

MARINE NATIONAL MONUMENTS – THE HUMAN DIMENSION

In their excellent 1995 tome *A New Century for Natural Resources Management*, Knight and Bates and their co-authors illustrate why and how “out of sight” no longer equates to “out of mind.” We are in a new management era, typified by unprecedented social concern and involvement. We have most decidedly evolved beyond the “trust us, we biologists know what’s best” approach that was the hallmark of managing fisheries and wildlife resources for a number of decades.

Yet it seems clear that remote areas of the Western Pacific were targeted for marine national monument designation to avoid dealing with the socioeconomic and cultural implications of their establishment. Why else would some advocate so stridently for “protecting” these remote, pristine areas when so many other areas are in need of relief from the impacts of coastal development, marine tourism and terrestrial run-off? By prohibiting domestic fishing, these large remote areas become more vulnerable to illegal, unreported and unregulated (IUU) fishing by foreign vessels, which do not need to report their transit through the monument waters while U.S. vessels must.

Simply put, there is no escape from the human dimension in the 21st century. Americans, at least outwardly, celebrate their transparent processes for deciding how and under what conditions public trust resources, such as those found in federal waters, will be utilized, conserved and preserved. These processes were born of the environmental movement of the 1960s and 1970s, during which time the American people told their political representatives that they would no longer tolerate the closeted decision-making of the federal government or the extreme agendas of preservationists on one end and exploiters on the other. Here, they say, are the enlightened days of seeking out public and user views on management issues and documenting and ameliorating potentially negative socioeconomic impacts to communities arising from federal regulations.

Except that the President may very soon use the Antiquities Act to greatly expand the Papahānaumokuākea Marine National Monument (MNM) in the Northwestern Hawaiian Islands with the stroke of a pen and following almost immediately in the wake of his 2014 decision to expand the Pacific Remote Islands MNM. The Antiquities Act is an arcane 1906 law intended by Congress to protect objects on small pieces of land owned

A Tale of Two Acts

Magnuson-Stevens Fishery
Conservation and Management Act

Antiquities Act

ORIGINAL INTENT

Passed by Congress in 1976 as the Fishery Conservation and Management Act, it was intended to promote the US fishing industry's optimal exploitation of fisheries

Passed by Congress in 1906 it was intended to protect prehistoric Indian ruins and artifacts (or “antiquities”)

WHAT DOES THE ACT DO?

The primary law governing marine fisheries management in federal waters of the United States

Allows the President to set aside certain valuable public natural areas as park and conservation land for the “protection of objects of historic and scientific interest”

RESULTS OF THE ACT

- Extended US jurisdiction out to 200 nm
- Established eight regional fishery management councils that provide a bottom-up approach to management
- Promotes sustainable fisheries through National Standards, preventing overfishing and protecting habitat
- Provides a transparent and robust process for fisheries science and management and collaboration with the fishing industry and community
- Preserved power for the President to use executive action to proclaim monuments (quicker than going through congress for a national park)
- Established 122 national monuments managed by eight federal agencies in 31 states and 6 territories
- Includes marine national monuments since 2006

or acquired by the U.S Government, such as landmarks and prehistoric structures. Even at that time, using this law to set aside hundreds of thousands of square miles of ocean would have been seen as a gross federal overreach. Today, given the progress described above, it seems unconscionable.

From a human dimensions perspective, it is irrelevant whether environmentalists think that a place needs additional conservation. What matters is that the attitudes, values and potential impacts to the public, including resource users, their families and communities, are fully understood and genuinely considered in a public and transparent decision-making process. Those who feel that two public meetings suffice to inform the President's decision on this issue are apparently living several decades in the past.



NWHI MONUMENT – HOW IT BEGAN

Rewind the clock back prior to the efforts to close the Northwestern Hawaiian Islands (NWHI) to fishing and you'll find a well-managed and sustainable fishery providing healthy local seafood to Hawai'i's communities. The Western Pacific Regional Fishery Management Council had established the Protected Species Zone encompassing waters out to 50 nautical miles from shore around the NWHI to prevent endangered Hawaiian monk seals from interacting with the pelagic longline fishery. The Council closed the NWHI lobster fishery in early 2000s due to uncertainty in the model used by the National Marine Fisheries Service (NMFS) to determine the annual harvest guideline. The healthy and sustainable bottomfish fishery continued to provide the state with about half of its prized bottomfish: onaga, 'opakapaka and ehu. The fishery delivered about 400,000 pounds of bottomfish annually worth over \$1.5 million. The NWHI was split into two management zones controlled by limited entry to cap effort. In addition, rules were also in place controlling vessel size, restricting gear

types and requiring trip reporting and federal observers.

Then President Clinton, through Executive Order (EO) 13196 on Jan. 11, 2001, created the NWHI Coral Reef Ecosystem Reserve and initiated the five-year National Marine Sanctuary designation process for consideration by the Secretary of Commerce. Prior to Clinton's EO, Hawai'i saw an average of 15 vessels per year bring back bottomfish from the NWHI operating within the limited entry system. However after the EO, the National Marine Fisheries Service put a freeze on new entrants into the fishery, which resulted in a steady decline in vessels as participants failed to meet the annual “use it or lose it” provision of the management program.

The fishing community and Council questioned this policy given the healthy nature of the NWHI bottomfish fishery. In 2005, Dr. Sam Pooley, director of the NOAA Pacific Islands Fisheries Science Center, wrote a response to questions concerning

(Continued on page 8)