

## Appendix K. Cooperative Agreement and Presidential Proclamations

This cooperative agreement was the basis for the establishment of Rose Atoll National Wildlife Refuge.

### COOPERATIVE AGREEMENT

Between

The Government of American Samoa  
and  
The Bureau of Sport Fisheries and Wildlife

This agreement entered into between the Government of American Samoa, hereinafter referred to as "Samoa" and the Department of the Interior, Bureau of Sport Fisheries and Wildlife, hereinafter referred to as the "Bureau" witnesseth:

WHEREAS, it is mutually recognized that Rose Atoll is a part of American Samoa, being located 78 miles east-southeast of Tau Island in the Manua Group, at latitude 14°32'52" South and longitude 168°08'34" West; and

WHEREAS, Samoa and the Bureau have agreed that it is essential that Rose Atoll be reserved and set aside as a unique and valuable wildlife area. Further, Samoa has expressed its willingness to make Rose Atoll available to the Bureau for the purpose of conservation, management, and protection of the wildlife resources thereon; and

WHEREAS, the Bureau accepts Rose Atoll for inclusion in the National Wildlife Refuge System under authority of the Fish and Wildlife Act of 1956 (16 USC 742(a)).

NOW, THEREFORE, the parties hereto agree as follows:

1. The Bureau agrees to pay the cost of periodic aerial surveillance of Rose Atoll on a mutually agreeable schedule, subject to appropriations by Congress.
2. The Bureau will provide for the designation of the Governor of American Samoa as its representative and the deputizing of local officials to enforce national wildlife refuge rules and regulations in accordance with Title 50 CFR.
3. Establishment of the Rose Atoll National Wildlife Refuge will become effective upon adoption by the Samoan Legislature of a memorial or resolution supporting this refuge.

IN WITNESS WHEREOF, this agreement has been executed on this 5<sup>th</sup>  
day of July, 1973.

GOVERNMENT OF AMERICAN SAMOA

By John W. Hayden  
Governor

BUREAU OF SPORT FISHERIES AND WILDLIFE

By John D. Lindley  
Regional Director

**MALILIEGA FELAGOLAGOMAI**

i le va

O le Malo o Amerika Samoa  
ma le  
Ofisa o Taaloga Faigafaiva ma Vaomatua

O lenei maliega ua faia i le va o le Malo o Amerika Samoa, ma o le a taua o "Samoa" ma le Matagaluega o le Initeria, Ofisa o Taaloga Faigafaiva ma Vaomatua, ma o le a taua o le "Ofisa" o loo molimau:

TALU AI, ua faailoa aloaia o le Motu Amu o Rose o se vaega o Amerika Samoa, e tu i le 78 maila i sasae – sautesasae o le Motu o Tau i Manua, i le taatiaga 14<sup>0</sup> 32' 52" i Toga ma le 168<sup>0</sup> 08'34" Sisifo, ma

TALU AI, o Samoa ma le Ofisa ua malilie e alagataua le puipua ma tuueseina o le Motu Amu o Rose ona e tulagaese ma taua naua lea vaega o Vaomatua ma Siosiomaga e le aina. Ma le isi, ua faaalii le naunau o Samoa e tuuina atu i le Ofisa le Motu Amu o Rose mo le faamoemoe e faasao, vaaia ma puipua punaoa o le vaomatua o loo iai, ma

TALU AI, ua talia e le Ofisa le iai o le Motu Amu o Rose i totonu o le Vaega Mo Vaomatua Puipua ale Atunuu i lalo o el pulega o le Tulafono o la ma Vaomatua o le 1956 (16 USC 742(a)).

O LEA LA, ua talia e itu e luao mea o loo ta'ua:

1. Ua malie le Ofisa e totogi le tau o asiasiga faavaitau mai le vateatea o le Motu Amu o Rose i se faatulalaga talafeagao, i le maua o tupe faatatau mai le Konekaresi.
2. E tuuina atu e le Ofisa mo sui ma tagata aloaia faalotoifale e pei ona tofia e le Kovana o Amerika Samoa mo le faamalosia o Tulafono ma aiaiga o le puipua o le Vaomatua e tusa ma le Title 50 CFR.
3. O le Faatuina o le Puipua o le Vaomatua o le Motu Amu o Rose o le a faamautuina i le faamaonia e le Fono Faitulafono o Samoa o se Faamanatu poo se Tulafono e lagolagoina ai lenei Nofoga.

MOLIMAU E TUSA AI, o lenei maliliega ua faia i le Aso 5 Iulai 1973

MALO O AMERIKA SAMOA

Faia \_\_\_\_\_  
Kovana

OFISA O TAALOGA FAIGAFIVA MA VAOMATUA

Faia \_\_\_\_\_  
Faatonu Itulagi

Second Regular Session

S.C.R. No. 14

SENATE CONCURRENT RESOLUTION

Relating to Rose Island

WHEREAS, there exist within the American Samoa archipelago a small atoll and a sand island together with about 20 acres of submerged and tidelands commonly known as Rose Island; and

WHEREAS, this island is one of the few remaining uninhabited islands unspoiled by the social or commercial activities of man; and

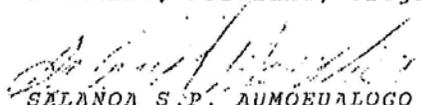
WHEREAS, the island as observed by fishermen, marine biologists and others who have had occasion to visit it is a home and resting place for large numbers of pelagic birds and sea turtles of varying species; and

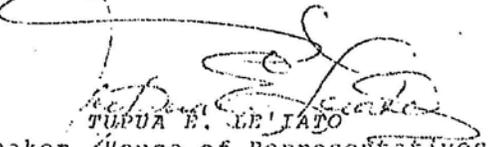
WHEREAS, unless this island is given official status and recognition as a wild life preserve and refuge it may well suffer the depredation of thoughtless or careless persons who happen to come upon the island in the course of their travels; and

WHEREAS, the continuing loss and possible extinction of these birds and turtles would do irreparable damage to the heritage and culture of our marine and avian life denying to future generations the pleasure and knowledge which may be derived from the study and observation of these creatures; NOW, THEREFORE

BE IT RESOLVED by the Senate of the Legislature of American Samoa, the House concurring that all possible and necessary steps be taken to bring Rose Island within the protection of the federal government by designating it as a national wildlife refuge under a cooperative agreement with the government of American Samoa for the protection and preservation of those creatures who make it their home or resting place; and

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Honorable John M. Haydon, Governor; the Honorable Rogers C.B. Morton, Secretary of the Interior; the Honorable Stanley S. Carpenter, Director of Territorial Affairs and to the Honorable John D. Findlay, Regional Director of the Board of Sport Fisheries and wildlife, Portland, Oregon.

  
SALANOA S.P. AUMOEUALOGO  
President of the Senate

  
TUPUA E. LE'IATU  
Speaker, House of Representatives

Fono Tele Lona Lua

I.M.F.M.M. Nu. 14

IUGAFONO MALILIE FAATASI MAOTA MAUALUGA

E uiga i Rose Island

TALUAI, o lo o i ai nei i le atu motu o Amerika Samoa se motu oneone itiiti faatasi pe tusa i le 20 eka o le ele'ele e taua o Rose Island faatasi ma le ele'ele o lo o ufitia e le sami; ma

TALUAI, o lenei motu o se tasi o motu le ainā e le'i pisia i mea faafiafia po o gaioiga faapisinisi a tagata; ma

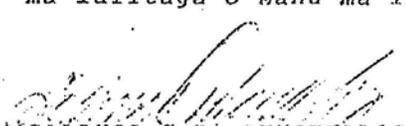
TALUAI, o le motu e pei ona fuafua e tagata faifaiva, tagata-su'esu'e o mea ola o le sami ma i latou ua asiasi atu i lea motu o se nofoaga ma se mea e malolo i ai le tele o manu e felelei i le vasa ma laumei sami o so o se ituaiga; ma

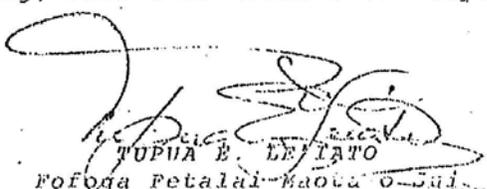
TALUAI, se'i vagana ua tuuina i lenei motu le tuga taualoa e faalauiloa ai o se puipuiga o manu e le pine ona faaleagaina e tagata faale-taupulea e o'atu i lenei motu a'o latou faimalaga i le vasa; ma

TALUAI, o le mamate ma le soloiesea o ia manu ma laumei o le avea ma mea e le toe mafai ai ona mava ia ituaiga manu ma o le a faafitia ai a tatou tupulaga i se mala-malama e maua mai le a'oa'oina o nei manu; O LENEI, O LE MEA LEA

UA FAAIUGAFONOINA AI e le Maota MauaLuga a le Fono Faitulafono a Amerika Samoa, malilie faatasi ai ma le Maota o Sui ina ia uia ala tataua uma ina ia tuuina Rose Island i le puipuiga a le malo tele faatasi ma le galulue felagolagoma'i ma le Malo o Amerika Samoa ina ia faasino ina lea motu o le lafitaga o manu mo le puipuiga ma le faatumauina o ia manu ua faia lea motu ma o latou aiga po o se malologa; ma

UA TOE FAAIUGAFONOINA FOI ina ia auina atu kope o lenei iugafono i le Afioga John M. Haydon, Kovana; le Afioga Rogers C.B. Morton, Failautusi a le Initeria; le Afioga Stanley S. Carpenter, Pule o Mataupu tau Teritori ma le Afioga John M. Findlay, Pule o le Ofisa o le Puipuiga ma lafitaga o Manu ma I'a.

  
SALANOA S.P. AUNOVALOGO  
Pereseetene Maota MauaLuga

  
TUPUA E. LE'ITAO  
Fofoga Petala Maota o Sui



LEGISLATURE OF AMERICAN SAMOA  
PAGETAGO, AMERICAN SAMOA. 96926.

In reply refer to:

C E R T I F I C A T E

I certify that Senate Concurrent Resolution No. 14 passed on August 22, 1973 in the Senate of the Thirteenth Legislature of American Samoa.

Handwritten signature of Mrs. Salilo K. Lewi in cursive.

MRS SALILO K. LEWI  
Secretary of the Senate

I certify that Senate Concurrent Resolution No. 14 passed on August 24, 1973 in the House of Representatives of the Thirteenth Legislature of American Samoa.

Handwritten signature of Tenari S. Fuimaono in cursive.

TENARI S. FUIMAONO  
Chief Clerk, House of Representatives

## Federal Register Notice of Establishment (39 FR 13183)

## NOTICES

13183

Broadway, Denver, Colorado 80202,  
within the time specified herein.

EVERETT K. WEEBIN,  
Chief, Branch of  
Land Operations.

[FR Doc.74-8284 Filed 4-10-74;8:45 am]

Fish and Wildlife Service  
ROSE ATOLL NATIONAL WILDLIFE  
REFUGE, AMERICAN SAMOA

Notice of Establishment

Notice is hereby given that the Government of American Samoa and the U.S. Fish and Wildlife Service, Department of the Interior, did, by Cooperative Agreement dated July 5, 1973, under authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)), establish the Rose Atoll National Wildlife Refuge to be administered in accordance with applicable rules and regulations contained in Title 50, Code of Federal Regulations, relating to national wildlife refuges and the terms and conditions of the cooperative agreement.

The Rose Atoll National Wildlife Refuge is a part of American Samoa and is located 78 miles east-southeast of Tau Island in the Manua Group at latitude 14°32'52" south and longitude 168°08'34" west. This area has been set aside for the conservation, management and protection of its unique and valuable fish and wildlife resources. The exterior boundary of this refuge is the extreme low waterline outside the perimeter reef except at the entrance channel where the boundary is a line extended between the extreme low waterlines on each side of the entrance channel.

Dated: April 5, 1974.

LYNN A. GREENWALT,  
Director, Bureau of  
Sport Fisheries and Wildlife.

[FR Doc.74-8297 Filed 4-10-74;8:45 am]

Office of Hearings and Appeals -

[Docket No. M 74-60]

BLUE DIAMOND COAL CO.

Modification of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Blue Diamond Coal Company has filed a petition to modify the application of 30 CFR 75.802 to its Leatherwood Mine, at Leatherwood, Kentucky.

30 CFR 75.802 reads in pertinent part as follows:

High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit. \* \* \*

In support of its petition to secure a waiver of 30 CFR 75.802 Petitioner states that:

(1) The underground high-voltage power distribution systems in question would carry only 7200V A.C. to 275V D.C. rectifiers the outputs of which are connected to the D.C. trolley system.

(2) Trolley locomotives are operated from the system and face distribution boxes, with proper breakers attached to the trolley system.

(3) The rectifiers are considered to be stationary in that they are moved only every six months.

(4) The cable connecting the outside power facility and the underground high-voltage system conforms with safety standard 30 CFR 75.804 and is installed in compliance with § 75.807.

Petitioner's proposal is supported by exhibits detailing the electrical system of the subject mine.

Petitioner asserts that its proposed alternative will at all times afford the same protection as the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 13, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,  
Director, Office of  
Hearings and Appeals.

MARCH 26, 1974.

[FR Doc.74-8278 Filed 4-10-74;8:45 am]

[Docket No. M 74-73]

BLUE DIAMOND COAL CO., INC.

Modification of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Blue Diamond Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.305 to its Leatherwood Mine located at Leatherwood, Kentucky.

30 CFR 75.305 reads in pertinent part as follows:

In addition to the pre-shift and daily examinations required by this Subpart D, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. \* \* \*

In support of its petition Petitioner states:

(1) The sections of the subject mine to which the safety standard pertains are ventilated by separate fans. Each section also has two escapeways.

(2) Each section in question has a life expectancy of less than one year.

(3) It would be unsafe to travel the main return aircourse in its entirety, therefore Petitioner seeks a waiver of the mandatory standard in this instance.

(4) Petitioner's alternative method will provide the same measure of protection as afforded by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 13, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,  
Director, Office of  
Hearings and Appeals.

MARCH 20, 1974.

[FR Doc.74-8277 Filed 4-10-74;8:45 am]

[Docket No. M 74-89]

HELVETIA COAL CO.

Modification of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Helvetia Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its Lucerne #6 and #8 Mines, located at Indiana, Pennsylvania.

30 CFR 75.1405 reads as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

To be read concurrently with § 75.1405 is § 75.1405-1 which provides:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition Petitioner states:

(1) On February 14, 1974, MESA informed Petitioner that, contrary to earlier practice, section 314(f) would, effective March 30, 1974, be deemed applicable and would be enforced with respect to belt haulage mines and to all vehicles used on track even if equipped for off-track use. Said application will result in a diminution of safety to the miners in Petitioner's mines.

(2) Petitioner's mines do not employ a track coal haulage system, but rather a belt coal haulage system. Track is used for supplies and personnel transport only.

(3) Because of the belt system, Petitioner's mines are characterized by entries having a relatively narrow radius of curve, a less uniformly even bottom, and lighter weight rails than mines using a track haulage system.

(4) The cumulative effect of the foregoing characteristics on automatic couplers is to make them susceptible to accidental un-

Presidential Proclamation 4347 establishing additional jurisdiction.

**Proclamation 4347**

**February 1, 1975**

**Reserving Certain Submerged Lands Adjacent to Rose Atoll National Wildlife Refuge Territory of American Samoa and, Certain Submerged Lands for the Defense Needs of the United States in the Territories of Guam and the Virgin Islands**

*By the President of the United States of America*

**A Proclamation**

The submerged lands surrounding the Rose Atoll National Wildlife Refuge in American Samoa are necessary for the protection of the Atoll's marine life, including the green sea and hawksbill turtles. The submerged lands in Apra Harbor and those adjacent to Inapsan Beach and Urano Point in Guam, and certain submerged lands on the west coast of St. Croix, United States Virgin Islands are required for national defense purposes. These submerged lands in American Samoa, Guam and the United States Virgin Islands will be conveyed to the Government of those territories, on February 3, 1975, pursuant to Section 1(a)

## PROCLAMATION 4347—FEB. 1, 1975

89 STAT. 1239

of Public Law 93-435 (88 Stat. 1210), unless the President, under Section 1 (b) (vii) of that Act, designates otherwise. 48 USC 1705.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of authority vested in me by Section 1 (b) (vii) of Public Law 93-435 (88 Stat. 1210) do hereby proclaim that the lands hereinafter described are excepted from the transfer to the Government of American Samoa, the Government of Guam and the Government of the United States Virgin Islands under Section 1 (a) of Public Law 93-435.

*American Samoa.* The submerged lands adjacent to Rose Atoll located 78 miles east-southeast of Tau Island in the Manua Group at latitude 14°32'52" south and longitude 168°08'34" west, which lands shall be under the joint administrative jurisdiction of the Department of Commerce and the Department of the Interior.

*Guam.* (1) The submerged lands of inner and outer Apra Harbor; and, (2) the submerged lands adjacent to the following uplands: (a) Unsurveyed land, Municipality of Machanao, Guam, as delineated on Commander Naval Forces, Marianas Y & D Drawing Numbered 597-464, lying between the seaward boundaries of Lots Numbered 9992 through 9997 and the mean high tide, containing an undetermined area of land, (b) unsurveyed land, Municipality of Machanao, Guam, as delineated on Commander Naval Forces, Marianas Y & D Drawing Numbered 597-464, lying between the seaward boundary of Lot Numbered 10080 and the line of mean high tide, containing an undetermined amount of land, and (c) Lot Numbered PO 4.1 in the Municipality of Machanao, Guam, as delineated on Y & D Drawing Numbered 597-464, more particularly described as surveyed land bordered on the north by Lot Numbered 10080, Machanao, east by Northwest Air Force Base, south by U.S. Naval Communication Station (Finegayan) and west by the sea containing a computed area of 125.50 acres, more or less. All of the above lands within the territory of Guam shall be under the administrative jurisdiction of the Department of the Navy.

*The Virgin Islands.* (1) The submerged lands as described in the Code of Federal Regulations revised as of July 1, 1974, cited as 33 CFR 207.817 areas "A" & "B", (2) the submerged lands seaward of the 100 fathom curve off the coast of St. Croix beginning at a point 17°40'30" N and ending at a point 17°46'30" North as depicted on Coast and Geodetic Survey Chart Numbered 25250, Third Edition; Tide: St. Croix, Virgin Islands Underwater Range, and (3) the submerged lands seaward of the Underwater Range Operational Control Center, St. Croix, Virgin Islands presently leased to the Department of the Navy and described as Plot #18 of Estate Sprat Hall subdivision, located in northside Quarter "A", St. Croix containing 4.84 acres of land. All of the above lands within the territory of the Virgin Islands shall be under the administrative jurisdiction of the Department of the Navy.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred and ninety-ninth.

GERALD R. FORD

Federal Register

Vol. 74, No. 7

Monday, January 12, 2009

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**Presidential Documents**

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Title 3—

Proclamation 8337 of January 6, 2009

The President

**Establishment of the Rose Atoll Marine National Monument****By the President of the United States of America****A Proclamation**

In the Pacific Ocean approximately 130 nautical miles east-southeast of Pago Pago Harbor, American Samoa, lies Rose Atoll—the easternmost Samoan island and the southernmost point of the United States. This small atoll, which includes the Rose Atoll National Wildlife Refuge with about 20 acres of land and 1,600 acres of lagoon, remains one of the most pristine atolls in the world. The lands, submerged lands, waters, and marine environment around Rose Atoll support a dynamic reef ecosystem that is home to a very diverse assemblage of terrestrial and marine species, many of which are threatened or endangered.

One of the most striking features of Rose Atoll is the pink hue of fringing reef caused by the dominance of coralline algae, which is the primary reef-building species. Though there are roughly 100 species of stony corals, the shallow reefs are dominated by crustose coralline algae, making them distinctive and quite different from those found at other Samoan islands. The marine area provides isolated, unmolested nesting grounds for green and hawksbill turtles and has the largest number of nesting turtles in American Samoa. Its waters are frequented by numerous large predators: whitetip reef sharks, blacktip reef sharks, gray reef sharks, snappers, jacks, groupers, and barracudas. Species that have faced depletion elsewhere, some of which have declined worldwide by as much as 98 percent, are found in abundance at Rose Atoll, including giant clams, Maori wrasse, large parrotfishes, and blacktip, whitetip, and gray reef sharks. Humpback whales, pilot whales, and the porpoise genus *Stenella* have all been spotted at Rose Atoll. There are 272 species of reef fish, with seven species first described by scientists at Rose and dozens more new species discovered on the first deep water dive to 200 meters. Recent submersible dives around Rose Atoll have revealed abundant marine life, deep sea coral forests, and several new fish and invertebrate species.

Rose Atoll supports most of the seabird population of American Samoa, including 12 federally protected migratory seabirds, five species of federally protected shorebirds, and a migrant forest bird, the long-tailed cuckoo. Rare species of nesting petrels, shearwaters, and terns are thriving at Rose Atoll and increasing in number. The atoll is known to Samoans, who have periodically visited over the past millennium, as “Nu’u O Manu” (“Village of seabirds”). It is believed that Polynesians have harvested at Rose Atoll for millennia and several species, such as the giant clam, were used for cultural celebrations and events. Few relatively undisturbed islands remain in the world and Rose Atoll is one of the last remaining refuges for the seabird and turtle species of the Central Pacific. Threatened *Pisonia* atoll forest trees are also found at Rose Atoll.

WHEREAS the lands, submerged lands, and waters of and marine environment around Rose Atoll contain objects of historic or 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 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 lands, submerged lands and waters of, and marine environment around Rose Atoll as necessary for the care and management of the historic and 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 Rose Atoll Marine National Monument (the "monument" or "marine national monument") for the purpose of protecting the objects described in the above preceding paragraphs, all lands and interests in lands owned or controlled by the Government of the United States within the boundaries that lie approximately 50 nautical miles from the mean low water line of Rose Atoll as depicted on the accompanying map entitled "Rose Atoll Marine National Monument" attached to and forming a part of this proclamation. The Federal land and interests in land reserved consists of approximately 13,451 square miles of emergent and submerged lands and waters of and around Rose Atoll in American Samoa, which is the smallest area compatible with the proper care and management of the objects to be protected.

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.

#### **Management of the Marine National Monument**

The Secretary of the Interior shall have management responsibility for the monument, including Rose Atoll National Wildlife Refuge, in consultation with the Secretary of Commerce, except that the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall have the primary management responsibility regarding the management of the marine areas of the monument seaward of mean low water, 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 Secretary of Commerce shall initiate the process to add the marine areas of the monument to the Fagatele Bay National Marine Sanctuary in accordance with the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*), including its provision for consultation with an advisory council, to further the protection of the objects identified in this proclamation. In developing and implementing any management plans and any management rules and regulations, the Secretary of Commerce shall consult with the Secretary of the Interior and shall designate and involve as cooperating agencies the agencies with jurisdiction or special expertise, including the Department of State, the Department of Defense, 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 American Samoa, consistent with these authorities.

The Secretary of the Interior shall continue to manage the Rose Atoll National Wildlife Refuge consistent with the protection of the objects identified in this proclamation. The Secretary of the Interior shall, in developing any

management plans and any management rules and regulations governing the Rose Atoll National Wildlife Refuge, comply with the National Environmental Policy Act and consult with the Secretary of Commerce.

For the purposes of protecting the objects identified above, the Secretaries of the Interior and Commerce, respectively, 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.

#### *Regulation of Scientific Exploration and Research*

Subject to such terms and conditions as the Secretaries deem 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*

The Secretaries shall prohibit commercial fishing within the monument. Subject to such terms and conditions as the Secretaries deem necessary for the care and management of the objects of this monument, the Secretaries may permit noncommercial and sustenance fishing or, after consultation with the Government of American Samoa, traditional indigenous fishing within the monument. The Secretaries of the Interior and Commerce, respectively, in consultation with the Government of American Samoa, shall provide for a process to ensure that recreational fishing shall be managed as a sustainable activity consistent with Executive Order 12962 of June 7, 1995, as amended, and other applicable 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. The management plan and implementing regulations shall impose no restrictions on innocent passage in the territorial sea or otherwise 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 Armed Forces actions and compliance with international law.

Nothing in this proclamation shall be deemed to diminish or enlarge the jurisdiction of the Government of American Samoa. The Secretaries of the Interior and Commerce shall, in developing any management plans and any management rules and regulations governing the marine areas of the monument, as described above, consult with the Government of American Samoa.

#### **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.

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

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, or agents, or any other person.

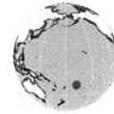
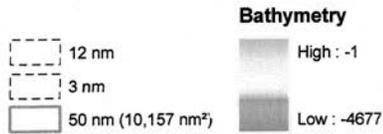
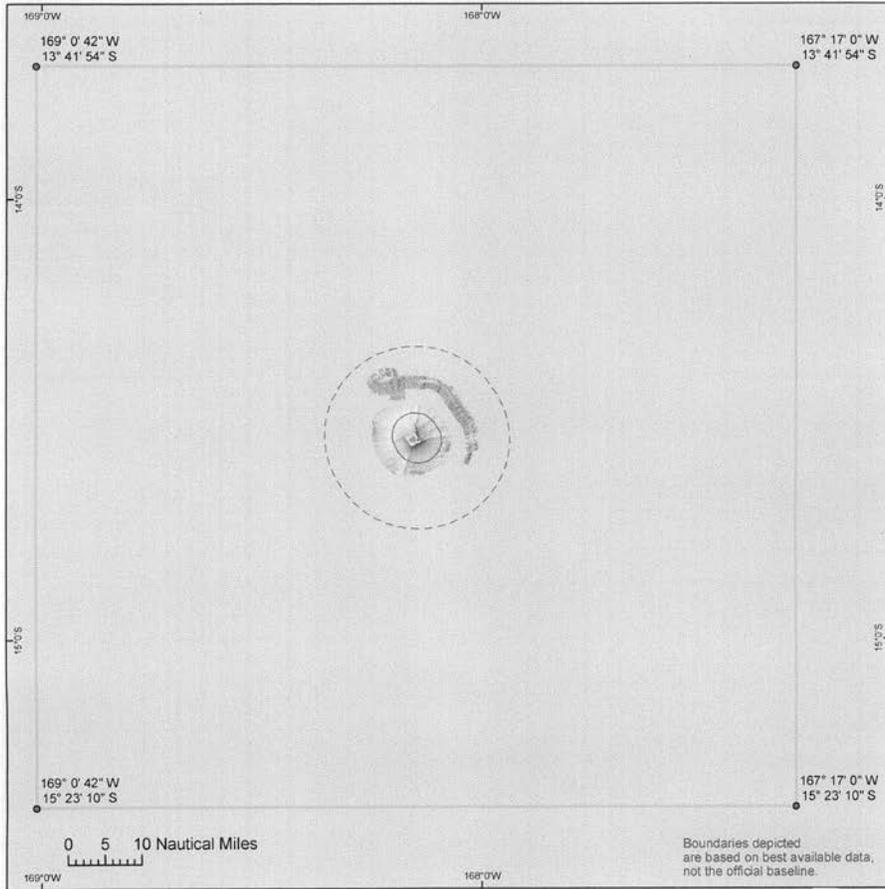
Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be dominant over any other existing Federal withdrawal, reservation, or appropriation.

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.



# Rose Atoll Marine National Monument



[FR Doc. E9-505  
Filed 1-9-09; 8:45 am]  
Billing code 4310-10-C

