

## REGULATION RELATING TO THE PROTECTION OF MARINE TURTLES.

Section 1. It shall be unlawful to mutilate, injure, take, kill, possess, disturb, sell or offer to sell leatherback turtles (Dermochelys sp.), hawksbill turtles (Eretmochelys sp.) and green sea turtles (Chelonia sp.) or any parts thereof or the eggs or nests thereof from or within the State of Hawaii and waters subject to its jurisdiction, except as provided in Sections 2 and 4 of this regulation.

Section 2. It shall be lawful with a permit issued by the Board of Land and Natural Resources to:

- A. Take or possess marine turtles or their eggs for scientific, educational or propagational purposes.
- B. Take or possess green sea turtles for home consumption from the waters surrounding the eight major islands (Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai and Niihau) provided that the upper shell length is 36 inches or more (straight line measurement) and provided further that the turtle may be gutted and/or cut up into not more than five parts with one of the parts being the whole upper shell with the entire head attached and all parts shall be kept together until the permittee leaves the shore area for his home.
- C. Possess or sell the eggs or offspring of captive green sea turtles or products thereof.
- D. Possess with intent to sell or to sell marine turtles or products thereof acquired prior to the effective date of this regulation.

Section 3. It shall be unlawful to use nets for the taking of green sea turtles.

Section 4. Nothing in Section 1 shall be construed as making it unlawful for any person to possess for purposes other than sale marine turtles or products thereof acquired prior to the effective date of this regulation.

Section 5. Any person violating the provisions of this regulation shall be fined not more than \$500 as provided in Section 187-20, Hawaii Revised Statutes.



EXECUTIVE CHAMBERS

HONOLULU

GEORGE R. ARIYOSHI  
GOVERNOR

June 15, 1983

Ms. Hilde K. Cherry  
1265 Palolo Avenue  
Honolulu, Hawaii 96816

Dear Ms. Cherry:

Thank you for your letter of May 8, 1983, regarding special hunting or fishing privileges for particular ethnic groups.

No laws or rules have ever been adopted which grant any racial group an exemption from our fish and wildlife restrictions.

As to my feelings on adopting such exemptions, I believe that all citizens should be treated equally, regardless of racial extraction.

I appreciate your taking the time to share your thoughts with me.

With warm personal regards, I remain,

Yours very truly,

  
George R. Ariyoshi

Deficiencies by the National Marine Fisheries Service and the Fish and Wildlife Service in protecting and recovering sea turtles in the Southwest Region listed under the Endangered Species Act in 1978

1. No Recovery Team appointed-- no known plans to appoint one.
2. No Recovery Plan prepared or in the process of being prepared-- no known plans to prepare one.
3. No Critical Habitat designations or active proposals to designate Critical Habitat. A preliminary proposal prepared by the Fish and Wildlife Service to designate certain nesting beaches as Critical Habitat for the green sea turtle has been shelved indefinitely.
4. No State-Federal Cooperative Agreements in effect, or under negotiation, to promote the protection, research and recovery of sea turtles.
5. Weak and in many cases virtually no enforcement of protective regulations. In the 5 years since the listing, how many violators have been apprehended, and how many of these have been prosecuted? In the State of Hawaii there are apparently no efforts by federal personnel to encourage state game wardens to enforce their own wildlife law which has given full protection to the green sea turtle since 1982.
6. No efforts to identify the scope and magnitude of commercial fishery impacts, such as from tuna purse seining by U.S. vessels off Central America.
7. No efforts to quantify the occurrence of sea turtles off Southern California.
8. Apparent efforts to actually encourage certain commercial fishermen to challenge protective regulations in order to redefine "subsistence", thereby possibly bringing about a greater take of listed sea turtles. Subsistence take of green sea turtles is currently only allowed "...by residents of the Trust Territory of the Pacific Islands if such taking is customary, traditional and necessary for the sustenance of such resident and his immediate family."
9. Associated with the above (#8) is the recent decision to expend funds to hold "public hearings" on "subsistence" on all of the Hawaiian Islands, as well as in Guam, Samoa, and the Trust Territory. There is no justifiable reason for doing so, since no petition containing substantive information is known to have been filed from government or public constituents of these areas. These public hearing are likely to confuse the public on the current need to protect listed sea turtles. No such hearings are known to be planned for the southwest region and U.S. Caribbean islands.
10. No informational or educational programs have been implemented to enhance protection and recovery. There have been virtually no efforts to promote public support. Contrast this with existing programs for gray whales, monk seals, humpback whales, Hawaiian forest birds, and other listed species in the southwest region.

Considering the above 10 points, one could conclude that the agencies themselves are at least in part responsible for the continued endangerment of sea turtles in the southwest administrative region. Contrast this with the 5-year record of mostly positive action carried out on behalf of sea turtles in the southeast region.

Governor George R. Ariyoshi  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Hilde K. Cherry  
1265 Palolo ave.  
Honolulu, Hawaii  
96816.

May 8, 1983.

Dear Governor Ariyoshi,

I am writing to ask you for some clarification on some questions that have puzzled me.

Have there ever been any laws or regulations of the State of Hawaii relating to Wildlife or Fisheries which give special privileges to an ethnic group, such as people of Hawaiian ancestry? Are there any such laws in effect at the present time?

If there are no such laws on the books now, does your Administration feel that it would be appropriate to have any such "exemptions", or otherwise less stringent <sup>wild</sup> ~~wildlife~~ and Fisheries laws for Hawaiians? If so, what percentage of Hawaiian blood would qualify? How would a State conservation officer determine this eligibility? <sup>for an exemption?</sup>

I look forward to hearing your views on this complicated subject.

Mahalo and Aloha

Hilde K. Cherry

## NOTICE OF PUBLIC HEARING

Pursuant to provisions of Chapter 91, Hawaii Revised Statutes, and all other laws applicable thereto, public hearings will be conducted by the Board of Land and Natural Resources to afford all interested parties the opportunity to submit oral and written data, views, arguments, or other testimonies relating to the repeal of existing fisheries-related Division of Fish and Game Regulations (rules), including certain obsolete and inactive Regulations, Special Permit Rules and a Declaration, and the adoption of Administrative Rules relating to fisheries. The proposal will: (1) meet the uniform format requirements of Section 91-4.2, HRS, and publication requirements of Section 91-5, HRS (as mandated by Act 216, SLH 1979); (2) allow updating of existing provisions to conform with current laws; (3) meet existing needs for management, conservation and development of the State's fisheries resources; and (4) achieve consistency, and lessen confusion and misunderstanding. The proposed Administrative Rules are basically the existing Regulations (rules), updated as necessary, and do not include any new rules.

The proposed adoption of the Administrative Rules relating to fisheries, under Title 13 (Department of Land and Natural Resources), Subtitle 4 (Fisheries), involves amendment, conversion and renumbering of 31 of the 33 existing fisheries-related Regulations. Summaries of the changes for each Part are as follows:

**Part I—Marine Life Conservation Districts ("MLCD").** The districts include Hanauma Bay (Oahu); Kealahou Bay (Hawaii); Manele-Hulopoe (Lanai); Molokini Shoal (Maui); Honolulu-Mokuleia Bay (Maui); and Lapakahi (Hawaii). Substantive amendments to all MLCD rules include: (1) To allow possession of personal safety devices; and (2) The inclusion of a proviso to revoke permits that allow prohibited activities.

**Part II—Marine Fisheries Management Areas.** The areas include Leeward (Northwestern) Hawaiian Islands; Hilo Bay, Waioa River and Wailuku River (Hawaii); Waikiki-Diamond Head (Oahu); Hanamaulu Bay and Ahukini Recreational Fishing Pier (Kauai); and Waimea Bay and Waimea Recreational Fishing Pier (Kauai). Substantive amendments are proposed only to the rule affecting the Leeward (Northwestern) Hawaiian Islands which include: (1) The current definition of the area; (2) Provisions to allow the taking and sale of certain fishes or the use of certain gear which may be regulated elsewhere in the State through permit conditions (formerly only spiny lobster and mullet, and the use of non-portable or large-sized traps were identified); and (3) Inclusion of a proviso to revoke such permits.

**Part III—Freshwater Fisheries Management Areas.** The areas include the Nuuanu Fish Refuge (Oahu); and the Wahiawa (Oahu), Waiakea (Hawaii) and Kokee (Kauai) Public Fishing Areas. Substantive amendments proposed include: (1) Deleting the defunct "Honolulu Bait Station, Oahu" as a refuge making the rule applicable only to Nuuanu Freshwater Fish Refuge; (2) Combining two regulations applicable to the Wahiawa Public Fishing Area; and (3) Inclusion of a proviso to revoke permits that allow prohibited or other activities (group fishing for minors).

**Part IV—Fisheries Resource Management.** Includes license requirements for possession and sale of certain imported fishes and products, and certain baitfishes. Substantive amendments are proposed only to the rule affecting baitfishes by the inclusion of a proviso to revoke bait licenses, consistent with current laws.

**Part V—Protected Marine Fisheries Resources.** Includes management provisions affecting fisheries resources (shellfishes; samoan crab; clam; octopus; ulua; papio and omilu; moi and moi-lili; and oama; spiny lobster or ula; nehu; pink and gold corals; and ophi). Various substantive amendments are proposed to conform with current laws such as: (1) Deletion reference to management authority in areas outside the State (Kingman Reef and Palmyra Island); (2) Taking of samoan crab by non-citizens; and (3) Meeting existing management and conservation needs (extension of bag and/or size limits to all areas of the State for octopus, ulua; papio and omilu, and moi, moi-lili and oama; prohibition against taking berried samoan crab; and identification of clam and modification of the clam season provisions).

**Part VI—Protected Freshwater Fisheries Resources.** Presently includes management provisions for introduced freshwater game fishes. No substantive amendments are proposed in this part.

Also proposed is the repeal of obsolete and inactive Division of Fish and Game regulations affecting marine turtles and freshwater fish reserves, refuges and public fishing areas, including five Special Permit Rules and a Declaration issued for certain freshwater areas to conform with current laws and practices.

Public hearings are scheduled to begin at 7:00 p.m., or shortly thereafter, at the following locations:

**OAHU**—Monday evening, March 9, 1981 at the State Office Building, Board of Land and Natural Resources Board Room, 1151 Punchbowl Street, Room 132, Honolulu.

**HAWAII**—Wednesday evening, March 11, 1981 at the Hawaii County Council Board Room, 25 Aupuni Street, Hilo.

**MAUI**—Thursday evening, March 12, 1981 at the Maui Community College Lecture Hall 10-A, 310 Kaahumanu Avenue, Kahului.

**KAUAI**—Monday evening, March 16, 1981 at the State Office Building Conference Room, 3060 Eiwa Street, Lihue.

Copies of the proposed Administrative Rules relating to fisheries under Title 13, Subtitle 4, and the existing fisheries related Division of Fish and Game Regulations, Special Permit Rules and the Declaration are available for public inspection and reading at the Department of Land and Natural Resources, Division of Fish and Game, 1151 Punchbowl Street, Room 330, Honolulu, Oahu; or at the District Office of the Department of Land and Natural Resources or Division of Conservation and Resources Enforcement located at Hilo, Hawaii, Wailuku, Maui, Lihue, Kauai, Hoolehua, Molokai and Lanai City, Lanai.

All interested parties are urged to attend the public hearings and present oral and written testimonies. The Board of Land and Natural Resources will also receive testimonies should anyone not be able to attend the scheduled hearings or wish to offer additional testimonies until March 31, 1981, at its principal office located at the Kalaninimoku Building, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

BOARD OF LAND AND NATURAL  
RESOURCES  
SUSUMO ONO

Chairman and Member

(Hon. S.-B.; & Adv.: Feb. 15, 1981)

(A-23762)



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

April 3, 1981

Dr. George H. Balazs  
Assistant Marine Biologist  
Hawaii Institute of Marine  
Biology  
P. O. Box 1346  
Kaneohe, HI 96744

Dear Dr. Balazs:

We thank you for your continuing interest in our activities and in the welfare of the State. This is in response to your letter of March 20, 1981, regarding State protection of the green sea turtle, Chelonia mydas.

Very truly yours,

To answer your first question, your understanding is correct that we propose to repeal Regulation 36, "Relating to the Protection of Marine Turtles," and to adopt a new Administrative Rule, Chapter 124 of Title 13, "Relating to the Management and Protection of Indigenous Wildlife, Endangered and Threatened Wildlife and Plants, and Introduced Wild Birds." Section 13-124-3(a) of Chapter 124 would prohibit attempting to, or disturbing, catching, injuring, killing, possessing, transporting, exporting, processing, selling or offering for sale any threatened species of wildlife. Section 13-124-2 would define "wildlife" as any non-domestic species of the animal kingdom, specifically including reptiles, and would define "threatened species" as any so determined by the Federal government or so listed (by the State) in an attached Exhibit. We have proposed that the Exhibit include the green sea turtle, to be listed as threatened throughout its entire range. Section 13-124-3(b) would specifically prohibit removal, damage, or disturbance of the nest of any threatened turtle.

Also being proposed to the Legislature through our Administrative Proposal L-17(81) (House Bill 764) is an amendment of Chapter 195D, Hawaii Revised Statutes (HRS). Our proposed amendment would alter existing references to "birds and mammals" to read "wildlife;" such changes would include all indigenous animal species, such as our green sea turtles, among those organisms which the State would by law make special efforts to conserve.

Dr. George H. Balazs  
April 3, 1981  
Page Two

We trust these actions will assure you that we fully share your concern over the welfare of our green sea turtles. We would welcome any support you may wish to lend to our endeavors on their behalf.

With regard to your question about the scheduling of repeal and adoption of the Regulation and Rules, we consider the issue moot for reasons of enforceability. Please be apprised that your advice regarding Section 2 of the existing Regulation 36 is precisely the position which has been taken by our Enforcement Division. Unfortunately, with only one case of an undersize turtle which does not clearly apply to whether permits are valid, the courts have ruled to the contrary. Thus, making our legal position with respect to Regulation 36 tenuous, at best, and we see no useful purpose in making special efforts to prolong its existence. We believe our present course of doing all that we can to adopt Chapter 124 (Administrative Rules) and to encourage the Legislature to amend Chapter 195D (HRS) will be of the greatest benefit to our green sea turtles and is therefore in the best public interest.

We thank you for your continuing interest in our activities and in the welfare of the turtles.

Very truly yours,



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



DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF FISH AND GAME  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813  
June 4, 1980

Ms. Hilding K. Cherry  
2115 Rocky Hill Place  
Honolulu, Hawaii 96822

Dear Ms. Cherry:

Your letter of May 13, 1980 to the Honorable Wayne Minami, State Attorney General, concerning amendments to our Department of Land and Natural Resources, Division of Fish and Game Regulation 36 (Relating to the Protection of Marine Turtles) was referred to our agency for response.

As you may be aware, provisions of Regulation 36, effective since May 30, 1974, only allowed the limited taking of green sea turtles in the waters of the main Hawaiian Islands. However, Federal rulemaking which subsequently designated the green sea turtle as a "threatened" species pursuant to the Endangered Species Act of 1973 (the other species of sea turtles occurring in Hawaiian waters are already protected under the Act) and its attendant rules and regulations which became effective September 6, 1978, pre-empted Regulation 36 and much of our jurisdiction over management of the green sea turtle. Hence, the green sea turtles are now under protection of the federal Endangered Species Act.

Whatever changes we propose for Regulation 36 would be for purposes of attaining consistency with Federal Laws. As you surmised, such changes must be subjected to public hearing prior to adoption.

Thank you for expressing your interest and concern for the protection of the Hawaiian sea turtles.

Sincerely,  
Handwritten signature of Kenji Ego in cursive script.

KENJI EGO, Director  
Division of Fish and Game

EO:nn



April 1, 1976

Mr. Sidney R. Galler  
Deputy Assistant Secretary for  
Environmental Affairs  
Office of Environmental Affairs  
U. S. Department of Commerce  
Washington, D. C. 20230

Dear Mr. Galler:

Thank you for your letter and the copy of the Draft Environmental Impact Statement (DEIS) on the "Proposed Listing of the Green Sea Turtle (Chelonia mydas), Loggerhead Sea Turtle (Caretta caretta), and Pacific Ridley Sea Turtle (Lepidochelys olivacea) as Threatened Species Under the Endangered Species Act of 1973."

You probably are aware from our previous comments on this proposed measure that the State of Hawaii, cognizant of the "declining trend" of the Hawaiian marine turtle population, promulgated a regulation in May, 1974, which totally protected the Leatherback and Hawksbill Turtles while permitting the very limited and controlled harvesting of the Green Sea Turtle for home use only. These comments remain applicable.

While we do share your concern for the Green Sea Turtle, we sincerely feel that the regulation which we have promulgated for the conservation of our discrete population of Green Sea Turtles is providing adequate and effective protection. For example, since this regulation was effected in May of 1974, the commercial harvest of Green Sea Turtle from Hawaiian waters has been eliminated. In addition, only 18 Green Sea Turtles ranging in size from 36 to 42 inches have been reportedly taken for home use. The apprehension and issuance of several citations against violators of the regulation also attest to the practicability of our measure.

Mr. Sidney R. Galler  
Page Two  
April 1, 1976

We therefore strongly endorse "Alternative 7. - Allow Subsistence Fishing in Areas of Traditional Sea Turtle Fisheries" for the Hawaiian Green Sea Turtles, which appears on page 89 of the DEIS; and we recommend its inclusion within the final regulation since we are confident that the restrictive provisions contained within our regulation are accomplishing protection for the species.

Other specific comments we have on the DEIS are as follows:

1. P. 10, line 1; P. 25, line 1. These sections only briefly and in passing mention that Hawaii allows the taking of sea turtle for subsistence purposes. I would like to emphasize that our regulation stipulates a 36-inch minimum size (straight line measurement of the carapace length) which will permit the Green Sea Turtles to attain sexual maturity and to reproduce before being subjected to the possibility of capture. Also, our regulation prohibits the use of turtle nets to eliminate the indiscriminate taking and possible drowning of undersized Green Sea Turtles. It should also be noted that our regulation completely protects the Hawksbill and Leatherback Turtles, consistent with Federal law.
2. P. 16, (2). This section which prohibits the incidental catch of turtles by fishermen fishing in areas of "substantial breeding and feeding" is meaningless without defining "substantial". In Hawaii, the waters of the entire Hawaiian Archipelago are used as feeding areas by our geographically discrete population of Hawaiian Green Sea Turtles. Therefore, would this imply that all saltwater fishing (both commercial and recreational) throughout our State will be affected by this section?

Mr. Sidney R. Galler  
Page Three  
April 1, 1976

3. P. 21, lines 4-6. Birds are listed as turtle hatchling predators on land, but not in the water. Predation of turtle hatchlings by seabirds have also been known to occur in water (particularly waters adjacent to turtle nesting beaches).
4. P. 47, 2nd line from bottom. The island of "Kuai" should be corrected to "Kauai".

Other than the above, the DEIS appears to adequately address the subject. We appreciate having been given the opportunity to comment.

With warm personal regards, I remain,

Yours very truly,

  
George R. Ariyoshi

H.K. Cherry  
1265 Patolo Av.  
Honolulu 96816  
735-5958

send  
self-addressed



EXECUTIVE CHAMBERS  
HONOLULU

GEORGE R. ARIYOSHI  
GOVERNOR

September 22, 1982

Mr. Alike Cooper  
Alike Cooper & Sons, Incorporated  
163 Kaiulani Street  
Hilo, Hawaii 96720

Dear Alike:

Thank you for your letter of August 19, 1982, regarding your request to the Federal National Marine Fisheries Service to take sea turtles for subsistence purposes.

I am well aware of your request and share with you a sense of disappointment in the delay of the federal response.

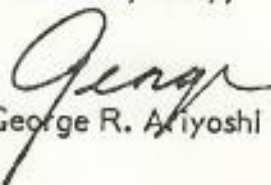
We had hoped that a working group, as suggested by Mr. Alan Ford (Regional Director, Southwest Region) in his January 21, 1982 letter to you, would have been established and functional by this time to resolve this problem. However, such a group has yet to be formed. As you know, the state has indicated a willingness to participate in a working group to review the issue of subsistence taking of honu in Hawaiian waters.

Your suggestion of presenting this problem to the Hawaii Fisheries Coordinating Council is appropriate, as it may be able to provide the necessary assistance in finding a solution to this problem.

I appreciate your keeping me informed on this matter. We agree with you that controlled subsistence taking of honu should be allowed, and this traditional activity is compatible with the protection and management of a valuable Hawaiian marine resource.

With warm personal regards, I remain,

Yours very truly,

  
George R. Ariyoshi

# 4 Are Fined for Fishing with Chlorine

WAILUKU, Maui—Four men were fined \$150 each and given suspended jail sentences yesterday for fishing with chlorine.

Tetsuji Amine, 57, Wayne Amine, 28, and James K. Low, 34, all of Lahaina, and Ken Nagahiro, 32, of Ewa, Oahu, were found guilty in Wailuku District Court of using the chemical to kill nearly 600 pounds of fish off Lanai May 14.

Judge Richard Komo imposed 30-day jail sentences and \$500 fines for each but suspended the jail terms for one year. He also suspended \$350 of the fines.

The men denied using chlorine that game wardens found in their boat. They said the chemical was used to treat coral taken from the sea.

However, according to a report by a state fish and game warden, Peter Conally of Lanai, the four were observed diving with plastic bags containing the chlorine.

Deputy County prosecutor Joseph Cardoza described the violation as a "serious matter" and recommended that the four be given maximum sentences of six months in jail and fined \$500 each.

According to Edward Schmidling of the State Fish and Wildlife Division, use of chlorine in the sea "is perhaps the worst type of fishing violation we have because of its long lasting effect on the ecology."

He said the chemical is highly detrimental to sea life and could cause total depopulation of reefs.

"It burns up the capillaries on the gill rakers so the fish can't pick up oxygen from the water," Schmidling said.

He said use of chlorine by "unscrupulous fishermen" is believed to be widespread in Hawaiian waters.

But he said very few convictions are obtained because the Fish and Game Division does not have the manpower or equipment to supervise all fishing activities.

STAR-BULLETIN

OCTOBER 14, 77

2

HAWAII CLIPPING SERVICE  
P.O. Box 10242-Honolulu, Hawaii  
PHONE: 764-8124  
Victoria Custer      Elaine Stroup

HONOLULU STAR BULLETIN  
APR 2 1983

## **For the Love of Fishing**

As an island-born resident, I have always loved the ocean, especially fishing.

I have been fishing since the age of 5.

On the "Let's Go Fishing" TV program on March 20, there was a segment in which commercial fishermen with the aid of aerial spotter plane and nets surrounded an entire school of ulua (papa).

It makes me sick, to see game fish such as ulua being harvested in this manner.

As a surfcaster, I have been fishing for the last 25 years in search of ulua.

I have been experiencing less and less and less catches or none at all. I am not alone in this situation.

And I feel that somehow, the state should regulate this commercial activity especially when this incident occurred in 20 feet of water.

It might have taken nature 10 years or more to amass population of ulua this size only to have it wiped out in a couple of hours by greedy men.

Barton Akamine

Get  
letter at  
Marine Science

# More About Poaching

by Bill Kleer

■ In the February issue, I made mention of the fact that much of the local poaching problem is due to ineffectual enforcement by the courts. Poaching, in short, flourishes because it's profitable. The Hawaii Division of Fish and Game publishes an annual report that includes, among other things, a breakdown of the fiscal year's record of citations and arrests, and disposition of cases by the courts. The following table is a partial breakdown of case dispositions for the past three fiscal years.


State of Hawaii		
Fiscal Year	1976/77	1975/76
Number of Cases	654	789
*pending & juvenile	185	178
dismissed	72	81
convictions	113	199
bail forfeiture	284	330
Number of fines	47	101
suspended fines/sentences	54	76
split fines	6	19
public service	6	3
Total \$ of fines	\$1185.00	\$3350.00
Average \$ per fine	\$ 25.21	\$ 33.17
Average \$ per forfeiture	\$ 22.57	\$ 24.14
Risk factor		
(Total \$ fines & forfeiture)	\$ 11.61	\$ 14.34
Total # of cases		

\*Includes cases carried over from the previous fiscal year.

MAY 1978  
HAWAII FISHING NEWS

Now, let's make a very liberal assumption, and say for the sake of argument that the Fish & Game wardens manage to apprehend 50% of all violators. The risk factor becomes something around five dollars and eighty cents. Have you taken a look at the price of fish in the market lately? Still think it doesn't pay?

Compare this with the 1976 figures compiled by the Alaska Division of Fish and Wildlife Protection (Alaska operates on a calendar year). A total of 1,957 arrests were made, net fines amounted to \$237,081, for an average of \$121.15 per fine. But perhaps what's most important, fines are assessed according to the severity of the offense. Last year, for example, eight men in a tour group were fined a total of \$2400.00 and lost all their fishing gear for illegally taking salmon on a closed stream. The judge refused to buy their story that they thought they were catching rainbow trout. In another case, a hunter was fined \$500 and spent 15 days in jail, while his guide was fined \$500, spent 30 days in jail, and forfeited his \$45,000 Cessna aircraft to the State. This was for taking a moose on the same day that he had flown in to the hunting area (you're supposed to wait 24 hours). Compare this to the slap on the wrist that was administered to the commercial fishermen who blatantly (and illegally) netted schools of fish right out from under the noses of hook and line anglers just off the Pokai Bay breakwater a few months back. At the risk of being accused of beating a dead horse, I'll reiterate one last time — Poaching flourishes because it's profitable. And as long as those who are being paid to uphold the law allow it to continue being profitable, the rest of us will be the final losers.







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

SUSUMU ONO, CHAIRMAN  
BOARD OF LAND & NATURAL RESOURCES

EDGAR A. HAMASU  
DEPUTY TO THE CHAIRMAN

DIVISIONS:  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

April 3, 1981

Dr. George H. Balazs  
Assistant Marine Biologist  
Hawaii Institute of Marine  
Biology  
P. O. Box 1346  
Kaneohe, HI 96744

Dear Dr. Balazs:

This is in response to your letter of March 20, 1981, regarding State protection of the green sea turtle, Chelonia mydas.

To answer your first question, your understanding is correct that we propose to repeal Regulation 36, "Relating to the Protection of Marine Turtles," and to adopt a new Administrative Rule, Chapter 124 of Title 13, "Relating to the Management and Protection of Indigenous Wildlife, Endangered and Threatened Wildlife and Plants, and Introduced Wild Birds." Section 13-124-3(a) of Chapter 124 would prohibit attempting to, or disturbing, catching, injuring, killing, possessing, transporting, exporting, processing, selling or offering for sale any threatened species of wildlife. Section 13-124-2 would define "wildlife" as any non-domestic species of the animal kingdom, specifically including reptiles, and would define "threatened species" as any so determined by the Federal government or so listed (by the State) in an attached Exhibit. We have proposed that the Exhibit include the green sea turtle, to be listed as threatened throughout its entire range. Section 13-124-3(b) would specifically prohibit removal, damage, or disturbance of the nest of any threatened turtle.

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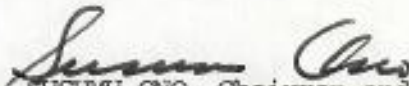
Dr. George H. Balazs  
April 3, 1981  
Page Two

We trust these actions will assure you that we fully share your concern over the welfare of our green sea turtles. We would welcome any support you may wish to lend to our endeavors on their behalf.

With regard to your question about the scheduling of repeal and adoption of the Regulation and Rules, we consider the issue moot for reasons of enforceability. Please be apprised that your advice regarding Section 2 of the existing Regulation 36 is precisely the position which has been taken by our Enforcement Division. Unfortunately, with only one case of an undersize turtle which does not clearly apply to whether permits are valid, the courts have ruled to the contrary. Thus, making our legal position with respect to Regulation 36 tenuous, at best, and we see no useful purpose in making special efforts to prolong its existence. We believe our present course of doing all that we can to adopt Chapter 124 (Administrative Rules) and to encourage the Legislature to amend Chapter 195D (HRS) will be of the greatest benefit to our green sea turtles and is therefore in the best public interest.

We thank you for your continuing interest in our activities and in the welfare of the turtles.

Very truly yours,

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

Memorandum

TO : Dist 2 SAC  
 Portland

FROM : Division of Law Enforcement  
 Honolulu

SUBJECT: Green SEA Turtle Enforcement in Hawaii and the Western Pacific

DATE: December 14, 1978

A meeting was held recently with representatives of Hawaii State Fish and Game Department, NMFS Division of Enforcement and USFWS Division of Law Enforcement, Honolulu offices, to discuss the enforcement of green sea turtle regulations. The overlap of new federal regulations with existing State regulations (copy attached) was discussed.

The State recently notified all persons holding State permits for subsistence taking of green sea turtles that such permits are now invalid. In addition, they notified those persons holding permits for sale of green sea turtle products of the regulatory changes via the attached letter, portions of which are in error.

The meeting was initially constructive in so far as clarifying jurisdictional matters. It would appear that while certain more liberal provisions of Hawaii State Regulation #36 were negated by federal law, other more restrictive portions remained in effect. In addition, the interface of the federal and State endangered species acts was discussed. It seems that while the federal listing of a species as endangered or threatened automatically confers the same status upon that species under State law, the acts prohibited under State law apply only to species which are classified as endangered. The possibility of amending the State law to extend prohibitions to cover threatened species was favorably discussed.

However, Mr. Kenji Ego, Director of Hawaii State Division of Fish and Game, who arrived during the latter portion of the meeting, stated unequivocally that since the federal government had been fit to list the green sea turtle as threatened over the objections of the State of Hawaii, that the State should no longer concern itself with turtle enforcement. He went on to say that plans were being made to rescind State Regulation #36 totally and that any enforcement relative to sea turtles would be considered only if federal funds were made available on a contract basis.

It should be noted that while unofficial sources indicate that previous turtle enforcement efforts by the State were considered somewhat ineffectual, the deterrent effect of enforcement presence will be negligible if limited to two (2) FWS agents and two (2) NMFS agents responsible for 750 miles of coastline within the State of Hawaii and 840,000 square miles of adjoining territorial sea.



Relative to enforcement efforts directed at non-native turtle take in the Trust Territories, the availability of the same four (4) agents to cover a million square miles of ocean containing over 2,100 islands speaks for itself. Even the provisions prohibiting transfer of turtle products from natives to non-natives has been found to be unenforceable at the logical interception points, as there appears to be no proscription against possession of illegally transferred articles.

We have been advised that NMFS plans virtually no enforcement effort in Samoa, Guam, and the Trust Territories, and little direct effort in the Hawaiian Islands.

The above is provided for your information and consideration.

Kimberly A. Wright  
Special Agent

October 24, 1978

This is to inform you that in a final rulemaking issued jointly by the federal National Marine Fisheries Service and the U. S. Fish and Wildlife Service, the green sea turtle (Chelonia mydas) among other species has been classified as a "threatened" species effective September 6, 1978. As a federally designated "threatened" marine reptile, certain activities previously allowed by State regulations have been preempted by federal laws.

According to the U. S. Fish and Wildlife Service, the possession and sale of products from green sea turtles taken prior to the effective date will be allowed for a period of one year until September 6, 1979. Therefore, consistent with federal law, the 1978-79 Division of Fish and Game Special Marine Animal or Product Possession and Sale License No. \_\_\_\_\_ issued you for sale of green sea turtle products will remain effective until its expiration date of June 30, 1979.

For further particulars concerning this matter, please contact Mr. James Bartee of the U. S. Fish and Wildlife Service (telephone no. 546-5602) for appropriate clarifications.

Very sincerely,

KENJI EGO, Director  
Division of Fish and Game

PK:nn

State of Hawaii  
Department of Land and Natural Resources  
Honolulu

DIVISION OF FISH AND GAME

\*\*\*\*\*

The Board of Land and Natural Resources, in conformity with and pursuant to Chapters 187 and 190, Hawaii Revised Statutes, and every other law hereunto enabling does hereby adopt the following regulation relating to the protection of marine turtles.

REGULATION 36. RELATING TO THE PROTECTION OF MARINE TURTLES.

SECTION 1. It shall be unlawful to mutilate, injure, take, kill, possess, disturb, sell or offer to sell leatherback turtles (Dermochelys sp.), hawksbill turtles (Eretmochelys sp.) and green sea turtles (Chelonia sp.) or any parts thereof or the eggs or nests thereof from or within the State of Hawaii and waters subject to its jurisdiction, except as provided in Sections 2 and 4 of this regulation.

SECTION 2. It shall be lawful with a permit issued by the Board of Land and Natural Resources to:

- a. take or possess marine turtles or their eggs for scientific, educational or propagational purposes.
- b. take or possess green sea turtles for home consumption from the waters surrounding the eight major islands (Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai and Niihau) provided that the upper shell length is 36 inches or more (straight line measurement) and provided further that the turtle may be gutted and/or cut up into not more than five parts with one of the parts being the whole upper shell with the entire head attached and all parts shall be kept together until the permittee leaves the shore area for his home.
- c. possess or sell the eggs or offspring of captive green sea turtles or products thereof.
- d. possess with intent to sell or to sell marine turtles or products thereof acquired prior to the effective date of this regulation.  
*or imported turtle products*

SECTION 3. It shall be unlawful to use nets for the taking of green sea turtles.

SECTION 4. Nothing in Section 1 shall be construed as making it unlawful for any person to possess for purposes other than sale marine turtles or products thereof acquired prior to the effective date of this regulation.

SECTION 5. Any person violating the provisions of this regulation shall be fined not more than \$500 as provided in Section 187-20, Hawaii Revised Statutes.

Adopted this 11th day of April, 1974 by the Board of Land and Natural Resources.

/s/ Sunao Kido  
Chairman and Member  
Board of Land and Natural Resources

/s/ Moses W. Kealoha  
Member  
Board of Land and Natural Resources

Approved this 17th day of  
May, 1974

/s/ George R. Ariyoshi  
Acting Governor of Hawaii

Approved as to Form:

/s/ Russell N. Fukumoto  
Deputy Attorney General

Date May 2, 1974

PUBLICATION OF  
NOTICE OF PUBLIC HEARINGS

- The Maui News - August 10, 1973
- The Maui News - November 10, 1973
- The Maui News - February 5, 1974
- Garden Island - August 20, 1973
- Garden Island - November 12, 1973
- Hawaii Tribune-Herald - August 20, 1973
- Hawaii Tribune-Herald - November 9, 1973
- Honolulu Star-Bulletin/Advertiser - August 19, 1973
- Honolulu Star-Bulletin - November 9, 1973
- Honolulu Star-Bulletin - February 5, 1974

C E R T I F I C A T E

I hereby certify that the foregoing copy of Regulation 36, Division of Fish and Game, Department of Land and Natural Resources, is a full, true, and correct copy of the original which is on file in the office of the Division of Fish and Game of the Department of Land and Natural Resources.

/s/ Sunao Kido  
Chairman and Member  
BOARD OF LAND AND NATURAL RESOURCES



UNITED STATES DEPARTMENT OF COMMERCE  
 National Oceanic and Atmospheric Administration  
 NATIONAL MARINE FISHERIES SERVICE  
 Southeast Region  
 9450 Koger Boulevard  
 St. Petersburg, Florida 33702

September 3, 1981 F/SERx1:RJ

TO: Files  
 FROM: F/SERx1 - Rolf Juhl  
 SUBJECT: Turtle Harvest in Mexico, 1973 - 1979

An official report from the Mexican Department of Fisheries lists the following figures on reported harvest of turtles, whole weight basis:

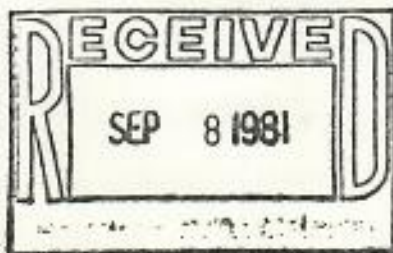
YEAR	MT	K lbs LBS. (000)	* Converted to individuals 100 lbs. each
1973	4,809	10,579	105,790 each
1974	2,641	5,810	58,100
1975	3,697	8,133	81,330
1976	3,318	7,299	72,990
1977	3,233	7,113	71,130
1978	6,658	14,647	146,470
1979	4,076	8,967	89,670

\* The turtles are not listed by species, but it is assumed 95% of the harvest is the Pacific Ridley.

It is believed that at least half of the actual harvest is not reported, consequently, the above figures should be doubled to give a more realistic count.

What comes to mind is - why is the Pacific Ridley on the endangered list?

cc:  
 F - William Stevenson  
 F/CM3 - Richard Roe  
 F/SEC - Dr. William Fox  
 F/IA2 - Barbara Rothschild  
 F/SECx4 - Fred Berry  
 F/SER6 - Dr. D. Ekberg





GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF FISH AND GAME  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813  
June 4, 1980

Ms. Hilding K. Cherry  
2115 Rocky Hill Place  
Honolulu, Hawaii 96822

Dear Ms. Cherry:

Your letter of May 13, 1980 to the Honorable Wayne Minami, State Attorney General, concerning amendments to our Department of Land and Natural Resources, Division of Fish and Game Regulation 36 (Relating to the Protection of Marine Turtles) was referred to our agency for response.

As you may be aware, provisions of Regulation 36, effective since May 30, 1974, only allowed the limited taking of green sea turtles in the waters of the main Hawaiian Islands. However, Federal rulemaking which subsequently designated the green sea turtle as a "threatened" species pursuant to the Endangered Species Act of 1973 (the other species of sea turtles occurring in Hawaiian waters are already protected under the Act) and its attendant rules and regulations which became effective September 6, 1978, pre-empted Regulation 36 and much of our jurisdiction over management of the green sea turtle. Hence, the green sea turtles are now under protection of the federal Endangered Species Act.

Whatever changes we propose for Regulation 36 would be for purposes of attaining consistency with Federal Laws. As you surmised, such changes must be subjected to public hearing prior to adoption.

Thank you for expressing your interest and concern for the protection of the Hawaiian sea turtles.

Sincerely,

KENJI EGO, Director  
Division of Fish and Game

EO:nn

UNIVERSITY OF HAWAII  
Hawaii Institute of Marine Biology  
Coconut Island • P. O. Box 1346 • Kaneohe, Hawaii 96744

April 14, 1980

Mr. Maurice Matsusaki, Director  
Division of Conservation and Resources Enforcement  
Department of Land and Natural Resources  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Mr. Matsusaki:

I am writing to obtain further clarification on the current policy with respect to the enforcement of Regulation 36 (protection of green turtles). In a recent response from Mr. Jim Koenig of the Division of Fish and Game, it was his understanding that the Division of Conservation and Resources Enforcement is no longer exercising any enforcement authority in this matter. I wonder if this is indeed the case. At your earliest convenience, I would greatly appreciate hearing of your present directives and policies for Regulation 36. As a researcher of Hawaiian sea turtles, I am often asked questions concerning such enforcement policies here in Hawaii. It is therefore important that I have up-to-date and factual information.

Thank you in advance for your assistance.

Sincerely,

George H. Balazs  
Assistant Marine Biologist

GHB:md

GEORGE R. ARIYOSHI  
GOVERNOR



WAYNE MINAMI  
ATTORNEY GENERAL

LARRY L. ZENKER  
ASSISTANT ATTORNEY GENERAL

STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE CAPITOL  
HONOLULU, HAWAII 96813  
(808) 548-4740

May 23, 1980

MEMORANDUM

TO: Susumu Ono, Chairman, BLNR

FROM: Johnson H. Wong  
Deputy Attorney General

SUBJECT: Proposed Amendment to DLNR Regulation No. 36  
Relating to Sea Turtles

Attached is a letter from Hilding K. Cherry requesting information on proposed amendments to Regulation No. 36 relating to sea turtles.

Suggest that this letter be referred to and answered by your staff who is handling the matter.

Very truly yours,

*Johnson H. Wong*  
JOHNSON H. WONG  
Deputy Attorney General

JHW:hna  
Attach.

cc: Hilding K. Cherry ✓

## NOTICE OF PUBLIC HEARING

Pursuant to provisions of Chapter 91, Hawaii Revised Statutes, and all other laws applicable thereto, public hearings will be conducted by the Board of Land and Natural Resources to afford all interested parties the opportunity to submit oral and written data, views, arguments, or other testimonies relating to the repeal of existing fisheries-related Division of Fish and Game Regulations (rules), including certain obsolete and inactive Regulations, Special Permit Rules and a Declaration, and the adoption of Administrative Rules relating to fisheries. The proposal will: (1) meet the uniform format requirements of Section 91-4.2, HRS, and publication requirements of Section 91-5, HRS (as mandated by Act 216, SLH 1979); (2) allow updating of existing provisions to conform with current laws; (3) meet existing needs for management, conservation and development of the State's fisheries resources; and (4) achieve consistency, and lessen confusion and misunderstanding. The proposed Administrative Rules are basically the existing Regulations (rules), updated as necessary, and do not include any new rules.

The proposed adoption of the Administrative Rules relating to fisheries, under Title 13 (Department of Land and Natural Resources), Subtitle 4 (Fisheries), involves amendment, conversion and renumbering of 31 of the 33 existing fisheries-related Regulations. Summaries of the changes for each Part are as follows:

**Part I—Marine Life Conservation Districts ("MLCD").** The districts include Hanauma Bay (Oahu); Kealahou Bay (Hawaii); Manele-Hulopoe (Lanai); Molokini Shoal (Maui); Honolulu-Mokuleia Bay (Maui); and Lapakahi (Hawaii). Substantive amendments to all MLCD rules include: (1) To allow possession of personal safety devices; and (2) The inclusion of a proviso to revoke permits that allow prohibited activities.

**Part II—Marine Fisheries Management Areas.** The areas include Leeward (Northwestern) Hawaiian Islands; Hilo Bay, Waioa River and Waikuku River (Hawaii); Waikiki-Diamond Head (Oahu); Hanamaulu Bay and Ahukini Recreational Fishing Pier (Kauai); and Waimea Bay and Waimea Recreational Fishing Pier (Kauai). Substantive amendments are proposed only to the rule affecting the Leeward (Northwestern) Hawaiian Islands which include: (1) The current definition of the area; (2) Provisions to allow the taking and sale of certain fishes or the use of certain gear which may be regulated elsewhere in the State through permit conditions (formerly only spiny lobster and mullet, and the use of non-portable or large-sized traps were identified); and (3) Inclusion of a proviso to revoke such permits.

**Part III—Freshwater Fisheries Management Areas.** The areas include the Nuuanu Fish Refuge (Oahu); and the Wahiawa (Oahu), Waiakea (Hawaii) and Kokee (Kauai) Public Fishing Areas. Substantive amendments proposed include: (1) Deleting the defunct "Honolulu Bait Station, Oahu" as a refuge making the rule applicable only to Nuuanu Freshwater Fish Refuge; (2) Combining two regulations applicable to the Wahiawa Public Fishing Area; and (3) Inclusion of a proviso to revoke permits that allow prohibited or other activities (group fishing for minors).

**Part IV—Fisheries Resource Management.** Includes license requirements for possession and sale of certain imported fishes and products, and certain baitfishes. Substantive amendments are proposed only to the rule affecting baitfishes by the inclusion of a proviso to revoke bait licenses, consistent with current laws.

**Part V—Protected Marine Fisheries Resources.** Includes management provisions affecting fisheries resources (shellfishes; samoan crab; clam; octopus; ulua; papio and omilu; moi and moi-iii; and oama; spiny lobster or ula; nehu; pink and gold corals; and ophi). Various substantive amendments are proposed to conform with current laws such as: (1) Deletion reference to management authority in areas outside the State (Kingman Reef and Palmyra Island); (2) Taking of samoan crab by non-citizens; and (3) Meeting existing management and conservation needs (extension of bag and/or size limits to all areas of the State for octopus, ulua, papio and omilu, and moi, moi-iii and oama; prohibition against taking berried samoan crab; and identification of clam and modification of the clam season provisions).

**Part VI—Protected Freshwater Fisheries Resources.** Presently includes management provisions for introduced freshwater game fishes. No substantive amendments are proposed in this part.

Also proposed is the repeal of obsolete and inactive Division of Fish and Game regulations affecting marine turtles and freshwater fish reserves, refuges and public fishing areas, including five Special Permit Rules and a Declaration issued for certain freshwater areas to conform with current laws and practices.

Public hearings are scheduled to begin at 7:00 p.m., or shortly thereafter, at the following locations:

**OAHU—Monday evening, March 9, 1981 at the State Office Building, Board of Land and Natural Resources Board Room, 1151 Punchbowl Street, Room 132, Honolulu.**

**HAWAII—Wednesday evening, March 11, 1981 at the Hawaii County Council Board Room, 25 Aupuni Street, Hilo.**

**MAUI—Thursday evening, March 12, 1981 at the Maui Community College Lecture Hall 10-A, 310 Kaahumanu Avenue, Kahului.**

**KAUAI—Monday evening, March 16, 1981 at the State Office Building Conference Room, 3060 Eiwa Street, Lihue.**

Copies of the proposed Administrative Rules relating to fisheries under Title 13, Subtitle 4, and the existing fisheries related Division of Fish and Game Regulations, Special Permit Rules and the Declaration are available for public inspection and reading at the Department of Land and Natural Resources, Division of Fish and Game, 1151 Punchbowl Street, Room 330, Honolulu, Oahu; or at the District Office of the Department of Land and Natural Resources or Division of Conservation and Resources Enforcement located at Hilo, Hawaii, Waikuku, Maui, Lihue, Kauai, Hoolehua, Molokai and Lanai City, Lanai.

All interested parties are urged to attend the public hearings and present oral and written testimonies. The Board of Land and Natural Resources will also receive testimonies should anyone not be able to attend the scheduled hearings or wish to offer additional testimonies until March 31, 1981, at its principal office located at the Kalamimoku Building, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

BOARD OF LAND AND NATURAL  
RESOURCES  
SUSUMO ONO

Chairman and Member  
(Hon. S.-B. & Adv.: Feb. 15, 1981)

(A-23762)

NEWS RELEASE

STATE OF HAWAII  
Department of Land and  
Natural Resources

FOR IMMEDIATE RELEASE  
March 2, 1981

PUBLIC HEARINGS RELATED TO THE ESTABLISHMENT OF  
ADMINISTRATIVE RULES RELATING TO FISHERIES

The Board of Land and Natural Resources announces that public hearings will be conducted to afford all interested parties the opportunity to submit oral and written data, views, arguments, or other testimonies relating to the amending of existing Division of Fish and Game Regulations to a new Administrative Rules format including repealing of certain obsolete and inactive Regulations, Special Permit Rules and a Declaration. The proposal will (1) meet the uniform format and publication requirements for Administrative Rules (Sections 91-4.2 and 91-5, Hawaii Revised Statutes) as mandated by Act 216, State Legislature of Hawaii 1979; (2) allow updating of existing provisions to conform with current laws; (3) meet existing needs for management, conservation and development of the State's fisheries resources; and (4) achieve consistency, and lessen confusion and misunderstanding.

The Administrative Rules relating to fisheries, under Title 13 (Department of Land and Natural Resources), Subtitle 4 (Fisheries) are being grouped into six Parts involving 31 of the 33 existing fisheries-related Regulations. The changes for each Part are generally as follows:

Part I - Marine Life Conservation Districts ("MLCD"). Includes: Hanauma Bay (Oahu); Kealahou Bay (Hawaii); Manele-Hulopoe (Lanai); Molokini Shoal (Maui); Honolua-iokuleia Bay (Maui); and Lapakahi (Hawaii). Amendments include allowing possession of personal safety devices for divers and a proviso to allow the Department to revoke permits issued for special activities.

Part II - Marine Fisheries Management Areas. Includes: Leeward (Northwestern) Hawaiian Islands; Hilo Bay, Waioa River and Wailuku River (Hawaii); Waikiki-Diamond Head (Oahu); Hanalei Bay and Ahukini Pier (Kauai); Waimea Bay and Waimea Pier (Kauai). Amendments are proposed only to the rule on the Leeward (Northwestern) Hawaiian Islands to

add the current statutory definition of the area for clarification, allow by permit, the taking and sale of certain fishes or use of certain gear that are otherwise illegal in the State (now applies only to spiny lobster and mullet, and the use of non-portable or large-sized traps), and adding of a proviso to allow revocation of such permits.

Part III - Freshwater Fisheries Management Areas. Includes: Nuuanu Fish Refuge (Oahu); and the Public Fishing Areas at Wahiawa (Oahu), Waiakea (Hawaii), and Kokee (Kauai). Amendments include deleting the former Honolulu Bait Station (Oahu) as a refuge to make the rule applicable only to the Nuuanu Freshwater Fish Refuge, combining two regulations on the management of and issuance of group fishing permits to the Wahiawa Public Fishing Area, and including a proviso to allow the Department to revoke permits issued to allow special activities.

Part IV - Fisheries Resource Management. Involves license requirements for possession and sale of certain imported fishes and products, and certain baitfishes. Amendments include the addition of a proviso to allow the Department to revoke bait licenses for any violation of its use.

Part V - Protected Marine Fisheries Resources. Involves rules affecting shellfishes, samoan crab, clam, octopus, papio and omilu, moi and moi-llii, oama, spiny lobster or ula, nehu, pink and gold corals, and opihi. Amendments are proposed to delete management authority in areas outside the State (Kingman Reef and Palmyra Island), taking of samoan crab by non-citizens, extension of bag and/or size limits to all areas of the State for octopus, ulua, papio and omilu, and moi, moi-llii and oama, prohibition on taking berried samoan crab, and allowing the Department to open a clam season when clams are available.

Part VI - Protected Freshwater Fisheries Resources. No amendments are proposed for introduced freshwater game fishes.

Also proposed is the repeal of obsolete and inactive Division of Fish and Game regulations affecting marine turtles and freshwater fish reserves, refuges and public fishing areas, including five Special Permit Rules and a Declaration issued for certain freshwater areas to conform with current laws and practices.

Public hearings are scheduled to begin at 7:00 p.m., or shortly thereafter, at the following locations:

- OAHU - Monday evening, March 9, 1981 at the State Office (Kalanimoku) Building, Board of Land and Natural Resources Board Room, 1151 Punchbowl Street, Room 132, Honolulu.
- HAWAII - Wednesday evening, March 11, 1981 at the Hawaii County Council Board Room, 25 Aupuni Street, Hilo.
- MAUI - Thursday evening, March 12, 1981 at the Maui Community College Lecture Hall 10-A, 310 Kaahumanu Avenue, Kahului.
- KAUAI - Monday evening, March 16, 1981 at the State Office Building Conference Room, 3060 Eiwa Street, Lihue.

Copies of the proposed Administrative Rules relating to fisheries under Title 13, Subtitle 4, and existing fisheries-related Division of Fish and Game Regulations, Special Permit Rules and the Declaration are available for public inspection and reading at the Department of Land and Natural Resources, Division of Fish and Game, 1151 Punchbowl Street, Room 330, Honolulu, Oahu; or at the District Offices of the Department of Land and Natural Resources or Division of Conservation and Resources Enforcement located at Hilo, Hawaii, Wailuku, Maui, Lihue, Kauai, Hoolehua, Holokai and Lanai City, Lanai.

All interested parties are urged to attend the public hearings and present oral and written testimonies. The Board of Land and Natural Resources will continue receiving testimonies until March 31, 1981, at its principal office located at the Kalanimoku Building, 1151 Punchbowl Street, Honolulu, HI 96813 to accommodate persons unable to attend the hearings, or who may wish to offer additional testimonies.

For further information please contact Henry Sakuda at 548-5920 or Eric Opizuka at 548-5895 in Honolulu.

Bikle - 548-5918  
734-1842

check  
2 month  
newspaper

OBUDSMAN - 548-7811 (465 S King) (or earlier publication in "Notices" column?)  
see 15 FEB

Streeter -

Gates ?

Guggelshell ?

Kupchak, Kenneth - 531-8031

Need Minutes of hearings -

Draft

3/16/81 -

"Wildlife"

[124 new code

Threatened & Endangered  
Species of "wildlife"

Fisheries

Wildlife

write short testimony

Walker - 548-5917





# University of Hawaii at Manoa

Hawaii Institute of Marine Biology

P.O.Box 1340 • Coconut Island • Kaneohe, Hawaii 96744

Cable Address: UNHIAW

20 March 1981

Mr. Susumo Ono, Chairman  
Board of Land and Natural Resources  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Mr. Ono:

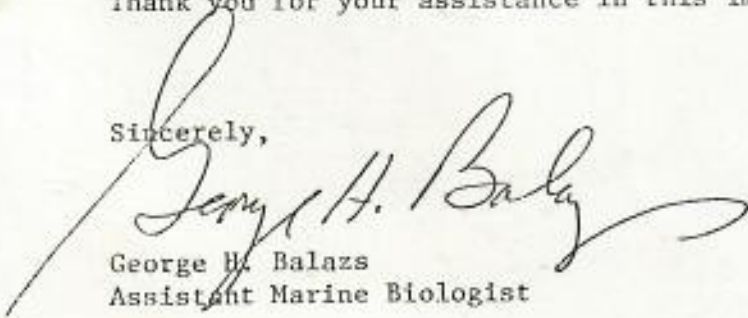
As the principal researcher of marine turtles in the Hawaiian Islands for the past nine years, I am writing to inquire about the proposal of the Board of Land and Natural Resources advertised in the Honolulu Star-Bulletin & Advertiser on February 15, 1981 that seeks to repeal certain existing fisheries regulations. Regulation 36, relating to the protection of marine turtles, is one of the rules proposed for repeal on the basis of being "obsolete and inactive".

It is my understanding that the State's protection of marine turtles (specifically the green turtle, Chelonia mydas) is under proposal for deletion from fisheries-related rules because it is being incorporated in a manner more consistent with federal law into the State's wildlife rules that are now in final draft form. Is this in fact the case? If so, will the repeal of Regulation 36 be scheduled to occur concomitant with the legal adoption of the wildlife rules so that no lapse in the State's protection of marine turtles will result?

For your records, I should point out that it is not really correct to state that Regulation 36 is "obsolete" or "inactive". Only Section 2 of Regulation 36 has been outdated, in that federal rules promulgated for the green turtle under the Endangered Species Act supersede this section. The remainder of the Regulation is a relevant and viable legal precept of the Board of Land and Natural Resources in which enforcement responsibility has continued through the Division of Conservation and Resources Enforcement.

Thank you for your assistance in this important matter.

Sincerely,

  
George H. Balazs  
Assistant Marine Biologist

CHB:lb

## REGULATION RELATING TO THE PROTECTION OF MARINE TURTLES.

Section 1. It shall be unlawful to mutilate, injure, take, kill, possess, disturb, sell or offer to sell leatherback turtles (Dermochelys sp.), hawksbill turtles (Eretmochelys sp.) and green sea turtles (Chelonia sp.) or any parts thereof or the eggs or nests thereof from or within the State of Hawaii and waters subject to its jurisdiction, except as provided in Sections 2 and 4 of this regulation.

Section 2. It shall be lawful with a permit issued by the Board of Land and Natural Resources to:

- A. Take or possess marine turtles or their eggs for scientific, educational or propagational purposes.
- B. Take or possess green sea turtles for home consumption from the waters surrounding the eight major islands (Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai and Niihau) provided that the upper shell length is 36 inches or more (straight line measurement) and provided further that the turtle may be gutted and/or cut up into not more than five parts with one of the parts being the whole upper shell with the entire head attached and all parts shall be kept together until the permittee leaves the shore area for his home.
- C. Possess or sell the eggs or offspring of captive green sea turtles or products thereof.
- D. Possess with intent to sell or to sell marine turtles or products thereof acquired prior to the effective date of this regulation.

Section 3. It shall be unlawful to use nets for the taking of green sea turtles.

Section 4. Nothing in Section 1 shall be construed as making it unlawful for any person to possess for purposes other than sale marine turtles or products thereof acquired prior to the effective date of this regulation.

Section 5. Any person violating the provisions of this regulation shall be fined not more than \$500 as provided in Section 187-20, Hawaii Revised Statutes.

Adopted May 1974

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT**

1161 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

April 25, 1980

DIVISIONS:  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

Mr. George H. Balazs  
Assistant Marine Biologist  
Hawaii Institute of Marine Biology  
P. O. Box 1346  
Kaneohe, Hawaii 96744

Dear Mr. Balazs:

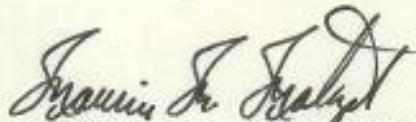
Thank you for your letter of April 14, 1980 requesting for clarification on our policy with respect to the enforcement of Regulation 36.

You are familiar with the Division of Fish and Game Regulation No. 36 and also the federal regulation which took effect on September 6, 1978 under the Endangered Species Act of 1973.

Since that action, our enforcement role has been to assist the Federal Enforcement staff on regulating the turtles.

Until the Fisheries Division (Division of Fish and Game) amends the present Regulation No. 36, as recommended by the Attorney General's Office, our enforcement role in regards to turtles will continue.

Sincerely,

  
MAURICE M. MATSUZAKI  
Director

MMM:ksl

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FISH AND GAME  
1151 PUNCHBOWL STREET • HONOLULU, HAWAII 96813

MEM-O-GRAM

URGENT - REPLY IMMEDIATELY  
 NO REPLY REQUIRED

Mr. George H. Balazs

DATE: 4/2/80

PO Box 1346 Coconut Island

SUBJECT: Green Sea Turtles

Kaneohe, HI 96744

T  
O

MESSAGE

Dear Mr. Balazs:

Please accept my apologies for this tardy response to your request for information concerning Fish and Game enforcement of Regulation 36. (Things got pretty hectic around here last month with our fish aggregation buoy project.)

As you may know, all DLNR enforcement responsibility now lies with the Division of Conservation and Resources Enforcement. Fish and Game per se no longer has enforcement officers. However, according to Maurice Matsusaki, Director of DOCARE, since the federal agencies placed the green sea turtle under the Endangered Species Act on Sept. 6, 1978, the State relenquished its enforcement jurisdiction to the federal agencies. Our Reg. 36 is still "on the books" in case the turtle comes off the list someday, but the federal regulations completely supercede all State regulations concerning green sea turtles, therefore we exercise no enforcement authority.

Incidentally, as a result of the federal actions, in 1978 we informed all of our Regulation 36 permit holders that their permits were voided and that they should refrain from taking any more turtles.

JIM KOENIG  
Aquatic Biologist

SIGNED

REPLY



# University of Hawaii at Manoa

Hawaii Institute of Marine Biology  
P.O.Box 1346 • Coconut Island • Kaneohe, Hawaii 96744  
Cable Address: UNIHAW

April 16, 1981

Mr. Susumu Ono  
Chairman and Member  
Board of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Ono:

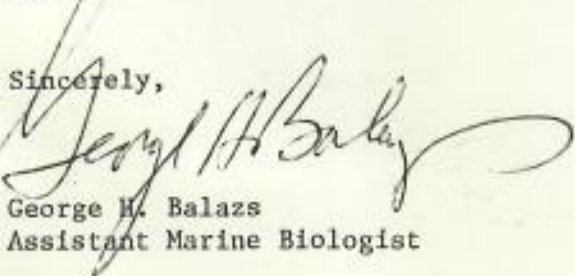
Thank you for your letter of April 3rd responding to my recent inquiry about the proposed deletion of Regulation 36. I was pleased to learn that State protection of the green sea turtle has been incorporated into a newly proposed Administrative Rule of Chapter 124, Title 13. I applaud your efforts in this action, and will certainly support you in any way that may be deemed appropriate.

With respect to my question about the possible lapse in State protection if the new Administrative Rule is not adopted concurrent with repeal of Regulation 36, I regret to say that I do not fully understand the answer provided in your letter. It was indicated that a problem of enforceability has been encountered with Regulation 36, therefore the issue is considered moot. The problem apparently relates to validity of permits (page 2, lines 8-10 of your letter—"Unfortunately, with only one case of an undersize turtle which does not clearly apply to whether permits are valid, the courts have ruled to the contrary."). However, the exact difficulties that have been encountered by your enforcement division are not clear to me. The capture of an "undersize" turtle (less than 36") would seem to be clearly illegal at this time under Regulation 36, regardless of whether federal law was in effect or not.

In view of the apparent prevailing uncertainties of the legal situation, I would like to recommend that you schedule the repeal of Regulation 36 to coincide with adoption of the Administration Rule. This would be in the best interests of the green sea turtle, and at the same time help facilitate an orderly and precise implementation of your administrative changes.

Again, I appreciate having the opportunity to correspond with you on this important matter.

Sincerely,

  
George H. Balazs  
Assistant Marine Biologist

GHB:lb



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

April 3, 1981

Dr. George H. Balazs  
Assistant Marine Biologist  
Hawaii Institute of Marine  
Biology  
P. O. Box 1346  
Kaneohe, HI 96744

Dear Dr. Balazs:

This is in response to your letter of March 20, 1981, regarding State protection of the green sea turtle, Chelonia mydas.

To answer your first question, your understanding is correct that we propose to repeal Regulation 36, "Relating to the Protection of Marine Turtles," and to adopt a new Administrative Rule, Chapter 124 of Title 13, "Relating to the Management and Protection of Indigenous Wildlife, Endangered and Threatened Wildlife and Plants, and Introduced Wild Birds." Section 13-124-3(a) of Chapter 124 would prohibit attempting to, or disturbing, catching, injuring, killing, possessing, transporting, exporting, processing, selling or offering for sale any threatened species of wildlife. Section 13-124-2 would define "wildlife" as any non-domestic species of the animal kingdom, specifically including reptiles, and would define "threatened species" as any so determined by the Federal government or so listed (by the State) in an attached Exhibit. We have proposed that the Exhibit include the green sea turtle, to be listed as threatened throughout its entire range. Section 13-124-3(b) would specifically prohibit removal, damage, or disturbance of the nest of any threatened turtle.

Also being proposed to the Legislature through our Administrative Proposal L-17(81) (House Bill 764) is an amendment of Chapter 195D, Hawaii Revised Statutes (HRS). Our proposed amendment would alter existing references to "birds and mammals" to read "wildlife;" such changes would include all indigenous animal species, such as our green sea turtles, among those organisms which the State would by law make special efforts to conserve.

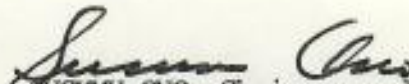
Dr. George H. Balazs  
April 3, 1981  
Page Two

We trust these actions will assure you that we fully share your concern over the welfare of our green sea turtles. We would welcome any support you may wish to lend to our endeavors on their behalf.

With regard to your question about the scheduling of repeal and adoption of the Regulation and Rules, we consider the issue moot for reasons of enforceability. Please be apprised that your advice regarding Section 2 of the existing Regulation 36 is precisely the position which has been taken by our Enforcement Division. Unfortunately, with only one case of an undersize turtle which does not clearly apply to whether permits are valid, the courts have ruled to the contrary. Thus, making our legal position with respect to Regulation 36 tenuous, at best, and we see no useful purpose in making special efforts to prolong its existence. We believe our present course of doing all that we can to adopt Chapter 124 (Administrative Rules) and to encourage the Legislature to amend Chapter 195D (HRS) will be of the greatest benefit to our green sea turtles and is therefore in the best public interest.

We thank you for your continuing interest in our activities and in the welfare of the turtles.

Very truly yours,



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



# University of Hawaii at Manoa

Hawaii Institute of Marine Biology

P.O.Box 1348 • Coconut Island • Kaneohe, Hawaii 96744

Cable Address: UNIHAW

20 March 1981

Mr. Susumo Ono, Chairman  
Board of Land and Natural Resources  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Mr. Ono:

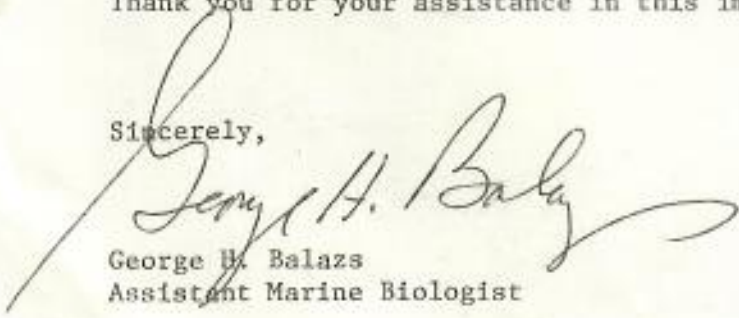
As the principal researcher of marine turtles in the Hawaiian Islands for the past nine years, I am writing to inquire about the proposal of the Board of Land and Natural Resources advertised in the Honolulu Star-Bulletin & Advertiser on February 15, 1981 that seeks to repeal certain existing fisheries regulations. Regulation 36, relating to the protection of marine turtles, is one of the rules proposed for repeal on the basis of being "obsolete and inactive".

It is my understanding that the State's protection of marine turtles (specifically the green turtle, Chelonia mydas) is under proposal for deletion from fisheries-related rules because it is being incorporated in a manner more consistent with federal law into the State's wildlife rules that are now in final draft form. Is this in fact the case? If so, will the repeal of Regulation 36 be scheduled to occur concomitant with the legal adoption of the wildlife rules so that no lapse in the State's protection of marine turtles will result?

For your records, I should point out that it is not really correct to state that Regulation 36 is "obsolete" or "inactive". Only Section 2 of Regulation 36 has been outdated, in that federal rules promulgated for the green turtle under the Endangered Species Act supersede this section. The remainder of the Regulation is a relevant and viable legal precept of the Board of Land and Natural Resources in which enforcement responsibility has continued through the Division of Conservation and Resources Enforcement.

Thank you for your assistance in this important matter.

Sincerely,



George H. Balazs  
Assistant Marine Biologist

GHB:lb



## NOTICE OF PUBLIC HEARING

Pursuant to provisions of Chapter 91, Hawaii Revised Statutes, and all other laws applicable thereto, public hearings will be conducted by the Board of Land and Natural Resources to afford all interested parties the opportunity to submit oral and written data, views, arguments, or other testimonies relating to the repeal of existing fisheries-related Division of Fish and Game Regulations (rules), including certain obsolete and inactive Regulations, Special Permit Rules and a Declaration, and the adoption of Administrative Rules relating to fisheries. The proposal will: (1) meet the uniform format requirements of Section 91-4.2, HRS, and publication requirements of Section 91-5, HRS (as mandated by Act 216, SLH 1979); (2) allow updating of existing provisions to conform with current laws; (3) meet existing needs for management, conservation and development of the State's fisheries resources; and (4) achieve consistency, and lessen confusion and misunderstanding. The proposed Administrative Rules are basically the existing Regulations (rules), updated as necessary, and do not include any new rules.

The proposed adoption of the Administrative Rules relating to fisheries, under Title 13 (Department of Land and Natural Resources), Subtitle 4 (Fisheries), involves amendment, conversion and renumbering of 31 of the 33 existing fisheries-related Regulations. Summaries of the changes for each Part are as follows:

**Part I—Marine Life Conservation Districts ("MLCD").** The districts include Hanauma Bay (Oahu); Kealahou Bay (Hawaii); Manele-Hulopoe (Lanai); Molokini Shoal (Maui); Honolua-Mokuleia Bay (Maui); and Lapakahi (Hawaii). Substantive amendments to all MLCD rules include: (1) To allow possession of personal safety devices; and (2) The inclusion of a proviso to revoke permits that allow prohibited activities.

**Part II—Marine Fisheries Management Areas.** The areas include Leeward (Northwestern) Hawaiian Islands; Hilo Bay, Waioa River and Wailuku River (Hawaii); Waikiki-Diamond Head (Oahu); Hanamaulu Bay and Ahukini Recreational Fishing Pier (Kauai); and Waimea Bay and Waimea Recreational Fishing Pier (Kauai). Substantive amendments are proposed only to the rule affecting the Leeward (Northwestern) Hawaiian Islands which include: (1) The current definition of the area; (2) Provisions to allow the taking and sale of certain fishes or the use of certain gear which may be regulated elsewhere in the State through permit conditions (formerly only spiny lobster and mullet, and the use of non-portable or large-sized traps were identified); and (3) Inclusion of a proviso to revoke such permits.

**Part III—Freshwater Fisheries Management Areas.** The areas include the Nuuanu Fish Refuge (Oahu); and the Wahiawa (Oahu), Waiakea (Hawaii) and Kokee (Kauai) Public Fishing Areas. Substantive amendments proposed include: (1) Deleting the defunct "Honolulu Bait Station, Oahu" as a refuge making the rule applicable only to Nuuanu Freshwater Fish Refuge; (2) Combining two regulations applicable to the Wahiawa Public Fishing Area; and (3) Inclusion of a proviso to revoke permits that allow prohibited or other activities (group fishing for minors).

**Part IV—Fisheries Resource Management.** Includes license requirements for possession and sale of certain imported fishes and products, and certain baitfishes. Substantive amendments are proposed only to the rule affecting baitfishes by the inclusion of a proviso to revoke bait licenses, consistent with current laws.

**Part V—Protected Marine Fisheries Resources.** Includes management provisions affecting fisheries resources (shellfishes; samoan crab; clam; octopus; ulua, papio and omilu; moi and moi-ii, and ouma; spiny lobster or ula; nehu; pink and gold corals; and ophi). Various substantive amendments are proposed to conform with current laws such as: (1) Deletion reference to management authority in areas outside the State (Kingman Reef and Palmyra Island); (2) Taking of samoan crab by non-citizens; and (3) Meeting existing management and conservation needs (extension of bag and/or size limits to all areas of the State for octopus, ulua, papio and omilu, and moi, moi-ii and ouma; prohibition against taking berried samoan crab; and identification of clam and modification of the clam season provisions).

**Part VI—Protected Freshwater Fisheries Resources.** Presently includes management provisions for introduced freshwater game fishes. No substantive amendments are proposed in this part.

Also proposed is the repeal of obsolete and inactive Division of Fish and Game regulations affecting marine turtles and freshwater fish reserves, refuges and public fishing areas, including five Special Permit Rules and a Declaration issued for certain freshwater areas to conform with current laws and practices.

Public hearings are scheduled to begin at 7:00 p.m., or shortly thereafter, at the following locations:

**OAHU**—Monday evening, March 9, 1981 at the State Office Building, Board of Land and Natural Resources Board Room, 1151 Punchbowl Street, Room 132, Honolulu.

**HAWAII**—Wednesday evening, March 11, 1981 at the Hawaii County Council Board Room, 25 Aupuni Street, Hilo.

**MAUI**—Thursday evening, March 12, 1981 at the Maui Community College Lecture Hall 10-A, 310 Kaahumanu Avenue, Kahului.

**KAUAI**—Monday evening, March 16, 1981 at the State Office Building Conference Room, 3060 Elms Street, Lihue.

Copies of the proposed Administrative Rules relating to fisheries under Title 13, Subtitle 4, and the existing fisheries related Division of Fish and Game Regulations, Special Permit Rules and the Declaration are available for public inspection and reading at the Department of Land and Natural Resources, Division of Fish and Game, 1151 Punchbowl Street, Room 330, Honolulu, Oahu; or at the District Office of the Department of Land and Natural Resources or Division of Conservation and Resources Enforcement located at Hilo, Hawaii, Wailuku, Maui, Lihue, Kauai, Hoolehua, Molokai and Lanai City, Lanai.

All interested parties are urged to attend the public hearings and present oral and written testimonies. The Board of Land and Natural Resources will also receive testimonies should anyone not be able to attend the scheduled hearings or wish to offer additional testimonies until March 31, 1981, at its principal office located at the Kalaninimoku Building, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

BOARD OF LAND AND NATURAL  
RESOURCES  
SUSUMO ONO  
Chairman and Member

## REGULATION RELATING TO THE PROTECTION OF MARINE TURTLES.

Section 1. It shall be unlawful to mutilate, injure, take, kill, possess, disturb, sell or offer to sell leatherback turtles (Dermochelys sp.), hawksbill turtles (Eretmochelys sp.) and green sea turtles (Chelonia sp.) or any parts thereof or the eggs or nests thereof from or within the State of Hawaii and waters subject to its jurisdiction, except as provided in Sections 2 and 4 of this regulation.

Section 2. It shall be lawful with a permit issued by the Board of Land and Natural Resources to:

- A. Take or possess marine turtles or their eggs for scientific, educational or propagational purposes.
- B. Take or possess green sea turtles for home consumption from the waters surrounding the eight major islands (Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai and Niihau) provided that the upper shell length is 36 inches or more (straight line measurement) and provided further that the turtle may be gutted and/or cut up into not more than five parts with one of the parts being the whole upper shell with the entire head attached and all parts shall be kept together until the permittee leaves the shore area for his home.
- C. Possess or sell the eggs or offspring of captive green sea turtles or products thereof.
- D. Possess with intent to sell or to sell marine turtles or products thereof acquired prior to the effective date of this regulation.

Section 3. It shall be unlawful to use nets for the taking of green sea turtles.

Section 4. Nothing in Section 1 shall be construed as making it unlawful for any person to possess for purposes other than sale marine turtles or products thereof acquired prior to the effective date of this regulation.

Section 5. Any person violating the provisions of this regulation shall be fined not more than \$500 as provided in Section 187-20, Hawaii Revised Statutes.



# University of Hawaii at Manoa

Hawaii Institute of Marine Biology  
P.O.Box 1348 • Coconut Island • Kaneohe, Hawaii 96744  
Cable Address: UNIHAW

April 16, 1981

Mr. Susumu Ono  
Chairman and Member,  
Board of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96809

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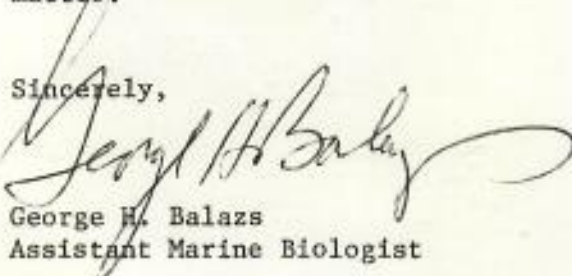
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Sincerely,

  
George H. Balazs  
Assistant Marine Biologist

GHB:lb

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5 FORESTRY AND WILDLIFE

PART 2 WILDLIFE

CHAPTER 124

RULES REGULATING THE MANAGEMENT AND  
PROTECTION OF INDIGENOUS WILDLIFE, ENDANGERED  
AND THREATENED WILDLIFE AND PLANTS, AND  
INTRODUCED WILD BIRDS

- §13-124-1 Purpose
- §13-124-2 Definitions
- §13-124-3 Prohibited activities
- §13-124-4 Scientific, propagation, and educational permits
- §13-124-5 Transporting permits
- §13-124-6 Permits for keeping indigenous wildlife and introduced wild birds
- §13-124-7 Crop damage, nuisance, and health hazard permits
- §13-124-8 Penalty

Historical Note: Chapter 124 of Title 13, Administrative Rules, is based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources. [Eff. 8/10/53; am 10/10/55; am 3/28/58 and ren Regulation 6; am 9/8/73; [R <sup>MAK 2 2 1982</sup> ]

§13-124-1 Purpose. The purpose of these rules is to manage and protect indigenous wildlife, endangered and threatened wildlife and plants, and introduced wild birds. [Eff. <sup>MAK 2 2 1982</sup> ] (Auth: HRS §§191-12, 195D-3, 195D-4, 195D-6) (Imp: §§191-12, 195D-3, 195D-4, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-2 Definitions. As used in these rules unless context requires otherwise:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Endangered species" means all species, sub-species, or sub-populations of wildlife or plants that have been officially listed by the federal government as endangered and any species, subspecies, or sub-population of indigenous wildlife or plants listed in "Chapter 124, Exhibit 2, 3/30/81", which is located at the end of this chapter and by reference made a part hereof.

"Game mammal" means those mammals designated by law or rule for hunting.

"Indigenous wildlife" means any species or sub-species of animal including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by man and listed in "Chapter 124, Exhibit 1, 3/30/81", which is located at the end of this chapter and by reference made a part hereof. In addition to the species and subspecies listed in "Chapter 124, Exhibit 1, 3/30/81", the term "indigenous wildlife" shall include any other migratory birds and mammals which arrive in Hawaii unaided by man.

"Introduced wild birds" means all birds introduced or imported to Hawaii by man and living in a wild and undomesticated state other than game birds as defined in section 191-8, HRS, or in chapter 122, Administrative Rules. "Chapter 124, Exhibit 4, 3/30/81", which is located at the end of this chapter and by reference made a part hereof, lists introduced wild birds in Hawaii. In addition to the species listed in "Chapter 124, Exhibit 4, 3/30/81", the term "introduced wild bird shall include any other species of introduced bird living in a wild and undomesticated state.

"Threatened species" means all species, sub-species, or sub-populations of wildlife or plants that have been officially listed by the federal government as threatened and any species, subspecies, or sub-population of indigenous wildlife or plants listed in "Chapter 124, Exhibit 3, 3/30/81", which is located at the end of this chapter and by reference made a part hereof.

"Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. [Eff. MAR 22 1982 ]  
 (Auth: HRS §§191-12, 195D-3, 195D-4, 195D-6) (Imp: HRS §§191-12, 195D-3, 195D-4, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-3 Prohibited activities. (a) It is prohibited to attempt to, or to catch, possess, injure, kill, destroy, sell or offer for sale, transport or export, any indigenous wildlife, or introduced wild bird, the dead body or parts thereof, or any young or egg of any such bird or turtle except by an authorized employee of the department or persons authorized by the Board or its authorized representative and except as authorized by law, license, permit.

(b) It is prohibited to attempt to, or to take, as defined by section 195D-2, Hawaii Revised Statutes, possess, process, sell or offer for sale, transport, or export any endangered or threatened species of wildlife or plant, the dead body or parts thereof, or any young or egg of any such bird or turtle except by an authorized employee of the department or persons authorized by the board or its authorized representative and except as authorized by law, license or permit.

(c) It is prohibited to remove, damage, or disturb the nest of any indigenous, endangered, or threatened bird or turtle except by an authorized employee of the department or persons authorized by the board or its authorized representative and except as authorized by law, license or permit. [Eff.

**MAR 22 1982** ] (Auth: HRS §§191-12, 195D-3, 195D-4, 195D-6) (Imp: HRS §§191-12, 195D-3, 195D-4, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-4 Scientific, propagation, and educational permits. (a) Permits for collecting, possessing, killing, and transporting threatened species, indigenous wildlife or introduced wild birds may be issued by the board or its authorized representative only to authorized collectors of a recognized museum, educational organization, or scientific research organization or to persons who are engaged in scientific research or educational programs for which the collecting is essential.

(b) Permits to take as defined by Section 195D-2, Hawaii Revised Statutes, possess, process, sell or offer for sale, transport, or export any endangered species of wildlife or plant may be issued only for scientific purposes or to enhance the propagation or survival of the species.

(c) Applications for permits shall be in writing and shall contain:

- (1) A description of the scientific or educational project, including its purpose and methods;

- (2) Specific information as to species to be collected, the number of specimens, and the collecting locations.

(d) Applications for permits to take, as defined by section 195D-2, Hawaii Revised Statutes, any endangered or threatened species of wildlife or plants shall, in addition, include a discussion of the value of the research relative to the survival of the species.

(e) No permit may be amended or otherwise altered without the written approval of the board or its authorized representative.

(f) A quarterly summary of wildlife or plants collected shall be submitted by the permittee to the department on forms provided or facsimiles thereof and shall include:

- (1) The scientific and common names;
- (2) The date collected;
- (3) The number of specimens collected;
- (4) The locations of the collecting; and
- (5) Any other information required on the permit. [Eff. MAR 22 1982 ] (Auth: HRS §§191-12, 195D-3, 195D-4, 195D-6) (Imp: HRS §§187-4, 191-12, 195D-3, 195D-4, 195D-5, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-5 Transporting permits. (a) Permits may be issued by the board or its authorized representative to persons who apply in writing to trap indigenous wildlife or introduced wild birds in order to release them in other localities within the State.

(b) Permits shall not be issued when:

- (1) The introduction of a species to a new locality is not in the best interest of the people of Hawaii;
- (2) The introduction of a species to a new locality would be detrimental to indigenous species, particularly those which are listed as endangered or threatened.

(c) No permit may be amended or otherwise altered without the written approval of the board or its authorized representative.

(d) A summary report shall be submitted to the department upon the expiration of the permit. The report shall include:

- (1) The species of wildlife;
- (2) The number, date, and locality of collection; and

- (3) The number, date, and locality of release.  
 [Eff. MAR 22 1982 ] (Auth: HRS  
 191-12, 195D-3, 195D-4, 195D-6) (Imp: HRS  
 §§187-4, 191-12, 195D-3, 195D-4, 195D-6, 50  
 CFR §§17.11, 17.12)

§13-124-6 Permits for keeping indigenous wildlife and introduced wild birds. (a) Permits may be issued by the board or its authorized representative to persons who apply in writing to maintain indigenous wildlife or introduced wild birds in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent with the preservation, protection, and conservation of the animals.

(b) No permit may be amended or otherwise altered without the written approval of the board or its authorized representative.

(c) Each permittee shall submit a summary report to the department upon expiration of the permit. The report shall include:

- (1) An account of the status or disposition of the captive wildlife; or
- (2) A summary of the results of propagation efforts. [Eff. MAR 22 1982 ] (Auth: HRS §§191-12, 195D-3, 195D-4, 195D-6)  
 (Imp: HRS §§187-4, 191-12, 195D-3, 195D-4, 195D-6)

§13-124-7 Crop damage, nuisance, and health hazard permits. (a) The board or its authorized representative may issue permits to destroy or otherwise control wildlife causing substantial damage to crops under the following conditions:

- (1) An authorized agent of the department shall investigate a wildlife related crop damage complaint and if satisfied that substantial economic losses have occurred or are likely to occur as a result of wildlife damage, the agent may immediately issue a temporary permit to destroy or otherwise control the offending species for a period of up to thirty days.
- (2) Temporary permits shall not be issued for more than two consecutive thirty-day periods.
- (3) Upon receipt of a written request, the board or its authorized representative may issue a crop damage permit for periods longer than sixty days.



(4) Permits shall state the species and number to be destroyed, the method of control to be used, and other terms and conditions as may seem proper and applicable.

(b) The board or its authorized representative, upon receipt of a written complaint of a nuisance or health hazard created by introduced wild birds, may authorize an agent to investigate the complaint. On the basis of this investigation, the board or its authorized representative may issue a permit authorizing the destruction or control of the species of birds causing the nuisance or health hazard.

(c) Permittees shall submit monthly summary reports to the department on forms provided or facsimiles that include:

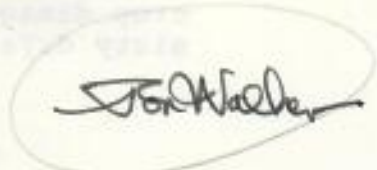
- (1) The common name of the wildlife taken
- (2) The number of each species;
- (3) The disposition of the wildlife; and
- (4) Any other information required by the permit;

(d) No permit shall be issued for the destruction of any indigenous, endangered, or threatened species of wildlife.

(e) No permit may be amended or otherwise altered without the written approval of the board or its authorized representative.

(f) When species of introduced wild birds or game mammals are found to be generally harmful or destructive to crops, native flora or fauna, or constituting a human health hazard the board or its authorized representative may authorize the destruction or control of the species in any area for a specified time period without requiring permits or reports. [Eff. MAR 22 1982] (Auth: HRS §§191-12, 195D-3, 195D-4, 195D-6) (Imp: HRS §§191-12, 195D-3, 195D-4, 195D-6, P.L. 93-205, 50 CFR §§17.11, 17.12)

§13-124-8 Penalty. Any person violating any of the provisions of these rules shall be penalized as provided by law. [Eff. MAR 22 1982] (Auth: HRS §§191-12, 195D-3, 195D-4, 195D-6) (Imp: HRS §§191-13, 191-14, 191-15, 191-16, 195D-8, 195D-9)



## EXHIBIT 1 - Chapter 124

## Indigenous Wildlife of Hawaii

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Reptiles</u>			
<i>Pelamis platurus</i>	Yellow-bellied Sea Snake		R+
<i>Chelonia mydas agassizi</i>	Pacific Green Sea Turtle	Honu	X
<i>Eretmochelys imbricata bissa</i>	Pacific Hawksbill Turtle	Ea	X R+
<i>Dermochelys coriacea schlegelii</i>	Pacific Leatherback Sea Turtle		R+
<u>Indigenous Mollusks</u>			
* <i>Achatinella</i> spp.	Achatinella Tree Snails		X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<b>Indigenous Birds</b>			
<i>Diomedea nigripes</i>	Black-footed Albatross		X
<i>Diomedea immutabilis</i>	Laysan Albatross	Mōlī	X
<i>Puffinus pacificus chlororhynchus</i>	Wedge-tailed Shearwater	'Ua'u-kani	X
<i>Puffinus nativitatis</i>	Christmas Shearwater		X
* <i>Puffinus puffinus newelli</i>	Newell Shearwater	'A'o	X
* <i>Pterodroma phaeopygia sandwichensis</i>	Hawaiian (Dark-rumped) Petrel	'Ua'u	X
<i>Pterodroma hypoleuca hypoleuca</i>	Bonin Petrel		X
<i>Bulweria bulwerii</i>	Bulwer Petrel	'Ou	X
<i>Oceanodroma tristrami</i>	Sooty Storm-Petrel		X
* <i>Oceanodroma castro cryptoleucura</i>	Hawaiian (Harcourt) Storm-Petrel	'Oeoe	X
<i>Phaethon lepturus dorotheae</i>	White-tailed Tropicbird	Koa'e-kea	X
<i>Phaethon rubricauda rothschildi</i>	Red-tailed Tropicbird	Koa'e-'ula	X
<i>Sula dactylatra personata</i>	Blue-Faced Booby	'Ā	X
<i>Sula leucogaster plotus</i>	Brown Booby	'Ā	X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

EXHIBIT 1 - Chapter 124

Indigenous Wildlife of Hawaii

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Reptiles</u>			
<i>Pelamis platurus</i>	Yellow-bellied Sea Snake		R+
<i>Chelonia mydas agassizi</i>	Pacific Green Sea Turtle	Honu	X
<i>Eretmochelys imbricata bissa</i>	Pacific Hawksbill Turtle	Ea	R+
<i>Dermochelys coriacea schlegelii</i>	Pacific Leatherback Sea Turtle		R+
<u>Indigenous Mollusks</u>			
* <i>Achatinella</i> spp.	Achatinella Tree Snails		X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<b>Indigenous Birds</b>			
<i>Diomedea nigripes</i>	Black-footed Albatross		X
<i>Diomedea immutabilis</i>	Laysan Albatross	Mōlī	X
<i>Puffinus pacificus chlororhynchus</i>	Wedge-tailed Shearwater	'Ua'u-kani	X
<i>Puffinus nativitatis</i>	Christmas Shearwater		X
* <i>Puffinus puffinus newelli</i>	Newell Shearwater	'A'o	X
* <i>Pterodroma phaeopygia sandwichensis</i>	Hawaiian (Dark-rumped) Petrel	'Ua'u	X
<i>Pterodroma hypoleuca hypoleuca</i>	Bonin Petrel		X
<i>Bulweria bulwerii</i>	Bulwer Petrel	'Ou	X
<i>Oceanodroma tristrami</i>	Sooty Storm-Petrel		X
* <i>Oceanodroma castro cryptoleucura</i>	Hawaiian (Harcourt) Storm-Petrel	'Oeoe	X
<i>Phaethon lepturus dorotheae</i>	White-tailed Tropicbird	Koa'e-kea	X
<i>Phaethon rubricauda rothschildi</i>	Red-tailed Tropicbird	Koa'e-'ula	X
<i>Sula dactylatra personata</i>	Blue-Faced Booby	'Ā	X
<i>Sula leucogaster plotus</i>	Brown Booby	'Ā	X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

## EXHIBIT 1 - Chapter 124 - Page 3

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<b>Indigenous Birds</b>			
<i>Sula sula rubripes</i>	Red-footed Booby	'Ā	X
<i>Fregata minor palmerstoni</i>	Great Frigatebird	'Iwa	X
<i>Nycticorax nycticorax hoactli</i>	Black-crowned Night-heron	'Auku'u	X
* <i>Branta sandvicensis</i>	Hawaiian Goose	Nēnē	X
* <i>Anas laysanensis</i>	Laysan Duck		X
* <i>Anas wyvilliana</i>	Hawaiian Duck	Koloa-maoli	X
<i>Anas acuta</i>	Pintail	Koloa-māpu	M
<i>Anas americana</i>	American Wigeon		M
<i>Anas clypeata</i>	Northern Shoveler	Koloa-mohā	M
<i>Aythya affinis</i>	Lesser Scaup		M
* <i>Buteo solitarius</i>	Hawaiian Hawk	'Io	X
* <i>Porzana palmeri</i>	Laysan Rail		O
* <i>Pennula sandwichensis</i>	Hawaiian Rail	Moho	O
* <i>Gallinula chloropus sandvicensis</i>	Hawaiian Gallinule	'Alae-'ula	X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Birds</u>			
* <i>Fulica americana alai</i>	Hawaiian Coot	'Alae-ke'oke'o	X
<i>Pluvialis dominica</i>	American Golden Plover	Kōlea	M
<i>Pluvialis squatarola</i>	Black-bellied Plover		M
<i>Numenius tahitiensis</i>	Bristle-thighed Curlew	Kioea	M
<i>Heteroscelus incanus</i>	Wandering Tattler	'Ūlili	M
<i>Arenaria interpres</i>	Ruddy Turnstone	'Akekeke	M
<i>Calidris alba</i>	Sanderling	Huna-kai	M
* <i>Himantopus mexicanus knudseni</i>	Hawaiian (Black-necked) Stilt	Āe'o	X
<i>Sterna fuscata oahuensis</i>	Sooty Tern	'Ewa'ewa	X
<i>Sterna lunata</i>	Gray-backed Tern	Pakalakala	X
<i>Procelsterna cerulea saxatilis</i>	Blue-gray Noddy		X
<i>Anous stolidus pileatus</i>	Brown (Common) Noddy	Noio-kōhā	X
<i>Anous tenuirostris melanogenys</i>	Hawaiian (White-capped) Noddy	Noio	X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Birds</u>			
<i>Gygis alba rothschildi</i>	White (Fairy) Tern	Manu-o-ku	X
* <i>Asio flammeus sandwichensis</i>	Hawaiian (Short-eared) Owl	Pueo	X
* <i>Corvus tropicus</i>	Hawaiian Crow	'Alalā	X
* <i>Phaeornis obscurus obscurus</i>	Hawaii Thrush	'Ōma'o	X
* <i>Phaeornis obscurus lanaiensis</i>	Lanai Thrush	Oloma'o	O
* <i>Phaeornis obscurus rutha</i>	Molokai Thrush	Oloma'o	X
* <i>Phaeornis obscurus oahuensis</i>	Oahu Thrush	'Āmaui	O
* <i>Phaeornis obscurus myadestina</i>	Kauai Thrush	Kāma'o	X
* <i>Phaeornis palmeri</i>	Small Kauai Thrush	Puaiohi	X
* <i>Acrocephalus familiaris familiaris</i>	Laysan Millerbird		O
* <i>Acrocephalus familiaris kingi</i>	Nihoa Millerbird		X
* <i>Chasiempis sandwichensis sandwichensis</i>	Hawaii 'Elepaio	'Elepaio	X
* <i>Chasiempis sandwichensis gayi</i>	Oahu 'Elepaio	'Elepaio	X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct



SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Birds</u>			
* <i>Chasiempis sandwichensis sclateri</i>	Kauai 'Elepaio	'Elepaio	X
* <i>Moho nobilis</i>	Hawaii 'Ō'ō	'Ō'ō	O
* <i>Moho bishopi</i>	Molokai 'Ō'ō	'Ō'ō	O
* <i>Moho apicalis</i>	Oahu 'Ō'ō	'Ō'ō	O
* <i>Moho braccatus</i>	Kauai 'Ō'ō	'Ō'ō'a'a	X
* <i>Chaetoptila angustipluma</i>	Kioea		O
* <i>Loxops virens virens</i>	Hawaii 'Amakihi	'Amakihi	X
* <i>Loxops virens wilsoni</i>	Maui 'Amakihi	'Amakihi	X
* <i>Loxops virens chloris</i>	Oahu 'Amakihi	'Amakihi	X
* <i>Loxops virens stejnegeri</i>	Kauai 'Amakihi	'Amakihi	X
* <i>Loxops parvus</i>	Lesser 'Amakihi	'Anianiau	X
* <i>Loxops sagittirostris</i>	Greater 'Amakihi		O
* <i>Loxops maculatus mana</i>	Hawaii Creeper		X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

## EXHIBIT 1 - Chapter 124 - Page 7

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigeous Birds</u>			
* <i>Loxops maculatus newtoni</i>	Maui Creeper	'Alauwahio	X
* <i>Loxops maculatus montanus</i>	Lanai Creeper	'Alauwahio	O
* <i>Loxops maculatus flammeus</i>	Molokai Creeper	Kakawahie	X
* <i>Loxops maculatus maculatus</i>	Oahu Creeper	'Alauwahio	X
* <i>Loxops maculatus bairdi</i>	Kauai Creeper	'Akikiki	X
* <i>Loxops coccineus coccineus</i>	Hawaii 'Ākepa	'Akakane	X
* <i>Loxops coccineus ochraceus</i>	Maui 'Ākepa	'Akepeu'ie	X
* <i>Loxops coccineus rufus</i>	Oahu 'Ākepa	'Akepeu'ie	O
* <i>Loxops coccineus caeruleirostris</i>	Kauai 'Ākepa	'O'u-holowai	X
* <i>Melamprosops phaeosoma</i>	Po'ouli		X
* <i>Hemignathus obscurus obscurus</i>	Hawaii 'Akialoa	'Akialoa	O
* <i>Hemignathus obscurus lanaiensis</i>	Lanai 'Akialoa	'Akialoa	O
* <i>Hemignathus obscurus ellisianus</i>	Oahu 'Akialoa	'Akialoa	O

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Birds</u>			
*Hemignathus procerus	Kauai 'Akialoa	'Akialoa	X
*Hemignathus lucidus affinis	Maui Nuku-pu'u	Nuku-pu'u	X
*Hemignathus lucidus lucidus	Oahu Nuku-pu'u	Nuku-pu'u	O
*Hemignathus lucidus hanapepe	Kauai Nuku-pu'u	Nuku-pu'u	X
*Hemignathus wilsoni	'Akiapola'au	'Akiapōlā'au	X
*Pseudonestor xanthophrys	Maui Parrotbill		X
*Psittirostra psittacea	'Ō'ū	'Ō'ū	X
*Psittirostra cantans ultima	Nihoa Finch		X
*Psittirostra cantans cantans	Laysan Finch		X
*Psittirostra bailleui	Palila	Palila	X
*Psittirostra palmeri	Greater Koa Finch	Hopue	O
*Psittirostra flaviceps	Lesser Koa Finch		O
*Psittirostra kona	Kona (Grosbeak) Finch		O
*Himatione sanguinea sanguinea	'Apapane	'Apapane	X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Birds</u>			
* <i>Himatione sanguinea freethii</i>	Laysan Honeycreeper		O
* <i>Palmeria dolei</i>	Crested Honeycreeper	'Ākohekohe	X
* <i>Ciridops anna</i>	'Ula-'ai-hawāne	'Ula-'ai-hāwane	O
* <i>Vestiaria coccinea</i>	'I'iwi	'I'iwi	X
* <i>Drepanis funerea</i>	Black Mamo	Hoa or Oo-nuku-umu	O
* <i>Drepanis pacifica</i>	Mamo	Mamo	O

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<b>Indigenous Mammals</b>			
* <i>Lasiurus cinereus semotus</i>	Hawaiian (Hoary) Bat	'Ōpe'ape'a	X
* <i>Monachus schauinslandi</i>	Hawaiian Seal	'Īlio-holo-i-kauaua	X
<i>Balaenoptera physalus</i>	Fin Whale	Koholā	R+
<i>Balaenoptera acutorostrata</i>	Minke Whale	Kohalā	M
<i>Megaptera novaengliae</i>	Humpback Whale	Koholā	M
<i>Physeter catodon</i>	Sperm Whale	Kololā	M
<i>Mesoplodon densirostris</i>	Densebeaked Whale		R+
<i>Orcinus orca</i>	Killer Whale		R+
<i>Pseudorca crassidens</i>	False Killer Whale		R
<i>Peresca attenuata</i>	Pygmy Killer Whale		R
<i>Peponocephala electra</i>	Melon-headed Whale		R
<i>Globicephala macrorhynchus</i>	Pilot Whale		R
<i>Kogia breviceps</i>	Pygmy Sperm Whale		R+
<i>Tursiops gilli</i>	Pacific Bottlenose Dolphin	Nai'a	X
<i>Steno bredanensis</i>	Rough-toothed Dolphin	Nai'a	X

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

EXHIBIT 1 - Chapter 124 - Page 11

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Status
<u>Indigenous Mammals</u>			
<i>Stenella attenuata</i>	Spotted Dolphin	Nai'a	X
<i>Stenella longirostris</i>	Spinner Dolphin	Nai'a	X
<i>Stenella coeruleoalba</i>	Striped Dolphin		R+

- \* Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered to be extinct

## EXHIBIT 2 - Chapter 124

List of Species of Endangered Wildlife  
and Plants in Hawaii

SCIENTIFIC NAME COMMON NAME HAWAIIAN NAME	Portion of Range where Endangered
<b>Birds</b>	
<i>Pterodroma phaeopygia sandwichensis</i> Hawaiian (Dark-rumped) Petrel 'Ua'u	Entire
<i>Oceanodroma tristrami markami</i> Hawaiian (Harcourt) Storm-Petrel 'Oeoe	Entire
<i>Branta sandvicensis</i> Hawaiian Goose Nēnē	Entire
<i>Anas laysanensis</i> Laysan Duck	Entire
<i>Anas wyvilliana</i> Hawaiian Duck Koloa-maoli	Entire
<i>Buteo solitarius</i> Hawaiian Hawk 'Io	Entire
<i>Gallinula chloropus sandvicensis</i> Hawaiian Gallinule 'Alae-'ula	Entire
<i>Fulica americana alai</i> Hawaiian Coot 'Alae-ke'oke'o	Entire
<i>Himantopus mexicanus knudseni</i> Hawaiian (Black-necked) Stilt Āe'o	Entire
<i>Asio flammeus sandwichensis</i> Hawaiian (Short-eared) Owl Pueo	Oahu
<i>Gygis alba rothschildi</i> White (Fairy) Tern Manu-o-ku	Oahu
<i>Corvus tropicus</i> Hawaiian Crow 'Alalā	Entire
<i>Phaeornis obscurus rutha</i> Molokai Thrush Oloma'o	Entire

## EXHIBIT 2 - Chapter 124 - Page 2

List of Species of Endangered Wildlife  
and Plants in Hawaii

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Portion of Range where Endangered
<b>Birds</b>			
<i>Phaeornis obscurus myadestina</i>	Kauai Thrush	Kāma'o	Entire
<i>Phaeornis palmeri</i>	Small Kauai Thrush	Puaiohi	Entire
<i>Acrocephalus familiaris kingi</i>	Nihoa Millerbird		Entire
<i>Moho braccatus</i>	Kauai 'Ō'ō	'Ō'ō 'a'a	Entire
<i>Loxops virens wilsoni</i>	Maui 'Amakihi	'Amakihi	Lanai
<i>Loxops maculatus mana</i>	Hawaii Creeper		Entire
<i>Loxops maculatus flammeus</i>	Molokai Creeper	Kakawahie	Entire
<i>Loxops maculatus maculatus</i>	Oahu Creeper	'Alauwahio	Entire
<i>Loxops coccineus coccineus</i>	Hawaii 'Ākepa	'Akakane	Entire
<i>Loxops coccineus ochraceus</i>	Maui 'Ākepa	'Akepeu'ie	Entire
<i>Melamprosops phaeosoma</i>	Po'ouli	Po'ouli	Entire
<i>Hemignathus procerus</i>	Kauai 'Akialoa	'Akialoa	Entire
<i>Hemignathus lucidus affinis</i>	Maui Nuku-pu'u	Nuku-pu'u	Entire
<i>Hemignathus lucidus hanapepe</i>	Kauai Nuku-pu'u	Nukupu-'u	Entire



## EXHIBIT 2 - Chapter 124 - Page 3

List of Species of Endangered Wildlife  
and Plants in Hawaii

SCIENTIFIC NAME COMMON NAME HAWAIIAN NAME	Portion of Range where Endangered
<u>Birds</u>	
Hemignathus wilsoni 'Akiapola'au Akiapōlā'au	Entire
Pseudonestor xanthophrys Maui parrotbill	Entire
Psittirostra psittacea 'Ō'ū 'Ō'ū	Entire
Psittirostra cantans cantans Laysan Finch	Entire
Psittirostra cantans ultima Nihoa Finch	Entire
Psittirostra bailleui Palila Palila	Entire
Palmeria dolei Crested Honeycreeper 'Ākohekohe	Entire
Vestiaria coccinea 'I'iwi 'I'iwi	Oahu, Lanai & Molokai
<u>Mammals</u>	
Lasiurus cinereus semotus Hawaiian (Hoary) Bat 'Ōpe'ape'a	Entire
Monachus schauinslandi Hawaiian Seal 'Īlio-holo-i-kauaua	Entire
Megaptera novaeangliae Humpback Whale Koholā	Entire
Balaenoptera physalus Fin Whale Koholā	Entire
Physeter catodon Sperm Whale Koholā	Entire

EXHIBIT 2 - Chapter 124 - Page 4

List of Species of Endangered Wildlife  
and Plants in Hawaii

SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Portion of Range where Endangered
<u>Reptiles</u>			
<i>Eretmochelys imbricata bissa</i>	Pacific Hawksbill Sea Turtle	Ea	Entire
<i>Dermochelys coriacea schlegelii</i>	Pacific Leatherback Sea Turtle		Entire
<u>Mollusks</u>			
<i>Achatinella</i> spp.	Achatinella Tree Snails		Oahu
<u>Plants</u>			
<i>Vicia menziesii</i>	Hawaiian Wild Broad-bean		Entire
<i>Stenogyne angustifolia</i> var. <i>angustifolia</i>	No common or Hawaiian name known		Entire
<i>Haplostachys haplostachya</i> var. <i>angustifolia</i>	No common or Hawaiian name known		Entire
<i>Lipochaeta venosa</i>	Nehe		Entire
<i>Kokia Cookei</i>	Cooke Kokio Koki'o		Entire

EXHIBIT 3 - Chapter 124

List of Species of Threatened  
Wildlife in Hawaii

	SCIENTIFIC NAME	COMMON NAME	HAWAIIAN NAME	Portion of Range Where Threatened
<u>Bird</u>	<i>Puffinus puffinus newelli</i>	Newell Shearwater	'A'o	Entire
<u>Reptile</u>	<i>Chelonia mydas agassizi</i>	Pacific Green Sea Turtle	Honu	Entire

EXHIBIT 4 - Chapter 124

Introduced Wild Birds Other than  
Game Birds Which Have Become  
Wild Birds

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
Bubulcus ibis	Cattle Egret
Tyto alba	Barn Owl
Aerodramus vanikorensis	Gray Swiftlet
Alauda arvensis	Skylark
Garrulax pectoralis	Greater Necklaced Langhingthrush
Garrulax canorus	Melodius Laughingthrush (Chinese Thrush, Hwa-mei)
Leiothrix lutea	Red-billed Leiothrix (Hill Robin)
Pycnonotus jocosus	Red-whiskered Bulbul
Pycnonotus cafer	Red-vented Bulbul
Mimus polyglottos	Mockingbird
Copsychus malabaricus	Shama Thrush
Cettia diphone	Japanese Bush-Warbler (Uguisu)
Zosterops japonicus	Japanese White-eye (Mejiro)
Acridotheres tristis	Common Mynah
Sturnella neglecta	Western Meadowlark
Estrilda caerulescens	Lavender Fire-Finch
Estrilda troglodytes	Red-eared Waxbill
Amandava amandava	Red Munia (Strawberry Finch)
Lonchura malabarica	Warbling Silverbill
Lonchura punctulata	Spotted Munia (Ricebird)
Lonchura malacca	Black-headed Munia (Black-headed Mannikin)
Padda oryzivora	Java Sparrow
Passer domesticus	English Sparrow (House Sparrow)
Sicalis flaveola	Saffron Finch
Tiarus olivacea	Yellow-faced Grassquit
Paroaria coronata	Brazilian Cardinal (Red-crested Cardinal)
Paroaria capitata	Yellow-billed Cardinal
Cardinalis cardinalis	Northern (Kentucky) Cardinal
Serinus canaria	Common Canary
Serinus mozambicus	Yellow-fronted Canary
Carpodacus mexicanus	Linnet (House Finch)

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

DIVISIONS:  
CONSERVATION AND  
ENFORCEMENT  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

June 14, 1982

Master George Balazs  
Hawaii Institute of Marine Biology  
P. O. Box 1346, Coconut Island  
Kaneohe Bay, Hawaii 96744

Dear George:

Good grief! Enough, already! Pau Hana! Have mercy on a poor overworked government employee! I don't know where you get all your energy and time! Your production is outrageous! I have finally had to deal with my guilt over not acknowledging all your thoughtful letters and contributions to my library and files on marine turtles and other wildlife. This is my attempt to catch up with you (I know I'll never get ahead of you) and respond to your requests and sly editorial suggestions.

1. Thanks for the post card of the green sea turtle nude-sunbathing on French Frigate Shoals.
2. I haven't completely read the paper on "Sea Turtles and Their Traditional Usage in Tokelau"; am waiting for a long quiet moment in the men's room to do so. I think a similar paper about the Hawaiian scene would be a real challenge.
3. Your own personally autographed copy of Rule 124, suitable for binding is enclosed. Let know if you need additional copies. The rule already needs some minor changes--would appreciate your suggestions/critique. Yes, your beloved honu is covered by the rule.
4. I cannot argue with your review comments on the requests to take green sea turtles of May 1, 1982. You ask some very pithy, pertinent questions of the supplicants. I would enjoy hearing their answers. Other than this, I cannot contribute--as you know I am "out of business" with green sea turtles now.

Master George Balazs

Page 2

June 14, 1982

5. Your two research proposals look good to me. I assume that the proposal to study foraging pastures will involve mapping the pasture limits themselves as much as mapping turtles, per se on pastures. Perhaps an extension of this indirect method would help give you a handle on turtle distribution and movement. In any event, I recommend your proposals emphasize the practical, usable, problem solving benefits for man or for the survival of the species in general and not for any esoteric reason. It might sell better in this time of the great money competition.
6. Your curriculum vitae is disgusting. How can one man do so much so young and still be married, with a kid?
7. Your questions about turtle tags are, for the most part, answered on the attached sheet.

Now George. Stop bugging me for at least a month! I need the rest!

With much aloha,



RONALD L. WALKER  
Chief Wildlife Biologist

RLW:sna

Attachment

P.S. Would appreciate being put on the MARINE TURTLE NEWSLETTER! Thanks.

P.P.S. *also, mahalo for the turtle poster, now on my office wall.....!*

P  
Y



## University of Hawaii at Manoa

Hawaii Institute of Marine Biology  
P.O.Box 1346 • Coconut Island • Kaneohe, Hawaii 96744  
Cable Address: UNIHAW

August 22, 1978

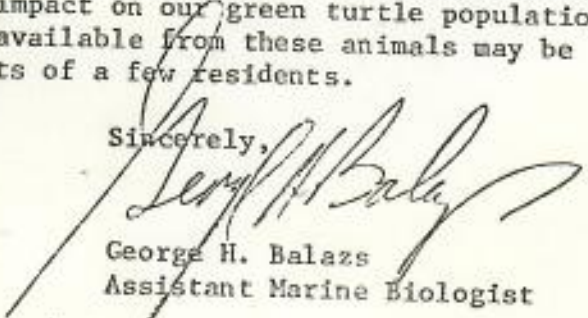
Mr. Richard B. Roe  
Acting Chief, Marine Mammals and  
Endangered Species Division  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
3300 Whitehaven Street, NW  
Washington, D. C. 20235

Dear Mr. Roe:

I have had the opportunity to review the Final Rules and Final Environmental Impact Statement for the listing of sea turtles which was originally proposed in December 1973 and April 1974. Although federal action on this matter is long overdue, I believe that the NMFS and FWS should be commended for their efforts in the preparation of these final documents. The goal of protecting sea turtles without unduly restraining shrimp and other commercial fisheries can hopefully now be achieved in the near future.

There is one point concerning the subsistence use of green turtles that I would like to bring to your attention before the final rules go into effect. Under the State of Hawaii's sea turtle regulation that became effective in May of 1974, green turtles 36 inches and larger may be taken for home consumption with a free permit issued by the Division of Fish and Game. The records indicate that the following numbers of turtles have been legally taken under this provision: May - December, 1974 - 9; 1975 - 6; 1976 - 21; January - June, 1977 (my most recent data) - 16. Although not stated in the records, food preference and recreation/sport are undoubtedly the major reasons that these turtles were taken. Several of the turtles, however, may indeed have been taken for true subsistence purposes. In view of such a small number (perhaps less than 5 per year), you may want to give further consideration to allowing subsistence fishing in Hawaii in the same manner that will be permitted in the Trust Territory. The estimated five turtles per year that would be legally taken under such a provision could not be expected to have a significant adverse impact on our green turtle population. At the same time, the protein available from these animals may be nutritionally important to diets of a few residents.

Sincerely,

  
George H. Balazs  
Assistant Marine Biologist

GHB:md

AN EQUAL OPPORTUNITY EMPLOYER

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Dear Mr. Jones:

Because of your interest in sea turtles, I would like to share with you information about our latest activities regarding their conservation.

On July 28, 1978, the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS) jointly published final regulations listing and protecting, under the Endangered Species Act of 1973, the loggerhead sea turtle as a threatened species. In addition, the green sea turtle and the olive (Pacific) ridley sea turtle were determined to be threatened species. The Florida and Mexican Pacific coast breeding populations of green sea turtles and the Mexican Pacific coast breeding population of Pacific ridley sea turtles, however, were determined to be endangered. The rulemaking contained protective regulations for threatened species of sea turtles. The hawksbill, leatherback and Kemp's (Atlantic) ridley sea turtles were listed previously as endangered.

Commercial Turtle Farms: The regulations prohibited the importation and trade of commercial products from mariculture operations. In September 1978, Cayman Turtle Farms, Grand Cayman, Cayman Islands, filed a lawsuit to stop the enforcement of the prohibitions against its products. At a court hearing, the two agencies agreed not to enforce the regulations against Cayman Farm's products until additional comments had been submitted by the farm. The agencies considered the evidence and the District Court for the District of Columbia agreed to rule on any action brought before it. On December 5, NMFS and FWS reaffirmed their decision not to provide an exemption for commercial mariculture. At this time, Cayman Turtle Farm is continuing their lawsuit to gain an exemption. In the meantime, products from the farm may be imported into the United States.

Critical Habitat Designation: Recent amendments to the Endangered Species Act made it necessary to revise procedures for designating the Port Canaveral navigation channel as Critical Habitat for loggerhead and Kemp's ridley sea turtles and designating the waters adjacent to Sandy Point Beach, St. Croix as Critical Habitat for the leatherback sea turtle. In response to a request from the Canaveral Port Authority, NMFS held a hearing on December 12, 1978, at the Canaveral Port Authority Office. A public meeting on the St. Croix designation was



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held on December 5, 1978, at Frederiksted, St. Croix. Proposed designation of Sandy Point Beach Critical Habitat was published in the FEDERAL REGISTER on November 29, 1978.

Restricted Fishing Area Designation: Emergency regulations declaring the Port Canaveral navigation channel a Restricted Fishing Area were published in the FEDERAL REGISTER on November 22, 1978, and will be effective until March 22, 1979. During this period of time, it is illegal to trawl in the channel.

Gear Development: Experiments using test gear designed to reduce the incidental catch of sea turtles by fishermen continue on the shrimp grounds. The NMFS has developed an "excluder" panel that fits across the mouth of standard shrimp trawls to prevent or reduce incidental catch. There are five vessels fishing off the coast of Georgia with observers on board. Test gear was removed from three of the vessels when sufficient data had been collected to show that flat trawls rigged for white shrimp did not work well with the sea turtle "excluder" panels. However, modifications made to the panel appear to have overcome this problem. Two boats will continue to test net designs. Six vessels are operating off the Texas coast with observers on board to collect incidental catch data and evaluate "excluder" trawl gear. Mixed results are being obtained where white and brown shrimp overlap. Testing continued through approximately mid-December to evaluate the performance of the gear, particularly on brown shrimp. A significant amount of assistance has been provided by the shrimp industry to place additional observers aboard non-gear testing shrimp vessels for collecting incidental catch data. At Key West, Florida, gear preparation was completed for six vessels to test designs of sea turtle "excluder" trawls in the South Florida shrimp fishery beginning January 1979.

Endangered Species Act Section 7 Consultations: An informal meeting was held with U.S. Navy representatives on October 24 at the Trident Submarine Base, Cape Canaveral, concerning information the Navy had obtained on water temperature and bottom type in the vicinity of the channel.

Headstart Program - Atlantic Ridley Sea Turtle: As a part of the headstart program for the Atlantic ridley, the Galveston Laboratory has been experimenting with rearing over 2,000 juvenile Atlantic ridley sea turtles hatched in August, 1978. They will be released this winter and next summer.

Population and Habitat Survey: A study of marine turtles and their habitats was conducted by Dr. Archie Carr of the University of Florida. The study ranged from Cozumel, Mexico, south to Honduras as part of the effort to inventory turtle stocks in the western Atlantic. The study included visits to nesting beaches, tagging, aerial and vessel surveys, and interviews with local government conservation personnel.

Sea Turtle Recovery Team: Dr. Peter C.H. Pritchard of the Florida Audubon Society and Ms. Sally Hopkins of the South Carolina Marine Resources Division are leading a 13 member sea turtle recovery team that has been asked to produce a biological recovery plan for NMFS to use in an attempt to restore sea turtle populations.

Other Activities: A review of the Southeast Region's Sea Turtle Plan was held at St. Petersburg on October 5-6. Research and management priorities were discussed and funding levels were established.

An acoustic test using the Navy shadograph system was made to determine if buried sea turtles could be detected with the side scan sonar. Simulated turtle targets were detected, although distinguishing turtles from other objects would be difficult.

A series of trawl stations was made in the Port Canaveral ship channel and vicinity on October 25-26, with charter vessel Lady Weesa. During this survey period, shrimp fishermen in the area were interviewed regarding the extent of fishing effort in the channel and the frequency of turtle sightings and captures.

If you have any questions, please contact Richard Roe, Office of Marine Mammals and Endangered Species, NMFS, 202-634-7287.

Sincerely,

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Terry L. Leitzell  
Assistant Administrator  
for Fisheries

Documentation of the Occurrence of the green  
sea turtle in shoreline ponds along the leeward  
coast of the island of Hawai'i prior to 1978

The transfer by man of green sea turtles from the ocean to the shoreline ponds is not a new practice on the leeward coast of the island of Hawai'i. The occurrence of green sea turtles in ponds along this coast was documented by a scientific study conducted in 1972-1973, well before the implementation of Federal regulations which protect this species. The results of the scientific survey are reported in a publication by the University of Hawaii Sea Grant College Program: Aquatic Survey of the Kona Coast Ponds, Hawaii Island<sup>1</sup>. The principal investigators of this study were Dr. John A. Maciolek and Dr. Richard E. Brock. They found green sea turtles in 3 ponds (see circled areas on attached maps). These ponds are very similar in bottom type, depth, surface area, and salinity to ponds in the Kalahuipuaa pond complex managed by Alike Cooper & Sons, where turtles are also found.

In contrast to many of the Kalahuipuaa ponds, which have outlets to the sea, the 3 ponds in which turtles were reported by Maciolek and Brock are landlocked. It is the opinion of Dr. Brock that the turtles were transferred into the ponds by humans to speed their growth. The ponds in which the turtles were seen had dense growths of seaweed and pondweed. A variety of seaweed species are important to the diet of the green sea turtle. It has been observed that the major food source along the lava coastline of the Ka'u District is a seaweed which grows in shallow water close to shore, often on rocks just below the low tide line and in areas where freshwater enters the ocean from underground springs<sup>2</sup>. Waters along this coast are turbulent, and turtles have to do considerable swimming and maneuvering to prevent from being smashed against the rocky shoreline and bottom by rough surf. It is no wonder that turtles congregate in the few partially sheltered bays and ponds that they can get into.

Turtles were photographed in the protected waters of Kiholo Lagoon in 1972 (see photos). This lagoon is similar to the largest pond in the Kalahuipuaa complex, which turtles enter through outlets to the open ocean. Because of the dense seaweed growth and the calm waters of such areas, it may be argued that this is the preferred environment for feed by the green sea turtles along the leeward coast of Hawai'i.

The turtles do a service in the Kalahuipuaa ponds, Kiholo Lagoon, and other protected waters into which groundwater carries nutrients from upland development. Without natural cropping by grazing animals, like turtles, the ponds would soon be enveloped by seaweeds, which otherwise would have to be controlled with herbicides. Green sea turtles appear to favor protected waters with plen-

tiful supplies of seaweeds, and their natural feeding behavior provides benefits to fishpond managers who do not have to artificially clear the vegetation which the turtles graze on. It would be very difficult to improve on this two-way relationship through the intervention of the Federal government. In fact, it would seem to be contrary to the interests of this "threatened" species for the Federal government to insist that green sea turtles not be kept in shoreline ponds along the Kona coast.

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References

<sup>1</sup>J.A. Maciolek and R.E. Brook. 1974. Aquatic survey of the Kona Coast ponds, Hawaii Island. UNIHI-SEAGRANT-AR-74-04. University of Hawaii Sea Grant College Program. 73 p.

<sup>2</sup>G.H. Balazs. 1980. Synopsis of biological data on the green turtle in the Hawaiian Islands. NOAA-TM-MMFS-SWFC-7, NOAA/National Marine Fisheries Service, Southwest Fisheries Center. 141 p.

TAXONOMIC LIST AND DISTRIBUTIONS OF LESS-COMMON FAUNA  
OF CLOSED PONDS, KONA COAST, HAWAII

- A. Porifera (sponges)  
Unidentified species: X-5
- B. Coelenterata  
Hydrozoa (hydroids). Ostromouvia horii: K-1  
Anthozoa (anemones, etc.) Unidentified species: J-7
- C. Mollusca  
Gastropoda (snails)  
Melampus parvulus: H-4; J-45; K-22  
Theodoxus vespertina: E-14,16; H-9; K-3,10,24  
Nerita polita: K-16,30; X-2  
Neritilia sp.: F-5; J-45,47  
Unidentified red species: E-15  
Pelecypoda (clams, etc.)  
Isognomon californicum: D-17  
Unidentified species: S-1
- D. Anthropoda  
Isopoda (pill bugs, etc.)  
Unidentified cymothoid species: X-5  
Decapoda (shrimps, crabs)  
Alpheus crassimanus: J-46  
Antecaridina lauensis: V-1; X-5  
Procaris hawaiana: X-5  
Calliasmata pholidota: X-5  
Unidentified xanthid crab: D-60  
Insecta  
Unidentified beetle: F-1; G-15; H-23  
Unidentified mosquito: F-1; O-1  
Unidentified midge: D-47
- E. Chordata (vertebrates)  
Pisces (fishes)  
Abudefduf abdominalis (Mamo): D-61; F-5  
Abudefduf sordidus (Kupipi): D-3,54; E-3; H-1,20,30; U-4  
Acanthurus achilles (Pakuikui): H-9  
Acanthurus sandvicensis (Manini): D-2,3,56; H-2,8,20,21; U-3  
Adioryx sp. (Alaihi): D-55  
Awaous genivittatus (Oopu kanio): D-36  
Bathygobius fuscus (Oopu kai): D-32; H-8,30; J-46; M-6  
Chanos chanos (Awa): E-3  
Conger sp. (Puhi uha): C-10  
Cyprinus carpio (Koi-exotic): E-3,9  
Kelloggella oligolepis: D-32,33,45  
Neomyxus chaptalii (Uouoa): H-9,20  
Sphyræna barracuda (Kaku): E-14  
Reptilia (turtles, etc.)  
Chelonia mydas (Honu): E-14,17; H-23

QUAD E

- 4 -

19°54'



A

19°53'

Pueo Bay

Keawaiki Bay

Ohiki Bay

PUUWAAWAA

PUANAHULU

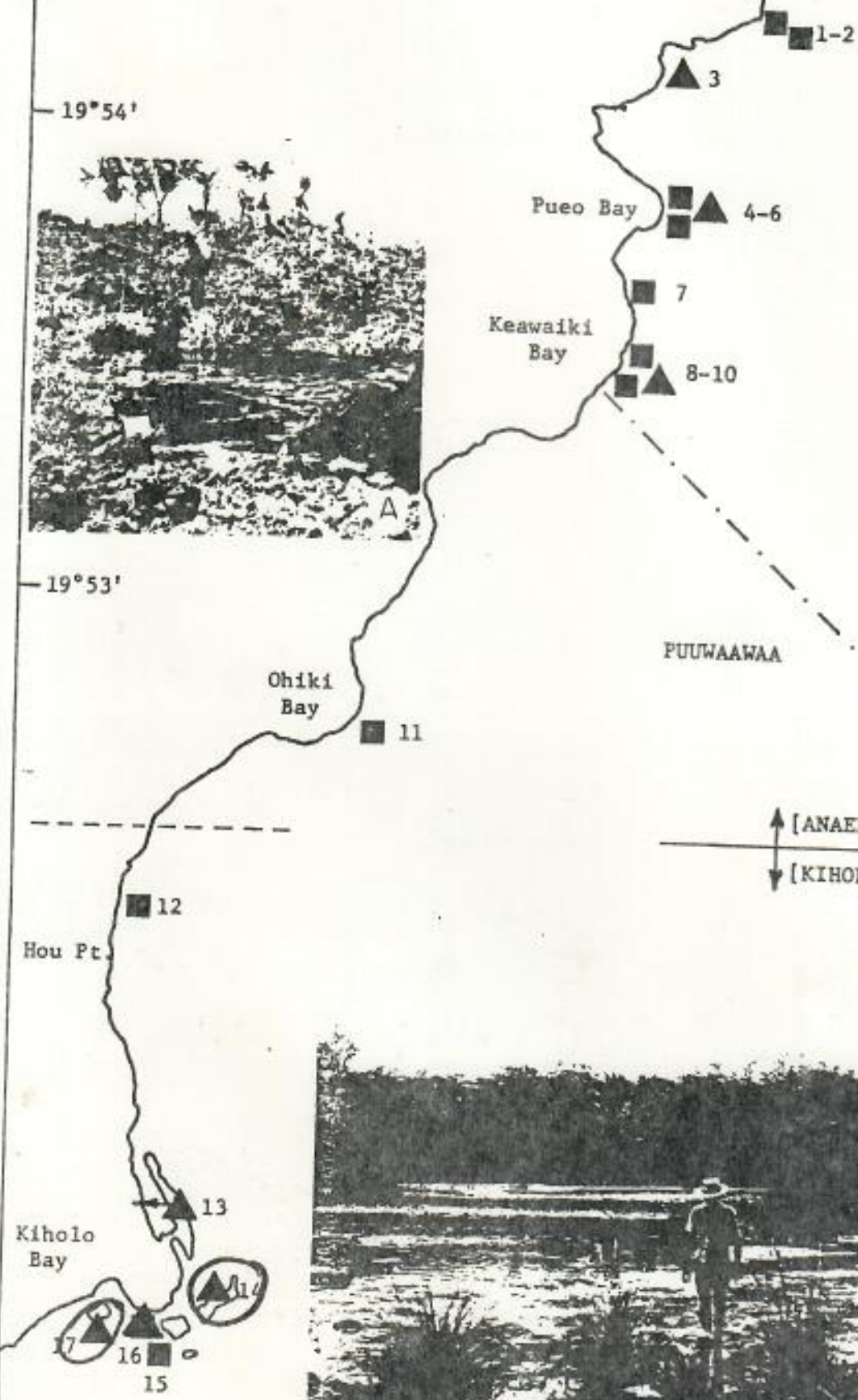
[ANAHOOMALU]  
[KIHOLO]

Hou Pt.

Kiholo Bay

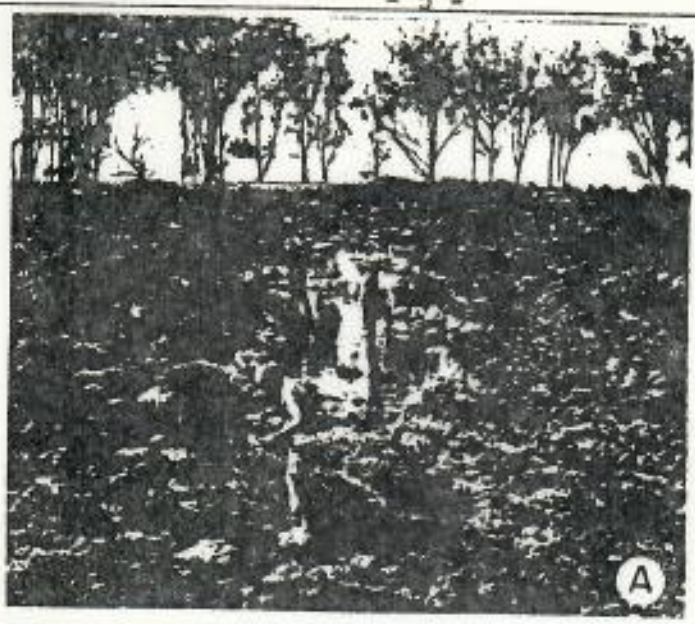


B



QUAD H

[MAKALAWENA]



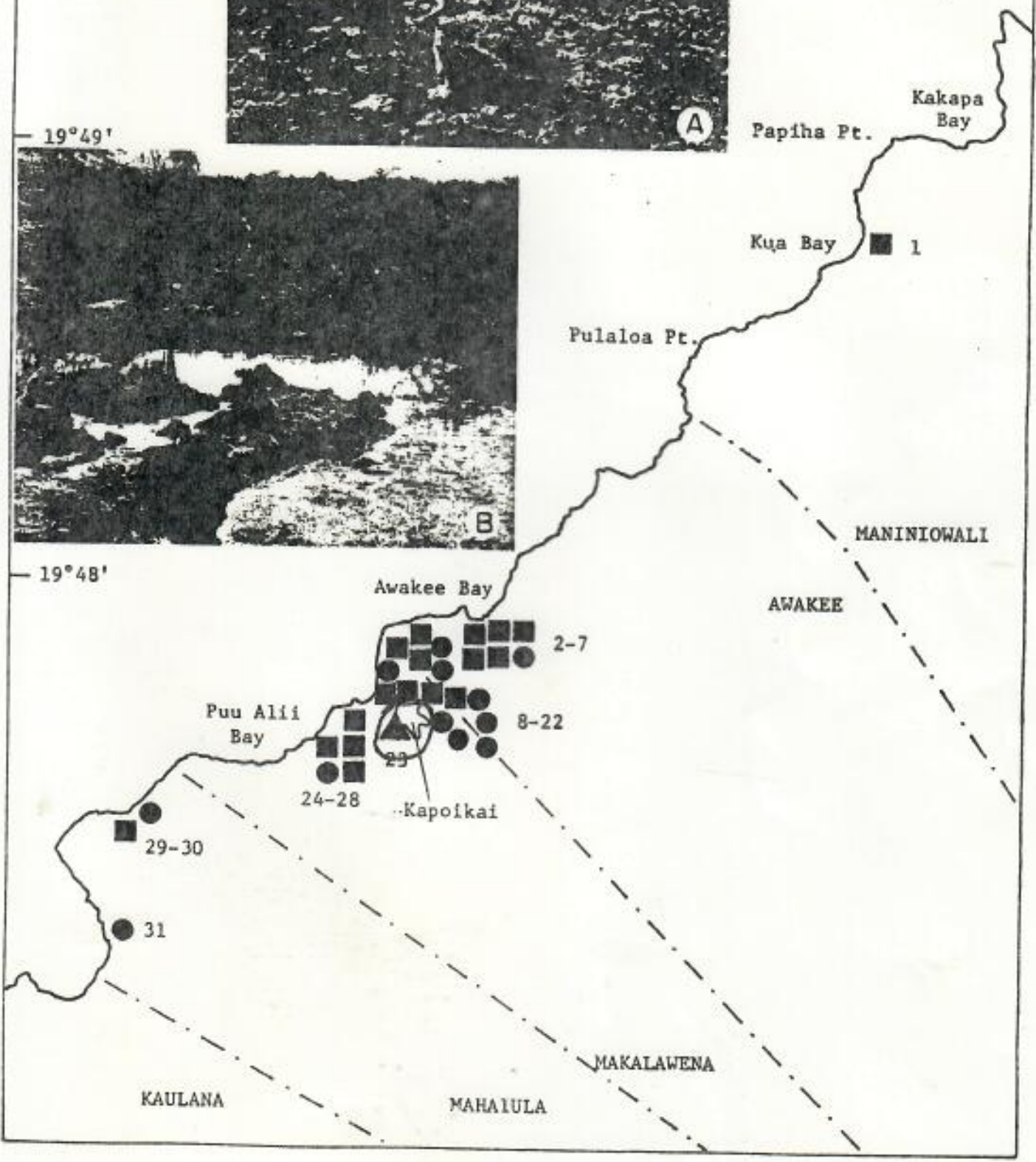
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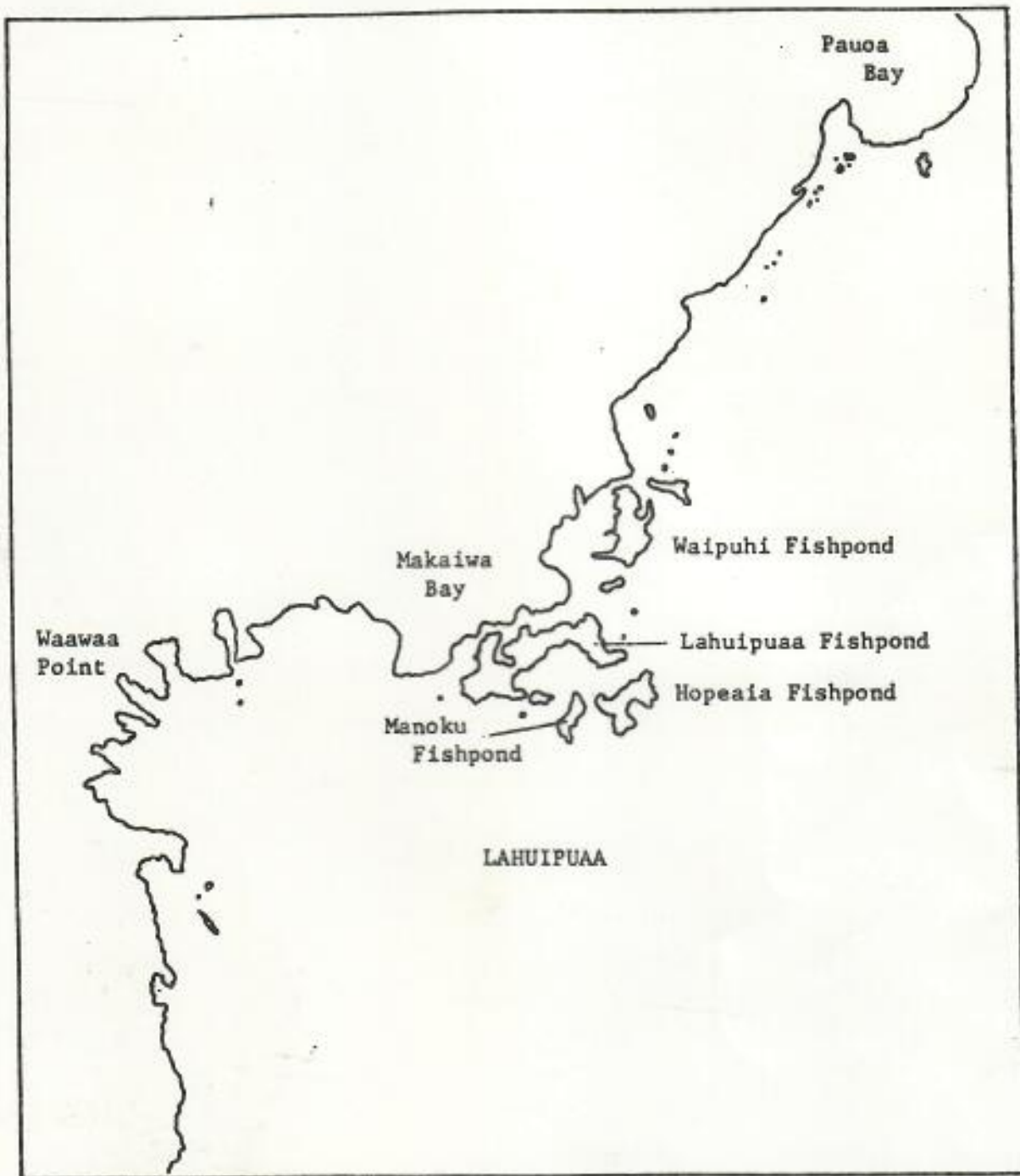
19°49'



B

19°48'





Important Kona coast pond sites: ponds of Lahuipuaa Land Division, South Kohala District.  
Scale = 1:12,000 (1 cm = 120 m).



Chronology of Federal Government and Related Actions  
Regulating the Taking of Green Sea Turtles  
in the State of Hawaii

- December 28, 1973 Proposed listing by the Fish and Wildlife Service of the green and loggerhead sea turtles as endangered species under the Endangered Species Conservation Act of 1969.
- December 28, 1973 Endangered Species Act of 1973, which superseded the Endangered Species Conservation Act of 1969, was enacted into law.
- April 23, 1974 F. Wayne King, Director of Conservation and environmental Education for the New York Zoological Society, submitted a formal petition under the new law--the Endangered Species Act of 1973--to list the green sea turtle as an endangered species and the loggerhead and Pacific ridley sea turtles as threatened species.
- May, 1974 The State of Hawaii, through the Department of Land and Natural Resources, promulgated Fish and Game Regulation 36 which prohibited any taking of leatherback and hawksbill turtles and permitted very limited and controlled harvesting of the green sea turtle for home use only.
- July 3, 1974 A preliminary in-house NMFS review of the status of green, loggerhead, and Pacific ridley sea turtles was completed.
- August 8, 1974 Letters were sent to the Governors of the States, Territories, Possessions, and the Commonwealth of Puerto Rico, where green, loggerhead, and Pacific ridley sea turtles are resident, announcing a NMFS/FWS status review of these species and requesting views.
- August 16, 1974 Initiation of a formal review by NMFS/FWS of the status of green, loggerhead, and Pacific ridley sea turtles was announced in the Federal Register.
- May 20, 1975 NMFS/FWS determination to propose listing green, loggerhead, and Pacific ridley sea turtles as threatened was published in the Federal Register. Regulations proposed by NMFS/FWS to conserve and manage these three species of sea turtles as threatened were also published.
- July 17, 1975 A letter was sent by Governor George Ariyoshi to the Director of the U.S. Fish and Wildlife Service to present the State of Hawaii's position on the proposed Federal rule-making (as above). This letter noted that the State did not consider the Hawaiian population of green sea turtle threatened to the degree requiring a complete mora-

torium on its taking. The letter noted the existence of a State regulation restricting the harvest of green sea turtles and strongly recommended "...that the Hawaiian population of Green Sea Turtle be excluded from the proposed list of threatened fish and wildlife on the basis that the State of Hawaii through its best effort is currently managing the population through continuous research and enforcement which provide protection as well as permit controlled harvesting that is so important to the traditional life-style of our people."

- August 20, 1974 Notice was published in the Federal Register of the Department of Commerce/National Oceanic and Atmospheric Administration/NMFS decision to prepare an environmental impact statement and to hold a public hearing on: the proposal to list green, loggerhead, and Pacific ridley sea turtles as threatened; the proposed protective regulations for these species; and the draft environmental impact statement.
- November 14, 1974 Notice was published in the Federal Register postponing the Department of Commerce/National Oceanic and Atmospheric Administration/NMFS public hearing from December 3, 1975, to February 25, 1976.
- February 6, 1976 Notice was published in the Federal Register inviting the public to submit written comments until March 22, 1976.
- February 25-26, 1976 Public hearing was held in Washington, D.C., on the proposed listing of three species of sea turtles discussed here.
- March 19, 1976 Notice by the Council on Environmental Quality was published in the Federal Register extending the public comment period until April 5, 1976.
- April 1, 1976 A letter was sent by Governor George Ariyoshi to Sidney Galler, Deputy Assistant Secretary for Environmental Affairs, in response to Mr. Galler's request for comments on the Draft Environmental Impact Statement on the proposed regulation. The Governor strongly endorsed an alternative which would have allowed subsistence fishing in areas of traditional sea turtle fisheries.
- June 16, 1976 NMFS/FWS proposed regulations to treat green, loggerhead, and Pacific ridley sea turtles as threatened under the "similarity of appearance" provision were published in the Federal Register. Upon final regulations on the proposal of May 20, 1975, becoming effective, these proposed regulations will be withdrawn, or if promulgated in final, rescinded.

- July 22, 1976 Carleton S. Jones, Counsel for Cayman Turtle Farm, Ltd., requested that a public hearing be held on the proposed regulations treating these three species of sea turtles as threatened under the "similarity of appearance" provision of the Endangered Species Act of 1973.
- October 15, 1976 Denial of the hearing requested by Carleton S. Jones (as above) was published by the Department of the Interior in the Federal Register.
- July 18, 1977 A Memorandum of Understanding (MOU) concerning jurisdiction of sea turtles between NMFS and FWS was signed. This MOU establishes sole agency jurisdiction of sea turtles with the NMFS while the turtles are in the water, and with FWS while the turtles are on land. The MOU also documented NMFS/FWS agreement to list green, loggerhead, and Pacific ridley sea turtles as threatened species.
- February 28, 1978 The Environmental Defense Fund submitted a request to reopen the public comment period in light of the long time that had elapsed since publication of proposed regulations and to submit newly acquired evidence and related data.
- March 27, 1978 NMFS and FWS announced in the Federal Register that the public comment period was reopened until April 17, 1978. Suggestions by a number of parties to extend this comment period were denied because of the need to expedite the listing. Comments were received from Governors Ricardo Bordallo of Guam, George Ariyoshi of Hawaii, and John Haydon of American Samoa, among others. Governor Bordallo supported listing the loggerhead and Pacific ridley as threatened but recommended limited harvesting of green sea turtles be allowed. Governor Ariyoshi opposed prohibiting incidental catch in "areas, of substantial breeding and feeding" unless "substantial" was clarified since the waters of the entire Hawaiian Archipelago are feeding areas for the green sea turtle. Governor Ariyoshi also supported an exemption for subsistence fishing of the Hawaiian green sea turtle population. Governor Haydon supported the listing of the loggerhead and Pacific ridley, but expressed concern about listing the green since it would deprive many people of a means of living and food.
- July 28, 1978 NMFS and FWS published in the Federal Register final regulations to list and protect green sea turtle populations as a "threatened species". The listing acknowledged that "Hawaii referenced State regulations that permit the taking of green turtles only in excess of 36-inch carapace length for home consumption. In the State's opinion, such protection was adequately protecting the population. However, NMFS and FWS have concern over increased takings

and sale of turtle shell and other products to tourists in Hawaii. For these reasons and because there are alternative food sources available in Hawaii, no exception is allowed for taking green sea turtles in that area." (This rationale apparently overlooked the fact that, since May 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.)

September 6, 1978

NMFS/FWS Final Rulemaking listing and protecting populations of green sea turtles as a threatened species became effective, superceding State of Hawaii Fish and Game Regulation 36. The Federal regulation prohibited the taking of green sea turtles for traditional home consumption.

Chronology of Federal Government and Related  
Actions Concerning the Request to Transfer Green Sea  
Turtles to Fishponds at Kalahuipuaa, Puako, Hawaii Island

- November 12, 1981 A letter was sent by Alika Cooper, manager of the Kalahuipuaa fishpond complex, to Doyle Gates of the National Marine Fisheries Service Western Area Programs Office (Honolulu) asking that previous requests to transfer green sea turtles to the ponds be acted on. This letter noted that the use of turtles to control seaweed growth in fishponds is a traditional Hawaii aquaculture practice. The letter also questioned why subsistence taking of turtle is not permitted in Hawaii, while it is in the Trust Territory of the Pacific Islands.
- December 8, 1981 A letter was sent by Alan Ford, Southwest Regional Director of NMFS, to Alika Cooper to respond to questions raised about the subsistence taking of green sea turtles. The letter noted that no information substantiating the need for a subsistence take was submitted by the State of Hawaii or native Hawaiian groups during the regulatory review process prior to the listing and protection of the Hawaii green sea turtle population as a "threatened species".
- December 21, 1981 A letter was sent by Kenji Ego, Director of the State of Hawaii Division of Aquatic Resources to the NMFS Southwest Regional Director. This letter took strong exception to Mr. Ford's statement in his December 8, 1981 letter that the State of Hawaii failed to submit information to support an exception from the Federal prohibition of taking green sea turtles in Hawaiian waters. Mr. Ego cited 3 letters to Federal officials in which Governor Ariyoshi strongly supported continued management of the green sea turtle through a State regulation which allowed controlled non-commercial harvest for traditional subsistence use and required the submission of harvest data through a permit system. Mr. Ego noted that Mr. Ford's letter of December 8, 1981 had failed to respond to Alika Cooper's request to use turtles to enhance fishpond aquaculture operations.
- January 5, 1982 A letter sent by Alika Cooper to the NMFS Southwest Regional Director reiterated the need for action on his request to transfer turtles to the Kalahuipuaa fishponds for seaweed control.
- January 21, 1982 A letter was sent by Alan Ford informing Alika Cooper that the NMFS will propose to the U.S. Fish and Wildlife Service that the administrative record be reopened to consider the issue of subsistence taking of green sea turtles

in Hawaii, Guam, Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The letter suggests that a working group of Federal officials and island government representatives hold public meetings and consultations as the basis for recommending appropriate action on the subsistence taking issue. The letter asked for Cooper's patience but no mention was made of the status of the request to use turtles to control seaweeds in the Kalahuipuaa fishponds.

- August 15, 1982 A letter was sent by Alika Cooper to the Western Pacific Fishery Management Council complaining that no action has been taken by the NMFS on his request to transfer turtles into the Kalahuipuaa ponds for seaweed control.
- August 19, 1982 Letters were sent by Alika Cooper to Governor Ariyoshi and the 4 members of the Hawaii Congressional delegation concerning the lack of action on his request to NMFS.
- September 7, 1982 A letter was sent by Alan Ford, NMFS Southwest Regional Director, to Alika Cooper informing him that it is illegal to possess green sea turtles taken or imported in violation of the Endangered Species Act. The letter advised that, if the five turtles in the Kalahuipuaa pond complex were taken before the date of listing as a threatened species, "...then it would be appropriate for you to document that fact in order to avoid any future law enforcement problems."
- September 22, 1982 A letter was sent by Governor Ariyoshi to Alika Cooper noting the State's support of controlled subsistence taking of green sea turtles and expressing willingness to participate in a working group with Federal officials to review this issue.
- September 27, 1982 A letter was sent to the NMFS Southwest Regional Director (Alan Ford) by Rep. Daniel Akaka inquiring about the delay in responding to Alika Cooper's request.
- October 8, 1982 A letter was sent to Rep. Akaka by Alan Ford concerning progress in conducting a status review of the green sea turtle population in the central and western Pacific. The letter reported that the NMFS was awaiting a response from the U.S. Fish and Wildlife Service regarding their participation in the status review. Pending a response from FWS, the NMFS had initiated an in-house review of the subsistence taking issue.
- November 1, 1982 Alika Cooper forwarded to Alan Ford copies of letters from Hawaiian organizations concerning the turtle issue. The Cooper letter noted several benefits from having turtles in the Kalahuipuaa fishponds, especially the control of

seaweed blooms. Turtles enter these ponds over the rock wall when ocean conditions are rough or during extra high tides. The turtles presently in the ponds were there when Alika Cooper & Sons began managing the pond complex in 1981. They have probably been there for many years. The turtles are moved from area to area within the complex to control seaweed growth.

October 6, 1983

A letter was sent by Alika Cooper to Gary Smith, Deputy Southwest Regional Director of NMFS reiterating his long-standing request to transfer more turtles into the Kalahuipuaa pond complex from the ocean. The 5 turtles already there are an inadequate number to control seaweed blooms which are stimulated by nutrient-rich groundwater from an upland golf course. The letter also mentioned the need to transfer turtles to 3-4 acres of family fishponds at Keaukaha which have been overgrown by California grass but are being put back into production.

Testimony: Department of Land and Natural Resources  
State of Hawaii

Public Meeting - Review of Regulations Concerning the Taking of  
Sea Turtles for Subsistence Purposes

U.S. Department of Commerce, NOAA  
National Marine Fisheries Service

May 18, 1983  
7:00 p.m.

Prince Kuhio Federal Building  
Honolulu, Hawaii

We wish to begin by reassuring the National Marine Fisheries Service that the State of Hawaii steadfastly appreciates the intrinsic value of our native population of Hawaiian green sea turtles. We stand resolved that our honu shall persist, and that future generations shall share the seas with them as we do today.

We are confident that the people of Hawaii will maintain this common conviction. Based on this determination we must now work to build a consensus regarding how best to manage our renewable sea turtle resource at a sustainable level.

It would simplify the present effort if everyone concerned would keep clearly in mind some of the things we are not seeking:

- we are not seeking to use Hawaiian sea turtles for commercial purposes;
- we are not proposing the taking of turtle eggs, juveniles or immature turtles;
- we are not advocating that our honu be hunted with spears or harpoons, or entangled in nets to drown; and finally
- we are not attempting to rescind the special protection afforded to green sea turtles under Federal status as a threatened species.

Rather, we are simply requesting consideration of an "exemption," for taking fully mature turtles on a strictly non-commercial basis, to be used only for immediate family consumption as is presently allowed residents in the Trust Territory of the Pacific Islands.

The basis of the State's request for this consideration is two-fold: there are indications that our honu are more plentiful today than may have been believed at the time of their listing as a threatened species; and that there already exists a mechanism to monitor and control such taking under a State system that was in operation for four years and which can be restored readily if exemption is granted.



Regarding the increase in the sea turtle stock, local fishermen and divers have related to us that green sea turtles are more frequently encountered in our waters since the listing in 1978. On the Island of Molokai, one of our Aquatic Resources biologists has been assisting the local staff of the National Marine Fisheries Service by collecting data on sea turtles caught incidentally to a commercial net-fishing operation. While the data are preliminary, during the 22 days that he accompanied the commercial fishermen between May, 1982, and April, 1983, 85 honu were measured, tagged and released. Also during this period, many other turtles too large to handle were simply released from the nets untagged, or were released by the fisherman because our biologist could not be present to tag them. Of those tagged and released, only four have been recaptured. In the absence of any determination of sea turtle counts, we suggest the National Marine Fisheries Service evaluate the data collected from the study to derive estimates of sea turtles around our main Hawaiian Islands.

The Federal regulations establishing the prohibition on taking of sea turtles in Hawaii declared that "the National Marine Fisheries Service and the U.S. Fish and Wildlife Service will proceed to obtain data on the extent of subsistence fishing and the status of populations affected by that activity."<sup>1</sup> The only report on the status of the turtle population Statewide has been a synopsis compiled in 1979 and published in 1980.<sup>2</sup> As to the effects of subsistence taking in Hawaii before the prohibition, and in the Trust Territories where subsistence taking is still allowed, the State has learned nothing. Therefore, as we are able to relate only to our experiences and contribution to the federal research project, we looked to these meetings as an opportunity to hear what has been accomplished by the Federal agencies.

Regarding the earlier-mentioned system of managing the sea turtles, the State established in 1974 "Fish and Game Regulation 36," when Hawaiian green sea turtles were unprotected by Federal regulations. The State took action to address the concern of a growing commercial harvest of sea turtles for restaurant and curio sales. At that time, despite the existing commercial take, testimony was presented by a researcher that our Hawaiian population was "the largest remaining colony of green sea turtles left in the United States."<sup>3</sup> Nevertheless, to protect the Hawaiian honu resource, the State's Regulation 36 banned commercial taking.

Regulation 36 allowed the taking of honu for home consumption—with measures to protect the young and the reproductive capacity of the stock. The only information available to us regarding size at maturity is that females with shells 81 cm long have laid eggs, and that roughly seven percent of the turtles are this size on the grounds where they feed.<sup>4</sup> Regulation 36 permitted the taking only of turtles with shells longer than 36", which is slightly more than 91 cm. Also, Regulation 36 prohibited the taking of turtles with nets to prevent drowning of undersize turtles. Each person wishing to take turtles for home consumption was required to secure a permit and to file monthly reports of taking activities, thus providing the means with which the number of permittees and amount taken were monitored.

During the four year interval, 35 permittees reported taking a total of 88 honu or roughly an average of 22 turtles annually. We remain unconvinced that an annual taking of that number was significant to the sea turtle stock. Regulation 36 was preempted four years later in 1978 by the present Federal regulations.

In closing, it must be emphasized again that we are working from the basis of common understanding. We are resolved that our honu, the Hawaiian population of green sea turtles, must be protected effectively and managed wisely. We should all agree that government restrictions contrary to the public interest should be discarded. In this spirit we wish to express our support for the controlled subsistence use of green sea turtles from Hawaiian waters.

Thank you for this opportunity to tender our views.

1. 43 FR 32806.
2. Balazs, George H. 1980. Synopsis of biological data on the green turtle in the Hawaiian Islands. NOAA-TM-NFIS-SWFC-7; National Marine Fisheries Service, Southwest Fisheries Center.
3. Balazs, George H. 1975. Testimony...concerning Senate Bill 548 which relates to a green sea turtle resource management study. Typewritten manuscript, unpublished.
4. Balazs, George H. 1973. Testimony...concerning Regulation 36 which relates to the protection of marine turtles in Hawaiian waters. Typewritten manuscript, unpublished.



Alfred Fong ?

154 Alae St. Hilo

Inasmuch as we all enjoy eating delicious  
turtle meat, opihi's etc, we do not depend  
on it for sustenance and harvesting cannot be  
kept at a sustenance limit except for the  
Hawaiians on Nihoa. Keep the ban on  
green turtle catching, tag them, watch for  
them at sunset and night. Free them  
from the nets. I don't know where the  
large ones are and they aren't around  
the like before.

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5/18/83	Winfred F.S. Ho	SELF	2516 MAKAHANI DR. Hon. HI 96817
5/18/83	Stephen Weinstein	self	1650 Kanunu St, no. 814, 96819
5/18/83	Elizabeth Sedlak-Weinle	self	" " "
5/18/83	Gayle B. Baly	UH Sea Grant	Box 1346 KANEHOHE, HI
5/18/83	Stewart Stiles		45-163 Lili'puna Kaneohe HI
5/18/83	Maura Nangle	self.	1244 Mokapu Kailua HI
5/18/83	Robert Shallenberger	US Fish + Wildlife	300 Ala Moana Blvd, Honolulu
"	William Kramer	US Fish + Wildlife	PO Box 50167 Honolulu HI
"	Oliver J. Fovell	"	"
"	Charles A. Ford		98709 J Shs P
"	Stella Coxant	UH Emerson Ctr.	2550 Campus Rd 96822
	SCOTT KAMICH*	U.S. NAVY	PERMUTACONGEN 96822
	(13)		

# KAUAI

Date	Name	Agency	Address
5/19/83	John J. Deane	THE GARDEN ISLAND	Lihue
5/19/83	Sally	UH Sea Grant	(Honolulu) Box 1346, Kaneohe
5/19/83	Vik Uka	KAPAA KAUAI	
5-19-83	BOB HEE	FISH & WILDLIFE ADVISORY COMMITTEE	P.O. Box 513 KEKAHA, KAUAI
"	Vernon White	Hawaiian Community	Anahola, Kauai
"	Annie Andrade	Lihue P.O. Box 1408	Kauai HI 96766
"	Wah Duwan Lee	" "	" 96766
	George Koons	Nanahi Community	PO Box 147 Nanahi 96714
	Patty Grant	KAUAI Underwater Ass	P.O. Box 188, KAPAA
	Meg Gross	Shelter Co Beach	SLB Hotel
	Contract	-	-
	J. Watt	PRIVATE CITIZEN	P.O. Box 58 LAWAI, KAUAI
	BARRY COOPER	KAUAI UNDERWATER	Box 516 WAIMEA 96791
	Juli Rona	PRIVATE	PO 1813 LIHUE
	MIKE LAY	"	RR1 BOX 167 KOLOA
	Juligny Chapa	Kauai UW Asso.	PO Box 907 Koloa Kauai HI
	Pat Clark	KUA.	PO Box 932 Waimea HI
	Don Neacox	Private citizen	50 Box 262 Anahola 96703
5/19/83	Paul Shimoto	Sea Grant	Box 1870 Lihue 96766
	Yolito Iyuzawa	LP Co	Box 934 LIHUE 96766
	Robert Hudson	Private CITIZEN	P.O. 470 LAWAI 96785
5-19-83	Lenard Morris	Kauai Underwater Ass.	Box 1792 Lihue 96766
"	David Boynton	-	Box 651 Waimea 96796
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	Albert Kubashima		Kapaa Kauai
	Donécio Cuyar		Kekaha, Kauai

