



August 15, 2017

The Honorable Secretary Wilbur L. Ross, Jr., Secretary,
National Oceanic and Atmospheric Administration
Silver Spring Metro Campus Building 4, 11th Floor
1305 East-West Highway
Silver Spring, MD 20910

Docket ID: NOAA-NOS-2017-0066; Review of National Marine Sanctuaries and Marine National Monuments Designated or Expanded Since April 28, 2007; Notice of Opportunity for Public Comment (82 Fed. Reg. 28,827 (June 26, 2017)); Notice of Reopening of Public Comment Period (82 Fed. Reg. 35,509 (July 31, 2017))

Dear Secretary Ross,

I am writing on behalf of Earthjustice in response to Executive Order (EO) 13795—Implementing an America-First Offshore Energy Strategy, and the Department of Commerce, National Oceanic and Atmospheric Administration’s (NOAA) Notice of Opportunity for Public Comment (Notice) on the Review of National Marine Sanctuaries and Marine National Monuments Designated or Expanded Since April 28, 2007, 82 Fed. Reg. 28,827 (June 26, 2017). Earthjustice is the nation’s largest non-profit environmental law firm. On behalf of over one million supporters and hundreds of clients and partners around the world, we work to protect the nation’s environment and natural resources for future generations. We urge you to maintain all national marine sanctuaries and marine national monuments as currently established.

These comments focus on the Northeast Canyons and Seamounts National Marine Monument.¹ Earthjustice worked in coalition with scientists, business leaders, faith leaders, conservation groups, aquariums, and local elected officials in securing the designation of the Northeast Canyons and Seamounts Monument. This monument is the first and only marine national monument in the U.S. Atlantic exclusive economic zone (EEZ). It protects three unique undersea canyons – each larger than the Grand Canyon, the U.S. Atlantic Ocean’s only four seamounts, and a wealth of related and equally precious resources that qualify as “objects of historic and scientific interest.” While the Antiquities Act delegates to the President the authority to identify “objects of historic or scientific interest” and reserve federal lands necessary to protect them, any attempt to revoke or shrink a monument designation by the executive branch is unlawful under the Act. Earthjustice is prepared to defend the Antiquities Act and the national monuments protected under the law.

¹ Presidential Proclamation 13795: Northeast Canyons and Seamounts Marine National Monument (September 15, 2016).

Executive Order 13795 directed the Secretary of Commerce to review three technical factors in relation to six national marine sanctuaries and five marine national monuments that have been designated or expanded since April 28, 2007. This review, as well as the review under Executive Order 13792 (“Review of Certain National Monuments Established Since 1996”), incorrectly imply that the President has the power to revoke or diminish a national monument. These comments briefly address such legal considerations, and then the three technical factors contained in EO 13795. We note however, that policy considerations contained in EO 13795, such as the budget impacts of managing monuments and the opportunity costs associated with potential energy and mineral exploration and production, are unrelated to the limited authority granted to the President under the Antiquities Act.

I. THE ANTIQUITIES ACT LIMITS PRESIDENTIAL AUTHORITY TO REVOKE OR DIMINISH MONUMENTS

Under the U.S. Constitution, Congress exercises plenary authority over federal lands.² The Antiquities Act represents a lawful delegation by Congress of its authority to the President, with necessary guidance on how to exercise such authority.³ Specifically, the President is authorized to identify “objects of historic or scientific interest” and reserve the federal lands necessary to protect them as a national monument.⁴ The plain language of the Antiquities Act makes clear this is a limited delegation of authority. While Act provides the President with the power to create national monuments, it does not authorize the President to revoke or diminish a monument. Congress retained this power for itself.⁵

Statutes enacted contemporaneously with the Antiquities Act, including the Pickett Act of 1910 and the Forest Service Organic Act of 1897, help demonstrate that Congress intended to only give the President the power to create a monument. These Acts include provisions authorizing modification or revocation of certain withdrawals of federal lands.⁶ The contrast between this broader authority expressly delegated in these statutes with the lesser authority delegated in the Antiquities Act show that Congress intended to retain the authority to revoke or modify monuments for itself. Congress later confirmed this intent when it enacted the Federal Land Policy and Management Act (FLPMA) in 1976. FLPMA includes provisions governing modification of withdrawals of federal lands, and specifically provides that the executive branch may not “modify or revoke any withdrawal creating national monuments.”⁷ The legislative history reinforces this intent, stating that Congress specifically reserved “the authority to modify and revoke withdrawals for national monuments created under the Antiquities Act.”⁸

² U.S. CONSTITUTION, Art. IV, § 3, cl. 2.

³ See e.g., *J.W. Hampton, Jr. & Co. v. United States*, 276 U.S. 384 (1928).

⁴ 54 U.S.C. § 320301. The lands reserved “in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected.” *Id.*

⁵ The President has authority to enlarge a national monument to protect additional objects of historic or scientific interest—and frequently this has occurred—by exercising the power delegated by the Antiquities Act.

⁶ See, e.g., Pickett Act, 36 Stat. 847 (1910); Forest Service Organic Administration Act, 30 Stat. 36 (1897).

⁷ 43 U.S.C. § 1714(a),(j).

⁸ H.R. Rep. 94-1163, at 9 (May 15, 1976).

The reasons for enacting the Antiquities Act also do not support the implication that the President holds the power to modify a national monument. Congress passed the Antiquities Act because “private collecting of artifacts on public lands . . . threatened to rob the public of its cultural heritage.”⁹ Congress recognized that it lacked the ability to act quickly enough to identify and craft appropriate protections for the lands containing those resources. Recognizing these limitations, Congress delegated to the President the broad authority to set aside national monuments to protect areas with scientific, cultural, or historic value for the benefit of the entire nation because the President could act faster than Congress to protect the nation’s treasured resources. A similar need simply did not exist for rapid revisions to national monuments, thus there was no need to delegate the authority to revoke or diminish monuments to the President.

The executive branch also has long recognized these limits on the President’s authority. In 1938 the United States Attorney General concluded that the Antiquities Act “does not authorize [the President] to abolish [national monuments] after they have been established.”¹⁰ In 2004, the United States Solicitor General told the Supreme Court that “Congress intended that national monuments would be permanent; they can be abolished only by Act of Congress.”¹¹ No President has ever attempted to revoke a national monument. While the 1938 Attorney General Opinion noted that on some occasions prior Presidents had acted to diminish national monuments, the opinion did not analyze the legality of such actions. Regardless, since FLPMA’s passage, no President has claimed such authority. In contrast, during oral argument before the Supreme Court in 2004, the United States acknowledged that Presidents lack authority to either revoke or diminish a national monument stating that “under the Antiquities Act, the President is given authority to create national monuments, but they cannot be disestablished except by act of Congress.”¹²

Executive Orders 13792 and 13795 appear intended to lay groundwork for an attempt by the President to wield power that the executive branch does not hold – to rescind or diminish the Northeast Canyons and Seamounts Marine National Monument. While the Antiquities Act delegates to the President the authority to identify objects of historic or scientific interest and reserve federal lands necessary to protect them, any attempt to reverse or shrink a monument designation by the executive branch is unlawful under the Act. Only Congress has the power to rescind or diminish a national monument.¹³

⁹ Mark Squillace, *The Monumental Legacy of the Antiquities Act of 1906*, 37 GA. L. REV. 473, 477 (2003).

¹⁰ 39 Op. Att’y Gen. 185, 185 (1938).

¹¹ Reply Brief for the United States in Response to Exceptions of the State of Alaska at 32 n.20, *Alaska v. United States*, 545 U.S. 75 (2005).

¹² Oral Argument Transcript at 46, *Alaska v. United States*, 545 U.S. 75 (2005) (arguing that every acre of submerged lands in Glacier Bay National Monument remained permanently part of the national monument when Alaska became a state).

¹³ See also, Mark S. Squillace, et al., *Presidents Lack the Authority to Abolish or Diminish National Monuments*, 103 VA L. REV. ONLINE 55 (2017).

II. EXECUTIVE ORDER 13795 FACTORS

The EO directs Secretary of Commerce conduct a review of all designations and expansions of National Marine Sanctuaries and Marine National Monuments within the 10-year period preceding the order. This includes the Northeast Canyons and Seamounts Marine National Monument. The EO states that the review “shall include:

- (A) an analysis of the acreage affected and an analysis of the budgetary impacts of the costs of managing each National Marine Sanctuary or Marine National Monument designation or expansion;
- (B) an analysis of the adequacy of any required Federal, State, and tribal consultations conducted before the designations or expansions; and
- (C) the opportunity costs associated with potential energy and mineral exploration and production from the Outer Continental Shelf, in addition to any impacts on production in the adjacent region.”¹⁴

(A) The acreage affected and an analysis of the budgetary impacts of the costs of managing each The Northeast Canyons and Seamounts Marine National Monument

Analysis of Acreage Affected

The NE Monument encompasses three canyons and four seamounts situated approximately 130 to 200 miles off of the coast of Cape Cod and Long Island, respectively. The Northeast Canyons and Seamounts Marine National Monument protects three underwater canyons—Oceanographer, Lydonia, and Gilbert—each deeper than the Grand Canyon with forests of deep-sea corals and a diversity and abundance of marine mammals, and four seamounts—Bear, Mytilus, Physalia, and Retriever—that are part of an underwater volcano chain in the Atlantic. All of these areas and the surrounding waters are considered to be a “biological oasis.”¹⁵ As the record shows, these ocean features and their surrounding ecosystems are objects of high scientific interest. They are biodiversity hotspots, encompassing an extraordinary diversity of topographic features, depth, and substrates, with accompanying unique, ecologically rich, and highly-sensitive communities of great scientific value.

Within the NE Monument, a diversity of deep-sea coral species have been found. The area is also an established “hot spot” for marine mammals, including the endangered right whale. The NE Monument is the first and only marine national monument in the U.S. Atlantic EEZ and the only area off of the East Coast that is fully protected from all forms of commercial extraction. The NE Monument covers approximately 1.5 percent of the U.S. Atlantic EEZ, leaving approximately 98.5 percent of the EEZ open to some or all forms of commercial extraction.

¹⁴ Presidential Proclamation 13795.

¹⁵ Kraus, S.D., P.J. Auster, J.D. Witman, B. Wikgren, M.P. McKee & R.W. Lamb. 2016. Scientific Assessment of a Proposed Marine National Monument off the Northeast United States. Science briefing for press and interested parties. Available at ResearchGate: D01:10.13140/RG.2.1.1268.1360.

Original proposals for the monument by a coalition of conservation organizations and marine scientists included a total five undersea canyons, four seamounts, and an area in the Gulf of Maine known as Cashes Ledge. The total acreage of the original proposed monument would have covered nearly 6,300 square miles. Following an extensive public process, the final monument area was reconfigured by the President to exclude Cashes Ledge, and to protect only three canyons and four seamounts. As designated, the final monument encompasses only 4,913 square miles,¹⁶ a reduction of 22 percent from the area originally proposed. This helps to demonstrate that, consistent with the Antiquities Act, the Northeast Canyons and Seamounts Monument was “confined to the smallest area compatible with proper care and management of the objects to be protected.”

Data show the monument area is among the least fished in the region, with less than 10 commercial fishing vessels deriving a portion of their catch from the area. These red crab and offshore lobster fishermen have been provided a six year exemption to continue fishing in the Monument in order to allow them time to relocate fishing to neighboring grounds and, or to diversify their operations. The reduction in the scope and size of the Monument from the area originally proposed comports with the Antiquities Act requirement to confine monuments to the smallest area compatible with the proper care and management of the objects to be protected.¹⁷

Scientists consider the Northeast Canyons and Seamounts Monument to be unique, pristine, and ecologically intact. Although the Monument encompasses only about 1.5 percent of U.S. Atlantic waters, scientists have concluded that protecting the area will make a significant contribution to the ecosystem’s health and productivity,¹⁸ with minimal economic costs. As human activities reach deeper into the sea, it is important to have places that serve as reservoirs of genetic diversity for our future. Protected places can act as reference areas for how ecosystems function in the absence of human disturbance, and science has proven that species in protected areas “spill over” beyond their borders to repopulate surrounding waters providing improved fishing opportunities for fishermen.¹⁹

While the President’s authority under the Antiquities Act is limited, nothing in the Act limits the acreage of a monument or limits the “other objects of historic or scientific interest” that can be protected, such as to only archeological objects. The Act grants the President the power to reserve however many acres are necessary to protect the objects identified.²⁰ It has also long been settled that the Antiquities Act protects a broad array of objects of historical and scientific interest, including biological and geological objects. In 1920, for example, the Supreme Court rejected a challenge to the authority of President Teddy Roosevelt to create the 808,120 acre Grand Canyon National Monument. In upholding the designation, the Court explained that

¹⁶ NOAA. First marine national monument created in Atlantic. September 15, 2016.

¹⁷ American Antiquities Act of 1906. 16 USC 431-433

¹⁸ S.D. Kraus, *et al.* 2016. Scientific Assessment of a Proposed Marine National Monument off the Northeast United States. Science briefing for press and interested parties. Final version 31 March 2016. DOI:10.13140/RG.2.1.1268.1360.

¹⁹ For example, see: Hilborn, R. *et al.* 2004. When can marine reserves improve fisheries management? *Ocean & Coastal Management*, 47(3–4), 197–205.; and Murawski, S.A. *et al.* 2005. Effort distribution and catch patterns adjacent to temperate MPAs. *ICES Journal of Marine Science*, 62: 1150e1167.

²⁰ 54 U.S.C. § 320301(b).

“[t]he Grand Canyon, as stated in his proclamation, ‘is an object of unusual scientific interest.’ It is the greatest canyon in the United States, if not the world.”²⁴ Similarly, in 1976, the Supreme Court rejected the argument that the Antiquities Act protects only archeological objects, instead holding that a subterranean pool of water and the endemic fishes that inhabited it were “objects of historic or scientific interest.”²⁵ No court has ever held otherwise and imposed a cap on the size of a national monument or confined monuments to historical or archeological objects.

Analysis of Budgetary Impacts of Management Costs

Review of the budgetary impacts of the costs of managing the Northeast Canyons and Seamounts Marine National Monument is entirely unrelated to the requirements of Antiquities Act and has no relevance to the legality of its designation. Nonetheless, the budgetary impacts of managing the Northeast Canyons and Seamounts Marine National Monument should be minimal. Government vessels (including NOAA Office of Law Enforcement (OLE) and Coast Guard) already comprehensively monitor Exclusive Economic Zone (EEZ) waters and enforce numerous more complex closed areas in the Northeast, including international boundaries, gear restricted areas, special management areas, fishing mortality closures, and spawning closures.

The Monument designation could, in fact, reduce the costs of monitoring and enforcement in the monument area because the number of permitted fisheries inside the monument boundaries will be reduced to two fisheries for 6 years, and then to no commercial fisheries. This will reduce and simplify monitoring demands. While NOAA OLE does not currently have a vessel that travels as far as the Monument on a regular basis, OLE can continue to collaborate with Coast Guard for required monitoring and enforcement activities. Currently, NOAA OLE uses electronic vessel monitoring systems as the primary tool for monitoring fishing vessels, however they also use additional tools such as AIS, for example to enforce the right whale speed rule.

The continued presence of the lobster fishery inside monument boundaries should result in little to no change from the current cost of monitoring the 5-8 total vessels that fish in the monument, as the Monument designation did not add new reporting requirements. Moreover, the presence or absence of a fishing vessel in the Monument may readily be determined using AIS (Effective March 1, 2016 all commercial fishing vessels greater than 65 feet are required to have AIS on board, 33 CFR 146.46 (b), and many smaller vessels have AIS by choice).²¹ Similarly, the continued presence of the Red Crab fishery will not have a significant budgetary impact as there are only 4-5 vessels permitted in the fishery, and the Monument designation did not add new reporting requirements. Monitoring the absence of other commercial fishing vessels in the Monument should not have a significant budgetary impact because it can be documented using VMS. Finally, the presence or absence of commercial fishing vessels can continue to be monitored on an as needed basis through visual monitoring from aircraft.

²¹ See <https://www.marinetraffic.com/en/ais/home/centerx:-12.0/centery:25.0/zoom:4>.

For all of these reasons, the budgetary impacts of managing the Northeast Canyons and Seamounts Marine National Monument should be minimal.

(B) The adequacy of any required Federal, State and tribal consultations conducted before the designations or expansions

The EO also directs the Secretary to assess policy considerations such as the "adequacy of any required Federal, State and tribal consultations conducted before the designations or expansions," even though there are no such requirements when designating monuments under the Antiquities Act. This appears to be premised on the incorrect assumption that the Antiquities Act requires a public comment process, and thus that a prior proclamation could be legally defective for failing to engage the public. While the President provided robust opportunities for public comment and public consultation before designating the Northeast Canyon and Seamounts Marine National Monument, he did so as a matter of policy, not legal obligation.

Regardless, there is abundant evidence of the extensive opportunities for public, Federal, State, and tribal constituencies to make their views about the Northeast Canyons and Seamounts Marine National Monument known to the President. The record shows that as a result of these opportunities, the Monument enjoys broad public support. For example, prior to designation on September 15, 2016, there was a lengthy process providing education about the proposed monument with opportunities for public comment. In 2015 and 2016 over 750 members of the public attended events at Boston's New England Aquarium²² and Connecticut's Mystic Aquarium.²³ After these events, and as result of additional consultations, a formal proposal for monument designation was made by Senator Richard Blumenthal (D-CT) and the Connecticut Congressional delegation. Support was also provided by state and local elected officials in the region (20 members and former members of the Maine House and Senate, two members of the New Hampshire House and one State Senator, 18 members of the Massachusetts House and one State Senator, and 18 members of the Rhode Island House), and the Houlton Band of Maliseet Indians.

The National Oceanographic and Atmospheric Administration (NOAA) held open a public comment period that lasted for over one year, through which more than 300,000 public comments were collected, nearly all of which supported monument designation. NOAA also held a public town hall meeting for receiving public comment in Providence, Rhode Island attended by more than 300 people. In addition, high level staff from the White House Council on Environmental Quality traveled to New England on two occasions to meet directly with commercial fishermen and state officials. The executive branch also held numerous meetings with fishing industry leaders in Washington, D.C. As noted above, as a result of these and other consultations, the final monument area was reduced by more than 20 percent from what had originally proposed by the Connecticut congressional delegation led by Sen. Richard Blumenthal (D-CT). Earlier this year, more than 225,000 Americans expressed their support for

²² *A Stroll through the New Northeast Canyons and Seamounts Marine National Monument*. May 4, 2016.

²³ *Mystic Aquarium Campaigns for Marine National Monument Designation in Region*. July 27, 2016.

the Northeast Canyons and Seamounts Marine National Monument during the Department of Interior's (DOI) public comment period concluded on July 10, 2017.

Finally, there will also be additional opportunity for consultation with affected constituencies and members of the public as all marine national monument proclamations require the development monument management plans consistent with their designating proclamation and other federal law, including the National Environmental Policy Act. While the structure of such plans differs, history demonstrates that each monument management will address multiple objectives including regulation of fishing activity and offshore energy development.

The extensive scientific, public, stakeholder, and political support provided ample justification for the designation of the Northeast Canyons and Seamounts Marine National Monument, and demonstrates that the monument was fully vetted and its boundaries and management measures carefully considered through consultation with the public, Federal, state, and tribal constituencies prior to designation.

(C) The opportunity costs associated with potential energy and mineral exploration and production from the Outer Continental Shelf

The final area designated as the Northeast Canyons and Seamounts Monument was identified in part because of its combination of unique geology, rich biodiversity, combined with little commercial activity. There are currently no oil, gas, or mineral mining operations in the area. Further, of all of the public comment opportunities provided during the months leading up to designation, including the more than 2.7 million comments received by NOAA and DOI during the comment periods for Executive Order 13792 and 13795, Earthjustice is aware of no comments that express an interest in oil, gas, or mineral extraction in the Northeast Canyons and Seamounts Marine National Monument.

Earthjustice is concerned about the potential harm to marine mammals and other wildlife in and around the Northeast Canyons and Seamounts Monument from the use of high-energy seismic surveys associated with oil and gas exploration that could occur if the current Monument designation is changed. Historic exploration of the Monument area showed it is unlikely to yield any significant amounts of oil and gas. Nonetheless, oil companies are developing areas off the coast of New Foundland and Nova Scotia,²⁴ and have expressed interest in using seismic testing

²⁴ Canada-Nova Scotia Offshore Petroleum Board, "Sable Offshore Energy Project," available at <http://www.cnsopb.ns.ca/offshore-activity/offshore-projects/sable-offshore-energy-project> (last accessed July 2017).

to explore U.S. waters²⁵ leading to the initiation of the permitting process for seismic exploration to five companies in June 2017.²⁶

Seismic activities harm a wide range of species, from the great whales to the small zooplankton on which those whales depend. High-powered airgun blasts drive marine mammals from their habitat and impede their communication and foraging, among other critical life functions, over large areas of ocean. The best available science demonstrates that airgun blasts disrupt baleen whale behavior and impair their communication on a vast scale; affect vital behavior in a wide range of other marine mammal species; and can injure, devastate, and undermine fundamental behaviors in marine mammal prey species. Scientists, including those at NOAA, have observed that such impacts can readily accumulate to population-level harm.²⁷ In the case of the North Atlantic right whale, these risks are particularly acute. The North Atlantic right whale is now declining in number,²⁸ leading the world's leading authorities on this endangered species to warn that "[t]he additional stress of widespread seismic airgun surveys may well represent a tipping point for the survival of this endangered whale, contributing significantly to a decline towards extinction."²⁹ Populations that are resident or seasonally resident to the area, such as beaked whales, are also intensely vulnerable to population-level effects as a result of the cumulative nature of the noise exposure and the additional harm that may be caused by habitat displacement.³⁰

Marine national monuments including the Northeast Canyons and Seamounts Monument provide important ecosystem and economic services to the nation. Currently, there is very little commercial fishing or energy and mineral extraction occurring in the Monument area, and the scientific data and other available information indicates there is little potential for these industries to develop in a commercially meaningful way. In fact, such development is opposed

²⁵ Devin Henry, "Trump proposes seismic tests for Atlantic oil drilling," *The Hill*, June 5, 2017, available at <http://thehill.com/policy/energy-environment/336389-trump-proposes-seismic-tests-for-atlantic-oil-drilling>.

²⁶ Bureau of Ocean Energy Management, "Request for Information and Comments on the Preparation of the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program MAA104000," *Federal Register*, July 3, 2017, available at <https://www.federalregister.gov/documents/2017/07/03/2017-13998/request-for-information-and-comments-on-the-preparation-of-the-2019-2024-national-outer-continental>.

²⁷ E.g., Convention on Biological Diversity, Scientific synthesis on the impacts of underwater noise on marine and coastal biodiversity and habitats (2012) (UN Doc. UNEP/CBD/SBSTTA/16/INF/12); Gedamke, J., Harrison, J., Hatch, L., Angliss, R., Barlow, J., Berchok, C., Caldow, C., Castellote, M., Cholewiak, D., De Angelis, M.L., Dziak, R., Garland, E., Guan, S., Hastings, S., Holt, M., Laws, B., Mellinger, D., Moore, S., Moore, T.J., Oleson, E., Pearson-Meyer, J., Piniak, W., Redfern, J., Rowles, T., Scholik-Schlomer, A., Smith, A., Soldevilla, M., Stadler, J., Van Parijs, S., and Wahle, C., Ocean Noise Strategy Roadmap (2016).

²⁸ Pettis, H.M., and Hamilton, P.K., North Atlantic Whale Consortium annual report card: Report to the North Atlantic Right Whale Consortium, November 2016 (2016).

²⁹ 3 Statement from C. Clark, S. Kraus, D. Nowacek, A. J. Read, A. Rice, H. C. Rosenbaum, M. Baumgartner, I. Biedron, M. Brown, E.A. Burgess, T. Frasier, C. Good, P. Hamilton, M. Johnson, R. D. Kenney, A. Knowlton, N. S. Lysiak, C. Mayo, W. A. McLellan, B. MacLeod, C. A. Miller, M. J. Moore, D. A. Pabst, S. Parks, R. Payne, D. E. Pendleton, D. Risch, and R. Rolland to the President of the United States (Apr. 14, 2016).

³⁰ Forney, K.A., Southall, B.L., Slooten, E., Dawson, S., Read, A. J., Baird, R. W., and Brownell, Jr., R. L., Nowhere to go: noise impact assessments for marine mammal populations with high site fidelity, *Endangered Species Research* 32: 391-413 (2017).

by engaged local and state government officials, business organizations, and coastal communities who fear the devastating impacts that an oil spill or other tragic event would bring to local economies.³¹ The economic impacts of designation are minimal and the potential economic benefits are far outweighed by the potentially significant and irreversible costs to Atlantic marine ecosystem.

* * *

Please accept this letter as official public comment for Docket ID: NOAA-NOS-2017-0066. The Antiquities Act is a limited delegation of authority over public lands to the President. The Act only authorizes the President to identify and reserve lands for a monument, not to revoke or diminish one. The proclamation establishing the Northeast Canyons and Seamounts Marine National Monument identifies three unique undersea canyons – each larger than the Grand Canyon, the U.S. Atlantic Ocean’s only four seamounts, and a wealth of related and precious resources that qualify as “objects of historic and scientific interest.” The record supporting the proclamation also demonstrates that the area reserved is the smallest necessary to protect these resources. For these reasons, the Northeast Canyons and Seamounts Marine National Monument is lawful and cannot be rescinded or modified by the President. Moreover, the record shows that over 99 percent of the hundreds of thousands of citizens who have commented during the public comment periods for EO 13792 and EO 13795 support preserving our nation’s National Marine Sanctuaries and Marine National Monuments as established. We urge you to maintain the Northeast Canyons and Seamounts Marine National Monument as currently established.

Thank you for considering these comments.

Sincerely,

/s/ Roger Fleming
Roger M. Fleming
Attorney
Earthjustice
978-846-0612

³¹ Oceana, “Grassroots Opposition to Offshore Drilling and Exploration in the Atlantic Ocean and Eastern Gulf of Mexico,” available at <http://usa.oceana.org/climate-and-energy/grassroots-opposition-offshore-drilling-and-exploration-atlantic-ocean-and>.