



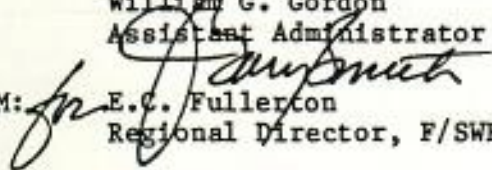
UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE

Southwest Region  
300 South Ferry Street  
Terminal Island, California 90731

August 17, 1984

F/SWR31:JHL

TO: William G. Gordon  
Assistant Administrator for Fisheries, F

FROM:  E.C. Fullerton  
Regional Director, F/SWR

SUBJECT: Subsistence Taking of Sea Turtles in the Central and Western  
Pacific - DECISION MEMORANDUM

The purpose of this memo is to transmit our review of the subsistence uses of sea turtles in the central and western Pacific with respect to our regulations which provide a subsistence exception for the residents of the Territory of the Pacific Islands, and to request your concurrence with the conclusions and recommendations we present in the document. We are also requesting your assistance in publishing a Federal Register notice to announce our final determination. Both documents are attached.

Background

Currently our sea turtle regulations (50 CFR 272.72(f)) authorize a subsistence take of green sea turtles in the Trust Territory of the Pacific Islands (TTPI). In late 1981 the State of Hawaii requested the National Marine Fisheries Service (NMFS) to consider authorizing a take of green sea turtles for home consumption, and an individual Hawaiian, speaking on behalf of native Hawaiians has requested NMFS to recognize native Hawaiians' aboriginal rights to take turtles. In 1982, Guam voiced their opinion that our regulations were inconsistent and inequitable in the Mariana Archipelago. Guam and the Commonwealth of the Northern Mariana Islands (CNMI) comprise the Mariana Archipelago. The CNMI is allowed to participate in the subsistence exception because they are part of the TTPI. Guam is excluded from the subsistence exception because it is not part of the TTPI and during the listing process they did not provide sufficient information to substantiate the need for a subsistence exception.

In response to these requests we initiated a review of our regulations. During the review we examined the criteria that must be satisfied in order to authorize a subsistence take, the traditional uses of sea turtles in the central and western Pacific, and the status of the green sea turtle stocks. We established that a subsistence authorization could be allowed only if it could be demonstrated that an existing culture was dependent on the taking of sea turtles for its continued existence and that the turtle stock involved would not be jeopardized by the subsistence take.

As part of this review we conducted public hearings in Guam, the CNMI, American Samoa, and the Hawaiian Islands to collect information on the need for subsistence exceptions in those areas. We issued a contract for the



rec'd 8/24/84



review of cultural dependence on sea turtles throughout the central and western Pacific, and we requested the NOAA Office of General Counsel Southwest (GCSW), to review the various subsistence exceptions and provide us with their guidance on what criteria need to be considered in authorizing a subsistence take. Concurrent with the review on subsistence taking, we conducted a review of the status of the listed sea turtles stocks. The results of the status review were incorporated in the review of the subsistence issue.

The document on the review of the subsistence regulations has been reviewed within NMFS and by GCSW, the state resource agencies, and the Center for Environmental Education. With the exception of the CNMI, all generally agree with the conclusions and recommendations.

### Conclusions

The review of cultural practices outside the TTPI revealed there were no extant native cultures that are dependent on the taking of sea turtles. The request from the State of Hawaii and the Territory of Guam were not made on behalf of any particular cultural group, so they could not be considered under a subsistence exception at this time.

A home use exception that is available to everyone does not distinguish a native subsistence take from a recreational take and is not consistent with the ESA. Home use and commercial use can be authorized only after green sea turtle stocks have recovered and are delisted.

Guam's complaint that our regulation is inequitable in the Mariana Archipelago is justified. However, the information considered in this review does not substantiate a need for a subsistence take in Guam. A review of the administrative record for the listing of sea turtles demonstrates the CNMI received its subsistence exception because of its political status as part of the TTPI and not because a need or cultural dependence had been demonstrated. This inequity will be resolved in the near future when the TTPI dissolves. At that time, the Covenant of the CNMI becomes fully effective and the CNMI will be subjected to the same regulations as Guam.

### Recommendations

1. Maintain current prohibitions on the taking of sea turtles in Hawaii, Guam, and American Samoa until the green sea turtle populations can be delisted.

2. In cooperation with the FWS and appropriate island resource agencies, establish a recovery team to develop a plan for the recovery of green sea turtle populations in Hawaii, American Samoa, and the Mariana Islands. The recovery plan should be completed by September 1986 and should outline the studies that are necessary for determining the discreteness of the green sea turtle stocks in American Samoa, and the Mariana Islands, and the studies that are necessary for assessing the populations with respect to the criteria established for delisting.



3. The recovery team should define criteria for delisting. For example, attainment of a recruitment goal, a population size that can sustain a take for home consumption, attainment of a stable age distribution in the population, and/or reoccupation of a percentage of former nesting habitat.

4. If the status negotiations in the Trust Territory continue beyond the completion of the recovery plan, the NMFS should consider restricting the subsistence exception to only those low islands in the TTPI where subsistence lifestyles persist.

5. The NMFS and the FWS should provide assistance to native Hawaiian groups that may qualify for consideration under the American Indian Religious Freedoms Act in making application for such a consideration.

6. The NMFS and the FWS should offer to assist the low island communities in Micronesia to develop acceptable management practices to compensate for the decline in observation of traditional taboos that protected turtle stocks from over-exploitation.

7. The NMFS and the FWS, in cooperation with the State of Hawaii, Division of Aquatic resources, should identify scientific, educational, or zoological display projects that are likely to contribute to the recovery of the Hawaiian green sea turtle population and that can be implemented under an ESA permit while the recovery plan is being developed.

Concurrence:

X I concur.

       I do not concur.

       I wish to discuss this further.

Attachments

William G. Gordon  
William G. Gordon  
Assistant Administrator for Fisheries

Dec. 20, 1984  
Date