



University of Hawaii at Manoa

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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:

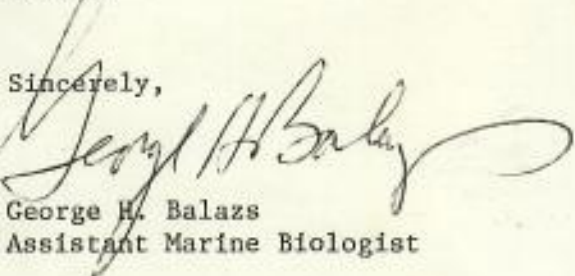
Thank you for your letter of April 3rd responding to my recent inquiry about the proposed deletion of Regulation 36. I was pleased to learn that State protection of the green sea turtle has been incorporated into a newly proposed Administrative Rule of Chapter 124, Title 13. I applaud your efforts in 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