

Testimony of William Gibbons-Fly  
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Hearing before the House Committee on Natural Resources  
Subcommittee on Oversight and Investigations

*“Examining Barriers to Access in Federal Waters: A Closer Look  
at the Marine Sanctuary and Monument System”*

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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 fifteen 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 of 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"