

KAHANAHOU HAWAIIAN FOUNDATION
A NON-PROFIT HAWAIIAN CULTURAL CORPORATION
KEALAKEKUA, HAWAII 96750
TELEPHONE (808) 322-3901

15 October 1982

Mr. Alan W. Ford, Regional Director
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
300 South Ferry Street
Terminal Island, CA 90731

Aloha Mr. Ford!

This is a letter of support for the urgent, and oft-repeated, pleas of Mr. Alike Cooper of Alike Cooper & Sons, Inc., 163 Keiulani Street, Hilo, Hawaii—that your agency immediately act to remove the exceedingly unfair prohibition NMFS has imposed upon our native Hawaiian people, enjoining us against the taking of green sea turtles (Honu Mams'o) for subsistence, and for ritual use.

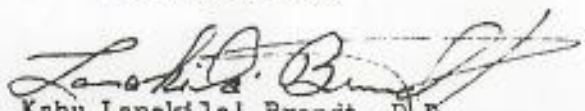
I wholeheartedly and authoritatively endorse Mr. Cooper's assertion that the green sea turtle is one of our people's traditional staples. And also his contention that, due to the depressed financial circumstances in which the majority of native Hawaiians have labored ever since the abrogation of our land and konohiki rights by the United States Government—the real need of our (basically) fisher people to take the green sea turtle for subsistence is urgent!

Also, as prelate of the statewide Hawaiian Rite Church, Hale o Lono, and cultural director of Kahanahou Hawaiian Foundation, with units on three islands, I must also lend support to Mr. Cooper's assertion that many islanders do indeed employ the Honu Mams'o in certain aspects of our ancient worship. And, of course, these traditional usages are guaranteed us under provision of Public Law 95-341, 95th Congress, 11 August 1978.

Further, Mr. Ford—although I see absolutely no reason why we Hawaiians should be compelled to present any sort of rationalization for our historic claims, yet, on December 22, 1981, Mr. Kenji Ego, Director (Ret), Division of Aquatic Resources, State of Hawaii, did supply such substantive evidence of the testimony of Governor George Ariyoshi supporting the lifting of restrictions, as relating to native Hawaiians.

Lastly, sir, that which is fair for natives of the Trust Territory, Guam, and the Northern Marianas, is equally fair for native Hawaiians. We urge you to have your agency lift the stricture, and grant our people their legal rights, immediately.

Most sincerely,


Kahu Lanakila' Brandt, D.D.
KAHANAHOU HAWAIIAN FOUNDATION (and)
Hale o Lono

LB/kl

ccs
Mr. Sus Ono, Director, DLNR,
Division of Aquatic Resources
Mr. Alike Cooper, Alike Cooper & Sons
Mr. Doyle Gates, Director, NMFS, Honolulu
Office of Hawaiian Affairs
Governor George Ariyoshi



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Fisheries Center
Honolulu Laboratory
P. O. Box 3830
Honolulu, Hawaii 96812

October 28, 1982

F/SWC2:GHB

TO: William G. Gilmartin, Leader, Marine Mammal and Endangered Species Investigation

FROM: George H. Balazs

SUBJECT: Some comments on the October 15, 1982 letter to Mr. Ford from K. L. Brandt

1. There is no evidence that the green turtle was ever one of the "people's tradition staples" among the native Hawaiians. In the old culture of Hawaii, green turtles were reserved exclusively for the ruling class--alii and chiefs. This fact has been clearly documented in the literature by historians of Hawaiian ancestry.
2. The prohibition on taking green turtles in Hawaii was not imposed specifically on the "native Hawaiian people." The prohibition obviously applies equally to all people of the state.
3. There is no mention in the literature of a "ritual use" of green turtles in the culture of old Hawaii. In contrast, a ritual use in preparing turtles as food for chiefs is known to have existed in the Tuamotu Archipelago, Northern Cook Islands, and several other Pacific island locations.
4. It would be useful to see the documentation supporting the statement that "many islanders do indeed employ the Honu Mama'o in certain aspects of our ancient worship." The only mention in the literature of an ancient worship of sea turtles relates to the personal gods or aumakua of certain families. In these cases, the people involved would never eat, or in any other way harm, a sea turtle. The turtles were worshipped as being part human.
5. There is no mention in the Hawaiian literature of the name "Honu Mama'o" being applied to Chelonia mydas (green turtle), or any other species of sea turtle. Chelonia mydas in the Hawaiian language is known simply as "honu." The name "green turtle" is of European origin, and was not used in the culture of old Hawaii. It is therefore interesting to note that the dictionary definition of "mama'o" is "green" of "greenish."
6. Based on my knowledge to date, there is no "real" or "urgent" need for people in Hawaii (native Hawaiians or otherwise) to specifically take green turtles for subsistence. Alternate protein food sources are available from the ocean and elsewhere.
7. Governor Ariyoshi did not support in testimony the lifting of restrictions on green turtles "as relating to native Hawaiians." Governor Ariyoshi's testimony in 1975 and 1976 (on listing the green turtle under the ESA) stated that he was in favor of noncommercial use by all the people of Hawaii, not just native Hawaiians.

8. "...that which is fair for natives of the Trust Territory" is not necessarily "equally fair for native Hawaiians." There are substantial differences between the people and places involved.

9. I am not familiar with the Kahanahou Hawaiian Foundation, or the Hawaiian Rite Church-Hale o Lono. It would be informative to know how many people are being represented by this organization and faith, and the addresses of the units mentioned that exist on other islands.

10. The issue at hand here appears to involve far more than just green turtles. Rather the proposition is being set forth that laws now covering the protection and controlled usage of wildlife and fish should not apply to native Hawaiian people, if it can be demonstrated that some form of usage occurred in the culture of old Hawaii. This viewpoint could logically also include Hawaiian seabirds, forest birds, various marine mammals (including monk seals), hawksbill turtles, and even dogs, all of which are protected species at the present time. A separate set of rules covering size restrictions and gear usage in fishing practices would also seem reasonable under this point of view. In any event, the establishment of any "separate community" policy of this nature, if found to be warranted, should in my view originate first within the Hawaii State Government, and not at the federal level.

The green sea turtle —

A green sea turtle can take a long time to die.

Last May, an island visitor found one at Dillingham Field, flapping painfully against the sand with a spear through its head. This incident has been one of several reported to the National Marine Fisheries Service and U.S. Fish and Wildlife officers during the past few months.

The finding of several turtles dead of spear wounds and some drowned and wrapped in anchor lines at Kailua Beach underscores the worry of some turtle specialists and some who fish that existence of the species may be at stake because people are not recognizing the laws protecting the green sea turtle.

Since 1978, the green sea turtle has been listed by the federal government as a threatened species. The designation of "threatened" means that, with protection, an animal species can recover its numbers enough to survive.

A threatened species is not as bad off as one that is "endangered" — faced with imminent extinction.

It has been illegal by federal



from
the sea
mike markrich

law to take turtles since they were put on the threatened list. (A state law now protects them as well.) Before that, it was legal to take turtles over 36 inches (shell size) for personal consumption, but not to sell.

Pacific green sea turtles are found in certain locations throughout the Hawaiian archipelago. They live in other areas, too, and are protected by the U.S. government in waters off California and parts of the Trust Territory. In the Trust Territory, there are some exemptions given for people to catch turtles for basic food needs.

A relative, the Atlantic green sea turtle, is found off Florida and is also on the protected list.

Pacific green turtles eat limu such as green lettuce and wawae'iole. Their shells are black



with patterns of gold, olive and yellow. Scientists believe it takes them anywhere from 10 to 50 years to reach sexual maturity. Approximately 90 percent of their breeding takes place in the Leeward Hawaiian Islands.

The green turtles nest every two years. The mean annual production of hatchlings is about 26,500, but only a small percentage is thought to make it to adulthood. Some are eaten by tiger sharks and groupers while others succumb to weakness and disease.

Turtle specialists such as George Balazs of National Marine Fisheries believe that legal protection is necessary. Says Balazs, "If the young turtles keep getting knocked off, we are never going to get a recovery."

Balazs is in the midst of an in-depth study of the green sea turtle. His work, which includes

Having thus briefly sketched the outlines of the prominent political events of the islands, the ancient religion of the Hawaiians will next be referred to; and as the *tabu* was no less a religious than a secular prerogative, it may properly be considered in connection with the priesthood. A knowledge of the power, scope and sanctity of the *tabu* is essential to a proper understanding of the relations existing in the past between the people and their political and religious rulers, and this great governing force will now claim our attention.

THE TABU.

Strictly speaking, the ancient *tabu*, or *kapu*, was a prerogative adhering exclusively to political and ecclesiastical rank. It was a command either to do or not to do, and the meaning of it was, "Obey or die." It was common to the Polynesian tribes, and was a protection to the lives, property and dignity of the priesthood and nobility.

The religious *tabus* were well understood by the people, as were also the personal or perpetual *tabus* of the ruling families; but the incidental *tabus* were oppressive, irksome and dangerous to the masses, as they were liable to be thoughtlessly violated, and death was the usual penalty.

Everything pertaining to the priesthood and temples was sacred, or *tabu*, and pigs designed for sacrifice, and running at large with the temple mark upon them, could not be molested. It was a violation of perpetual *tabu* to cross the shadow of the king, to stand in his presence without permission, or to approach him except upon the knees. This did not apply to the higher grades of chiefs, who themselves possessed *tabu* rights.

Favorite paths, springs, streams and bathing-places were at intervals *tabud* to the exclusive use of the kings and temples, and squid, turtle, and two or three species of birds could be eaten only by the priests and *tabu* nobility.

Yellow was the *tabu* color of royalty, and red of the priesthood, and mantles of the feathers of the *eo* and *mamoe* could be worn only by kings and princes. Feather capes of mingled red and yellow distinguished the lesser nobility.



THE PULOULOU, OR TABU MARK.

INTRODUCTION.

Women were *tabud* from eating plantains, bananas, and coconuts; also the flesh of swine and certain fish, among them the *kumu*, *moana*, *ulua*, *konu*, *ea*, *hahulua* and *naia*; and men and women were allowed under no circumstances to partake of food together. Hence, when Liholiho, in 1819, openly violated this fundamental *tabu* by eating with his queen, he defied the gods of his fathers and struck at the very foundation of the religious faith of his people.

The general *tabus* declared by the supreme chief or king were proclaimed by heralds, while the *pulouloou*—a staff surmounted by a crown of white or black *kapa*—placed at the entrance of temples, royal residences and the mansions of *tabu* chiefs, or beside springs, groves, paths, or bathing-places, was a standing notification against trespass. General *tabus* were declared either to propitiate the gods or in celebration of important events. They were either common or strict, and frequently embraced an entire district and continued from one to ten days.

During the continuance of a common *tabu* the masses were merely required to abstain from their usual occupations and attend the services at the *heiaus*, or temples; but during a strict *tabu* every fire and every light was extinguished, no canoe was shoved from the shore, no bathing was permitted, the pigs and fowls were muzzled or placed under calabashes that they might utter no noise, the people conversed in whispers, and the priests and their assistants were alone allowed to be seen without their places of abode. It was a season of deathly silence, and was thought to be especially grateful to the gods.

Some of the royal *tabus*, centuries back in the past, were frivolous and despotic, such as regulating the wearing of beards and compelling all sails to be lowered on passing certain coast points; but, however capricious or oppressive, the *tabu* was seldom violated, and its maintenance was deemed a necessary protection to the governing classes.

New York:

CHARLES L. WEBSTER & COMPANY,

1888.

FOR FURTHER INFORMATION CONTACT

Mr. Richard B. Roe, Acting Chief, Division of Marine Mammal and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, 202-634-7287.

Mr. Keith M. Schrelner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 23, 1973, FWS published a proposal to list green and loggerhead sea turtles as endangered species under the Endangered Species Conservation Act of 1969. On that same day the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) was enacted into law and superseded the Endangered Species Conservation Act of 1969. The 1973 act provides legal authority for this action.

On 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 to list the green sea turtle as an endangered species and the loggerhead and Pacific ridley sea turtles as threatened species. Following a NMFS preliminary status review of these three species, NMFS and FWS sent letters on August 8, 1974, 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 and data relevant to the status of these species. On August 9, 1974, Wayne King petitioned the Secretary of Interior to have the green sea turtle listed under the "similarity of appearance" provision of the act. Mariculture, Ltd. (now known as Cayman Turtle Farm, Ltd. and hereinafter referred to as Cayman Farm), Grand Cayman Island, British West Indies, a business involved in the raising and marketing of captive green sea turtles, submitted a formal petition on August 15, 1974, to list the green sea turtle as a threatened species, but to exempt turtles bred or raised in captivity from this classification. A formal review by NMFS/FWS of the status of green, loggerhead, and Pacific ridley sea turtles was announced on August 16, 1974, in the FEDERAL REGISTER (39 FR 29605; 39 FR 29607).

On May 20, 1975, the NMFS/FWS determination to propose listing green, loggerhead, and Pacific ridley sea turtles as threatened species was published in the FEDERAL REGISTER (40 FR

21932, 40 FR 21974) (corrected 40 FR 26043 and 40 FR 25217). That proposal summarized the factors thought to be contributing to the likelihood that these sea turtles could become endangered within the foreseeable future, specified the regulations which would be applicable to conserve these species if such a determination were made, and solicited comments, suggestions, objections, and factual information from any interested person. In July 1975, NMFS and FWS sent a telegram to all diplomatic and consular posts soliciting comments on the proposed action and information on sea turtles found in their jurisdiction. On July 17, 1975, Robert Nordstrom, Director of the Fisheries Divisions, National Cannery Association, requested that NMFS hold a public hearing on the proposed regulations regarding sea turtles. On August 20, 1975, notice was published in the FEDERAL REGISTER of the 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 (DEIS) (40 FR 36401). On November 14, 1975, notice was published in the FEDERAL REGISTER postponing the NMFS public hearing from December 3, 1975, to February 25, 1976 (40 FR 53051). The National Marine Fisheries Service submitted its DEIS on January 30, 1976, to the Council on Environmental Quality (CEQ). On February 6, 1976, CEQ announced in the FEDERAL REGISTER the availability of the DEIS and opening of the 45 day comment period on the DEIS (41 FR 5426). Also on February 6, 1976, notice by NMFS was published in the FEDERAL REGISTER extending the comment period on the proposed listing and protective regulations, DEIS, and public hearing from March 8, 1976 to March 22, 1976 (41 FR 5413). On February 25-26, 1976, an informal, fact-finding public hearing was held in Washington, D.C., on the proposed listing of the three species of sea turtles and the DEIS. Scientists, conservationists, businessmen, shrimpers, and representatives from State and foreign governments participated in this hearing. On March 19, 1976, CEQ published notice in the FEDERAL REGISTER extending the public comment period on the DEIS until April 5, 1976 (42 FR 11602).

On June 16, 1976, NMFS/FWS proposed regulations to list green, loggerhead, and Pacific ridley sea turtles as threatened species under the "similarity of appearance" provisions were published in the FEDERAL REGISTER (41 FR 24378). Once these final listing regulations (on the proposal of May 20, 1975) are effective, the proposed "similarity of appearance" regulations

will be withdrawn as indicated in the June 16, 1976 proposal. Cayman Farm requested on July 22, 1976, that a public hearing be held on the proposed regulations treating these three species of sea turtles as threatened under the "similarity of appearance" provisions. On October 15, 1976, denial of the hearing requested by Cayman Farm was published by the Department of the Interior in the FEDERAL REGISTER (41 FR 45573).

On July 18, 1977, a Memorandum of Understanding (MOU) concerning the jurisdiction of sea turtles between NMFS and FWS was signed. This MOU established sole agency jurisdiction with NMFS while the turtles are in the water and with FWS while they are on land.

The Environmental Defense Fund submitted a request on February 28, 1978, 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. On March 27, 1978, NMFS and FWS announced in the FEDERAL REGISTER that the public comment period was reopened until April 17, 1978 (43 FR 12735; corrected 43 FR 13905). 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, Ella Grasso of Connecticut, Sherman Tribbitt of Delaware, Marvin Mandel of Maryland, George Wallace of Alabama, George Ariyoshi of Hawaii, and Jonn Haydon of American Samoa. Governor Bordallo supported listing the loggerhead and Pacific ridley as threatened, but recommended limited harvesting of green sea turtles be allowed. Governors Grasso and Tribbitt supported listing all three species as threatened. Governors Mandel and Wallace supported listing the green and loggerhead as threatened. Governor Wallace also supported an exception for incidental catch believing that incidental catch is not a major cause of decline in turtle stocks in the Alabama area. 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. In addition, representatives or agencies from New Jersey, California, Texas, South Carolina, North Caroli-

for a prohibition of all incidental catch was rejected because the data to indicate shrimping was detrimental to sea turtles throughout the geographical range of the fishery were not available.

Setting limits on incidental captures and establishing a permit system for incidental catch were rejected as difficult to enforce and administer. Catch limits may be imposed in selected areas designated as Restricted Fishing Areas.

We agreed with commentators who were opposed to the immediate return of comatose turtles to the water. The regulations provide that resuscitation be attempted before a comatose turtle is returned to the water.

(4) A limited number of comments were received on whether or not to allow subsistence taking of threatened sea turtles. The proposed regulations did not provide an exception for subsistence. Comments from 10 parties were received addressing this issue.

Of these, nine were in support of allowing subsistence taking, the majority of these being from State and Territorial governors or State agencies where subsistence fishing occurs. These included Hawaii, Guam, American Samoa, and the Trust Territory of the Pacific. Their comments were mainly restricted to the green sea turtle and stressed the need to consider social and economic factors. They related the importance of the green sea turtle as a source of food for many of the island's inhabitants. Evidence was provided indicating the importance of turtles in the cultural way of life in some areas. It was also argued that enforcement would be nearly impossible. Hawaii expressed the opinion that existing State regulations provided adequate protection and that Federal regulations should not be more restrictive. Comment was received in support of subsistence taking provided it is adequately researched and enforced, only allowed where stocks are plentiful, and not allowed on nesting beaches. Two individuals believed it should be allowed by natives in the Pacific Trust Territory for local consumption. One biologist supported subsistence fishing in the Trust Territory if it were carefully monitored, and in Hawaii only after comprehensive investigations indicate that subsistence taking would not be detrimental to that population.

One comment was received from the environmental community, and was endorsed by others, specifically addressing support of a prohibition on subsistence taking on the basis that alternative sources of food are available. It should also be noted that comments were received in general support of the proposed regulations which contained no exception for subsistence.

RESPONSE

Subsistence fisheries for sea turtles exist within U.S. territorial waters. Most are opportunistic in nature, though there are directed fisheries for eggs and adults in the Trust Territory. Some turtles, primarily green, are taken in Puerto Rican and U.S. Virgin Island waters by local fishermen. Hawaii permits the take of green turtles in excess of 36 inches for home use. A limited opportunistic take of turtles (probably green turtles) occurs near Guam. In the Trust Territory, turtle eggs and meat are a traditional food source.

Although the record provides no evidence of subsistence turtle fishing in the Caribbean, NMFS believes increased "subsistence" taking of green turtles has substantially contributed to the decline in Western Caribbean nesting groups. The absence of indigenous natives in Puerto Rico and the Virgin Islands precludes the establishment of long "cultural" ties to the taking of sea turtles for subsistence purposes such as is found in the Pacific Islands. Localized "subsistence" fishing for sea turtles does occur but the motivating factor is esthetic rather than nutritional. The green turtle does not contribute significantly to the food needs of Puerto Rican or Virgin Island residents and prohibiting taking would not have a major nutritional impact. Lastly, because of the close proximity of other breeding groups and the high volume of Caribbean inter-island commerce, it would be impossible to control the flow of turtle products through the Puerto Rican and Virgin Islands nesting area. It would be difficult to effectively stop the illegal trade of sea turtles consumed in Puerto Rico or the Virgin Islands as "subsistence taken." Because of the increase in human impact on Caribbean sea turtles and the absence of a documented subsistence food need for turtle meat, NMFS and FWS decided that no subsistence taking for green turtles or other species of sea turtles should be allowed in Puerto Rico or the Virgin Islands.

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.

Sea turtles reportedly provide a major food source for many Pacific island inhabitants, and in areas such

as the Yap Islands, play a major role in traditional culture.

The available information on Western Pacific green turtle population is, at best, incomplete. Reports indicate increased harvesting of eggs and adults have occurred in some areas due to improved native transportation to remote islands. These activities may be instrumental in causing the population declines reported in some areas. However, information submitted showed certain nesting colonies were healthy. There was no strong evidence to support a seriously declining green turtle population which could not support historical harvest levels conducted in a traditional manner.

Because of the condition of the Western Pacific population (other than Hawaii), allowing a subsistence take at historical levels is believed consistent with our obligation to conserve threatened species. Therefore, NMFS and FWS decided to allow a traditional subsistence taking of green turtles by residents of the Trust Territory. Subsistence taking will be allowed in other areas. Turtles may be taken in the water and must be necessary for the sustenance of the individual or immediate family of the individual taking the turtle.

The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will proceed to obtain data on the extent of subsistence fishing, the status of the populations affected by that activity. Further decisions regarding subsistence fishing will be based on those data.

SUMMARY OF FINAL REGULATIONS

Generally, the proposed regulations would have prohibited (with some exceptions) take, importation, exportation, and interstate and foreign commerce of green, loggerhead, and Pacific ridley turtles. These activities essentially the same as prohibited activities for endangered species, except interstate commerce prohibition would not take effect for 1 year and the proposed regulations included more exceptions than allowed for endangered species. These final regulations contain the same prohibitions, as well as the proposed regulations. There are, however, changes in the exceptions. Other than allowing more exceptions, these regulations governing threatened species are the same as would be promulgated for an endangered list for all three species.

An exception for scientific, propagation, or survival purposes was authorized under permit in the proposed regulations. The final regulations provide this exception but include a more detailed description of the procedure for the submission and approval of applications for permits. A transition period (in which to obtain permits)

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JUL 22 1975

Division of Fish & Game

July 17, 1975

Mr. Lynn A. Greenwalt, Director
 Fish and Wildlife Service
 U. S. Department of the Interior
 P. O. Box 19183
 Washington, D.C. 20036

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JUL 22 1975

Division of Fish & Game

DEPT. OF LAND
 & NATURAL RESOURCES
 STATE OF HAWAII

| DIVISION OF FISH & GAME | |
|-------------------------|--|
| DIRECTOR | |
| FISH. CHIEF | |
| WILD. CHIEF | |
| ENF. CHIEF | |
| FISH. BR. | |
| WILD. BR. | |
| ENF. BR. | |
| OFF. SECT. | |
| SECRETARY | |
| FED. AID | |

Dear Mr. Greenwalt:

I take this opportunity to present our views concerning the proposed rulemaking that would place the Green Sea Turtle on the threatened species list as defined in the Endangered Species Act of 1973.

Of the marine turtles found in Hawaiian waters, the Green Sea Turtle, due to its significant numbers is the most important species that has historically and traditionally served Hawaii's subsistence, recreational and commercial interests. In view of this, the State of Hawaii and the U. S. Fish and Wildlife Service have been working cooperatively since 1950 toward compiling information on the Green Sea Turtles found within the waters of our main Hawaiian islands as well as around the Hawaiian Islands National Wildlife Refuge of the Northwestern Hawaiian Islands. Essentially, this work has involved the tagging of Green Sea Turtles.

To date, turtles tagged in the Refuge have been recovered from around the main islands but no recovery of turtles tagged in the main islands has been made in the Refuge. Nevertheless, it is the general consensus of turtle authorities here that movements of Green Sea Turtles occur in both directions along the Hawaiian Archipelago and that the Northwestern Hawaiian Islands, principally French Frigate Shoals, are used as nesting sites while the waters surrounding the main islands are used as feeding grounds.

There has been no evidence nor indication of any movement of Green Sea Turtles between the Hawaiian Islands and other islands or island groups within the Pacific. We therefore suspect that we have a discrete Hawaiian colony of Green Sea Turtle. In any event, we do have a viable nesting population, probably the largest in the United States, and a total population,

Mr. Lynn A. Greenwalt
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which we believe, can sustain controlled harvest. We, at this time, do not consider the Hawaiian population of Green Sea Turtle threatened to the degree requiring a complete moratorium on its harvest; rather, we feel strongly that the Hawaiian Green Sea Turtle population is one that could be managed judiciously.

For this reason, the State of Hawaii through the Department of Land and Natural Resources promulgated a regulation (copy attached) which became effective in May, 1974. This regulation totally protects the rare Leatherback Turtle (Dermochelys sp.) and the Hawksbill Turtle (Eretmochelys sp.) while permitting the very limited and controlled harvest of the Green Sea Turtle for home use only. Due to the restrictive nature of this regulation, only twelve turtles have been reportedly taken for home use since May of last year to the present. Although the number of turtles taken was indeed very small, the retention of some of the traditional privilege of harvesting turtle has proven to be far more acceptable to our people than would be the case if a complete closure had been imposed.

It is my understanding that should the Green Sea Turtle be placed on the Secretary of the Interior's list of threatened species without any qualification, certain provisions of our existing regulation will be in conflict with the Endangered Species Act of 1973. I, therefore, strongly recommend 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.

Thank you for this opportunity to present our views.

With warm personal regards, I remain,

Yours very truly,


George R. Ariyoshi

Enclosure

✓ bcc: Hon. Christopher Cobb

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DEC 17 1975

OFFICE OF THE ATTORNEY GENERAL

DEPT. OF LAND & NATURAL RESOURCES
December 10, 1975 STATE OF HAWAII

Mr. Harvey M. Hutchings
Acting Associate Director
for Resource Management
U.S. Department of Commerce
National Oceanic & Atmospheric
Administration
Washington, D.C. 20235

| DIVISION OF FISH & GAME | |
|-------------------------|-------------------|
| DIRECTOR | Referral Date: |
| ASST. CHIEF | Response Date: |
| ASST. CHIEF | Draft Reply |
| ASST. CHIEF | Reply Direct |
| SR. BR. | Comments |
| SR. BR. | Information |
| SR. BR. | Comp. Act. & File |
| ASST. DIR. | Return To |
| ASST. DIR. | Remarks |

Dear Mr. Hutchings:

Thank you for your letter of November 19, 1975, extending an invitation to the public hearing re-scheduled for February 25, 1976, concerning the proposed inclusion of the green sea turtle (Chelonia Mydas) and two other species of marine turtles within the "threatened species" list. Since our State Legislature will be in session at that time, I must regretfully decline the invitation.

Previous comments which I submitted on the proposed rulemaking still remain applicable; therefore, I would like to take this opportunity to summarize Hawaii's position on the matter.

Studies on green sea turtles conducted cooperatively between the State of Hawaii and the U. S. Fish and Wildlife Service have indicated that Hawaii has a discrete and viable nesting population of green sea turtles which is probably the largest in the United States. Aware of the seeming declining trend of our Hawaiian marine turtle population, the State of Hawaii through the Department of Land and Natural Resources promulgated a regulation in May, 1974 which has totally protected the Leatherback (Dermochelys sp.) and Hawksbill (Eretmochelys sp.) turtles while permitting the very limited and controlled harvest of the green sea turtle for home use only. Due to the restrictive nature of this regulation, only thirteen turtles have been reportedly taken for home use to date since the regulation became effective. Yet, retention of the historical and traditional privilege to harvest turtles in Hawaii has made this regulation far more acceptable to our people than would be the case if a complete closure had been imposed.

It is my understanding that inclusion within the threatened species list could, among other things, completely prohibit the taking of green sea turtles for home use thereby conflicting with and overriding our State regulation that has been functioning very effectively in conserving our turtle resource. Thus,

Handwritten initials and date: 5/1/76

Mr. Harvey M. Hutchings

Page 2

December 10, 1975

in view of this possible conflict with our present regulation, our unique geographical location, the historical usage and a population of green sea turtle apparently discrete to Hawaii, we recommend that Federal measures not be adopted that will interfere with or preempt the State of Hawaii's right and responsibility of managing our green sea turtle resource. We have confidence in our present regulatory provisions imposed to conserve our green sea turtle and sincerely believe that these measures will continue to provide adequate and effective protection for the species.

Your time and effort in extending us this opportunity to comment on the above is very much appreciated.

With warm personal regards, I remain,

Yours very truly,

A handwritten signature in cursive script, appearing to read "George R. Ariyoshi".

George R. Ariyoshi

bcc: / Hon. Christopher Cobb

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.

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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?

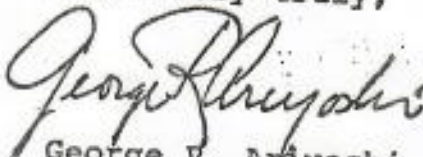
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3. P. 21, lines 4-6. Birds are listed as turtle hatchling predators on land, but not in the water. Predation of turtle hatchlings by seabirds have also been known to occur in water (particularly waters adjacent to turtle nesting beaches).
4. P. 47, 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

cc: Hon. Christopher Cobb (w/enclosure)

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.
- 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 13, 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