



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Oversight and Investigations Republican Members
From: Subcommittee on Oversight and Investigations staff,
Michelle Lane (Michelle.Lane@mail.house.gov) and James Lundquist
(James.Lundquist@mail.house.gov) x6-8747
Date: September 19, 2023
Subject: Oversight Hearing on “*Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System*”

The Subcommittee on Oversight and Investigations will hold an oversight hearing titled “*Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System*” on **Tuesday, September 19, 2023, at 10:15 a.m. EDT in 1324 Longworth House Office Building.**

Member offices are requested to notify Cross Thompson (Cross.Thompson@mail.house.gov) by 4:30 p.m. on Monday, September 18, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- President Biden’s weaponization of marine protected area (MPA) designations is the latest example of his abuse of executive authority to promote the administration’s radical eco-agenda and social change initiatives, without considering the negative consequences for the economy and environment.
- MPAs can restrict activities that communities, including tribal and underserved areas, rely on to remain economically viable. These activities include commercial fishing, mining, oil and gas production, and renewable energy development.
- The best available science suggests that MPA designations are not the most effective strategy for fisheries management, and that our federal waters are already well protected through planned management and regulation of fishing activities and other uses of the marine environment.

II. WITNESSES

PANEL I

- **Ms. Jainey Bavishi**, Assistant Secretary of Commerce for Oceans and Atmosphere, National Oceanic and Atmospheric Administration (NOAA), Washington, DC

PANEL II

- **Ms. Florence Kargi**, Regional Affairs Manager, Coastal Villages Region Fund, Anchorage, AK
- **Mr. Bill Gibbons-Fly**, Executive Director, American Tunaboat Association, Annapolis, MD
- **Mr. Eric Reid**, Chair, New England Fishery Management Council, North Kingstown, RI
- **Mr. William Johnson Aila**, Native Hawaiian Fisherman, Waianae, HI

III. BACKGROUND

Marine Protected Area, or MPA, is a term encompassing the designations used by the National Oceanic and Atmospheric Administration (NOAA) and the Department of the Interior (DOI) to limit human activity in certain areas of the marine environment to protect all or part of the designated environment.¹ NOAA manages MPAs for fisheries management, units of the National Estuarine Research Reserve System, and the National Marine Sanctuary Program. DOI manages MPAs that are part of the National Wildlife Refuge System, National Parks, and National Monuments.² According to the MPA Inventory of 2023, approximately 789 million acres of federal water are currently protected in an MPA.³

A. MPA Categories

The International Union for the Conservation of Nature provides the current definition for MPAs utilized by both NOAA and DOI as “a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.”⁴ These designations include, but are not limited to, national wildlife refuges, national marine sanctuaries, and national marine monuments.

National Wildlife Refuge System (NWR): NWR units can be established through legislation, but more often through administrative actions such as executive orders and public land withdrawals.⁵ Some units allow for oil and gas extraction while others prohibit any sort of resource

¹ Harold F. Upton & Eugene H. Buck, CONG. RESEARCH SERV., RL3215, *Marine Protected Area: An Overview* (Sep. 29, 2010), <https://sgp.fas.org/crs/misc/RL32154.pdf>.

² *Id.*

³ *The MPA Inventory*, NAT’L OCEAN SERV., <https://marineprotectedareas.noaa.gov/dataanalysis/mpainventory/> (last visited Sep. 15, 2023).

⁴ *About Marine Protected Areas*, NAT’L OCEAN SERV., <https://marineprotectedareas.noaa.gov/aboutmpas/> (last visited Sep. 15, 2023).

⁵ Christopher R. Field, CONG. RESEARCH SERV., R45265, *U.S. Fish and Wildlife Service: An Overview* (July 20, 2018), <https://crsreports.congress.gov/product/pdf/R/R45265>.

development. They generally allow for recreational fishing, hunting, wildlife observation, environmental education, and photography.⁶ Of note, the Biden administration has proposed a rule to ban the use of lead ammunition and tackle on several national wildlife refuge areas,⁷ which may ultimately result in decreased participation in hunting and angling due to increased costs. In response, the House Committee on Natural Resources has advanced H.R. 615, the *Protecting Access for Hunters and Anglers Act of 2023*, introduced by Representative Rob Wittman (R-VA). The legislation would bar the federal government from banning lead tackle and ammunition unless scientific evidence shows the use of such tackle and ammunition was a direct cause of decline in a specific species. More information on the Committee Mark Up of H.R. 615 is available [here](#).

National Marine Sanctuary: The National Marine Sanctuaries Act⁸ authorizes the Secretary of Commerce to designate areas of marine and Great Lakes environments to protect cultural and natural resources.⁹ NOAA first identifies areas to consider for designation through their community-based Sanctuary Nomination Process. Nominations that successfully complete the process are added to an inventory of areas to consider for designation.¹⁰ Congress has also created several national marine sanctuaries.¹¹ While a Regional Fishery Management Council (FMC) may prepare regulations for fishing within a sanctuary, those regulations must be “consistent and compatible with the goals and objectives of the proposed designation”¹² allowing for the sanctuary to override federal fishery management plans and regulations.

The Antiquities Act and the Intersection of National Marine Monuments: The Antiquities Act of 1906¹³ gave the President authority to establish national monuments on federal lands that contain “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest,” and has been used for designating numerous marine national monuments.¹⁴ NOAA has no formal role in establishing marine national monuments and the Antiquities Act does not require a public process, though previous designations have been preceded by some public engagement, including four designations by President Bush and the expansion of a monument by President Obama.¹⁵ There is also no requirement that terrestrial or marine monument designations be based on a science-based environmental analysis nor is there a requirement that fishery management or conservation be an objective of the monument. A March 2023 hearing of the Subcommittee on Federal Lands entitled “*Promoting Conservation with a Purpose on*

⁶ Upton, *supra* note 1.

⁷ *U.S. Fish & Wildlife Service Expands Lead Ban on Refuges*, SPORTSMEN’S ALLIANCE (June 26, 2023), <https://sportsmensalliance.org/news/u-s-fish-wildlife-service-expands-lead-ban-on-refuges/#:~:text=On%20Friday%2C%20June%202023%2C%20the,tackle%20for%20eight%20additional%20refuges.>

⁸ 16 U.S.C. 1431 et seq.

⁹ Upton, *supra* note 1.

¹⁰ *Designations*, NAT’L OCEANIC AND ATMOSPHERIC ADMIN., NAT’L OCEAN SERV., DEP’T OF COM., <https://sanctuaries.noaa.gov/management/designations.html> (last visited Sep. 15, 2023).

¹¹ *Monuments and Sanctuaries: What’s the Difference?*, NAT’L OCEAN SERV., <https://sanctuaries.noaa.gov/about/monuments-and-sanctuaries-whats-the-difference.html> (last visited Sep. 15, 2023).

¹² 16 U.S.C. 1434(5)

¹³ 16 U.S.C. §§ 431-443

¹⁴ Upton, *supra* note 1.

¹⁵ *Monuments and Sanctuaries*, *supra* note 11.

America's Federal Lands and Forests” explored the Antiquities Act abuses of previous administrations, among other topics. More information on the hearing is available [here](#).

While the development of management plans and regulations is conducted through a public review process¹⁶ those plans do not have to meet fishery management or conservation goals, and they often disrupt the ability of the FMC to continue to manage fisheries throughout their range and in an ecosystem-based manner.¹⁷ Congress has the authority to create, modify, and abolish national monuments on federal lands.¹⁸ Some marine monuments prohibit certain activities such as commercial fishing,¹⁹ which can devastate communities that rely on fishing to remain economically viable.

B. White House Climate Initiatives & Council for Environmental Quality (CEQ)

The Biden administration is implementing its radical climate and preservation goals through several interconnected initiatives, including: Executive Order (EO) 14008, *Tackling the Climate Crisis at Home and Abroad*; the Ocean Climate Action Plan (OCAP); the *America the Beautiful Initiative* & accompanying 30x30 Strategy; and the forthcoming *Ocean Justice Initiative*.²⁰ The administration is weaponizing oceans and fisheries policy and MPA designations to satisfy these goals, as described in several White House Initiatives below.

President Biden issued EO 14008 on January 27, 2021, to direct federal agencies to implement the *America the Beautiful Initiative*, which includes the 30x30 Strategy to conserve at least 30 percent of U.S. lands and waters by 2030.²¹ The administration has so far refused to provide the metrics being used to determine which lands and waters count under 30x30, despite EO 14008 requiring the Secretaries of the Interior, Agriculture and Commerce, the Chair of CEQ, and heads of relevant agencies²² to assemble a report proposing “guidelines for determining whether lands and waters qualify for conservation, and [the report] also shall establish mechanisms to measure progress toward the 30-percent goal.”²³ However, the report released in May 2021, *Conserving and Restoring America the Beautiful*, did not specify the guidelines for the 30x30 Strategy.²⁴ According to NOAA, MPAs currently cover 26 percent of U.S. waters.²⁵ To date, it remains unclear whether the administration considers this metric.

The White House Ocean Policy Committee released their OCAP in March 2023, a government-wide strategy to advance President Biden’s many climate initiatives through oceans and fisheries

¹⁶ Upton, *supra* note 1.

¹⁷ *Council Coordination Committee Resolution on Marine National Monuments*. Adopted in May 2016. <https://www.fisherycouncils.org/marine-national-monuments>.

¹⁸ Carol Hardy Vincent, CONG. RESEARCH SERV., R41330, *National Monuments and the Antiquities Act* (May 3, 2023), <https://sgp.fas.org/crs/misc/R41330.pdf>.

¹⁹ *Id.*

²⁰ *Ocean Justice Strategy*, COUNCIL ON ENVIRONMENTAL QUALITY, 88 F.R. 37518 (June 8, 2023) <https://www.federalregister.gov/documents/2023/06/08/2023-12271/ocean-justice-strategy>.

²¹ *Conserving and Restoring America the Beautiful*, U.S. DEP’T OF THE INTERIOR et al. (2021), <https://www.doi.gov/sites/doi.gov/files/report-conserving-and-restoring-america-the-beautiful-2021.pdf>.

²² EXEC. ORDER NO. 14008, 86 F.R. 7619 (Jan. 27, 2021), <https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>.

²³ *Id.*

²⁴ *Conserving and Restoring America the Beautiful*, *supra* note 21.

²⁵ *Marine Protected Areas*, NAT’L OCEAN SERV., <https://marineprotectedareas.noaa.gov/> (last visited Sep. 15, 2023).

related policies, including conserving at least 30% of U.S. lands and waters by 2030.²⁶ The stated goals of OCAP are to: *Create a Carbon Neutral Future* through advancing offshore wind and marine energy, implementing policies towards achieving zero greenhouse gas emissions from international maritime shipping by no later than 2050, and discover additional ways to sequester carbon in the ocean; *Accelerate Nature-Based Solutions* through restoring and protecting marine environments that naturally store carbon, and the utilization of marine protected areas; and *Enhance Community Resilience to Ocean Change* through oceans, fisheries and aquaculture policies, the protection of certain species, and enhancing coastal resilience to climate change.²⁷

On June 8, 2023, CEQ and Office of Science and Technology Policy initiated a public comment period to inform the development of an Ocean Justice Strategy,²⁸ which will lay out the objectives for guiding ocean justice activities across departments and further pursue the administration’s environmental justice initiative. The call for public comment reveals a lack of need for such programming, as two of the questions posed to the public include: “What is ocean justice?” and “What are the barriers for realizing ocean justice?”²⁹ These questions demonstrate that ‘ocean justice’ is a concept that the administration themselves do not understand. It remains unclear what the true intention of the initiative is.

C. Best Science for Fisheries Management

Effect of MPA Designations on Fisheries

The Republic of Kiribati created Phoenix Islands Protected Area (PIPA) in 2008, and it became fully no-take in 2015.³⁰ Although the U.S. did not establish PIPA, it remains the largest MPA in the world and implements similar fishing restrictions as U.S. MPAs.³¹ On January 10, 2023, researchers from numerous organizations including the Pacific Community, which is responsible for performing stock assessments on each Pacific tuna species, released *Limited conservation efficacy of large-scale marine protected areas for Pacific skipjack and bigeye tunas* which examined how ineffective PIPA has been at increasing tuna populations. It also explored how larger hypothetical MPAs in the Pacific would affect tuna populations.³²

The study concluded that “the conservation benefits for skipjack tuna within the [PIPA] MPA, near-MPA and stock-wide scales are negligible” and that “benefits for bigeye tuna are slightly greater, but not of a magnitude that would make a meaningful contribution to conservation.”³³

²⁶ Ocean Policy Comm., *Ocean Climate Action Plan*, THE WHITE HOUSE (Mar. 2023), https://www.whitehouse.gov/wp-content/uploads/2023/03/Ocean-Climate-Action-Plan_Final.pdf.

²⁷ *Id.*

²⁸ *Ocean Justice Strategy*, *supra* note 20.

²⁹ *Id.*

³⁰ Dr. Randi Rotjan, *Taking Exploration to New Depths in the Phoenix Islands Protected Area*, NOAA OCEAN EXPLORER, <https://oceanexplorer.noaa.gov/oceanos/explorations/ex1703/background/pipa/welcome.html>.

³¹ *Id.*

³² Max Mossler, *Marine protected areas don’t help tuna, new paper shows*, SUSTAINABLE FISHERIES – UNIVERSITY OF WASHINGTON (Feb. 13, 2023), <https://sustainablefisheries-uw.org/tuna-mpa-pipa/>.

³³ John Hampton et al., *Limited conservation efficacy of large-scale marine protected areas for Pacific skipjack and bigeye tunas*, FRONTIERS IN MARINE SCIENCE (Jan. 10, 2023), <https://www.frontiersin.org/articles/10.3389/fmars.2022.1060943/full>.

The study also found that MPAs “do not control the level of stock-wide fishing activity, but typically move it into that part of the fishery that remains open.”³⁴ Further finding that MPAs with “large spatial closures that crowd fishing effort into the remaining two-thirds of the fishing grounds, could reduce local abundance in those areas and result in decreased economic performance of fishing vessels – lower per-vessel catches and catch-per-unit-effort” and also negatively impact onshore processing and service facilities.³⁵

U.S. Regional Fishery Management Councils & the Magnuson–Stevens Act

In 1976, President Ford signed the Magnuson-Stevens Fishery Conservation and Management Act (MSA),³⁶ which established an exclusive economic zone extending 200 nautical miles offshore.³⁷ It also established eight regional FMCs to apply national standards, prepare fishery management plans to prevent overfishing, to rebuild overfished stocks, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation’s fishery resources, and also established regulations for fisheries that require conservation and management.³⁸ In a letter to former Secretary of Commerce Wilbur Ross, the FMCs stated that “marine National Monument designations in their present form hinder the Councils’ ability to sustainably manage fisheries throughout their range, and they restrict the Councils and the National Marine Fisheries Service from acquiring invaluable knowledge about the stocks and the marine ecosystem.”³⁹

On June 12, 2023, the FMCs released a report, *An Evaluation of Conservation Areas in the U.S. Exclusive Economic Zone*, that identifies conservation areas in federal waters to inform the development of the American Conservation and Stewardship Atlas (Atlas) that will develop criteria and track progress for 30x30.⁴⁰ The FMCs defined a ‘conservation area’ as “an established, geographically defined area, with planned management or regulation of environmentally adverse fishing activities, that provides for the maintenance of biological productivity and biodiversity, ecosystem function and services.”⁴¹ The FMCs identified 648 distinct conservation areas that already cover 72 percent of federal waters, or approximately 3.4 million square miles.⁴² The FMCs encouraged NOAA and relevant agencies to consider the report’s identified 648 conservation areas for inclusion in the Atlas towards the 30x30 goal.⁴³ In that report the FMCs pointed out that “the Councils’ fishery management measures under which

³⁴ *Id.*

³⁵ *Laws & Policies: Magnuson-Stevens Act*, NOAA FISHERIES, <https://www.fisheries.noaa.gov/topic/laws-policies/magnuson-stevens-act>.

³⁶ 16 U.S.C. 1801 et seq.

³⁷ *Id.*

³⁸ 16 U.S.C. 1801(a)(6)

³⁹ Letter to Secretary of Commerce Wilbur Ross, U.S. REGIONAL FISHERY MANAGEMENT COUNCILS (May 29, 2020), http://www.wpcouncil.org/wp-content/uploads/2020/05/29May2020CCCLettertoDOCSec_final-1.pdf.

⁴⁰ Council Coordination Committee, *An Evaluation of Conservation Areas in the U.S. Exclusive Economic Zone*, U.S. REGIONAL FISHERY MANAGEMENT COUNCILS (May 5, 2023), <https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/6489c43523c0b1595a5b8d54/1686750280097/Evaluation-of-Conservation-Areas-Report-2023.pdf>.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

federal fisheries operate across America directly result in improved conservation outcomes that benefit sustainable fisheries, other marine species, and habitats.”⁴⁴

D. Notable Recent MPA Designations and Administrative Action

Pacific Island Proposed Marine Monument Expansion

In March 2023, the Biden administration announced the consideration of “a new National Marine Sanctuary designation . . . to protect all U.S. waters around the Pacific Remote Islands” to accomplish the President’s 30x30 goal.⁴⁵ The Pacific Remote Island Area provides critical fishing grounds for tuna species for U.S. vessels in the South Pacific. Otherwise, vessels are very restricted in fishing access to the high seas, and must pay thousands of dollars per day to fish within the exclusive economic zones (EEZ) of other nations.⁴⁶ According to the Western Pacific Regional FMC, since 2018, “the U.S. tuna purse seine fleet, which supplies the American Samoa tuna cannery, has dwindled from 38 vessels to 15 vessels today.”⁴⁷ If the Biden administration implements the MPA designation, it will force the remaining U.S. purse seiner fleet to either discontinue operations, or fish farther away waters and deliver their catch to foreign ports.⁴⁸

Tuna fishing and processing is the main driver for the American Samoa economy, providing employment to approximately 5,000 of the 18,000-person workforce.⁴⁹ StarKist Tuna cannery is the largest employer in the territory.⁵⁰ If the proposed sanctuary were to prohibit tuna fishing, the tuna industry and communities that depend on it would be decimated by loss of revenue and fishing access.⁵¹ For example, following the closure of one of the two canneries in American Samoa over a decade ago, their gross domestic production of tuna fell by 25 percent.⁵²

Chinese Influence in the Pacific

In 2020, the Overseas Development Institute (ODI) released a report, *China’s distant-water fishing fleet: Scale, impact and governance*, that examined the size, composition and operations

⁴⁴ *Id.*

⁴⁵ *FACT SHEET: Biden-Harris Administration Takes New Action to Conserve and Restore America’s Lands and Waters*, THE WHITE HOUSE (Mar. 21, 2023) <https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/21/fact-sheet-biden-harris-administration-takes-new-action-to-protect-america-s-lands-and-waters/>.

⁴⁶ *Potential Economic and Political Fallout of Tuna Fishery Closures in Proposed PRIA Sanctuary*, WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL (Jun. 8, 2023), <https://www.wpcouncil.org/wp-content/uploads/2023/06/1-Potential-Economic-and-Political-Fallout-of-Tuna-Fishery-Closures-in-Proposed-PRIA-Sanctuary.pdf>.

⁴⁷ *Pacific Remote Islands Marine National Monument Expansion Proposal*, WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL (Aug. 24, 2022), https://www.wpcouncil.org/wp-content/uploads/2022/08/PIFN-Aug-2022-PRIMNM-Expansion-Proposal-FINAL_high-res.pdf.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Angelina Tan, *Biden’s Expansion Of US Pacific Marine Sanctuaries Pushes Tuna Fishing Industry Towards China*, MARITIME FAIRTRADE (May 3, 2023), <https://maritimefairtrade.org/bidens-expansion-of-us-pacific-marine-sanctuaries-pushes-tuna-fishing-industry-towards-china/>.

⁵¹ *Potential Economic and Political Fallout*, *supra* note 46.

⁵² *Id.*

of the Chinese distant-water fishing (DWF) fleet, approximately 16,966 vessels strong.⁵³ China has historically overfished their waters, drastically depleting the fish stock, and recently expanded their DWF fleet to travel further out, encroaching on waters of low-income nations and territories to meet China's rising demand for seafood.⁵⁴ The activities of China's DWF fleet compete with local vessels and are associated with "unsustainable levels of extraction, and with illegal, unreported and unregulated fishing activities,"⁵⁵ as well as labor abuses and catching endangered species.⁵⁶

The U.S. and China have historically competed over economic and military influence in the South Pacific, with efforts from China intensifying in recent times.⁵⁷ Conversations with stakeholders in the region revealed concerns that China is using fish as a form of diplomacy to gain influence. With the U.S. considering expanding restrictions on fishing in the waters surrounding the Pacific Islands, Chinese vessels are poised to benefit, as they will continue to heavily fish the waters around the expanded MPA, directly competing with American vessels in the region.⁵⁸ Additionally, these restrictions could have terrible consequences for the economies of the Pacific Islands – decimating local fish stocks and potentially making an economic partnership with China more appealing.

The CDQ Program in Alaska & The Nomination of Alaġum Kanuux for a Marine Sanctuary

The MSA authorized the Community Development Quota (CDQ) program,⁵⁹ which allocates 10 percent of the Total Allowable Catch of several Bering Sea and Aleutian Islands fisheries to 65 Western Alaska communities.⁶⁰ The communities are divided into six regional groups – each has a non-profit dedicated to managing their region's share of the quota.⁶¹ The non-profits invest in their communities through job and safety trainings, loans and subsidies for fishermen, scholarships, assistance with acquiring fuel, substance abuse prevention, housing programs, and more.⁶²

The Aleut Community of St. Paul Island submitted a nomination of Alaġum Kanuux for consideration as a national marine sanctuary in December 2021.⁶³ On July 12, 2023, the NOAA Administrator, Dr. Richard Spinrad, in a letter responding to Alaska Department of Fish and

⁵³ Miren Gutiérrez et al., *China's distant-water fishing fleet: Scale, impact and governance*, OVERSEAS DEVELOPMENT INSTITUTE (June 2020), https://cdn.odi.org/media/documents/chinesedistantwaterfishing_web.pdf.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Steven Myers, *How China Targets the Global Fish Supply*, THE NEW YORK TIMES (Sep. 26, 2022), <https://www.nytimes.com/interactive/2022/09/26/world/asia/china-fishing-south-america.html>.

⁵⁷ Ben Westcott, *Why US and China Compete for Influence With Pacific Island Nations*, THE WASHINGTON POST (July 11, 2023), https://www.washingtonpost.com/business/2023/07/11/how-us-china-seek-influence-with-solomons-and-other-pacific-island-nations/42e9279e-1fa9-11ee-8994-4b2d0b694a34_story.html.

⁵⁸ *Potential Economic and Political Fallout supra* note 46.

⁵⁹ *What Is CDQ?*, COASTAL VILLAGES REGION FUND, <https://coastalvillages.org/what-is-cdq/>.

⁶⁰ Ian Stanfield, *Alaska's CDQ Program*, UNIVERSITY OF WASHINGTON COLLEGE OF THE ENVIRONMENT (Mar. 4, 2019), <https://smea.uw.edu/currents/alaskas-cdq-program/>.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Notice of Alaġum Kanuux, 87 FR 34851 (June 8, 2022), <https://www.federalregister.gov/documents/2022/06/08/2022-11954/notice-of-alaum-kanuux>.

Game Commissioner Doug Vincent-Lang⁶⁴ stated that, although the Alaġum Kanuux nomination is now in the Inventory of Successful Nominations, “inclusion does not guarantee that NOAA will begin the designation process” and that “NOAA is not considering initiating the designation process for [this] site at this time.”⁶⁵ However, NOAA may still proceed with the designation process at any time. Stakeholders in the region are concerned this is a very real possibility, and that the MPA designation could greatly harm the commercial fishing industries of Western Alaska and the communities that rely on the CDQ quota and ensuing benefits to remain economically viable.

Northeast MPAs and Fishing Restrictions

President Obama in 2016 issued Proclamation 9496 establishing the Northeast Canyons and Seamounts Marine National Monument,⁶⁶ which prohibited all commercial fishing within the monument and initiated a seven-year phase-out period for red crab and American lobster commercial fishing.⁶⁷ The Seafood Harvesters of America, in response to Proclamation 9496, described how the fishing restrictions will severely harm the commercial fishing industries by taking “fishermen off the water across vast stretches of traditional fishing grounds unnecessarily, without due consideration and collaboration.”⁶⁸

On June 5, 2020, President Trump issued Proclamation 10049, ending the commercial fishing and crabbing restrictions that President Obama had previously established.⁶⁹ However, President Biden reversed course on October 8, 2021, issuing *A Proclamation on Northeast Canyons and Seamounts Marine National Monument* to restore the prohibitions on commercial fishing, and reimplemented the phase-out of red crab and American lobster commercial fishing to go into effect on September 15, 2023.⁷⁰ Now, once again, the commercial fishing industries in the region are forced to contend with these harmful prohibitions.

IV. CONCLUSION

The administration has weaponized MPA designations to satisfy President Biden’s radical eco-agenda goals. The science behind MPAs is unclear, and the negative consequences of a designation for the economy and the environment may outweigh any positive consequences from marginal gains in marine habitat protection. MPAs can restrict economic activities that communities, including tribal and underserved areas, traditionally rely on to remain

⁶⁴ Letter from Dr. Richard Spinrad to Doug Vincent-Lang (July 10, 2023), Alaġum Kanuux National Marine Sanctuary nomination.

⁶⁵ *Id.*

⁶⁶ Carol Hardy Vincent, *supra* note 18.

⁶⁷ *A Proclamation on Northeast Canyons and Seamounts Marine National Monument*, THE WHITE HOUSE (Oct. 8, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/08/a-proclamation-on-northeast-canyons-and-seamounts-marine-national-monument/>

⁶⁸ The Seafood Harvesters of America, *Statement on the Administration’s Northeast Canyons and Seamounts Marine National Monument Designation*, SAVING SEAFOOD (Sep. 19, 2016), <https://www.savingseafood.org/news/management-regulation/statement-administrations-northeast-canyons-seamounts-marine-national-monument-designation/>

⁶⁹ *A Proclamation on Northeast Canyons*, *supra* note 67.

⁷⁰ *Id.*

economically viable such as commercial fishing, mining, oil and gas production, and renewable energy development.