

**TESTIMONY OF  
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**ON**

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

**BEFORE THE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

**September 19, 2023**

**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.

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<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.

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

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

<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.

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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<sup>5</sup> Richard C. Bishop, David J. Chapman, Barbara J. Kanninen, John A. Krosnick, Bob Leeworthy, and Norman F. Meade. 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.