries and no fishing prohibitions around Palmyra and Howland/Baker Islands.

HLA was established in 2000 to ensure the long-term continuity of the Hawaii longline fisheries (deep-set targeting bigeye tuna; shallow-set targeting swordfish) and associated seafood industry. HLA members include all active Hawaii-based longline vessels and the daily Honolulu Fish Auction. The Hawaii longline fisheries contribute over 85% of Hawaii's commercial fish landings, making it Hawaii's largest commercial fishing sector. With approximately 30 million pounds landed annually – worth around \$120 million in dockside value – the Hawaii longline fleet is Hawaii's largest food producer by volume and value.

General Comments

The United States is a global leader in fisheries management. Under a range of federal laws, overfishing is prevented, bycatch minimized, and fisheries are not allowed to jeopardize endangered species populations. Even with comprehensive fisheries management regimes, no country has closed as much of its national waters to commercial fishing as the United States. Nearly 1.2 million square miles of ocean – roughly one third of the total land area of the United States including Alaska – has been set aside and protected (and much of it within past 10 years).

The closure of US waters has been disproportionately focused in the Pacific Islands region, where 96% (by area) of all US Marine Protected Areas (MPA) have been established. Furthermore, these MPAs have not only been established for vulnerable coral reef ecosystems, but additionally for vast, blue-water pelagic environments around Hawaii, American Samoa, Northern Mariana Islands and the PRI – permanently closed to highly monitored commercial fishing for migratory species such as tuna.

The proposed PRI National Marine Sanctuary designation would expand the fishing closures to the full extent of the US Exclusive Economic Zone (EEZ) around Howland/Baker Islands and Palmyra Atoll/Kingman Reef. The result would achieve President Biden's 30 x 30

America the Beautiful Initiative with respect to the marine environment by closing 30% of the Nation's EEZ waters to commercial fishing. This begs the question: is this proposal necessary for marine protection or does it fulfill a political agenda?

Full closure of these US waters to highly monitored, comprehensively regulated US fishing fleets does not strike a balance between resource protection and sustainable use. Whether it's the need to support local businesses, promoting US Pacific Island food self-sufficiency, or countering China's influence, permanently closing pelagic EEZ waters of the United States harms US strategic interests in the region more than it helps.

Unfortunately, there are significant differences in views on the benefits of closing all US waters of the PRI to fishing. Proponents argue protection is needed to build resiliency against climate change, promote cultural connections to these places, and to provide a refuge for marine species. HLA supports these objectives but does not agree that closing all US waters of the PRI is necessary or representative of a balanced marine resource management regime.

One area of controversy is whether these MPAs have spillover benefits to tuna stocks. Proponents are touting research published late last year that ostensibly concludes Papahānaumokuākea Marine National Monument expansion produced, in just two years, significant tuna spillover benefits to immense populations of bigeye and yellowfin tuna and resulted in higher catch rates in the Hawaii longline deep-set fishery. That research was promptly renounced as flawed and debunked by leading tuna stock assessment scientists.¹ As fishermen, we know that the ocean is dynamic, especially the pelagic environment where we fish. While advocacy science may make such claims, discrete, static closures will not have material benefits to abundant tuna stocks or populations of other highly mobile species that range beyond US PRI EEZ boundaries.

Given this understanding, HLA has serious concerns with the claimed benefits of the proposal, especially as they relate to tuna stocks. The Hawaii longline fishery started in 1917 and Hawaii longline vessels have a long history of fishing within the US EEZ waters around Johnston and Palmyra, with some years seeing up to 20% of fishing effort. In 2014, the entire EEZ around Johnston Island was closed to fishing as result of the PRI monument expansion by President Obama. Within the last decade, Hawaii longline vessels have minimally fished in the open area of US EEZ waters from 50 -200 nm around Palmyra. The Hawaii fleet, which lands premium ice-chilled seafood, does not fish in the US EEZ around Howland/Baker Islands due to it being over 1600 nm away from Honolulu. For these reasons, the proposed Sanctuary and expansion will likely result in minor direct impacts to the Hawaii longline fleet; however, the main extent of impacts are cumulative and involve the existing marine monument designations and a newly agreed international convention that, among other things, establishes a framework for the designation of MPAs on the high seas (BBNJ).²

Approximately 65% of US EEZ waters around the Hawaii Archipelago are permanently closed to commercial fishing. Currently, around 80% of Hawaii longline fishing effort occurs in

¹ <https://sustainablefisheries-uw.org/mpa-spillover-hawaii-tuna-medoff/>

² Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction. 2023.

the high seas, which has increased from historical levels due area closures. On the high seas, Hawaii longline vessels fish along-side poorly monitored, subsidized foreign vessels. One must ask, then, if closing US waters to commercial fishing does not benefit tuna stocks or other abundant, mobile pelagic species, then why is it in the US national interest to subject its fishing fleets to foreign competition on the high seas?

Closing all US waters in the PRI is not consistent with NOAA's National Seafood Strategy or the United States Indo-Pacific Strategy which aims to counter China's rapidly growing influence in the Pacific Islands region.³ China's closest partner in the region is Kiribati, which happens to have the largest EEZ in the Pacific Ocean and its waters produce the highest total tuna catch of any nation globally.⁴ Chinese flagged vessels fish unfettered within EEZ waters of Kiribati (Figure 1). Three out five of the PRI (Palmyra, Howland/Baker, Jarvis) are adjacent to the Kiribati EEZ.

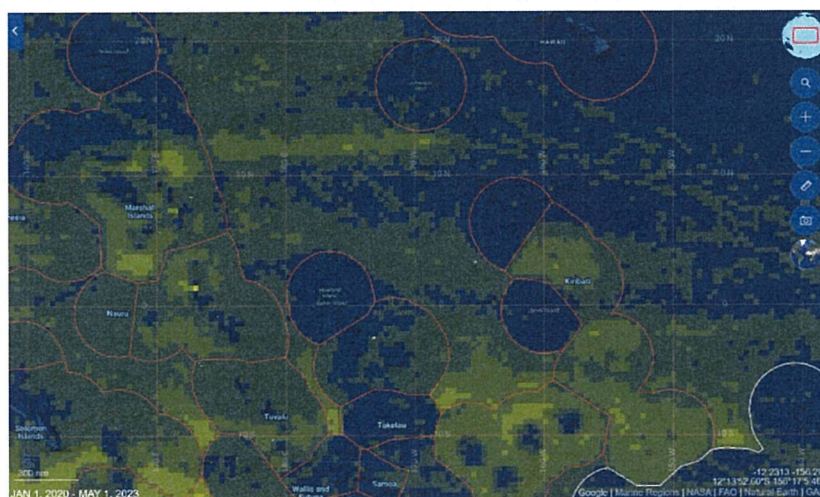


Figure 1: Chinese fishing effort in Pacific Islands region (2020-2023)
Source: Global Fishing Watch

The proposed Sanctuary overlay and expansion signals that the United States is willingly ceding fisheries influence in the region to China. Tuna fishing is the largest economic driver for many Pacific Small Island Developing States. For example, over 70% of the Kiribati Gross Domestic Product is from selling fishing access to its EEZ to foreign vessels.⁵ China's offshore fishing fleets are heavily subsidized, with tuna fishing a clear pathway to influencing Pacific Island governments. This alone should give pause to the United States with respect to the proposal.

³ <https://www.fisheries.noaa.gov/s3/2023-02/National-Seafood-Strategy-Final-Draft-Public-Comment.pdf#:~:text=The%20National%20Seafood%20Strategy%20focuses%20on%20NOAA%20Fisheries%E2%80%99,climate%20change%2C%20market%20disruptions%2C%20and%20new%20ocean%20uses;https://www.whitehouse.gov/wp-content/uploads/2022/02/U.S.-Indo-Pacific-Strategy.pdf>

⁴ <https://www.forbes.com/sites/jillgoldenziel/2022/07/22/kiribatis-liaison-with-china-threatens-sushi-and-security/?sh=47b2ea2f6ec0>

⁵ Bell, J.D., Sanina, I., Adams, T. *et al.* Pathways to sustaining tuna-dependent Pacific Island economies during climate change. *Nat Sustain* 4, 900–910 (2021). <https://doi.org/10.1038/s41893-021-00745-z>

Another key geopolitical issue generating foreseeable cumulative effects is the recently agreed BBNJ framework to establish high seas MPAs. Because many Pacific Island countries receive critical economic benefits from foreign fishing access agreements, closing large areas of the high seas in the Western and Central Pacific Ocean supports their economic interests. The combination of permanently closed US waters and high seas MPAs, that either close existing fishing areas for our fleet or displace and concentrate fishing effort into open areas, will have significant impacts on the Hawaii longline fishery, negative impacts to Hawaii's food self-sufficiency, and the broader National interest. Foreign flagged longline vessels typically transship their frozen catch on the high seas and stay on the fishing grounds for at least 6 to 12 months per trip, whereas Hawaii longline vessels return to port every 3 weeks (landing ice chilled fish for the local Hawaii market). High seas transshipment activity is unmonitored, and this operational disparity will result in foreign vessels occupying concentrated high seas fishing grounds, leaving little area for the Hawaii-based fleet.

HLA understands that establishing a sanctuary over the PRI monument is for Congressional funding and programmatic purposes, but why not use the Antiquities Act of 1906 to expand the boundaries around Palmyra and Howland/Baker? HLA believes that President Biden chose not to use the Antiquities Act to expand the PRI monument boundaries due to concerns over the legality of such action.⁶ The huge PRI monument expansion in 2014 using the Antiquities Act was too much then and the current proposal to permanently close all PRI waters is too much now. Unfortunately, the proposal appears to be more related to the 30 x 30 political agenda rather than meaningful protection.

For the reasons identified herein, HLA strongly believes the United States national interests are best served if there is a balanced management approach that includes both protection and sustainable fishing. HLA would consider supporting the proposal if highly monitored tuna fishing is allowed. Specifically, HLA would support Sanctuary designation if fishing was allowed for highly migratory species by Hawaii longline vessels within the US EEZ around Johnston from 50 – 200 nm. HLA also supports continued fishing opportunities for the US purse seine fleet in the PRI noting the importance of their landings to American Samoa.

⁶ In 2021, Chief Justice Roberts issued a statement related to the case brought by the Massachusetts Lobstermen's Association regarding Northeast Canyons Marine National Monument (Massachusetts Lobstermen's Association, et al. v. Gina M. Raimondo, Secretary of the Commerce, et al.). Chief Justice Roberts stated: "While the Executive enjoys far greater flexibility in setting aside a monument under the Antiquities Act, that flexibility, as mentioned, carries with it a unique constraint: 'Any land reserved under the Act must be limited to the smallest area compatible with the care and management of the objects to be protected. See §320301(b). Somewhere along the line, however, this restriction has ceased to pose any meaningful restraint. A statute permitting the President in his sole discretion to designate as monuments 'landmarks,' 'structures,' and 'objects'—along with the smallest area of land compatible with their management—has been transformed into a power without any discernible limit to set aside vast and amorphous expanses of terrain above and below the sea... We have never considered how a monument of these proportions—3.2 million acres of submerged land—can be justified under the Antiquities Act. And while we have suggested that an 'ecosystem' and 'submerged lands' can, under some circumstances, be protected under the Act, see *Alaska v. United States*, 545 U. S. 75, 103 (2005), we have not explained how the Act's corresponding 'smallest area compatible' limitation interacts with the protection of such an imprecisely demarcated concept as an ecosystem. The scope of the objects that can be designated under the Act, and how to measure the area necessary for their proper care and management, may warrant consideration—especially given the myriad restrictions on public use this purely discretionary designation can serve to justify." https://www.supremecourt.gov/opinions/20pdf/20-97_jiel.pdf

Specific Comments

HLA requests that NOAA ensure the following topics are analyzed thoroughly in the Draft Environmental Impact Statement (DEIS).

1) Disproportionate Conservation Burden

Approximately 96% of no-take MPAs within the United States occur in the US Pacific Islands region. Over 50% of US EEZ waters in the US Pacific Islands Region are closed to commercial fishing from marine monument designations in American Samoa, CNMI, Hawaii, and PRI. This amounts to nearly 25% of all US waters nationally. No other region of the US has been subject to such levels of US waters removed from highly monitored, sustainable commercial fishing. The DEIS should analyze the impacts resultant from the disproportionate conservation burden born on residents and fisheries of the US Pacific Islands including Hawaii from the designation of existing monuments and the proposed sanctuary designation. Preventing the transfer of conservation burdens to Small Island Developing States (SIDS) is an established principle in international law, and similarly, the disproportionate burden placed on fishing communities of Hawaii, American Samoa, CNMI, and Guam should be analyzed in the DEIS.

2) Balancing Protection and Sustainable Fishing Opportunities

The Purpose and Policies section of the National Marine Sanctuaries Act (16 U.S.C. § 1431 (b)(6) states: “to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.” The DEIS should analyze how the proposed designation is consistent with the National Marine Sanctuary Act’s provisions related to balancing protection and multi-use of available natural resources, in particular sustainable fishing activity. The analysis should take into account that currently all US waters (0-200 nm) around Johnston, Wake, Jarvis Islands are closed to commercial fishing, representing nearly 500,000 square miles of ocean. The proposed designation would add an additional 200,000 square miles and effectively close all US waters in the PRIA to commercial fishing. Already the existing size of the PRI monument is larger than all US national parks combined. The DEIS must address how the proposal achieves balancing protection and sustainable use (e.g., highly monitored fishing) of available resources per the National Marine Sanctuaries Act.

3) Impacts to Tuna and Other Highly Migratory Species

The DEIS should analyze the potential impact, or lack thereof, that Sanctuary designation and expansion would have on tuna populations in the region. The DEIS should thoroughly analyze recent studies that indicate MPAs offer little benefit to populations of highly migratory species such as tuna and billfish. A recent paper by Meidoff et al. (2023) purported to find that spillover occurred for yellowfin and bigeye tuna as a result of the Papahānaumokuākea monument expansion. However, this paper was quickly rebutted by world renowned tuna population and stock assessment scientists as being flawed. The rebuttal is in press, but a summary can be found

online.⁷ The DEIS should also include reference to other peer-reviewed publications that find MPAs have produced no discernable benefit to tuna stocks.⁸

4) Impacts to Coral Reef, Benthic and Pelagic Environments

As stated earlier, each of the PRI are either closed to the full extent of the EEZ or from 0- 50 nm (Howland/Baker and Palmyra Islands). The DEIS should analyze how expanding the fishing closures will impact each of these environments (i.e., nearshore, deep-sea benthic, pelagic). For example, all of the PRI areas were considered pristine before the closure of US waters to the full extent of the EEZ in 2014. There were no environmental review processes under the National Environmental Policy Act for any monument designation in the Pacific Islands region. The DEIS should conduct a rigorous analysis on the direct and indirect impacts of pelagic fishing for highly migratory species by highly monitored fishing vessels on the affected environment, with particular focus on coral reef, benthic, and pelagic environments.

5) Indirect and Cumulative Impacts

NOAA should comprehensively analyze the indirect and cumulative socio-economic effects of the proposal on the Hawaii longline fishery, US purse seine fleet, fishing communities and economies of Hawaii, American Samoa, Guam, and Northern Mariana Islands, and US seafood markets. The analysis should also consider the proposal in combination of existing MPA designations with reasonably foreseeable future high seas MPAs under the BBNJ framework.

6) Administrative Costs

NOAA should analyze the anticipated administrative costs of a potential sanctuary overlay and expansion of no fishing areas around Palmyra and Howland/Baker Islands. The analysis should focus on existing levels of Congressional appropriations for the National Marine Sanctuary Program sites and the proposal's administrative costs of enforcement, monitoring, and management.

Conclusion

HLA supports comprehensive fisheries management and science-based marine conservation and protection. We strongly believe there should be an appropriate balance between marine conservation, protection, and sustainable fishing within US EEZ waters. To permanently close off all fishing opportunities in US EEZ waters around the PRI is not in the strategic interest of the United States in supporting the economies of the US Pacific Islands or in deterring China's influence in the region. Moreover, in an increasingly tight Congressional budget appropriations environment, adding a sanctuary overlay and increasing administrative, monitoring, and enforcement costs could take away from other existing or proposed Sanctuary sites and MPAs.

⁷ <https://sustainablefisheries-uw.org/mpa-spillover-hawaii-tuna-medoff/>

⁸ See: 1) Hampton, J., Lehodey, P., Senina, I., Nicol, S., Scutt Phillips, J., & Tiamere, K. (2023). Limited conservation efficacy of large-scale marine protected areas for Pacific skipjack and bigeye tunas. *Frontiers in Marine Science*, 9, 2817. 2) Gilman, E., Chaloupka, M., Fitchett, M., Cantrell, D. L., & Merrifield, M. (2020). Ecological responses to blue water MPAs. *PLoS One*, 15(7), e0235129.

Lastly, the disproportionate conservation burden placed on residents and fisheries of the US Pacific Islands from existing marine monument designations and the 30 x 30 political agenda is unfair and needs to be rectified. Relatedly, allowing highly monitored fishing for tuna within some EEZ waters of the PRI should be allowed and included as a management alternative analyzed by NOAA in the DEIS.

Sincerely,

A handwritten signature in blue ink, appearing to read "E.K.K." followed by a stylized flourish.

Eric K. Kingma, Ph.D.
Executive Director