

**Background information for court ruling on motion to dismiss
in [Massachusetts Lobstermen's Association](#)
(Lawsuit Challenging Northeast Canyons and Seamounts Marine National Monument)**

October 8, 2018

What is the “Northeast Canyons and Seamounts”?

President Obama [established](#) the **Northeast Canyons and Seamounts Marine National Monument** in 2016. It's a unique and dramatic ocean area about 130 miles off the coast of New England and about the size of Connecticut, encompassing four extinct undersea volcanoes (“seamounts”), three undersea canyons (each deeper than the Grand Canyon), and the ecosystems in and around them.

This protected area offers food, shelter, and nursery habitat to a [spectacular array of marine life](#), including endangered whales, sea turtles, puffins, and rare deep-sea cold-water corals. In aerial surveys of the monument in [2017](#) and 2018 (see [here](#) and [here](#)), the New England Aquarium's Anderson Cabot Center for Ocean Life observed an extraordinary abundance and diversity of marine mammals, including sperm whales, beaked and fin whales, and dolphins, as well as sharks and other large fish in the monument area.

The national monument designation shields the Northeast Canyons and Seamounts from commercial extractive activities, including commercial fishing and oil and gas drilling. Protecting these fragile and interconnected ocean ecosystems helps improve ocean resilience to warming temperatures and other threats, and it helps to sustain the tourism, recreation, and [fishing sectors](#) of the New England economy that depend on [abundant fish and wildlife](#).

For decades, presidents of both parties have established national monuments along the coasts and in the ocean to protect our nation's marine natural treasures. The first national monuments to extend into the ocean were established in the 1930s. What's unique about Northeast Canyons and Seamounts is that **it's the only marine national monument located in the U.S. Atlantic Ocean.**

How many marine monuments are there in the United States?

In addition to the Northeast Canyons and Seamounts in the Atlantic, there are also four marine national monuments in the Pacific Ocean:

- Papahānaumokuākea Marine National Monument
- Marianas Trench Marine National Monument
- Pacific Remote Islands Marine National Monument
- Rose Atoll Marine National Monument

What is this lawsuit about?

The plaintiffs in [Massachusetts Lobstermen's Association](#) are commercial fishing industry groups represented by the Pacific Legal Foundation. They sued in federal court in Washington, DC, arguing that the president had no authority to designate a national monument in the ocean. In addition, even if the president does have that authority, they argue, the Northeast Canyons and Seamounts is too large, and should have been established with smaller boundaries.

NRDC, the Conservation Law Foundation, and Earthjustice [intervened](#) in the lawsuit to defend the legality of the monument. Earthjustice represents the Center for Biological Diversity and Zack Klyver, a whale-watch naturalist based in Maine.

What does this ruling mean?

Judge Boasberg has GRANTED the government’s motion to dismiss the case (link to opinion [here](#)), agreeing with the government and the conservation group intervenors that Northeast Canyons was lawfully created. Invoking the legacy of Teddy Roosevelt, who signed the Antiquities Act into law, the court held: “[J]ust as President Roosevelt had the authority to establish the Grand Canyon National Monument in 1908, . . . so President Obama could establish the Canyons and Seamounts Monument in 2016.”

Specifically, the court **rejected each one of the fishing industry groups’ claims**, holding that:

- (1) The president *can* establish marine monuments under the Antiquities Act because the Act isn’t limited to dry land; instead, as the Supreme Court has already held, the Act applies to “submerged” land too;
- (2) The president *can* establish marine monuments in the U.S. Exclusive Economic Zone—the part of the ocean where Northeast Canyons lies—because the United States exercises “control” over that area under international and domestic law, and
- (3) The fishing industry groups haven’t made a plausible claim that Northeast Canyons covers too large an area. The monument proclamation explains that the monument’s boundaries were drawn around the “smallest area compatible” with protecting the ecosystems in and around the canyons and seamounts, and plaintiffs haven’t put forward any facts to the contrary. The court reaffirms that the Antiquities Act authorizes the protection of “ecosystems” and “ecological resources,” even when they span large areas. The court compares Northeast Canyons to the Grand Canyon, which Teddy Roosevelt declared a national monument in 1908, and which covered nearly a million acres.

With all their legal arguments dismissed, the fishing industry groups aren’t entitled to any relief. Their lawsuit ends here unless they file a new amended complaint or appeal the decision.

This is a big victory. As this decision recognizes, the Antiquities Act exists to protect special places for all time, and that includes protecting ocean ecosystems from destructive extractive activities like commercial fishing and oil and gas drilling. Scientists agree that protecting ocean areas like Northeast Canyons and Seamounts from extractive use is essential for supporting species’ resiliency in the face of environmental pressures like climate change.

Judge Boasberg's opening paragraphs sum up well the significance of his decision:

In 1905, Teddy Roosevelt wrote that “there can be nothing in the world more beautiful” than the natural wonders of the United States, and “our people should see to it that they are preserved for their children and their children’s children forever.” Outdoor Pastimes of An

American Hunter at 317 (1905). Roosevelt was talking, of course, about those legendary sites that most Americans know: Yosemite Valley, the Canyon of Yellowstone, and the Grand Canyon.

But he might have been talking about a less well-known — and only more recently appreciated — natural wonder: the Canyons and Seamounts of the Northwestern Atlantic Ocean. Like the landmarks the twenty-sixth President had in mind, the Canyons and Seamounts are a “region of great abundance and diversity as well as stark geographic relief.” ECF No. 1 (Compl.), Exh. 4 (Proclamation of Northeast Canyons and Seamounts Marine National Monument) at 1. Dating back 100 million years — much older than Yosemite and Yellowstone — they are home to “vulnerable ecological communities” and “vibrant ecosystems.” *Id.* at 1–2. And, as was true of the hallowed grounds on which Roosevelt waxed poetic, “[m]uch remains to be discovered about these unique, isolated environments.” *Id.* at 4.

More than a century after Roosevelt had left office, but in reliance on a conservation statute passed during that time, President Barack Obama proclaimed the Canyons and Seamounts a National Monument. Motivated by the area’s “unique ecological resources that have long been the subject of scientific interest,” the President sought to protect it for future use and study. *Id.* at 1. The question before the Court in this case is whether he had the power to do so. More specifically, does the Antiquities Act give the President the authority to designate this monument? Plaintiffs are various commercial-fishing associations who argue that it does not for three reasons: first, because the submerged lands of the Canyons and Seamounts are not “lands” under the Antiquities Act; second, because the federal government does not “control” the lands on which the Canyons and Seamounts lie; and third, because the amount of land reserved as part of the Monument is not the smallest compatible with its management. The Government, backed by intervening conservation organizations and two groups of law professor amici, disagrees entirely.

The Court concludes that, just as President Roosevelt had the authority to establish the Grand Canyon National Monument in 1908, see *Cameron v. United States*, 252 U.S. 450 (1920), so President Obama could establish the Canyons and Seamounts Monument in 2016. It therefore grants Defendants’ Motion to Dismiss.