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Proclamation 9496—Northeast Canyons and Seamounts Marine National Monument

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Title 3—

Proclamation 9496 of September 15, 2016

The President

Northeast Canyons and Seamounts Marine National Monument

By the President of the United States of America

A Proclamation

For generations, communities and families have relied on the waters of the northwest Atlantic Ocean and have told of their wonders. Throughout New England, the maritime trades, and especially fishing, have supported a vibrant way of life, with deep cultural roots and a strong connection to the health of the ocean and the bounty it provides. Over the past several decades, the Nation has made great strides in its stewardship of the ocean, but the ocean faces new threats from varied uses, climate change, and related impacts. Through exploration, we continue to make new discoveries and improve our understanding of ocean ecosystems. In these waters, the Atlantic Ocean meets the continental shelf in a region of great abundance and diversity as well as stark geological relief. The waters are home to many species of deep-sea corals, fish, whales and other marine mammals. Three submarine canyons and, beyond them, four undersea mountains lie in the waters approximately 130 miles southeast of Cape Cod. This area (the canyon and seamount area) includes unique ecological resources that have long been the subject of scientific interest.

The canyon and seamount area, which will constitute the monument as set forth in this proclamation, is composed of two units, which showcase two distinct geological features that support vulnerable ecological communities. The Canyons Unit includes three underwater canyons—Oceanographer, Gilbert, and Lydonia—and covers approximately 941 square miles. The Seamounts Unit includes four seamounts—Bear, Mytilus, Physalia, and Retriever—and encompasses 3,972 square miles. The canyon and seamount area includes the waters and submerged lands within the coordinates included in the accompanying map. The canyon and seamount area contains objects of historic and scientific interest that are situated upon lands owned or controlled by the Federal Government. These objects are the canyons and seamounts themselves, and the natural resources and ecosystems in and around them.

The canyons start at the edge of the geological continental shelf and drop from 200 meters to thousands of meters deep. The seamounts are farther off shore, at the start of the New England Seamount chain, rising thousands of meters from the ocean floor. These canyons and seamounts are home to at least 54 species of deep-sea corals, which live at depths of at least 3,900 meters below the sea surface. The corals, together with other structure-forming fauna such as sponges and anemones, create a foundation for vibrant deep-sea ecosystems, providing food, spawning habitat, and shelter for an array of fish and invertebrate species. These habitats are extremely sensitive to disturbance from extractive activities.

Because of the steep slopes of the canyons and seamounts, oceanographic currents that encounter them create localized eddies and result in upwelling. Currents lift nutrients, like nitrates and phosphates, critical to the growth of phytoplankton from the deep to sunlit surface waters. These nutrients fuel an eruption of phytoplankton and zooplankton that form the base of the food chain. Aggregations of plankton draw large schools of small fish

and then larger animals that prey on these fish, such as whales, sharks, tunas, and seabirds. Together the geology, currents, and productivity create diverse and vibrant ecosystems.

The Canyons

Canyons cut deep into the geological continental shelf and slope throughout the mid-Atlantic and New England regions. They are susceptible to active erosion and powerful ocean currents that transport sediments and organic carbon from the shelf through the canyons to the deep ocean floor. In Oceanographer, Gilbert, and Lydonia canyons, the hard canyon walls provide habitats for sponges, corals, and other invertebrates that filter food from the water to flourish, and for larger species including squid, octopus, skates, flounders, and crabs. Major oceanographic features, such as currents, temperature gradients, eddies, and fronts, occur on a large scale and influence the distribution patterns of such highly migratory oceanic species as tuna, billfish, and sharks. They provide feeding grounds for these and many other marine species.

Toothed whales, such as the endangered sperm whale, and many species of beaked whales are strongly attracted to the environments created by submarine canyons. Surveys of the area show significantly higher numbers of beaked whales present in canyon regions than in non-canyon shelf-edge regions. Endangered sperm whales, iconic in the region due to the historic importance of the species to New England's whaling communities, preferentially inhabit the U.S. Atlantic continental margin. Two additional species of endangered whales (fin whales and sei whales) have also been observed in the canyon and seamount area.

The Seamounts

The New England Seamount Chain was formed as the Earth's crust passed over a stationary hot spot that pushed magma up through the seafloor, and is now composed of more than 30 extinct undersea volcanoes, running like a curved spine from the southern side of Georges Bank to midway across the western Atlantic Ocean. Many of them have characteristic flat tops that were created by erosion by ocean waves and subsidence as the magma cooled. Four of these seamounts—Bear, Physalia, Retriever, and Mytilus—are in the United States Exclusive Economic Zone. Bear Seamount is approximately 100 million years old and the largest of the four; it rises approximately 2,500 meters from the seafloor to within 1,000 meters of the sea surface. Its summit is over 12 miles in diameter. The three smaller seamounts reach to within 2,000 meters of the surface. All four of these seamounts have steep and complex topography that interrupts existing currents, providing a constant supply of plankton and nutrients to the animals that inhabit their sides. They also cause upwelling of nutrient-rich waters toward the ocean surface.

Geographically isolated from the continental platform, these seamounts support highly diverse ecological communities with deep-sea corals that are hundreds or thousands of years old and a wide array of other benthic marine organisms not found on the surrounding deep-sea floor. They provide shelter from predators, increased food, nurseries, and spawning areas. The New England seamounts have many rare and endemic species, several of which are new to science and are not known to live anywhere else on Earth.

The Ecosystem

The submarine canyons and seamounts create dynamic currents and eddies that enhance biological productivity and provide feeding grounds for seabirds; pelagic species, including whales, dolphins, and turtles; and highly migratory fish, such as tunas, billfish, and sharks. More than ten species of shark, including great white sharks, are known to utilize the feeding grounds of the canyon and seamount area. Additionally, surveys of leatherback and loggerhead turtles in the area have revealed increased numbers above and immediately adjacent to the canyons and Bear Seamount.

Marine birds concentrate in upwelling areas near the canyons and seamounts. Several species of gulls, shearwaters, storm petrels, gannets, skuas, and terns, among others, are regularly observed in the region, sometimes in large aggregations. Recent analysis of geolocation data found that Maine's vulnerable Atlantic puffin frequents the canyon and seamount area between September and March, indicating a previously unknown wintering habitat for those birds.

These canyons and seamounts, and the ecosystem they compose, have long been of intense scientific interest. Scientists from government and academic oceanographic institutions have studied the canyons and seamounts using research vessels, submarines, and remotely operated underwater vehicles for important deep-sea expeditions that have yielded new information about living marine resources. Much remains to be discovered about these unique, isolated environments and their geological, ecological, and biological resources.

WHEREAS, the waters and submerged lands in and around the deep-sea canyons Oceanographer, Lydonia, and Gilbert, and the seamounts Bear, Physalia, Retriever, and Mytilus, contain objects of scientific and historic interest that are situated upon lands owned or controlled by the Federal Government;

WHEREAS, section 320301 of title 54, United States Code (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 the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which 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 area to be known as the Northeast Canyons and Seamounts Marine National Monument, for the care and management of the objects of historic and scientific interest therein;

WHEREAS, the well-being 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 canyon and seamount area and does not compromise the readiness, training, and global mobility of the 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 320301 of title 54, United States Code, hereby proclaim the objects identified above that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Northeast Canyons and Seamounts Marine National Monument (monument) and, for the purpose of protecting those objects, reserve as a part thereof all lands and interests in lands owned or controlled by the Federal Government within the boundaries described on the accompanying map entitled "Northeast Canyons and Seamounts Marine National Monument," which is attached hereto, and forms a part of this proclamation. The Federal lands and interests in lands reserved consist of approximately 4,913 square miles, which is the smallest area compatible with the proper care and management of the objects to be protected.

The establishment of the monument is subject to valid existing rights. All Federal lands and interests in lands within the boundaries of the monument 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, including but not limited to, withdrawal from location, entry and patent under mining laws, and from disposition under all laws relating to development of oil and gas, minerals, geothermal,

or renewable energy. Lands and interest in lands within the monument not owned or controlled by the United States shall be reserved as part of the monument upon acquisition of title or control by the United States.

Management of the Marine National Monument

The Secretaries of Commerce and the Interior (Secretaries) shall share management responsibility for the monument. The Secretary of Commerce, through the National Oceanic and Atmospheric Administration (NOAA), and in consultation with the Secretary of the Interior, shall have responsibility for management of activities and species within the monument under the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act (for species regulated by NOAA), the Marine Mammal Protection Act, and any other applicable Department of Commerce legal authorities. The Secretary of the Interior, through the United States Fish and Wildlife Service (FWS), and in consultation with the Secretary of Commerce, shall have responsibility for management of activities and species within the monument under its applicable legal authorities, including the National Wildlife Refuge System Administration Act, the Refuge Recreation Act, and the Endangered Species Act (for species regulated by FWS), and Public Law 98–532 and Executive Order 6166 of June 10, 1933.

The Secretaries shall prepare a joint management plan, within their respective authorities, for the monument within 3 years of the date of this proclamation, and shall promulgate as appropriate implementing regulations, within their respective authorities, that address any further specific actions necessary for the proper care and management of the objects and area identified in this proclamation. The Secretaries shall revise and update the management plan as necessary. In developing and implementing any management plans and any management rules and regulations, the Secretaries shall consult, 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. In addition, the Secretaries shall work to continue advances in resource protection in the Monument area that have resulted from a strong culture of collaboration and enhanced stewardship of marine resources.

This proclamation shall be applied in accordance with international law, and the Secretaries shall coordinate with the Department of State to that end. The management plans and their implementing regulations shall not unlawfully restrict navigation and overflight and other internationally recognized lawful uses of the sea in the monument and shall incorporate the provisions of this proclamation regarding U.S. 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.

Restrictions

Prohibited Activities

The Secretaries shall prohibit, to the extent consistent with international law, any person from conducting or causing to be conducted the following activities:

1. Exploring for, developing, or producing oil and gas or minerals, or undertaking any other energy exploration or development activities within the monument.
2. Using or attempting to use poisons, electrical charges, or explosives in the collection or harvest of a monument resource.

3. Introducing or otherwise releasing an introduced species from within or into the monument.

4. Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging, or attempting to remove, move, take, harvest, possess, injure, disturb, or damage, any living or nonliving monument resource, except as provided under regulated activities below.

5. Drilling into, anchoring, dredging, or otherwise altering the submerged lands; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands, except for scientific instruments and constructing or maintaining submarine cables.

6. Fishing commercially or possessing commercial fishing gear except when stowed and not available for immediate use during passage without interruption through the monument, except for the red crab fishery and the American lobster fishery as regulated below.

Regulated Activities

Subject to such terms and conditions as the Secretaries deem appropriate, the Secretaries, pursuant to their respective authorities, to the extent consistent with international law, may permit any of the following activities regulated by this proclamation if such activity is consistent with the care and management of the objects within the monument and is not prohibited as specified above:

1. Research and scientific exploration designed to further understanding of monument resources and qualities or knowledge of the North Atlantic Ocean ecosystem and resources.

2. Activities that will further the educational value of the monument or will assist in the conservation and management of the monument.

3. Anchoring scientific instruments.

4. Recreational fishing in accordance with applicable fishery management plans and other applicable laws and other requirements.

5. Commercial fishing for red crab and American lobster for a period of not more than 7 years from the date of this proclamation, in accordance with applicable fishery management plans and other regulations, and under permits in effect on the date of this proclamation. After 7 years, red crab and American lobster commercial fishing is prohibited in the monument.

6. Other activities that do not impact monument resources, such as sailing or bird and marine mammal watching so long as those activities are conducted in accordance with applicable laws and regulations, including the Marine Mammal Protection Act. Nothing in this proclamation is intended to require that the Secretaries issue individual permits in order to allow such activities.

7. Construction and maintenance of submarine cables.

Regulation of Scientific Exploration and Research

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.

Emergencies and Law Enforcement Activities

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 law enforcement purposes.

U.S. Armed Forces

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

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

3. In the event of threatened or actual destruction of, loss of, or injury to a monument 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 Secretaries for the purpose of taking appropriate action to respond to and mitigate any 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 U.S. 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.

Other Provisions

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument 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 and not to locate or settle upon any lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.



