

Presidential Documents

Title 3—

Proclamation 9173 of September 25, 2014

The President

Pacific Remote Islands Marine National Monument Expansion

By the President of the United States of America

A Proclamation

Through Proclamation 8336 of January 6, 2009, the President established the Pacific Remote Islands Marine National Monument (“Monument”) to protect and preserve the marine environment around Wake, Baker, Howland, and Jarvis Islands, Johnston and Palmyra Atolls, and Kingman Reef for the care and management of the historic and scientific objects therein. The Monument is an important part of the most widespread collection of marine- and terrestrial-life protected areas on the planet, sustaining many endemic species including corals, fish, shellfish, marine mammals, seabirds, water birds, land birds, insects, and vegetation not found elsewhere. The Monument includes the lands, waters, and submerged and emergent lands of the seven Pacific Remote Islands to lines of latitude and longitude that lie approximately 50 nautical miles from the mean low water lines of those seven Pacific Remote Islands. The islands of Jarvis, Howland, and Baker were also the location of notable bravery and sacrifice by a small number of voluntary Hawaiian colonists, known as Hui Panalā’au, who occupied the islands from 1935 to 1942 to help secure the U.S. territorial claim over the islands.

The area around the Monument includes the waters and submerged lands to the extent of the seaward limit of the United States Exclusive Economic Zone (“U.S. EEZ”) up to 200 nautical miles from the baseline from which the breadth of the territorial sea of these seven Pacific Remote Islands is measured. The U.S. EEZ areas adjacent to Wake and Jarvis Islands and Johnston Atoll (“adjacent areas”) contain significant objects of scientific interest that are part of this highly pristine deep sea and open ocean ecosystem with unique biodiversity. These adjacent areas hold a large number of undersea mountains (“seamounts”) that may provide habitat for colonies of deepwater corals many thousands of years old. These adjacent areas’ pelagic environment provides habitat and forage for tunas, turtles, manta rays, sharks, cetaceans, and seabirds that have evolved with a foraging technique that depends on large marine predators.

A significant geological feature of the adjacent areas is the undersea mountains. A seamount is a mountain rising from the seabed that does not reach the sea surface. Most often seamounts occur in chains or clusters. Nearly all of the seamounts in the adjacent areas are volcanoes: some are still erupting actively, and others stopped erupting long ago. The Monument includes 33 seamounts; the adjacent areas include approximately 132 more. The additional seamounts provide important opportunities for scientific exploration and study. Estimates are that 15 to 44 percent of the species on a seamount or seamount group are found nowhere else on Earth. Roughly 5 to 10 percent of invertebrates found on each survey of a seamount are new to science. Some seamounts have pools of undiscovered species. The approximately 132 seamounts in the adjacent areas provide the opportunity for identification and discovery of many species not yet known to humans, with possibilities for research, medicines, and other important uses.

The adjacent areas also provide an important ecosystem for scientific study and research. The pristine waters provide a baseline comparison for important scientific research that monitors and evaluates impacts of global climate change, including benchmarking coral bleaching and ocean acidification. The scale of the adjacent areas significantly enhances opportunities for such scientific research beyond the Monument boundaries established in Proclamation 8336.

The available scientific information indicates that the adjacent areas include important deep-coral species. For example, sampling from the U.S. Line Islands has identified deep-sea coral species not previously recorded from the central Pacific. Tropical coral reefs and associated marine ecosystems are among the most vulnerable areas to the impacts of climate change and ocean acidification. Protection of the ecosystem in the adjacent areas will provide the scientific opportunity to identify and further study the important deep sea corals.

The adjacent areas provide significant habitat and range for species identified in Proclamation 8336. They include waters used by five species of protected turtles. In addition to the Green and Hawksbill turtles that use the near-shore waters of the Monument, the adjacent areas include waters used by the endangered leatherback, loggerhead, and Olive Ridley turtles. All five species use the adjacent areas for their migratory paths and feeding grounds.

The adjacent areas provide the foraging habitat for several of the world's largest remaining colonies of Sooty Terns, Lesser Frigatebirds, Red-footed Boobies, Red-tailed Tropicbirds, and other seabird species. Many of these wide-ranging species make foraging trips of 300 miles or more from their colonies on the Monument's islands, atolls, and reefs. For example, since the Monument was established, U.S. Fish and Wildlife Service biologists have documented the return of seabird populations once absent at Johnston Atoll, including Great Frigatebirds, Sooty Terns, Red-tailed Tropicbirds, and other species that are known to feed as much as 300 to 600 miles offshore. Jarvis Island alone has nearly three million nesting pairs of Sooty Terns, which forage more than 300 miles from shore even when rearing chicks on the island. These seabirds forage, in part, by seeking schools of tuna and other large marine predators that drive prey fish to the surface. Black-footed and Laysan Albatross, species that forage across the entire North Pacific, recently recolonized Wake Atoll, making it one of the few northern albatross colonies outside of the Hawaiian archipelago. At Jarvis Island, the Monument and its adjacent area provide an important undisturbed ecosystem that supports many rare seabird species, including the endangered White-throated Storm-petrel.

Manta rays are abundant around the Monument's reefs. Since the Monument was established, scientific research on manta ray movement has shown that manta rays frequently travel over 600 nautical miles away from the coastal environment, and well outside of the Monument boundaries established in Proclamation 8336. Scientific study of the multi-species ecological cycle at the Monument illustrates a very diverse and balanced habitat used by manta rays, many of which are found in the adjacent areas.

The ecosystem of the Monument and adjacent areas also is part of the larger Pacific ecosystem. The Monument land and atoll groups and the adjacent areas share geographic isolation, as well as climate, bathymetric, geologic, and wildlife characteristics that define them as individual biogeographic regions. However, the Pacific Remote Islands area, including the adjacent areas, is tied together by regional oceanographic currents that drive marine species larval transport and adult migrations that shape the broader Pacific ecosystem.

WHEREAS the waters and submerged lands surrounding Jarvis and Wake Islands and Johnston Atoll from the lines of latitude and longitude depicted on the maps accompanying Proclamation 8336 to the seaward limit of the U.S. EEZ of the three Pacific Remote Islands contain objects of historic

or scientific interest that are situated upon lands owned or controlled by the Government of the United States;

WHEREAS section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431) (the “Antiquities Act”), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon lands owned or controlled by the Government of the United States to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS it is in the public interest to preserve the marine environment, including the waters and submerged lands, in the U.S. EEZ adjacent to the Monument at Jarvis and Wake Islands and Johnston Atoll for the care and management of the historic and scientific objects therein;

WHEREAS the security of the United States, the prosperity of its citizens, and the protection of the ocean environment are complementary and reinforcing priorities; and the United States continues to act with due regard for the rights, freedoms, and lawful uses of the sea enjoyed by other nations under the law of the sea in managing the Pacific Remote Islands Marine National Monument and adjacent areas, and does not compromise the readiness, training, and global mobility of U.S. Armed Forces when establishing marine protected areas:

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by the authority vested in me by section 2 of the Antiquities Act, do hereby proclaim the objects identified above that are situated upon lands and interests in lands owned or controlled by the Government of the United States to be part of the Pacific Remote Islands Marine National Monument Expansion (“Monument Expansion”) and, for the purpose of protecting those objects, reserve as a part thereof all lands and interests in lands owned or controlled by the Government of the United States within the boundaries described on the accompanying maps entitled “Pacific Remote Islands Marine National Monument Expansion” attached hereto, which form a part of this proclamation. The Monument Expansion includes the waters and submerged lands of Jarvis and Wake Islands and Johnston Atoll that lie from the Pacific Remote Islands Marine National Monument boundary established in Proclamation 8336 to the seaward limit of the U.S. EEZ (as established in Proclamation 5030 of March 10, 1983) of Jarvis and Wake Islands and Johnston Atoll. The Federal lands and interests in lands reserved consist of approximately 308,316 square nautical miles, which is the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries of the Monument Expansion are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, leasing, or other disposition under the public land laws to the extent that those laws apply. Lands and interests in lands within the Monument Expansion not owned or controlled by the United States shall be reserved as a part of the Monument Expansion upon acquisition of title or control by the United States.

Management of the Marine National Monument

Nothing in this proclamation shall change the management of the Pacific Remote Islands Marine National Monument as specified in Proclamation 8336. The Secretary of the Interior, in consultation with the Secretary of Commerce, shall have primary responsibility for management of the Monument Expansion pursuant to applicable legal authorities. The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, and in consultation with the Secretary of the Interior, shall within the Monument Expansion have primary responsibility with respect to fishery-

related activities regulated pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and any other applicable legal authorities. The Secretaries of the Interior and Commerce shall not allow or permit any appropriation, injury, destruction, or removal of any object of the Monument Expansion except as provided for by this proclamation and shall prohibit commercial fishing within the boundaries of the Monument Expansion.

The Secretaries of the Interior and Commerce shall take appropriate action pursuant to their respective authorities under the Antiquities Act, the Magnuson-Stevens Fishery Conservation and Management Act, and such other authorities as may be available to implement this proclamation, to regulate fisheries, and to ensure proper care and management of the Monument Expansion.

The United States shall continue to preserve the freedom of the seas (i.e., all of the rights, freedoms, and lawful uses of the sea recognized in international law enjoyed by all nations, including the conduct of military activities, exercises, and surveys in or over the exclusive economic zone), and to protect the training, readiness, and global mobility of U.S. Armed Forces as U.S. national interests that are essential to the peace and prosperity of civilized nations.

The Secretary of Defense shall continue to manage Wake Island and Johnston Atoll as specified in Proclamation 8336.

Regulation of Scientific Exploration and Research

Subject to such terms and conditions as the Secretary of the Interior or Commerce, as appropriate, deems necessary for the care and management of the objects of the Monument and Monument Expansion, the Secretaries may permit scientific exploration and research within the Monument Expansion, including incidental appropriation, injury, destruction, or removal of features of the Monument Expansion for scientific study, and the Secretary of Commerce may permit fishing within the Monument Expansion for scientific exploration and research purposes to the extent authorized by the Magnuson-Stevens Fishery Conservation and Management Act. The prohibitions required by this proclamation shall not restrict scientific exploration or research activities by or for the Secretaries of the Interior or Commerce, and nothing in this proclamation shall be construed to require a permit or other authorization from the other Secretary for their respective scientific activities.

Regulation of Fishing and Management of Fishery Resources

The Secretaries of the Interior and Commerce may permit noncommercial fishing upon request, at specific locations in accordance with this proclamation and Proclamation 8336. The Secretaries shall provide a process to ensure that recreational fishing continues to be managed as a sustainable activity in the Monument and Monument Expansion, in accordance with this proclamation, Proclamation 8336, and consistent with Executive Order 12962 of June 7, 1995, as amended, and other applicable law.

Monument Management Planning

The Secretaries of the Interior and Commerce shall, within 2 years of the date of this proclamation, prepare management plans, using their respective authorities, for the Monument and Monument Expansion and promulgate implementing regulations that address any further specific actions necessary for the proper care and management of the objects and areas identified in this proclamation and those in Proclamation 8336. The Secretaries shall revise and update the management plans as necessary. In developing and implementing any management plans and any management rules and regulations, the Secretaries shall consult and designate and involve as cooperating agencies the agencies with jurisdiction or special expertise, including the Department of Defense and Department of State, in accordance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and its implementing regulations.

This proclamation shall be applied in accordance with international law. The management plans and their implementing regulations shall impose no restrictions on innocent passage in the territorial sea or otherwise restrict navigation and overflight and other internationally recognized lawful uses of the sea in the Monument and Monument Expansion and shall incorporate the provisions of this proclamation regarding Armed Forces actions and compliance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law. Also, in accordance with international law, no restrictions shall apply to foreign warships, naval auxiliaries, and other vessels owned or operated by a state and used, for the time being, only on Government non-commercial service, in order to fully respect the sovereign immunity of such vessels under international law.

Emergencies, National Security, and Law Enforcement Activities

1. The prohibitions required by this proclamation shall not apply to activities necessary to respond to emergencies threatening life, property, or the environment, or to activities necessary for national security or law enforcement purposes.

2. Nothing in this proclamation shall limit agency actions to respond to emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution.

Armed Forces Actions

1. The prohibitions required by this proclamation shall not apply to activities and exercises of the Armed Forces (including those carried out by the United States Coast Guard).

2. The Armed Forces shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities, that its vessels and aircraft act in a manner consistent, so far as is reasonable and practicable, with this proclamation.

3. In the event of threatened or actual destruction of, loss of, or injury to a Monument Expansion resource or quality resulting from an incident, including but not limited to spills and groundings, caused by a component of the Department of Defense or the United States Coast Guard, the cognizant component shall promptly coordinate with the Secretary of the Interior or Commerce, as appropriate, for the purpose of taking appropriate actions to respond to and mitigate any actual harm and, if possible, restore or replace the Monument Expansion resource or quality.

4. Nothing in this proclamation or any regulation implementing it shall limit or otherwise affect the Armed Forces' discretion to use, maintain, improve, manage, or control any property under the administrative control of a Military Department or otherwise limit the availability of such property for military mission purposes, including, but not limited to, defensive areas and airspace reservations.

The establishment of this Monument Expansion is subject to valid existing rights.

This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the Monument Expansion shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, excavate, injure, destroy, or remove any feature of this Monument Expansion and not to locate or settle upon any lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of September, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

A handwritten signature in black ink, appearing to be "Barack Obama", with a large circular flourish and a horizontal line extending to the right.