

November 29, 1981

Western Pacific Regional Fishery Management  
Council  
33rd Council Meeting  
Molokai, Hawaii

Aloha Chairman Wads and Council:

I am very concerned with the draft entitled  
Hawaiian Monk Seal Recovery Plan, dated November 5, 1981.

The Leeward Islands belong to the State of Hawaii,  
not National Marine Fishery Service or Fish & Game Service  
or the United States of America. The problem with this pro-  
posal is, it is unrealistic, contains little facts, many ifs,  
maybes, etc. Just more rules and regulations set on the  
fishermen and Hawaii's populace.

1. If we go by the 20 fathom mark and boundarys  
that the N.M.F.S. has come up with, this will eliminate all  
fishing within French Frigate Shoals and all islands up to  
20 fathoms, which is ridiculous. The seals are dying of  
cigra & miata poisoning, plus harrassment and killing from  
Coast Guard and military people, etc.

2. French Frigate Shoals could have a good fishing  
fleet of about 5 to 8 small boats to fish akule, ulua, papio,  
weki, moi, aholehole, u'u, reef fish, kona crabs, lobsters,  
deep sea fish, etc. The good grounds for hooking ulua are  
within the 20 fathom mark. The fish could be flown to  
Honolulu twice a week. It could be a nice clean operation  
and would not harm the seals or turtles. The potential for  
aku bait is good and six baits are available, iao being the  
most prominent. Shark fishing is a coming industry and French  
Frigate Shoals would be an ideal place.

It is obvious the Fish and Wild Life Service are  
tagging, weighing, shaking live seals for their stomach  
contents, being on the land is nothing but harrassment.  
The helicopter they use scares the living shit out of the birds,  
seals and turtles often killing many birds, this is illegal  
and uncalled for.

3. I don't believe the W.P.R.F.M.C. should make  
a decision on this matter at this time or any other time for  
this is the State of Hawaii's jurisdiction, not the W.P.R.F.M.C.

This is not just three miles off shore.

4. As a member of the billfish committee and a commercial fisherman who represents over 20 vessels, I'm asking you not to make a decision on this matter until the industry takes a stand.

5. This will just add to more unrealistic regulations, that the Feds are placing on us.

These are the same transit Federal types who are trying to control the W.P.R.F.M.C.'s lobster, billfish and coral plans. I don't believe these N.M.F.S. people can continue to place their standards on the council, for the act is what we must go by, not the N.M.F.S. bureaucrats thinking. A typical example is when the N.M.F.S. got rid of the only two fisherman from Hawaii on the council and replaced them with a bureaucrat, but no knowledgeable fisherman. The W.P.R.F.M.C. is governing our destiny, and yet no local fisherman are involved, isn't this strange.

6. If the W.P.R.F.M.C. approves this Hawaii Monk Seal Recovery plan as is, which is not in your jurisdiction, I will be forced to send in my resignation on the billfish committee, and will have nothing to do with W.P.R.F.M.C. again.

The N.M.F.S. and the Wild Life Service has made turtles illegal to catch in Hawaii. We have a large population of turtles in our archipelago, the green sea turtle is not endangered, but our Hawaiian people are becoming endangered for you are trying to change our lifestyle and survival. My family and my ancestors have eaten turtles and used them in our fishponds for hundreds of years, and yet because these two transit federal agencies say turtles are endangered without sufficient information, we can't catch or eat turtles for our survival, this is our aboriginal rights, our working rights, our cultural rights, and our religious rights. Always remember, America overthrew our Hawaiian Nation in 1893, and we have never been compensated. Never forget this fact.

The Alakans, who are also aboriginal like ourselves, can catch and eat these animals, also the W.P. Islands can catch for survival, but we in Hawaii can't. I believe the precedent has been set. We also were never notified about these public hearings.

W.P.R.F.M.C.  
November 29, 1981  
Page 3

Enclosed is my April 20, 1980 testimony of critical habitat for the Hawaiian Monk Seal in the N.W. Hawaiian Islands. For some background information I'm also enclosing a letter to Doyle Gates (N.M.F.S.) on my reasonable turtle request and his typical N.M.F.S. bureaucratic reply.

Aloha A Nui Loa Kakou,

A handwritten signature in cursive script that reads "Alika Cooper".

ALIKA COOPER & SONS, INC.  
Alika Cooper, Vice President

November 12, 1981

Mr. Doyle Gates  
National Marine Fisheries Service  
P. O. Box 3830  
Honolulu, HI 96812

Dear Doyle:

We are having a problem in one of our fishponds at Kalahuipuaa, Puako, Hawaii. The fishponds are owned by Maunalani Resort and Alika Cooper & Sons, Inc., Manages, stocks and cares for the entire fishpond complex. The problem is, a limu (seaweed) that the duck brought in.

Traditionally, we kept turtles in our fishponds for several reasons. One is to control limu and grass growth, secondly to stir up the shallower area and thirdly to fertilize the ponds. This is a traditional practice that has always been done.

I am asking that I can catch a few turtles to put in the pond to solve this problem.

You realize Doyle, that all the aboriginal populace of the Western Pacific can catch turtles to eat. I can't understand why the aborigine people of Hawaii cannot catch and eat turtle, this has always been done and I feel is part of our aboriginal rights. Turtle is one of the best eating reptiles, for there is no fat in the flesh. We have always had turtle in our fishponds, and used turtles for our survival.

There are a lot of turtles in the Hawaiian archipelago. They breed throughout our island chain and lay their eggs in the Leeward Islands. Turtles are plentiful here on Hawaii.

This turtle matter has been brought to your attention years ago and you (N.M.F.S.) has done nothing about it. I brought it up several times at the W.P.R.F.M.C. Your own lawyer from N.M.F.S. said probably a letter to Washington is all that is needed since the green sea turtle is not endangered in the Hawaiian archipelago.

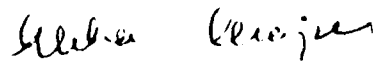
I hope you are going to get on this matter soon. If you don't, as I told you before, a group of us, including an ex-W.P.R.F.M.C. member will catch some turtles and you can have us arrested. I can guarantee you that it will never get

Mr. Doyle Gates  
November 12, 1981  
Page 2

to court and the N.M.F.S. will have egg all over their faces again.

I'll give you 30 days to respond positively to this letter. If I don't hear from you in 30 days, I'll catch the turtles needed for the traditional fishpond problem and also a few to eat.

Aloha A Nui Loa Kakou,



Alikea Cooper

cc: Mr. Susumo Ono  
Mauna Lani Resort, Inc.



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**

Southwest Region  
Western Pacific Program Office  
P. O. Box 3830  
Honolulu, Hawaii 96812

November 24, 1981

F/SWRI:DEG

Mr. Alika Cooper  
163 Kaiulani Street  
Hilo, Hawaii 96720

Dear Alika,

This is in response to your letter of November 12, 1981 regarding a problem you are having in one of your fish ponds at Kalahuipuaa, Puako, Hawaii, and your desire to obtain turtles, protected under the Endangered Species Act of 1973, to resolve the problem. It is my hope that this response will provide you proper guidance to resolve the issue in a legal manner. I have taken the liberty of forwarding your letter and my response to Mr. Alan Ford, Director, Southwest Region, NMFS; Mr. Martin Hochman, Office of General Counsel, Terminal Island, California; Mr. Richard Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D. C., and Mr. Dale Coggeshall, U.S. Fish and Wildlife Service, Honolulu, Hawaii.

I am most sorry to inform you that current regulations regarding threatened and endangered species prohibit the actions you propose. The penalties imposed for criminal violations of these regulations are severe (up to \$20,000 fine, one year imprisonment or both and possible forfeiture of equipment, vessels, vehicles, etc., used to aid in the taking). Please note the marked sections of the Endangered Species Act and the accompanying regulations.

As you know, only Congress can change the terms and conditions contained in the Act. The regulations are subject to change by authorities of the Secretaries of Interior and Commerce. You, as a private citizen may petition the Secretary of Commerce and the Secretary of Interior to change the regulations and if you believe you have a good case you should do so. Such a petition for rulemaking may be addressed to Mr. William Gordon, Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D. C. 20235 and Mr. Robert Jantzen, Director, U.S. Fish and Wildlife Service, Dept. of Interior, 18th and C Streets, NW, Washington, D. C. 20240. Changes in the regulation require good cause, complete documentation and may require many months to accomplish.

It may be possible for you to resolve your problem without attempting to change the regulations by obtaining, through legal means, pre-Act animals (i.e. green turtles legally obtained prior to their listing as threatened species in 1978). A number of public and private institutions in Hawaii, such as Sea Life Park, Kahala Hilton Hotel and possibly the Hawaii Institute of Marine Biology at Coconut Island, may have surplus pre-Act animals available.

I encourage you strongly to investigate these possibilities as a potential solution. You might also consider investigating several of the grazing fish species such as the surgeon fishes (manini, pualu, kole, kala) or mullet, which may resolve the problem without the use of turtles, as you propose.

Alika, I do hope this information is helpful to you and, as I have indicated to you publicly and privately, that whatever you do I sincerely hope you will do it in a legal and lawful manner and that we are not faced with any sort of enforcement action, problem, or confrontation. Please feel free to contact me if you need additional information or clarification of the existing regulation.

Aloha A Nui Loa Kakou.

Sincerely yours, .



Doyle E. Gates  
Administrator

Enclosures

cc: Alan Ford, F/SWR, w/o enclosure  
Martin Hochman, GCSW, w/o enclosure  
Richard Roe, F/MM, w/o enclosure  
Dale Coggeshall, FWS, w/o enclosure  
Susumu Ono, DLNR, w/o enclosure



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE

Southwest Region  
300 South Ferry Street  
Terminal Island, California

DIVISION OF AQUATIC RESOURCES	
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F.W. SEC.	Reply Direct <input type="checkbox"/>
AFRC	Comments <input type="checkbox"/>
SWERDLOFF	Information <input type="checkbox"/>
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December 8, 1981

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DEC 14 1981

Division of  
AQUATIC RESOURCES

Mr. Alika Cooper  
163 Kaulani Street  
Hilo, HI 96720

Dear Alika:

I am writing to respond to the questions raised about green sea turtles in our recent conversation on Molokai. As you know, the final rule listing central and western Pacific populations of green sea turtles as threatened pursuant to the Endangered Species Act permits the taking of green sea turtles by residents of the Trust Territory of the Pacific Islands for ceremonial and subsistence purposes. This exemption to the prohibition of taking green sea turtles was allowed because, during the regulatory review process, the Government of the Trust Territory of the Pacific Islands presented information substantiating the need for a subsistence take and that subsistence taking would not prevent the green sea turtle population from recovering. No such information was submitted by the State of Hawaii or any group or individual representing native Hawaiian's rights.

Responsibility for the management of sea turtles is shared by the National Marine Fisheries Service and the U.S. Fish and Wildlife Service pursuant to a July 18, 1977, Memorandum of Understanding. Therefore, any change in the regulations protecting sea turtles would require agreement by both agencies.

In order to effect a change in the regulations to allow native Hawaiians a ceremonial and subsistence take of green sea turtles, a case would have to be constructed to demonstrate there has been a historical dependence on sea turtles for ceremonial and/or subsistence purposes by native Hawaiians, and that such a take would not disadvantage the affected sea turtle populations. If such information is available, it should be submitted to Mr. William G. Gordon, Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. The Assistant Administrator, in co-ordination with the Director of the U.S. Fish and Wildlife Service, will review the information and consider the proposed change in the regulations.

Sincerely,

Alan W. Ford  
Regional Director

cc: Kenji Ego, Hawaii Fish and Game  
Doyle Gates, NMFS, Honolulu







STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES

1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

December 22, 1981

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Mr. Alan W. Ford  
Regional Director  
U.S. Dept. of Commerce  
N. O. A. A.  
National Marine Fisheries Service  
Southwest Region  
300 South Ferry Street  
Terminal Island, California 90731

Dear Mr. Ford:

We received the copy of your recent response to Mr. Alike Cooper (dated December 8, 1981) concerning the final federal rule listing the green sea turtle as threatened under the Endangered Species Act. In your letter, you mentioned that residents of the Trust Territory of the Pacific Islands were permitted to take green sea turtles for ceremonial and subsistence purposes after presenting information that substantiated the need for subsistence take and that subsistence taking would not have jeopardized the recovery of the green sea turtle population. You also stated that "no such information was submitted by the State of Hawaii...." to support an exception from the prohibition of taking green sea turtles in Hawaiian waters. I take very strong exception to your statement; they are not only misleading but constitute falsehood.

For your information, the State of Hawaii through Governor George R. Ariyoshi did submit detailed comments on three separate occasions (copies enclosed) to the following three federal officials:

- a. Mr. Lynn A. Greenwalt, Director, Fish and Wildlife Service; letter dated July 17, 1975
- b. Mr. Harvey M. Hutchings, Acting Associate Director for Resource Management, N.O.A.A.; letter dated December 10, 1975
- c. Mr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Office of Environmental Affairs; letter dated April 1, 1976.

Mr. Ford  
Page Two  
December 22, 1981

You will note that in response to Mr. Galler's request for comments on the Draft Environmental Impact Statement, our Governor strongly endorsed "Alternative 7 - Allow Subsistence Fishing in Areas of Traditional Sea Turtle Fisheries". The basis for this position was that we were already actively managing the turtle resource through a State regulation which provided adequate and effective protection to a discrete and geographically distinct population of green sea turtles. Our regulation (copy enclosed), which was then effective, allowed the limited and controlled non-commercial harvest for traditional subsistence use and required the collection of harvest data through a permit system.

To further substantiate to you our claim that we indeed did transmit our objections relating to the proposed listing of green sea turtle as "threatened" with attendant preemption of State authority, we refer you to the enclosed copies of selected pages from the Federal Register, Vol. 43, No. 146, Friday, July 28, 1979. You will note that on page 32801 our Governor supported an exemption for subsistence fishing. Further, we note on page 32806 that the exemption was not granted to Hawaii's residents for the following reasons: "NMFS and FWS have concern over increased takings and sale of turtle shell and other products to tourists in Hawaii" and "...because there are alternative food sources available in Hawaii." This rationale apparently overlooked the fact that, since May of 1974, Hawaii's Division of Fish and Game Regulation 36 had prohibited commercial taking from State waters of green sea turtles for sale or offer for sale in whole or part or products thereof. The State Regulation had also established a permit system whereby all turtle products that were on hand prior to the effective date could be sold after inventory lists (with affidavits) had been verified. With respect to the mentioned alternative food sources, no one, including residents of the Trust Territory of the Pacific Islands can claim absolutely to lack available food sources that are alternatives to the green sea turtle. We were thus left with the distasteful feeling of having received unfair treatment from the federal bureaucracy.

We recognize that our case for retaining appropriate management of the Hawaiian green sea turtle population at the local level became moot with establishment of the final federal rules and regulations that designated the green sea turtles as "threatened" species. Nevertheless, we view your remarks to Mr. Cooper as implying that we were irresponsible, unconcerned, and nonchalant about this entire issue. Nothing can be further from the truth.

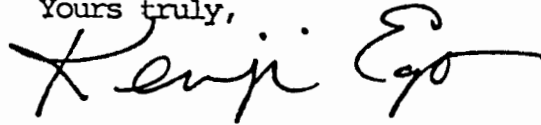
While on Molokai, on the night of December 1, 1981, when you, Mr. Cooper and I met to discuss green sea turtles, I distinctly recall you promising Mr. Cooper that you will look into the possibility of his utilizing green sea turtles to enhance his aquacultural activities. I recall Mr. Cooper mentioning that traditionally the Hawaiians utilized turtles in their fish ponds for the grazing of the courser vegetation which are not utilized by fin-fishes and which, if not controlled, can choke out open water, that the fecal wastes from the turtles promote fertilization of the pond and that the stirring of the pond bottom by turtles aid in maintaining the pond depth and also increases diatom production needed for mullet culture. Are we to assume that your letter of December 8, 1981 constitutes the final response to Mr. Cooper's inquiry relating to turtles and aquaculture? If, in the affirmative, I can readily understand Mr. Cooper's past expressions of bitterness, mistrust and charge of lack of credibility.

Mr. Ford  
Page Three  
December 22, 1981

Furthermore, in reading the last paragraph of your December 8, 1981 letter, I get the uneasy feeling that our Hawaiian people and the State of Hawaii would be required to scramble around to build "a case" for purposes of changing the regulation while those in the federal government sit back with arms folded awaiting to evaluate "information" only at the Washington, D. C. level. Are you forgetting that it was the federal government that listed the green sea turtle as "threatened" and promulgated the regulation over the strenuous objections of the State of Hawaii? Should not the perpetrator resolve the problem, if, redress is required? Would not doing so constitute "arrogance of government"?

Since, at my level, I despair of ever resolving the problem, I am passing it along as indicated below.

Yours truly,



KENJI EGO, Director  
Division of Aquatic Resources

KE:fc

cc: Governor George R. Ariyoshi  
Senator Daniel Inouye  
Senator Spark Matsunaga  
U.S. Representative Dan Akaka  
U.S. Representative Cec Heftel  
Alika Cooper  
Susumu Ono  
William Gordon  
Doyle Gates  
Dale Coggeshall

encls.



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
P. O. BOX 621  
HONOLULU, HAWAII 96809

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WATER AND LAND DEVELOPMENT

MEMORANDUM

TO: Honorable George R. Ariyoshi  
Governor, State of Hawaii

FROM: Susumu Ono, Chairman and Member  
Board of Land and Natural Resources

SUBJECT: Green Sea Turtle

Enclosed are copies of Alan Ford's letter addressed to Alike Cooper and Kenji Ego's response to Ford. Also enclosed are other pertinent materials including three letters you had written to various federal officials on the subject matter.

At the time that the federal government was pushing to list the green sea turtle as "threatened", staff of our Department predicted that serious problems will arise with preemption by the federal government of State's authority to manage the turtle resource. Now that the matter is coming to a "boil", you will notice that Ford is attempting to fault the State by wrongly claiming that we did not react during the process of rule making.

We also object strenuously to Ford's attempt to shunt the burden of rectifying the problem, should redress be necessary, unto Hawaii's people and the State when, in actuality, they should be taking the lead.

I do realize that Kenji did use some strong words in his response to Ford but in view of the frustrations and strong feelings generated on the matter, I can empathize with him.

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SUSUMU ONO, Chairman and Member  
Board of Land and Natural Resources

Attachments

Commercial Fishing  
Wholesale, Retail  
Demographic Research  
Aquaculture  
Import & Export

ALIKA COOPER & SONS, INCORPORATED

163 Kaiulani Street  
Hilo, Hawaii 96720

January 5, 1981

Mr. Alan Ford  
Regional Director  
U.S. Dept. of Commerce N.O.A.A.  
National Marine Fisheries Service  
Southwest Region  
300 South Ferry Street  
Terminal Island, CA 90731

Dear Alan:

Kenji Ego sent me a copy of your December 8, 1981 letter. For some reason, I never received your original letter, but now I will reply.

The question in my letter to Dole Gates and to you on Molokai, December 1, 1981, was two fold. One for securing more turtles to take care of a limu problem in Mauna Lani fishponds, which Alika Cooper & Sons, Inc., a Hawaiian Corporation, owned by Hawaiians, manages, maintains, stocks and controls. The second was to open turtle catching in traditional Hawaiian manners as our ancestors have always done for subsistence, survival, medicine, etc.

Again, I feel I'm getting the run around, for it is not my job or the Hawaiians to document or construct that there has been a historical dependence on turtles for subsistence and medical purposes by Hawaiians. This is a fact and most Hawaiians know this. The problem is that N.M.F.S. and Fish and Wild Life have always been headed by mainland transit whites who have not done their homework, have very little credibility with the Hawaiians and the Hawaiian populace. When these public hearings came up, the N.M.F.S., Fish & Game, National Park, etc. knew we were fisherman, Hawaiians and yet we were never contacted to testify. Traditionally, this always happens. When the Freedom of Religion Act of 1978 was passed, and these groups had only one public hearing in Honolulu, which no practicing Hawaiian religious people were contacted. Few Hawaiian organizations and few knowledgeable Hawaiians were contacted. Enclosed is my written comments.

I'm in full agreement with Kenji Ego's reply to you dated December 22, 1981. I believe you must carry the ball now, not the Hawaiians, the State or myself.

My aboriginal rights include catching turtles in a traditional manner, using them for limu control in our fishponds, eating turtle for subsistence and medicine, etc.

Mr. Alan Ford  
January 5, 1982  
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If this matter isn't worked out on your end soon, I'll be forced to catch enough turtles in the traditional Hawaiian manner for use in our fishponds and for subsistence as we have always done. I can't find any substitute taste for turtle.

At present, many people have asked if they can participate in catching the turtles for the fishpond and subsistence, for this matter must be settled once and for all. Some of these interested Hawaiians include Hawaii Senators, medical doctors, attorneys, ex-members of the W.P.F.M.C., members from the Governor's Fisheries Council, many old time fisherman, subsistant fisherman, activist, the press and U.P.I., etc. I'm sure that this will make national press coverage.

A precedence has already been set by the Alaskan Indians, Aleuts, Alaskans, the American Indians, Western Pacific, etc. Since it is impossible to separate religion with the daily activities in the past, the Freedom of Religion Act of 1978 will be used, for these are our aboriginal rights.

Do to another bad decision by N.M.F.S. and Fish & Wild Life, ignoring Governor George Ariyoshi and the State of Hawaii's request and depriving us of our aboriginal rights to catch turtles which is a traditonal practice, we have no alternative but to pursue this issue.

We have done well in the courts fighting for our aboriginal rights, we haven't lost a case yet. The longest and biggest trial we had was against Laurance Rockafellow, Olohana Corp., Mana Kea Beach Hotel (for use of Hawaiian trails traditionally used for fishing, etc.). This trial took eight years and we ended up with parking, restroom facilities and everyone could use these trails now, completely maintained by the land owners.

Alan, because the precedence has been set by other aboriginal Native Americans and traditionally this was our aboriginal rights, for we have used turtles for hundreds of years in fishponds, for subsistence, for medicine, etc., and your people did not do their homework properly, we would win this case very easily in the Federal Court. We would also request Judge George Bolt from Washington to Preside.

Mr. Alan Ford  
January 5, 1982  
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I appreciate if this matter can be resolved prior to going to court, please keep me informed, for the turtle issue is in your hands. See you in Saipan.

Aloha A Nui Loa Kakou,

*Alika*

ALIKA COOPER, Vice-President

cc: Governor George R. Ariyoshi  
Senator Spark Matsunaga  
Senator Daniel Inouye  
U.S. Representative Dan Akaka  
U.S. Representative Cec Heftell  
Susumo Ono, Chairman, Dept. of Land & Natural Resources  
Frank Goto, United Fishing Agency  
Dr. Emmett Aluli  
Dr. Scott Miles  
Senator Daunty Carpenter  
Lewis Agard, W.P.F.M.C.  
Wads Yee, Chairman, W.P.F.M.C.  
Doyle Gates, N.M.F.S.  
Dale Coggeshall, U.S. Fish & Wild Life Service  
William Gordon N.M.F.S.  
Asst. Adm. for Fisheries  
Frenchie DeSoto, O.H.A.  
Walter Ritty, O.H.A.  
Genesis LeeLoy  
Bill Yalop



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration** *mer*  
 NATIONAL MARINE FISHERIES SERVICE *1/3/8*

Southwest Region  
 300 South Ferry Street  
 Terminal Island, California 90731

January 21, 1982

F/SWR31:JHL  
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Mr. Alika Cooper  
 Alika Cooper and Sons, Incorporated  
 163 Kaiulani Street  
 Hilo, Hawaii 96720

Dear Alika,

In response to your January 5, 1982, letter we have reviewed the administrative record for listing sea turtles under the Endangered Species Act. We found that the State of Hawaii objected to the listing of the Hawaiian population because they believed that, although the population had declined, it was granted adequate protection by Department of Land and Natural Resources' regulations. We were unable to find any specific request for a subsistence and/or ceremonial take for the conservation of aboriginal rights.

We agree that if new information is available or if pertinent information was not considered during the rulemaking process, we and the U.S. Fish and Wildlife Service (USFWS) share a responsibility to open the record and review that information. In light of your request, and similar one that we have received from Guam, we will propose to USFWS that we open the record and consider anew the issue of subsistence taking of sea turtles in Hawaii, Guam, Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

We believe an appropriate method of conducting this review would be to establish a working group comprising representatives from National Marine Fisheries Service (NMFS), USFWS, and the governments of the State of Hawaii, Guam, Northern Mariana Islands, and Districts within the Trust Territory. This group could collect information through public meetings and consultations with individuals, organizations, and scientists. They could then formulate a position and make a recommendation to NMFS and USFWS regarding appropriate action to take on the aboriginal rights issue.

The timing for formation of such a group is right. The Endangered Species Act requires that a review of the status of each of the species population on the list of threatened and endangered species be conducted at least once every five years (Section 4(c)(4)). Sea turtle populations are scheduled for review in 1983. The formation of a working group would do much to expedite the status review, and the status review would be an appropriate forum for proposing changes in the regulations.





If the USFWS agrees with our proposal, we will contact State and Territorial governments regarding formation of a working group, development of a meeting schedule, and a schedule for the formulation of a position on the issue of aboriginal taking of sea turtles.

I realize this does little to resolve your immediate problems, but we are dealing with a rather lengthy administrative process confounded by the involvement of two Federal bureaucracies. Therefore, I request that you be patient and work within the system to resolve the issues you have raised.

Sincerely yours,



Alan W. Ford  
Regional Director

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES

1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

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EDGAR A. HAMASU  
DEPUTY TO THE CHAIRMAN

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FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

February 11, 1982

Mr. Alan W. Ford, Regional Director  
National Marine Fisheries Service  
Southwest Region  
National Oceanic and Atmospheric  
Administration  
U.S. Department of Commerce  
300 South Ferry Street  
Terminal Island, CA 90731

Dear Mr. Ford:

This responds to your letter of January 21, 1982 to me regarding your explanation of prior correspondence with Mr. Alika Cooper of Hilo, Hawaii and Mr. Kenji Ego on the taking of green sea turtles in Hawaii.

It is my understanding that the informal discussion between you, Alika Cooper and Kenji Ego did not exclusively focus on aboriginal and Hawaiian rights to taking green sea turtles. Also discussed were the rights and privileges of the general public, and Mr. Cooper's requested use of green sea turtles for aquaculture purposes. Your December 8, 1981 letter to Mr. Cooper appears not to adequately respond to these matters; instead, it leaves an impression that the State of Hawaii appears derelict in not attempting to retain non-commercial green sea turtle harvesting rights of the people. Further, I would like to point out an erroneous statement that appears in your recent letters to Alika Cooper and me, whereby you indicate that it was the "State's belief that although the population had declined the sea turtle population was receiving adequate protection under Regulation 36." We question this statement; we have and continue to maintain that the Hawaiian green sea turtle stock has never been believed to have declined and does not warrant "threatened" status. We therefore pointed out that at the time of its listing as threatened, Hawaii's stock of turtles was being adequately managed under our Regulation 36 which established controls such as minimum size for taking, and most importantly implemented a permit system for collecting data on green sea turtle harvest.

In any case, we understand that you are proposing to the U.S. Fish and Wildlife Service (FWS), to "open the record" for considering subsistence taking of green sea turtles in the Pacific Islands. The proposed review would be conducted through formation of a working group comprised of representatives from NMFS, FWS and the Pacific Islands (Hawaii, Guam, American Samoa,

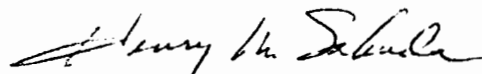
Mr. Alan W. Ford  
February 11, 1982  
Page 2

Commonwealth of the Northern Mariana Islands and Districts of the Trust Territory). You also state that the review would serve not only to consider allowing subsistence taking of Hawaiian green sea turtles, but also as the five-year review of the "threatened" classification of the green sea turtle, as required by Section 4(c)(4) of the Endangered Species Act.

As to the above, we concur that the formation of a working group is an appropriate mechanism for addressing the matter, and stand ready to participate in the review. The holding of meetings to solicit public comment, however, should be conducted jointly by the NMFS and FWS which agencies are legally responsible to the Endangered Species Act. Such public input should then be referred to the working group for their consideration and recommendation to the NMFS and FWS.

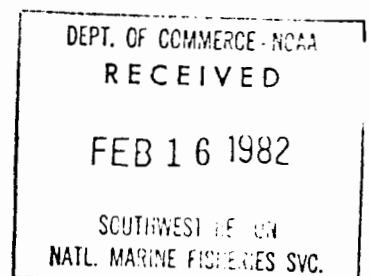
In closing, may I emphasize that we are definitely interested in working toward rectifying the above situation and propose that we establish an ongoing working relationship. We gratefully acknowledge your correspondence and look forward to working toward a resolution on this matter.

Yours truly,



HENRY M. SAKUDA, Director  
Division of Aquatic Resources

HMS:rfm





UNITED STATES DEPARTMENT OF COMMERCE  
 National Oceanic and Atmospheric Administration  
 NATIONAL MARINE FISHERIES SERVICE  
 Southwest Region  
 300 South Ferry Street  
 Terminal Island, California 90731

February 17, 1982

2/24/82

F/SWR:AWF
DES
JNI
PAM
HEW
WCS
SLA
MCS
GKH

Henry M. Sakuda  
 Director  
 Division of Aquatic Resources  
 State of Hawaii  
 1151 Punchbowl Street  
 Honolulu, HI 96813

Dear Henry:

I was delighted to receive your letter of February 11 because I noted that "acting" is no longer a part of your title. Congratulations!

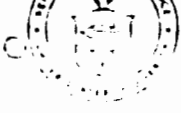
With regard to turtles, we are anxious to work together with you to try to resolve the problem. I am awaiting a reply from the Fish and Wildlife Service to our proposal for the immediate formation of a working group. As soon as we have heard from them, we will be in touch with you.

Sincerely yours,

Alan W. Ford  
 Regional Director

bc:  
 F/SWR1-Gates w/inc.  
 F/SWR3-Smith w/inc.





UNITED STATES DEPARTMENT OF COMMERCE  
 National Oceanic and Atmospheric Administration  
 NATIONAL MARINE FISHERIES SERVICE  
 Southwest Region  
 300 South Ferry Street  
 Terminal Island, California 90731

February 12, 1982 F/SWR31:JHL/  
 F/SWR3:JGS  
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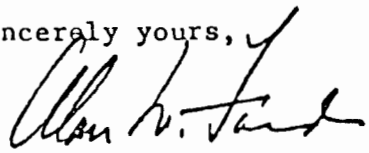
Mr. Richard J. Myshak  
 Regional Director  
 Fish and Wildlife Service  
 500 N.E. Multnomah Street, Room 1600  
 Portland, OR 97232

Dear Mr. Myshak:

We have received the enclosed correspondence from Guam and Hawaii requesting a review of endangered species regulations which limit the subsistence take of green sea turtles to the Trust Territory of the Pacific Islands (TTPI). Since the National Marine Fisheries Service and Fish and Wildlife Service share the responsibility for endangered sea turtles, I am requesting that we advise the appropriate agencies in Hawaii, Guam, Northern Mariana Islands and the TTPI of our intent to undertake a review of the status of sea turtle populations and the subsistence uses of sea turtles throughout the Pacific area.

With your concurrence, I will ask our Western Pacific Program Office Administrator, Mr. Doyle Gates to contact his counterpart on your staff to formulate a plan for our approval on how best to undertake the review. I consider this review as an opportunity to facilitate satisfying the requirement for a 5-year review of the status of listed species which must be completed for sea turtles in 1983. By beginning this effort now, we should be able to obtain the full cooperation of the various island entities, coordinate meetings and information gathering with other scheduled travel in the area and complete the status review in a cost effective and responsive manner in early 1983.

We would appreciate your concurrence and cooperation in this matter.

Sincerely yours,  
  
 Alan W. Ford  
 Regional Director

Enclosures

cc:(w/o encl)  
 F/SWR1, D. Gates

