AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

protected areas, just as it did in the Northwestern Hawaiian Islands Marine National Monument and in today's monument proclamations. The United States will exercise the same rights and freedoms in similarly protected areas and waters of foreign nations. In addition, the United States, through its executive agencies, shall provide for the readiness, training, and global mobility of U.S. Armed Forces in its establishment of marine conservation areas.

Management of Submerged Lands

The Commonwealth of the Northern Mariana Islands (CNMI) is the only United States territory that does not have title to the submerged lands beneath that portion of the United States territorial sea that is within 3 miles of the coastlines of the CNMI. It is appropriate that the CNMI be given the same authority as the other territories. In 2005, my administration supported legislation that would have provided the CNMI with such ownership, consistent with what was granted to Guam, the Virgin Islands, and American Samoa in October 1974.

My administration also recognizes, as was recognized in 1974, the need to reserve Federal title in certain submerged lands, including submerged lands for use by our Nation's military, which is moving forces to the area from Okinawa, Japan. It is in the interest of the security of our Nation to reserve the necessary areas for national defense, while also ensuring the people of the CNMI have the benefit and enjoyment of the rights coming with ownership of submerged lands out to 3 miles.

To this end, I have asked the Secretary of the Interior to submit legislation that, subject to valid existing rights, transfers to the CNMI the existing rights and title of the Federal Government over submerged lands within 3 miles of the coast of the CNMI, consistent with that provided to Guam, the Virgin Islands, and American Samoa, and I urge the Congress to promptly pass such legislation.

I have also directed the Department of the Interior to develop legislation and procedures for the management and administration of recovery of mineral resources in areas of the Pacific, outside the monument, that are not currently covered by existing offshore mineral resource law, including authority and procedures for obtaining royalties and assessing fees and for revenue sharing, as appropriate.

Proclamation 8335—Establishment of the Marianas Trench Marine National Monument

January 6, 2009

By the President of the United States of America

A Proclamation

Over approximately 480 nautical miles, the Mariana Archipelago encompasses the 14 islands of the United States Commonwealth of the Northern Mariana Islands and the United States Territory of Guam that sit atop the Mariana Ridge in an area known as the Mariana Volcanic Arc. The Mariana Volcanic Arc is part of a subduction system in which the Pacific Plate plunges beneath the Philippine Sea Plate and into the Earth's mantle, creating the Mariana Trench. Six of the archipelago's islands have been volcanically active in historic times, and numerous seamounts along the Mariana Ridge are volcanically or hydrothermically active. The Mariana Trench is approximately 940 nautical miles long and 38 nautical miles wide within the United States Exclusive Economic Zone and contains the deepest known points in the global ocean.

The Mariana Volcanic Arc contains objects of scientific interest, including the largest active mud volcanoes on Earth. The Champagne vent, located at the Eifuku submarine volcano, produces almost pure liquid carbon dioxide. This phenomenon has only been observed at one other site in the world. The Sulfur Cauldron, a pool of liquid sulfur, is found at the Daikoku submarine volcano. The only other known location of molten sulfur is on Io, a moon of Jupiter. Unlike other reefs across the Pacific, the northernmost Mariana reefs provide unique volcanic habitats that support marine biological communities requiring basalt. Maug Crater represents one of only a handful of places on

Earth where photosynthetic and chemosynthetic communities of life are known to come together.

The waters of the archipelago's northern islands are among the most biologically diverse in the Western Pacific and include the greatest diversity of seamount and hydrothermal vent life yet discovered. These volcanic islands are ringed by coral ecosystems with very high numbers of apex predators, including large numbers of sharks. They also contain one of the most diverse collections of stony corals in the Western Pacific. The northern islands and shoals in the archipelago have substantially higher large fish biomass, including apex predators, than the southern islands and Guam. The waters of Farallon de Pajaros (also known as Uracas), Maug, and Asuncion support some of the largest biomass of reef fishes in the Mariana Archipelago. These relatively pristine coral reef ecosystems are objects of scientific interest and essential to the long-term study of tropical marine ecosystems.

Whereas the submerged volcanic areas of the Mariana Ridge, the coral reef ecosystems of the waters surrounding the islands of Farallon de Pajaros, Maug, and Asuncion in the Commonwealth of the Northern Mariana Islands, and the Mariana Trench contain objects of scientific interest that are situated upon lands owned or controlled by the Government of the United States;

Whereas the United States continues to act in accordance with the balance of interests relating to traditional uses of the oceans recognizing freedom of navigation and overflight and other internationally recognized lawful uses of the sea;

Whereas the islands, waters, and airspace of the Mariana Ridge are of particular importance to the national security 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 known volcanic areas of the Mariana Ridge, the marine environment around the islands of Farallon de Pajaros, Maug, and Asuncion in the Commonwealth of the Northern Mariana Islands, and the Mariana Trench for the care and management of the scientific objects therein:

Now, Therefore, I, George W. Bush, President of the United States of America, by the authority vested in me by section 2 of the Antiquities Act do proclaim that there are hereby set apart and reserved as the Marianas Trench Marine National Monument (the "monument" or "marine national monument") for the purpose of protecting the objects identified above, all lands and interests in lands owned or controlled by the Government of the United States within the boundaries described below and depicted on the accompanying map entitled "Marianas Trench Marine National Monument" attached to and forming a part of this proclamation. The monument includes the waters and submerged lands of the three northernmost Mariana Islands (the "Islands Unit") and only the submerged lands of designated volcanic sites (the "Volcanic Unit") and the Mariana Trench (the "Trench Unit") to the extent described as follows: The seaward boundaries of the Islands Unit of the monument extend to the lines of latitude and longitude depicted on the accompanying map, which lie approximately 50 nautical miles from the mean low water line of Farallon de Pajaros (Uracas), Maug, and Asuncion. The inland boundary of the Islands Unit of the monument is the mean low water line. The boundary of the Trench Unit of the monument extends from the northern limit of the Exclusive Economic Zone of the United States in the Commonwealth of the Northern Mariana Islands to the southern limit of the Exclusive Economic Zone of the United States in Guam approximately following the points of latitude and longitude identified on the accompanying map. The boundaries of the Volcanic Unit of the monument include a circle drawn with a 1 nautical

mile radius centered on each of the volcanic features identified on the accompanying map and its legend. The Federal land and interests in land reserved consists of approximately 95,216 square miles of submerged lands and waters of the Mariana Archipelago, which is the smallest area compatible with the proper care and management of the objects to be protected.

Submerged lands that by legislation are subsequently granted by the United States to the Commonwealth of the Northern Mariana Islands but remain controlled by the United States under the Antiquities Act may remain part of the monument, for coordination of management with the Government of the Commonwealth of the Northern Mariana Islands. Any submerged lands and interests in submerged lands within the monument not owned or controlled by the United States shall be reserved as a part of the monument upon acquisition of title or control by the United States.

Management of the Marine National Monument

The Secretaries of Commerce, through the National Oceanic and Atmospheric Administration, and the Interior, shall manage the monument pursuant to applicable legal authorities and in consultation with the Secretary of Defense. The Secretary of the Interior shall have management responsibility for the monument, in consultation with the Secretary of Commerce, except that the Secretary of Commerce shall have the primary management responsibility, in consultation with the Secretary of the Interior, 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 authorities. The Secretaries of the Interior and Commerce shall not allow or permit any appropriation, injury, destruction, or removal of any feature of this monument except as provided for by this proclamation or as otherwise provided for by law.

The Secretaries of the Interior and Commerce shall take appropriate action pursuant to their respective authorities under the Antiquities Act and 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.

Regulation of Scientific Exploration and Research

Subject to such terms and conditions as the Secretary deems necessary for the care and management of the objects of this monument, the Secretary of the Interior may permit scientific exploration and research within the monument, including incidental appropriation, injury, destruction, or removal of features of this monument for scientific study, and the Secretary of Commerce may permit fishing within the monument 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, 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

Within the Islands Unit of the monument, the Secretary of Commerce shall prohibit commercial fishing. Subject to such terms and conditions as the Secretary of Commerce deems necessary for the care and management of the objects of the Islands Unit, the Secretary, consistent with Executive Order 12962 of June 7, 1995, as amended, shall ensure that sustenance, recreational, and traditional indigenous fishing shall be managed as a sustainable activity consistent with other applicable law and after due consideration with respect to traditional indigenous fishing of any determination by the Government of the Commonwealth of the Northern Mariana Islands.

Monument Management Planning

The Secretaries of the Interior and Commerce shall, within 2 years of the date of this proclamation, prepare management plans

within their respective authorities and promulgate implementing regulations that address any further specific actions necessary for the proper care and management of the objects identified in this proclamation. In developing and implementing any management plans and any management rules and regulations, the Secretaries shall designate and involve as cooperating agencies the agencies with jurisdiction or special expertise, including the Department of Defense, the Department of State, and other agencies through scoping in accordance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), its implementing regulations and with Executive Order 13352 of August 26, 2004, Facilitation of Cooperative Conservation, and shall treat as a cooperating agency the Government of the Commonwealth of the Northern Mariana Islands, consistent with these authorities. The monument management plans shall ensure that the monument will be administered in accordance with this proclamation, and shall, as appropriate to their respective authorities, provide for:

1. management of the Islands Unit of the monument, in consultation with the Government of the Commonwealth of the Northern Mariana Islands, including designation of specific roles and responsibilities and the means of consultation on management decisions as appropriate, without affecting the respective authorities or jurisdictions of the Commonwealth of the Northern Mariana Islands or the Secretaries of the Interior or of Commerce;

2. public education programs and public outreach regarding the coral reef ecosystem and related marine resources and species of the monument and efforts to conserve them;

3. traditional access by indigenous persons, as identified by the Secretaries in consultation with the Government of the Commonwealth of the Northern Mariana Islands, for culturally significant subsistence, cultural and religious uses within the monument;

4. a program to assess and promote monument-related scientific exploration and research, tourism, and recreational and economic activities and opportunities in the Commonwealth of the Northern Mariana Islands;

5. a process to consider requests for recreational fishing permits in certain areas of the Islands Unit, based on an analysis of the likely effects of such fishing on the marine ecosystems of these areas, sound professional judgment that such fishing will not materially interfere with or detract from the fulfillment of the purposes of this proclamation, and the extent to which such recreational fishing shall be managed as a sustainable activity consistent with Executive Order 12962, as amended, and other applicable law; and

6. programs for monitoring and enforcement necessary to ensure that scientific exploration and research, tourism, and recreational and commercial activities do not degrade the monument's coral reef ecosystem or related marine resources or species or diminish the monument's natural character.

The management plans and their implementing regulations shall impose no restrictions on innocent passage in the territorial sea or otherwise restrict navigation, overflight, and other internationally recognized lawful uses of the sea, and shall incorporate the provisions of this proclamation regarding Armed Forces actions and compliance with international law.

This proclamation shall be applied in accordance 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.

Nothing in this proclamation shall be deemed to diminish or enlarge the jurisdiction of the Commonwealth of the Northern Mariana Islands.

Advisory Council

The Secretaries of the Interior and Commerce, within 3 months of the date of this proclamation and after considering recommendations from the Governor of the Commonwealth of the Northern Mariana Islands, the Secretary of Defense, and the Secretary of Homeland Security, shall establish the Mariana Monument Advisory Council to provide advice and recommendations on the development of management plans and management of the monument. The Advisory Council shall consist of three officials of the

Government of the Commonwealth of the Northern Mariana Islands and one representative each from the Department of Defense and the United States Coast Guard.

Members of the Advisory Council will be appointed for a term of 3 years by the Secretaries of the Interior and Commerce after nomination by the head of the pertinent executive branch agency or, with respect to the officials of the Government of the Commonwealth of the Northern Mariana Islands, by the Governor of the Commonwealth of the Northern Mariana Islands. The Advisory Council will adopt such procedures as it deems necessary to govern its activities. Each participating agency shall be responsible for the expenses of its representative and the Departments of the Interior and Commerce shall be equally responsible for the costs of the Advisory Council.

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 living marine resource 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 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.

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 agencies, instrumentalities, or entities, its officers, employees, agents, or any other person.

All Federal lands and interests in lands within the boundaries of this monument are hereby withdrawn from all forms of entry, location, selection, sale, or leasing or other disposition under the public land laws, to the extent that those laws apply.

The establishment of this monument is subject to valid existing rights.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be dominant over any other existing Federal withdrawal, reservation, or appropriation.

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

In Witness Whereof, I have hereunto set my hand this sixth day of January, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

George W. Bush

[Filed with the Office of the Federal Register, 8:45 a.m., January 9, 2009]

NOTE: This proclamation and its annex were published in the *Federal Register* on January 12.

Proclamation 8336—Establishment of the Pacific Remote Islands Marine National Monument

January 6, 2009

By the President of the United States of America

A Proclamation

The Pacific Remote Islands area consists of Wake, Baker, Howland, and Jarvis Islands, Johnston Atoll, Kingman Reef, and Palmyra Atoll, which lie to the south and west of Hawaii. With the exception of Wake Island, these islands are administered as National Wildlife Refuges by the United States Fish and Wildlife Service of the Department of the Interior. These refuges are an important part of the most widespread collection of marine- and terrestrial-life protected areas on the planet under a single country's jurisdiction. They sustain many endemic species including corals, fish, shellfish, marine mammals, seabirds, water birds, land birds, insects, and vegetation not found elsewhere.

Wake Island, to the west of Honolulu, Hawaii, is the northernmost atoll in the Marshall Islands geological ridge and perhaps the oldest living atoll in the world. Though it was substantially modified by the United States to create a military base before and after World War II, its major habitats are the three low coral islands consisting of shells, coral skeletons, and sand, supporting atoll vegetation adapted to arid climate. Wake Island supports 12 species of resident nesting seabirds and 6 species of migratory shorebirds, including 2 species of tropicbirds, 3 species of boobies, Great Frigatebird, Sooty Tern, Brown Noddy, and Wedge-tailed Shearwater. Black-footed Albatross and Laysan Albatross recently recolonized Wake Island, making it one of the few northern albatross colonies outside the Hawaiian archipelago.

Shallow coral reefs thrive around the perimeter of Wake Island. Fish populations are abundant and support at least 323 species, including large populations of the Napoleon wrasse (*Chelinus*), sharks of several species, and large schools of the Bumphead parrotfish (*Bolbometapon*), all of which are globally depleted. Beyond the shallow reefs, the outer reef slope descends sharply to great depths.

Baker, Howland, and Jarvis Islands were first formed as fringing reefs around islands formed by Cretaceous-era volcanoes (approximately 120–75 million years ago). As the volcanoes subsided, the coral reefs grew upward, maintaining proximity to the sea surface. These low coral islands consist of coral rock, shells, and sand that support trees, shrubs, and grasses adapted to the arid climate at the equator. All three are surrounded by shallow coral reefs to depths of 100 meters, below which the reef slope descends steeply to great depths. Deep coral forests occur below photic zones of all three islands at depths below 200 meters, especially at Jarvis where surveys have revealed living colonies of precious and ancient gold coral up to 5,000 years old.

The waters surrounding Baker, Howland, and Jarvis Islands have fish biomass double that of the Papahanaumokuakea Marine National Monument, and 16 times that of the main Hawaiian Islands, due to the Equatorial Undercurrent that moves from west to east along the equator, creating localized nutrient-rich upwellings in shallows next to the islands. These are three of only six islands in the entire Pacific Ocean where this phenomenon is possible. These islands are high in coral cover and biodiversity and are predator-dominated systems. Their biomass of top predators exceeds that of the Great Barrier Reef or Kenyan Marine Protected Areas. The islands now host about a dozen nesting bird species including several nesting and migratory bird species that are of conservation significance. Jarvis alone has nearly 3 million pairs of Sooty Terns. There are about 300 fish species found off the islands. Giant clams (*Tridacna*), Napoleon wrasses, and Bumphead parrotfish are common, and sharks of many species are especially abundant at Jarvis and commonly larger there than elsewhere. Endangered hawksbill turtle and threatened green turtles forage in nearshore waters. All three islands afford unique opportunities to conduct climate change research at the equator, far from population centers. The coral skeletons there have recorded the earth's climatic history for many millions of years.