

G. H. BALAZS LETTERS  
1970s - 1980s

567 South King Street  
Suite 200  
P.O. Box 3466  
Honolulu, Hawaii 96801  
Telephone 523-6200

KAMEHAMEHA SCHOOLS / BERNICE PAUHI BISHOP ESTATE

April 21, 1983

Mr. George H. Balazs  
Assistant Marine Biologist  
University of Hawaii at Manoa  
Hawaii Institute of Marine Biology  
P. O. Box 1346  
Coconut Island, Kaneohe, Hawaii 96744

Dear Mr. Balazs:

Mr. Malcolm Love is very generous in his opinion on my ability to shed some light on the matter of the green sea turtle. Mr. Love sounds like a member of the M.A.S. (mutual admiration society).


Mr. Love is the only person alive that knows much of anything about the pond at Kalahuipuaa--gathering place of the pigs.

Mr. Love knows about eight years more of the pond's history than anyone else. I doubt that the present keeper knows more than one or two years history of the pond and if he knows anything about the history then I do not believe anyone else would know as much as Mr. Love.

I have never heard of turtles being kept in fishponds to control the growth of limu.

Come to think of it, I wonder how much fresh water a deep water sea turtle can stand. If you have the time I would like to talk to you about this.

Sincerely,

  
Richard Lyman, Jr.

cc: Mr. Love

10 May 1982

Mr. Jim Leckey  
Resource Management Branch  
NMFS Southwest Region  
300 S. Ferry Street  
Terminal Island, CA 90731

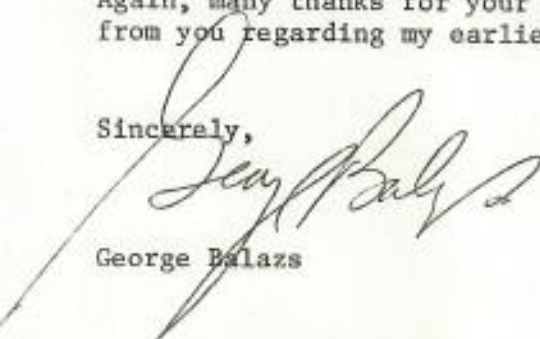
Dear Jim:

In order to help me understand what will be involved in accomplishing the "5-year review" of Pacific sea turtles, would you please send me a representative report covering one of the other listed species that your office has already reviewed. If available, your 5-year review covering the listed gray whale might be of special interest, since it would undoubtedly encompass several difficult and controversial aspects.

As I mentioned to you on the telephone, I am unfamiliar with the 5-year review procedure. All of this has come up fairly rapidly, considering that green turtles (the apparent focus of attention) have only been listed now for about 3-1/2 years. All total, how many listed species have thus far been reviewed by your office under this 5-year requirement?

Again, many thanks for your assistance. I also look forward to hearing from you regarding my earlier letter of April 28th.

Sincerely,



George Balazs

# WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

1164 BISHOP STREET - ROOM 1608  
HONOLULU, HAWAII 96813  
TELEPHONE (808) 523-1368

December 21, 1982

Mr. Alika Cooper  
Alika Cooper & Sons, Inc.  
Old Lyman Field  
Hilo, Hawaii 96720

Dear Alika:

We have reviewed your letter of 1 November 1982 to Alan Ford, in which you furnish the information that he requested in a 7 September 1982 letter regarding the presence of sea turtles in the kalahuipuaa complex of Hawaiian fishponds on the island of Hawai'i. Documentation of the presence of green sea turtles in the ponds prior to the time of their listing as a "threatened" species may seem to Mr. Ford to be a reasonable request from an administrative point of view. However, he should recognize that turtles need not be prevented from entering the ponds on their own volition by crossing the walls during extra high tides. Such natural behavior by the turtles, however, may cause administrative complications for the National Marine Fisheries Service (NMFS), which, together with the U.S. Fish and Wildlife Service, is responsible for enforcing the regulations which prohibits the taking or possession of green sea turtles in Hawai'i. It does not seem to be reasonable that sea turtles be physically removed from the Kalahuipuaa ponds because their natural behavior does not conform to a Federal regulation.

There can be no reason why green sea turtles, should be denied from grazing on undesired seaweeds once they enter the ponds and provide other benefits for pond management. Permitting turtles to graze within fishponds does not threaten the Hawaiian Islands population of the species. It is my understanding that this is a traditional Hawaiian practice, which was best developed in the management of ancient fishponds along the shores of Pearl Harbor.

In his past correspondence with you, Mr. Ford has noted that the regulation listing central and western Pacific populations of green sea turtles as threatened permits subsistence taking of this species only by residents of the Trust Territory of the Pacific Islands (TTPI). As in the TTPI, green sea

Mr. Alike Cooper  
December 21, 1982  
Page - 2 -

turtles figured prominently as both a traditional food and medicine in ancient Hawai'i. The use of turtles in fishpond management is among the traditional practices which apparently were not identified during the process of establishing the Federal regulation. In prohibiting the taking of this species in Hawai'i for any purpose, the Federal government did not examine all available information concerning traditional uses.

It is the hope of the Hawai'i voting members of the Council that the joint NMFS/USFWS review will consider at least two major issues:

- \* Does the existing Federal regulation or State Fish and Game Regulation 36 better integrate the need to protect turtle populations with the need to allow controlled subsistence taking?
- \* Considering the enforcement capabilities of the NMFS and of the State of Hawaii, would Federal enforcement of the existing regulation or State enforcement of the State Fish and Game Regulation 36 better protect populations of green sea turtles around the main Hawaiian Islands, where they are most likely to be taken?

At a minimum, the NMFS/USFWS review should allow presenting of information of the sort which was overlooked by the Federal government in originally establishing the regulation listing the green sea turtle as a threatened species.

Sincerely,



Wadsworth Yee

WY:lw



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

SUSUMU ONO, CHAIRMAN  
BOARD OF LAND & NATURAL RESOURCES

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DEPUTY TO THE CHAIRMAN

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LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

MEMORANDUM

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

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

SUBJECT: Green Sea Turtle

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

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

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

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

---

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

Attachments



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

Southwest Region  
 300 South Ferry Street  
 Terminal Island, California 90731

January 21, 1982

F/SWR31:JHL  
 1514-07.1r

WFPO	
DLG	<input checked="" type="checkbox"/>
JJN	<input checked="" type="checkbox"/>
ETN	<input checked="" type="checkbox"/>
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MCS	<input type="checkbox"/>
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Mr. Alika Cooper  
 Alika Cooper and Sons, Incorporated  
 163 Kaiulani Street  
 Hilo, Hawaii 96720

Dear Alika,

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

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

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

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



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

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

Sincerely yours,



Alan W. Ford  
Regional Director



GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



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

1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

SUSUMU ONO, CHAIRMAN  
BOARD OF LAND & NATURAL RESOURCES

EDGAR A. HAMASU  
DEPUTY TO THE CHAIRMAN

DIVISIONS:  
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CONVEYANCES  
FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

February 11, 1982

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

Dear Mr. Ford:

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

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

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

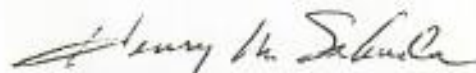
Mr. Alan W. Ford  
February 11, 1982  
Page 2

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

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

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

Yours truly,



HENRY M. SAKUDA, Director  
Division of Aquatic Resources

HMS:rfm





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

February 17, 1982

*Handwritten:* 2/24/82

F/SWR:AWF	
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WEL	<input checked="" type="checkbox"/>
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WCS	<input type="checkbox"/>
SLA	<input type="checkbox"/>
MCS	<input type="checkbox"/>
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*Handwritten:* [Signature]

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

Dear Henry:

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

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

Sincerely yours,

*Handwritten signature: Alan W. Ford*

Alan W. Ford  
 Regional Director

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



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

*Handwritten initials*

February 12, 1982 F/SWR31:JHL/  
F/SWR3:JGS  
1514-07.1r

Mr. Richard J. Myshak  
Regional Director  
Fish and Wildlife Service  
500 N.E. Multnomah Street, Room 1600  
Portland, OR 97232

Dear Mr. Myshak:

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

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

We would appreciate your concurrence and cooperation in this matter.

Sincerely yours,  
*Alan W. Ford*  
Alan W. Ford  
Regional Director

Enclosures

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



SOME REVIEW COMMENTS BY GEORGE H. BALAZS PERTAINING TO THE WRITTEN  
REQUESTS MADE BY MR. COOPER OF HAWAII AND GOVERNOR CALVO OF GUAM  
TO TAKE GREEN SEA TURTLES

May 1, 1982

1. Absence of new or any other data or evidence to support the request for action by the Southwest Region.--Requests for exemptions, changes, or delistings of the Endangered Species Act (ESA) listed species are usually made in the form of petitions that contain supporting data and other substance. Such material has not been provided in these cases. It is my understanding that any petition so filed must be submitted, or at least forwarded, to the National Marine Fisheries Service and U.S. Fish and Wildlife Service in Washington, D.C., for evaluation and publication in the Federal Register.
2. Absence of a request by the Southwest Region for relevant basic facts.--Some very fundamental and important questions were left unanswered in relation to the initial letter of November 12, 1981 sent by Mr. Cooper to the Southwest Region. There is no indication in the copied letters I have received that an effort was made by the Southwest Region to obtain these facts. It seems to me that at least the following should have been requested at the onset:
  - a. Does the petitioner have a history of subsistence use of turtles, as opposed to being a commercial turtle fisherman?
  - b. Does the petitioner follow a subsistence lifestyle, as opposed to being in the mainstream market economy of modern life? (See M. McCoy's 1974 paper on the Western Caroline Islands for a comparison.)
  - c. Did the petitioner exercise his legal right to take turtles when this was an authorized activity under State regulation between May 1974 and September 1978?
  - d. How does the petitioner define "aboriginal rights" and "aborigine" as he applies these descriptive terms to Hawaii? Does the petitioner qualify under these definitions?
  - e. What specific organizations or groups of people, or specific individuals, have authorized the petitioner to file and speak on their behalf? What is the nature of the organizations--private or commercial? What are the lifestyles being followed by the individuals--true subsistence or modern market economy? In this respect, it is appropriate to note that the petitioner's letterhead states "Commercial Fishing, Wholesale Retail, Oceanographic Research, Aquaculture" and Import & Export."

Some of the above questions should also have been asked of Governor Calvo in order to ascertain the situation in Guam.

3. Insinuation that the listing of Hawaiian and Pacific sea turtle populations was conducted in haste, was not justified by available data, and/or somehow did not give all interested parties the opportunity to make their views, needs, requests, and data known.--There is no factual basis for such beliefs. When the Threatened listing of green sea turtle populations in the U.S. Pacific islands became effective in September of 1978, it was the culmination of no less than 54 months (4-1/2 years) of evaluation. During this time, numerous comment periods were opened to the public and specifically brought to the attention of State, Territorial, and Federal government officials. All available data were evaluated several times over by both the the National Marine Fisheries Service and the U.S. Fish and Wildlife Service.

The Hawaii State Department of Land and Natural Resources also conducted an exhaustive review of the known status of Hawaiian sea turtles over a 14-month period leading up to May of 1974. Written testimony was repeatedly solicited and full public hearings were convened on each of the Hawaiian Islands so that verbal data could also be gathered. The information received led the State Board of Land and Natural Resources to adopt measures to ban all commercial turtle fishing and to restrict the noncommercial catch of green turtles to those over 90 cm for fishermen with a permit issued free of cost. If any requests were made to the State at that time for a "subsistence" or "traditional Hawaiian" take exemption of turtles (and I doubt if there were), then the State must have rejected them as being unwarranted since such provisions were not part of the final fishery regulation (DLNR-36) that was adopted. After the implementation of the State regulation in May of 1974, the records show that the following numbers of turtles were taken under the permit system. Please note that this constitutes the total legal take throughout the Hawaiian Islands.

May-Dec. 1974	-	9
		1975 - 6
		1976 - 21
		1977 - 32
Jan-Sept. 1978	-	16
Total		<u>84</u>

The statistics available to the public do not show how many fishermen were actually involved; however, it is reasonable to assume that a number of these individuals were responsible for repeat catches. I therefore estimate that not more than 35 fishermen ever exercised their legal right to catch turtles under the State regulation. I have good reason to believe that most of these 35 people caught turtles for a) food preference, i.e., they like the flavor; b) sport or recreation; c) ornamental use of the carapace; or d) other reason, i.e., they accidentally encountered a turtle during other fishing activities and the opportunity was just too good to pass up. However, a few of these 35 people (not necessarily of native Hawaiian heritage) may have caught turtles for true subsistence purposes, as defined by regulatory provisions of the ESA. Under the auspices of the Hawaii Institute of Marine Biology, I submitted testimony to the National Marine Fisheries Service concerning these few possible people involved in a true subsistence take. To my knowledge, I was the only one to do so. The "rights and privileges" of these

few people needed to be and subsequently were considered by the National Marine Fisheries Service. However, there is something in excess of 950,000 people in Hawaii. After being involved in all aspects of research on Hawaiian sea turtles for the past 10 years, I am confident that the vast majority of these people want their own rights and privileges extended on behalf of securing the survival of Hawaiian sea turtles, instead of gambling through any further direct exploitation. Alternate sources of protein are available for subsistence purposes, and indeed certain practices have had to be altered on behalf of sea turtles by a number of people throughout the United States (e.g., shrimp fishermen, mariculture interests, beach resort developers, Army Corps of Engineers).

To my knowledge, during the 54 months of evaluating the proposed listing, no requests for a subsistence use exemption were received from Guam. However, such requests were submitted and found to have merit for native peoples living a traditional lifestyle in the Trust Territory.

4. Traditional Hawaiian usage of sea turtles within the context of the historic Polynesian society.--On the basis of Hawaiian scholars who have recorded the history of their own culture, the traditional consumption of green sea turtles is known to have been the exclusive privilege of male chiefs and priests. Turtles were occasionally kept in special stone enclosures along the shoreline, but only as a holding measure until they were ready to be eaten by the chiefs and priests. A total prohibition traditionally existed on the consumption of the hawksbill turtle (probably because of toxicity), but their scutes were sometimes used to make fishhooks and a certain medicine. The traditional Hawaiian usage of sea turtles declined after 1819 when prominent Hawaiian nobility abolished the traditional Hawaiian "kapu" system and adopted Christianity. Between 1819 and May of 1974, there were, in essence, no legal or traditional controls on the capture of green turtles in Hawaii. Any number of any size could be taken for any purpose--both commercial and noncommercial. Any method could be used to take them, except firearms and shark guns, but I have evidence to show that these were also regularly used by certain elements of the commercial trade.
5. The ESA listing has somehow reduced the quality and/or quantity of tagging and other research on Hawaiian sea turtles.--There is no factual basis for such beliefs. Actually the exact opposite is true because the listing made it possible for the Honolulu Laboratory (and the Southwest Region) to receive additional funds for the research, recovery, and protection of Hawaiian and other Pacific sea turtles. The State regulation that eliminated the commercial turtle fishery to some extent reduced the opportunities for certain types of research (mainly with dead turtles). However, in this case, the continued survival of the population was obviously more important than any research benefits and the State clearly made a wise choice.
6. Southwest Region's proposal and initial steps to form a "working group" to open and review the ESA listing record.--The letter from the Southwest Region, dated January 21, 1982, states that "...if [my emphasis] new information is available or if pertinent information was not considered during the rule-making process, we (NMFS) and the U.S. Fish and Wildlife Service

share a responsibility to open the record and review that information." Similar statements were made to Governor Calvo in a letter written by Assistant Administrator for Fisheries Gordon in Washington, D. C. As I outlined in items No. 1 and 2 above, no supporting information of substance, or even basic data, has been supplied to the Southwest Region by the petitioners. Nevertheless, without receiving this material and seemingly acting contrary to the stated prerequisite, the Southwest Region has proposed that the record be opened and a "working group" of government representatives be formed to review and collect information.

The more reasonable, prudent, and productive course of action, in my view, would be for the Southwest Region, or perhaps the U.S. Fish and Wildlife Service, to now constitute the formal Recovery Team needed for Hawaiian and Pacific sea turtles listed under the ESA. A Recovery Team composed of researchers and other scientific authorities on sea turtles was assembled over 2 years ago to address the problems of sea turtle populations in the southeastern United States. As indicated in the Southwest Region's letter of January 1, 1982, the ESA requires that the status of listed species be reviewed every 5 years. Sea turtles are, therefore, up for review in September of 1983, about 18 months from now. It is my understanding that the U.S. Fish and Wildlife Service is the designated lead agency for the review. If a Recovery Team is not appointed and functioning by that time, I believe that it will be very difficult to explain and justify to the many private and governmental organizations that have interests in sea turtles. Certainly a working group of government representatives cannot fulfill this need. It was not possible in the case of the Hawaiian monk seal (for which there is now a Recovery Team appointed by the Southwest Region), and it would even be less likely for Pacific sea turtles.

7. Possible reason for the Southwest Region's apparent absence of key information and a factual historic perspective, such as I have outlined in this review-- A considerable body of literature now exists dealing with Hawaiian sea turtles. The available information covers such aspects as reproductive biology, migrations, life history, historical overviews of exploitation and management, and pioneer findings on growth rates and movements within the breeding colony (to name several). A comprehensive bibliography of this published and unpublished material, current to September 1979, was included in my NOAA-TM-SWFC-7 synopsis report. It would appear that the Southwest Region office in California is not fully aware of the contents of this literature. Not having a good grasp of the literature may very well be the reason why many key points and questions were not contained in the letters written. I realize that there are many other important issues besides sea turtles to be dealt with by this administrative level. Nevertheless, when decisions are made and actions taken that are potentially farreaching, such as in this case, they should be founded on the very best and most complete background information available.





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

**RECEIVED**

DEC 14 1981

Division of  
AQUATIC RESOURCES

Mr. Alike Cooper  
163 Kaulani Street  
Hilo, HI 96720

Dear Alike:

Southwest Region  
300 South Ferry Street  
Terminal Island, California  
December 8, 1981

DIVISION OF AQUATIC RESOURCES	
DIRECTOR	Register Date
ASST. CHIEF	Suspense Date
MARINE SEC.	P/SWR/TS-JHL <input type="checkbox"/>
F.W. SEC.	Reply Direct <input type="checkbox"/>
AFRC	Comments <input type="checkbox"/>
SWERDLOFF	Information <input type="checkbox"/>
	Comp. Act & File <input type="checkbox"/>
	Return To:
SECRETARY	Copies To:
OFF. SERV.	Remarks:
FED. AID	

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

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

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

Sincerely,

Alan W. Ford  
Regional Director

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



GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



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

1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

December 22, 1981

BUSUMU ONO, CHAIRMAN  
BOARD OF LAND & NATURAL RESOURCES

EDGAR A. HAMASU  
DEPUTY TO THE CHAIRMAN

DIVISIONS:  
AQUATIC RESOURCES  
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LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

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

Dear Mr. Ford:

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

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

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

Mr. Ford  
Page Two  
December 22, 1981

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

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

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

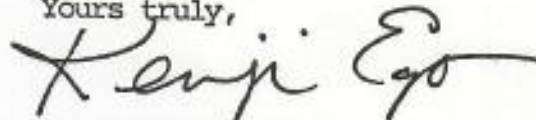
While on Molokai, on the night of December 1, 1981, when you, Mr. Cooper and I met to discuss green sea turtles, I distinctly recall you promising Mr. Cooper that you will look into the possibility of his utilizing green sea turtles to enhance his aquacultural activities. I recall Mr. Cooper mentioning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

Mr. Ford  
Page Three  
December 22, 1981

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

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

Yours truly,



KENJI EGO, Director  
Division of Aquatic Resources

KE:fc

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

encls.



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

OK  
 Ego's letter from  
 2/3/82

January 21, 1982

F/SWR31:JHL  
 1514-07.1r

WPPO	
DEG	<input checked="" type="checkbox"/>
JIN	<input checked="" type="checkbox"/>
ETN	<input checked="" type="checkbox"/>
PAM	<input checked="" type="checkbox"/>
HEW	<input checked="" type="checkbox"/>
WCS	<input checked="" type="checkbox"/>
SLA	<input checked="" type="checkbox"/>
MCS	<input type="checkbox"/>
GKH	<input type="checkbox"/>

Mr. Henry Sakuda  
 Acting Director  
 Division of Aquatic Resources  
 Department of Land and Natural Resources  
 1151 Punchbowl Street  
 Honolulu, HI 96813

Dear Mr. Sakuda:

This is in response to the December 22, 1981 letter sent to me by Kenji Ego just prior to his retirement. Mr. Ego's letter was a reaction to a letter I wrote to Alika Cooper (dated December 8, 1981) regarding aboriginal rights to take green sea turtles.

At the December, 1981, meeting of the Western Pacific Fisheries Management Council, Mr. Cooper, Mr. Ego, and I met informally to discuss native Hawaiian rights and aboriginal use of green sea turtles. The discussion was focussed on the absence of any provision for an aboriginal subsistence or ceremonial harvest in the regulation listing the Hawaiian population of green sea turtles under the Endangered Species Act. Mr. Cooper insisted that, as a native Hawaiian, he has certain aboriginal rights which should allow him to catch and possess green sea turtles. I promised Mr. Cooper that I would look into mechanisms for resolving the problem and get back to him.

My December 8, 1981, letter to Mr. Cooper was the response I promised. It presented, based on a review of the administrative record, a brief description of why no aboriginal subsistence or ceremonial take was authorized for native Hawaiians and an outline of the administrative mechanism for bringing about a change in the regulations prohibiting such a harvest.

The subsistence take Mr. Ego refers to in his letter is defined in terms of the State of Hawaii, Department of Land and Natural Resources' Regulation 36 which authorized the taking of green sea turtles for home consumption. In reading this regulation, it appears to authorize home consumption (recreational take) without reference to any subsistence take reserved for aboriginal rights of native Hawaiians.

I am aware that the State of Hawaii objected to the inclusion of the Hawaiian population of green sea turtles in the list of populations brought under the purview of the Endangered Species Act. The administrative record

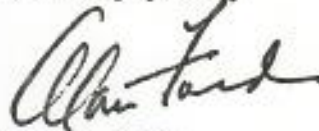


and the comments enclosed with Mr. Ego's letter indicate this objection was based on the State's belief that although the population had declined the sea turtle population was receiving adequate protection under Regulation 36. We were unable to find any specific reference in the administrative record supporting a request to establish and preserve native Hawaiian rights to a subsistence and/or ceremonial take of green sea turtles.

To avoid any further misunderstanding of our position on this matter, I am taking the liberty of sending copies of this letter to those individuals Mr. Ego copied in his letter to me.

Finally, we realize a legitimate problem may exist and, we are seeking a resolution in the manner described in the enclosed letter to Mr. Cooper.

Sincerely yours,



Alan W. Ford  
Regional Director

Enclosure

cc: (w/o encl)  
Governor George R. Ariyoshi  
Senator Daniel Inouye  
Senator Spark Matsunaga  
U.S. Representative Dan Akaka  
U.S. Representative Cec Heftel  
Alika Cooper  
Susumu Ono  
Dale Coggeshall  
F/SWRI, D. Gates  
F. W. Gordon



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

January 21, 1982

F/SWR31:JHL  
1514-07.1r

GATE  
US rec'd from  
Paul at WFO  
milling  
1/2/82

WPPO	
DEG	/
JJN	✓
ETN	✓
PAM	✓
HEW	/
WCS	/
SLA	/
MCS	
GKH	

Mr. Alika Cooper  
 Alika Cooper and Sons, Incorporated  
 163 Kaiulani Street  
 Hilo, Hawaii 96720

Dear Alika,

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

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

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

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



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

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

Sincerely yours,



Alan W. Ford  
Regional Director





# University of Hawaii at Manoa

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

June 2, 1981

District Engineer  
U. S. Army Corps of Engineers  
Building 230  
Fort Shafter, Honolulu 96858

Dear Sirs:

The following information and questions are being submitted in response to your request for input on the proposal to construct a boat-launching ramp within the Nohili drainage ditch at Barking Sands on Kauai.

1. Green sea turtles (*Chelonia mydas*), a threatened species under the U. S. Endangered Species Act, occur along the nearshore waters of Barking Sands. Sightings of these turtles have been periodically reported to me by personnel of the Pacific Missile Range Facility. There is an indication that the turtles aggregate or occur in greater numbers in the immediate vicinity of the Nohili drainage ditch. Such presence would be consistent with other coastal sites in the main Hawaiian Islands where foraging by green turtles has often been found to focus near areas of freshwater drainage or seepage. Nutrients present in the freshwater runoff, as well as the favorable growth conditions afforded to certain species of algae by a brackish-water environment, are undoubtedly the principal factors responsible for attracting green turtles to these sites.
2. It would be prudent to acquire some detailed information on the scope and magnitude of the Nohili turtle aggregation before proceeding with the primary impacts of dredging, blasting and ramp construction, and the resultant long-term secondary impacts of boat launching and related activities by military and civilian components. Your office may already have more detailed information on green turtles at this site that has been taken into consideration, therefore I would appreciate receiving a copy of the Environmental Assessment (or Environment Impact Assessment) prepared for this proposal.
3. It seems reasonable to assume that placement of a launching ramp available to the public at this site will result in increased visitations to the Na Pali Coast. Smaller boats of a reduced seaworthy nature, as well as larger boats with high fuel consumption, that are now less likely to visit Na Pali from the Port Allen ramp would probably be more apt to do so if a new and closer ramp at Barking Sands is constructed. Has this potential secondary impact been taken into consideration and coordinated with the State of Hawaii's Na Pali Coast Management Plan? Would the proposed ramp be available for commercial uses, such as small boat excursions for tourists and commercial fishing?

District Engineer  
U. S. Army Corps of Engineers

June 2, 1981  
Page 2

4. When periodic access is allowed to military-owned coastal lands, such as Barking Sands, there is a legitimate need to inform the public about the protected status of federally-listed Endangered and Threatened species. Permanent signs of an appropriate nature relating to sea turtles and humpback whales should be included with any boat ramp that may eventually be constructed in the area.

I appreciate having the opportunity to comment on this proposal, and I look forward to hearing from you at your convenience.

Sincerely,

s/ George H. Balazs (ec)

GEORGE H. BALAZS  
Assistant Marine Biologist

CHB:ec

cc: U.H. Environmental Center  
State Parks Division  
John Naughton, NMFS



DEPARTMENT OF THE ARMY  
U. S. ARMY ENGINEER DISTRICT, HONOLULU  
FT. SHAFTER, HAWAII 96858



PODCO-O

23 July 1981

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

Dear Mr. Balazs:

This responds to your letter dated 15 July 1981 concerning the permit application for the proposed boat launching ramp at Nohili Ditch, Barking Sands, Kauai, File No. PODCO-O 1609-SD.

Inclosed are copies of the following letters that respond to the questions and concerns expressed in your 2 June 1981 letter:

- a. 26 June 1981 letter from the Commanding Officer, Pacific Missile Range Facility, Hawaiian Area (Incl 1).
- b. 17 June 1981 letter from the U.S. Fish and Wildlife Service (Incl 2).
- c. 21 May 1981 letter from the National Marine Fisheries Service (Incl 3).

Also inclosed is a copy of our Final Environmental Assessment for the proposed permit action (Incl 4).

Our public interest review of the permit application has been completed and the District Engineer has determined that issuance of the permit is in the public interest. Consequently, the permit was sent to the applicant for signature indicating their acceptance of the terms and conditions of the permit, which included the conditions requested by the Fish and Wildlife Service and the National Marine Fisheries Service (Incls 2-3).

I trust that this answers your concerns in this matter. Thank you for your comments and interest in the Corps' permit program.

Sincerely,

  
EVERETTE A. FLANDERS  
Chief, Construction-Operations  
Division

4 Incl  
As stated



DEPARTMENT OF THE NAVY  
PACIFIC MISSILE RANGE FACILITY  
HAWAIIAN AREA  
BARKING SANDS  
KEKAHA, KAUAI, HAWAII 96752

7030/REB:smf  
11019  
Ser 0545  
26 Jun 1981

From: Commanding Officer, Pacific Missile Range Facility, Hawaiian Area  
To: Commander, U.S. Army Engineer District, Honolulu

Subj: Small Boat Launching Ramp and Channel Dredging at Nohili Ditch,  
Pacific Missile Range Facility, Hawaiian Area, Barking Sands, Kauai  
File No. PODCO-0 1609-SD

Ref: (a) U.S. Army Engineer District ltr of 29 May 1981  
(b) President, Greenpeace ltr of 21 May 1981  
(c) U.S. Dept of Commerce ltr F/SWRI:JJN of 21 May 1981  
(d) Hawaii Institute of Marine Biology ltr of 2 Jun 1981

Encl: (1) State of Hawaii, Dept of Planning and Economic Development ltr  
3275 of 19 Jun 1981

1. Reference (a) requested comments from PMRF on references (b), (c), and (d).
2. The following is forwarded in response to reference (b).

a. PMRF CONCERN FOR THE HUMPBACK WHALE:

(1) PMRF has been working for 10 years with the University of Hawaii and, in particular, Dr. Louis Herman. Dr. Herman is a marine psychologist and one of the foremost experts on humpback whale population trends and behavior patterns. PMRF has provided Dr. Herman with detailed written reports on all whale sightings made by station personnel. More data on whales in the Kauai/Niihau area has been collected by PMRF than all other sources combined. This includes many recordings of the humpback whale "song" which is detected at extreme distances by underwater listening stations.

(2) Logistic support to special whale survey teams has also been provided; berthing, messing, boats, and airfield landing privileges have been made available at no cost; PMRF has established procedures to ensure that station aircraft and surface craft do not intentionally or unintentionally harass the whales.

b. INCREASED MILITARY BOAT TRAFFIC:

(1) The PMRF operating area at the closest and shallowest point is over 300 fathoms deep. When in the vicinity of land, whales remain well within the 100 fathom curve. Humpbacks proceed into deeper water only when transiting between islands or when migrating to and from Hawaii. PMRF's operating area is to the northwest and not between the islands of Kauai and Niihau. There has never been a whale sighted in the operating area in the 23 year history of PMRF despite the extensive surveys mentioned previously. All whale sightings have been in the immediate vicinity of Kauai or Niihau or in the channel between the two islands. Furthermore, the operating area is oriented in a direction which is well outside

the migratory path of the whales.

(2) PMRF has been operating surface craft for many years from Port Allen and Kikiaola. At the present time, these craft require two to three hours to transit to and from the operating area. Much of this path is within the 100 fathom curve. However, surface craft utilizing the proposed launching ramp will transit from shore to beyond the 100 fathom curve in a matter of minutes. The result is that PMRF surface craft will spend less time within the humpback whale areas.

(3) Due to the long transit time between Kikiaola or Pt Allen and the operating area, PMRF currently provides two radio controlled target boats for each target requirement in the operating area. However, with the Nohili launching ramp, the travel time to the operating area will be greatly reduced. The spare target boat can be kept on a trailer at PMRF rather than on station within the operating area. This will further reduce the number of target boats traversing the shallow waters frequented by humpbacks.

c. UNMANNED TARGET BOATS STRIKING WHALES:

(1) Concern was expressed about unmanned radio controlled boats possibly striking humpback whales. These boats are manned enroute to the operating area. They are not under radio control until they reach the operating area. A crew remains with the boat until all check-outs are completed. The boat is then switched to radio control from the shore and the crew transfers to another manned boat. The crew reboards and takes the boat back to the landing after the operation is complete.

d. INCREASED CIVILIAN BOAT TRAFFIC:

(1) Civilian boating activity in the Kekaha/Mana area is extremely heavy. This area is in the lee of Kauai. The heavy boating traffic patterns are similar to those patterns in the lee of the other Hawaiian Islands. However, there is no anticipated increase in civilian private or commercial boat traffic due to the new ramp. The same boats that presently depart from other harbors will now be able to utilize the Nohili launching ramp. The addition of a new launching facility available only on non-operational days is not expected to draw significant additional boaters to the west side of Kauai.

(2) As stated above, the Nohili ramp will permit boaters to transit to the Barking Sands and Polihale areas much faster, thereby decreasing their transit time through humpback whale areas.

e. SURFACE CRAFT NOISE DISTURBANCE:

(1) Concern has been expressed about the surface craft noise disturbance. As mentioned previously, the time within the 100 fathom curve will be considerably reduced. In addition, scientific evidence (provided by Dr Herman and gathered from extensive studies by other marine scientists) conclusively indicates that whales are not disturbed by sounds from non-pursuing sources nor

is their population or migratory area affected. Large vessels that proceed on direct paths without following the whales have had no adverse affect either. However, sounds from pursuing sources, principally boats, which maliciously or curiously chase/circle the whales, can cause significant stress and anxiety to the whale population. Such actions have had adverse affect on migratory areas. PMRF boat crews are not permitted to pursue whales. Kauai fishermen and pleasure boats also have a deep respect for the whales and do not engage in harassing activities.

f. BLASTING AND DREDGING:

(1) All blasting and dredging will be conducted in mid-summer when the whales are at their northern feeding grounds. Furthermore, a visual search from shore, boats, and helicopters, and an underwater search will be conducted prior to blasting operations to ensure that there are no green sea turtles in the area. These procedures have been rigidly adhered to for all prior PMRF in-water construction efforts.

g. SUMMARY:

(1) PMRF is very concerned and actively involved in preventing the decline of the humpback whale population. In recent years, surveys indicate the downward trend may be slowly starting to reverse. Unfortunately, all our efforts are futile unless the ruthless slaughter of whales outside U.S. waters is stopped. This is a problem PMRF understands Greenpeace is rigorously pursuing, and we wish them success in these endeavors.

3. The following is forwarded in response to reference (c).

a. BLASTING OPERATIONS:

(1) All blasting or dredging will be conducted in mid-summer when the whales are at their northern feeding grounds. Furthermore, a visual search from shore, boats, and helicopters, and an underwater search will be conducted prior to blasting operations to ensure that there are no green sea turtles in the area. These procedures have been rigidly adhered to for all prior PMRF in-water construction efforts.

4. The following is forwarded in response to reference (d):

a. TURTLE POPULATION:

(1) Green sea turtles do appear to congregate in the immediate vicinity of the Nohili drainage ditch as reported by reference (c). However, during the past 14 years there has been a considerable amount of activity within the area with no apparent adverse affects on the turtle population. Surface craft performing cable installation, maintenance, and inspection, as well as private fishing and diving boats, are constantly in the area.

b. INCREASED BOAT TRAFFIC TO NAPALI COAST:

(1) Public visitation to the Napali Coast from the west side of Kauai

will not dramatically increase with the construction of the proposed launching ramp at Nohili. The largest majority of Napali visitors from the west side use small beach-launched boats such as "Zodiacs" or rubber rafts. Most of these craft from the west side are launched from Polihale by carrying the craft over the beach to the water's edge. The Nohili ramp will not aide these launches. The impact of the proposed ramp on boat traffic to the Napali Coast is considered minimal.

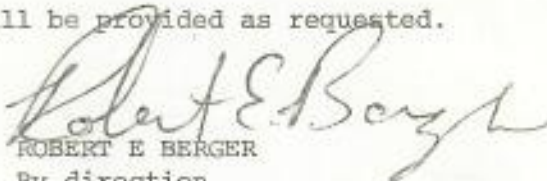
(2) Enclosure (1) confirms that the proposed project is consistent with Hawaii's Coastal Zone Management Program.

c. CIVILIAN USE OF THE LAUNCHING FACILITIES:

(1) The Nohili facilities will not be available for any commercial fishing, tourist excursion, or private use that requires permanent facilities or permanent mooring of boats. Due to the nature of PMRF operations, all non-military boats, trailers, and vehicles must be off military property prior to an operation commencing. Commercial enterprises will be welcome to use the launching facilities during non-operational periods. However, the unpredictable availability of the launching facilities will probably discourage heavy commercial use.

d. ENDANGERED SPECIES SIGNS:

(1) Permanent signs will be provided as requested.

  
ROBERT E BERGER  
By direction



DEPARTMENT OF PLANNING  
AND ECONOMIC DEVELOPMENT

Kamamalu Building, 250 South King St. Honolulu, Hawaii - Mailing Address: P.O. Box 2359 Honolulu, Hawaii 96804

EFB  
\* GEORGE R. ARYDISHI

HIDETO KONO

FRANK SKRIVANEK

June 19, 1981

Ref. No. 3275

Mr. Robert E. Berger  
Department of the Navy  
Pacific Missile Range Facility  
Hawaiian Area  
Barking Sands  
Kekaha, Kauai, Hawaii 96752

Dear Mr. Berger:

Subject: Small Boat Launching Ramp and Channel  
Dredging, Pacific Missile Range Facility,  
Barking Sands, Kauai

We have reviewed the proposed project and agree with your determination that it is consistent with Hawaii's Coastal Zone Management Program.

Your assistance and cooperation in meeting CZM program review requirements are greatly appreciated.

Sincerely,

*Frank Skrivaneck*  
for Hideto Kono

cc: Mr. Everette Flanders, Chief  
U.S. Army Corps of Engineers

Enclosure (1)





United States Department of the Interior

FISH AND WILDLIFE SERVICE

300 ALA MOANA BOULEVARD  
P. O. BOX 50167  
HONOLULU, HAWAII 96850

Rec'd/Logged 17 Jun 81  
Handcarried to Ops Br. *JD*

IN REPLY, REFER TO:

ES  
Room 6307

JUN 17 1981

Colonel Alfred J. Thiede  
U.S. Army Engineer District, Honolulu  
Building 230  
Fort Shafter, Hawaii 96858

Re: PODCO-O 1609-SD,  
Nohili Ditch,  
Barking Sands,  
Kekaha, Kauai, HI

Dear Colonel Thiede:

We have reviewed the referenced public notice dated 5 May 1981 concerning the request by the Pacific Missile Range facility for a permit to deepen the existing Nohili Ditch and to construct a small boat launching ramp and parking area.

This report has been prepared under the authority of and in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and other authorities mandating Department of the Interior concern for environmental values. It is also consistent with the intent of the National Environmental Policy Act.

The project will have no significant long-range adverse impact on fish and wildlife resources (for which the Service has responsibility). Construction activities could however cause short-term adverse impacts to marine organisms in the vicinity. These impacts can be eliminated or reduced by standard construction precautions.

In view of the preceding, we would not object to the proposed work provided the following conditions are included in the permit:

1. Extreme care will be taken to insure that no debris, petroleum products, or other deleterious materials be allowed to fall, flow, leach, or otherwise enter the water.
2. On land, spoil disposal will be conducted behind maintained berms above the influence of the tide. Only clean runoff water from the spoil disposal area will be allowed to reenter the waterway.




Save Energy and You Serve America!

1609-SD

3. All construction activities within and adjacent to the water will be conducted so as to minimize turbidity and control erosion.

We appreciate this opportunity to comment.

Sincerely yours,



Lucian Kramer  
Acting Project Leader for  
Environmental Services

cc: NMFS  
HDF&G  
EPA, San Francisco



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

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

May 21, 1981

F/SWR1:JJN

Colonel Alfred J. Thiede  
District Engineer  
U. S. Army Engineer District,  
Honolulu  
Ft. Shafter, Hawaii 96858

Dear Colonel Thiede:

Subject: PODCO-O 1609-SD. "Channel  
Dredging and Small Boat Ramp  
at Nohili Ditch, Barking Sands,  
Mana, Kauai"; application by  
Pacific Missile Range Facility.

The National Marine Fisheries Service (NMFS) has reviewed the subject permit application to deepen the existing Nohili Ditch and to construct a small boat launching ramp on the north bank of the ditch at Barking Sands, Mana, Kauai. [The following comments are offered for your consideration.]

We understand that the proposed work will require blasting and dredging approximately 70 cubic yards of material from the ditch in order to lower the channel bottom to -3.0 feet MLW. The proposed small boat launching ramp and channel will be utilized primarily for launching of radio-controlled target boats for use in the offshore range approximately 10 miles northwest of Barking Sands. On weekends and holidays, however, the launching facility will be available for public use.

As stated in the subject permit application, the endangered humpback whale (Megaptera novaeangliae) on a seasonal basis is consistently sighted immediately seaward of the proposed project site. This is particularly true from January through April. In addition, a NMFS biologist specializing in sea turtles as well as Navy personnel stationed at Barking Sands report commonly sighting green turtles (Chelonia mydas) directly off the entrance to Nohili Ditch. Although green turtles are commonly sighted off west Kauai, they seem to be particularly attracted to the Nohili Ditch area. The green turtle has been designated as "threatened" under the Endangered Species Act of 1973.

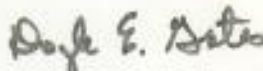
The proposed project may mitigate adverse impacts on certain endangered species. During peak fishing periods fishermen will be able to trailer their boats to the new launching ramp at Barking Sands in order to fish the productive waters off Niihau and the west coast of Kauai. This will alleviate

the necessity of launching from the boat ramps at Port Allen, Kikiaola, and Kukuiula which requires fishermen to transit through important humpback whale habitat along the south coast of Kauai while en route to the fishing grounds west of the island.

In light of the above, NMFS will have no objection to the issuance of the subject permit providing the following conditions are included:

1. No blasting shall be conducted within Nohili Ditch between the months of January through April.
2. Prior to blasting operations an underwater visual check shall be made of Nohili Ditch and waters immediately adjacent to the ditch mouth to insure that no sea turtles are present.

Sincerely yours,



Doyle E. Gates  
Administrator

cc: F/SWR3  
F/HP  
FWS, Honolulu  
Hawaii State Div. of  
Fish and Game

FINDING OF NO SIGNIFICANT IMPACT  
AND  
FINAL ENVIRONMENTAL ASSESSMENT  
FOR  
SMALL BOAT RAMP AND CHANNEL DREDGING AT NOHILI DITCH,  
PACIFIC MISSILE RANGE FACILITY, BARKING SANDS, KAUAI  
13 July 1981

1. NEED FOR AND OBJECTIVE OF PROJECT.

1.1 This project involves deepening the existing Nohili Ditch channel and construction of a small boat launching ramp and parking area on the north bank of the ditch. The need for this project arises from logistical support problems associated with the present use of the Kikiaola Small Boat Harbor in Kekaha, which is approximately 12-1/2 miles from the seaborne targets area and about the same distance from the proposed project.

1.2 The existing Nohili Ditch channel through a hard limestone ledge that exists at the ocean-shore interface is approximately 20 feet wide and about 30 feet long. The bottom of the channel is at approximately zero elevation MLW and will be deepened three feet with the use of explosives. Blasting will be done by the Explosive Ordnance Detachment from Pearl Harbor. Water in the drainage ditch will be secured during blasting to prevent inadvertent killing of any fish that might be in the ditch. The spoils will be removed from the channel by crane and bucket or dragline.

1.3 After the channel is deepened, the channel depth will be monitored to determine if the runoff ditch water can maintain the desired depth. The boat launching ramp and parking lot will be constructed after ascertaining that future dredging will not be required. The approximately 70 cubic yards of spoils will be used to stabilize the approach road to the ramp and provide temporary parking during the evaluation period. Marston matting is being considered for a temporary ramp before a permanent ramp is constructed.

2. AFFECTED ENVIRONMENT.

2.1 The proposed project site is located in the northern portion of Barking Sands Naval Air Station. Barking Sands is a narrow strip of land approximately seven miles long located on the western most tip of Kauai. The strip runs north-south and the width varies from 300 yards to 2/3 of a mile wide. The terrain of Barking Sands is flat (elevation 15 feet + 5 feet) and consists of fine sand. The terrain is broken at the northern end by 100-foot high sand dunes from which the Base derived its name. PMRF's launch site is located near the northern boundary of the Base. In the deep offshore waters (greater than 300 fathoms) to the north and west of the launch site, the underwater tracking range provides coverage over slightly more than 550 square miles of ocean area (Naval operations are primarily conducted over this area).

2.2 None of the following resources of principal national recognition are known to occur within the project area: concentrated shellfish beds, primary recharge areas, prime agricultural lands, critical habitats, aquatic sanctuaries or refuges, fish spawning and nursery areas, or wild and scenic rivers. No archaeological or historical resources listed in the National or State Register of Historic Places are located on this project site.

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2.3 The endangered humpback whale (Megaptera novaeangliae) is known to migrate through the coastal waters offshore from the proposed project from November to June. Although members of this species are often observed in this area, they are uncommon seaward of the 100 fathom isobath.

2.4 Green sea turtles (Chelonia mydas) appear to congregate in the immediate vicinity of the Nohili drainage ditch. Although this species is not Federally listed as "endangered," it is a "threatened" species under the U.S. Endangered Species Act (1973). Nutrients present in the fresh water runoff, as well as the favorable growth conditions afforded to certain species of algae (which the turtles eat) by a brackish-water environment, are most likely the principal factors responsible for attracting green turtles to sites similar to this.

### 3. ENVIRONMENTAL IMPACTS

3.1 Approximately one acre of shore land will be used for the launch ramp and parking area.

3.2 The construction of this proposed small boat ramp will allow for launching of radio-controlled target boats to be transited to the missile range. These target boats are manually operated until within the target range, and then switched to radio-control. These boats are also manned and operated by Navy personnel upon return from the range area. Not more than six target boats will use the ramp on any given day and, therefore, should not adversely affect the environment. Local traffic coming aboard the base may increase as the boat ramp will be open to the public on most week-ends and holidays. The ramp will be closed to the public on operational week-ends and periods of high surf.

3.3 Blasting and dredging of the existing Nohili Ditch may destroy a portion of the benthic community, but that will be short-term and the community should be regenerated after a short period of time.

3.4 Construction of the facility is not expected to have any effect on the populations of the endangered humpback whale.

3.5 An underwater search will be conducted prior to blasting operations to ensure that there are no green sea turtles in the area.

3.6 The proposed action is in compliance with Section 404(b)(1) guidelines.

### 4. ALTERNATIVES

4.1 No Action. In the event that the project is not built or the channel cannot be kept open, PMRF will continue to use the ramp at Kikiaola Small Boat Harbor in Kekaha. The location of KSBH is approximately 12-1/2 miles from the seaborne targets area and about the same distance away from the proposed project. Because of the time required to transit these distances, two targets are currently provided for every target requirement. Back-up targets must be provided due to the importance of operations. Back-up targets are kept off the Range at a distance which is greater than the distance of the proposed ramp to the Range. Theoretically, back-up targets on land could be dispatched to the Range faster than those currently in use if the proposed project is constructed. Additionally, this greater distance that the target boats are presently required to traverse means more time that these boats will be maneuvering in waters frequented by the endangered humpback whale.

4.2 Build the Ramp on the Opposite Bank. By building the ramp on the opposite bank of Nohili Ditch, the project will be built in an improved area. This move will reduce construction costs and decrease the impact on the environment, since no trees need be cut. However, since the public will be permitted to use the ramp, the relocation will impact an operational area and may become a problem. If the project is given approval, the temporary ramp will be placed on this side of the ditch while the channel opening is evaluated. If the public does not impact the operations or operational area, the ramp may be installed permanently on this side of the ditch. The location of the ramp shown on the site plan, however, is in the Mana Park area, which is better suited for public access.

4.3 Construct Ramp Over Limestone Ledge. A ramp built directly on the limestone ledge and leading into the ocean was considered. This ramp would have less effect on the environment since no blasting would be necessary; however, the ramp construction would be difficult and maintenance would be high. The ramp would probably be destroyed by the first winter storm.

#### 5. AGENCIES, INTERESTED GROUPS, AND PUBLIC CONSULTATION

5.1 The following comments were received in response to this EA and Public Notice No. PODCO-O 1609-SD issued by the US Army Corps of Engineers, Honolulu District, on 5 May 1981:

a. US Department of the Interior, Fish and Wildlife Service, dated 17 June 1981:

(1) Extreme care will be taken to insure that no debris, petroleum products, or other deleterious materials be allowed to fall, flow, leach, or otherwise enter the water.

(2) On land, spoil disposal will be conducted behind maintained berms above the influence of the tide. Only clean runoff water from the soil disposal area will be allowed to reenter the waterway.

(3) All construction activities within and adjacent to the water will be conducted so as to minimize turbidity and control erosion.

b. US Department of Commerce, National Marine Fisheries Service, dated 21 May 1981:

(1) No blasting shall be conducted within Nohili Ditch between the months of January through April.

(2) Prior to blasting operations, an underwater visual check shall be made of Nohili Ditch and waters immediately adjacent to the ditch mouth to insure that no sea turtles are present.

c. US Environmental Protection Agency, Region IX, dated 29 May 1981:

No objections to issuance of permit.

d. State of Hawaii, Department of Planning and Economic Development, Hawaii Coastal Zone Management Office, dated 19 June 1981:

This project is consistent with Hawaii's Coastal Zone Management Program.

e. State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Office:

No response.

f. University of Hawaii at Manoa, Hawaii Institute of Marine Biology, dated 2 June 1981:

(1) Threatened green sea turtles aggregate in the immediate vicinity of the Nohili drainage ditch.

(2) Potential secondary impact of increased boating and visitation to Na Pali should be considered.

(3) Inform the public about the protected status of Federally-listed endangered and threatened species by constructing permanent signs of an appropriate nature relating to sea turtles and humpback whales in the boat ramp area.

g. Greenpeace Foundation, dated 21 May 1981:

(1) Problems may occur, relating to the humpback whale, due to increased boating activity in areas where there has been little traffic before.

(2) Problem may occur by use of radio-controlled boats in areas frequented by humpbacks.

(3) Blasting must be done during the summer months when the whales are absent.

5.2 No other responses were received from any other agencies, interested groups, or private parties pertaining to this proposed project.

## 6. FINDING OF NO SIGNIFICANT IMPACT

6.1 Based on the above discussion, this proposed small boat launch ramp with respective parking area and dredging operations at the Nohili Channel Ditch will not have a significant effect on the quality of the human environment provided that the following special conditions are met:

a. That extreme care will be taken to insure that no debris, petroleum products, or other deleterious materials be allowed to fall, flow, leach, or otherwise enter the water.

b. That on land, spoil disposal will be conducted behind maintained berms above the influence of the tide. Only clean runoff water from the spoil disposal area will be allowed to reenter the waterway.

c. That all construction activities within and adjacent to the water will be conducted so as to minimize turbidity and control erosion.

d. That no blasting shall be conducted within Nohili Ditch between the months of January through April.



e. That prior to blasting operations an underwater visual check shall be made of Nohili Ditch and waters immediately adjacent to the ditch mouth to insure that no sea turtles are present.

f. That all sand removed during dredging operations shall be deposited on the beach area to the south of the proposed channel.

6.2 A Federal Environmental Impact Statement (EIS) will not be prepared for this project.



ALFRED J. THIEDE  
Colonel, Corps of Engineers  
Commander and District Engineer



# University of Hawaii at Manoa

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

June 2, 1981

District Engineer  
U. S. Army Corps of Engineers  
Building 230  
Fort Shafter, Honolulu 96858

Dear Sirs:

The following information and questions are being submitted in response to your request for input on the proposal to construct a boat-launching ramp within the Nohili drainage ditch at Barking Sands on Kauai.

1. Green sea turtles (*Chelonia mydas*), a threatened species under the U. S. Endangered Species Act, occur along the nearshore waters of Barking Sands. Sightings of these turtles have been periodically reported to me by personnel of the Pacific Missile Range Facility. There is an indication that the turtles aggregate or occur in greater numbers in the immediate vicinity of the Nohili drainage ditch. Such presence would be consistent with other coastal sites in the main Hawaiian Islands where foraging by green turtles has often been found to focus near areas of freshwater drainage or seepage. Nutrients present in the freshwater runoff, as well as the favorable growth conditions afforded to certain species of algae by a brackish-water environment, are undoubtedly the principal factors responsible for attracting green turtles to these sites.
2. It would be prudent to acquire some detailed information on the scope and magnitude of the Nohili turtle aggregation before proceeding with the primary impacts of dredging, blasting and ramp construction, and the resultant long-term secondary impacts of boat launching and related activities by military and civilian components. Your office may already have more detailed information on green turtles at this site that has been taken into consideration, therefore I would appreciate receiving a copy of the Environmental Assessment (or Environment Impact Assessment) prepared for this proposal.
3. It seems reasonable to assume that placement of a launching ramp available to the public at this site will result in increased visitations to the Na Pali Coast. Smaller boats of a reduced seaworthy nature, as well as larger boats with high fuel consumption, that are now less likely to visit Na Pali from the Port Allen ramp would probably be more apt to do so if a new and closer ramp at Barking Sands is constructed. Has this potential secondary impact been taken into consideration and coordinated with the State of Hawaii's Na Pali Coast Management Plan? Would the proposed ramp be available for commercial uses, such as small boat excursions for tourists and commercial fishing?

District Engineer  
U. S. Army Corps of Engineers

June 2, 1981  
Page 2

4. When periodic access is allowed to military-owned coastal lands, such as Barking Sands, there is a legitimate need to inform the public about the protected status of federally-listed Endangered and Threatened species. Permanent signs of an appropriate nature relating to sea turtles and humpback whales should be included with any boat ramp that may eventually be constructed in the area.

I appreciate having the opportunity to comment on this proposal, and I look forward to hearing from you at your convenience.

Sincerely,

s/ George H. Balazs (ec)

GEORGE H. BALAZS  
Assistant Marine Biologist

CHB:ec

cc: U.H. Environmental Center  
State Parks Division  
John Naughton, NMFS

W. P. F. M. C.  
Kailua, Hawaii

Aloha:

This is in response to the letter by Alan Ford, Regional Director, dated January 21, 1982, regarding turtles, who "asked me to be patient and work within the system to resolve the issue you have raised."

Since our meeting in Saipan, January 24, 1982, seven and a half months ago, I have never heard a word from Ford or his staff. This is called avoiding the issue, sliding, ignoring the problem, etc. This is a typical bureaucratic approach and I don't think we can tolerate this evasive action any longer.

Many of us who have been raised on turtle and have raised our families on turtle, feels something must be done now, this is an unjust to the Hawaiian People.

I ask this council to take this issue up and follow up on it at your earliest convenience. This matter is very important to our subsistence, for the cost of living in Hawaii is the highest in the United States.

I brought this up over a year ago, for in the Kalahuipuaa ponds that I manage, we have a limu problem. Traditionally, turtles were used to control the limu. We always had turtles in our fishponds. Although we have about five turtles in the fishponds ( they have been there for years), I asked N. M. F. S. if we could get a permit to catch more turtles to resolve the limu problem. As of this day, I have had no contact in any way the N. M.F. S.

How long should I "be patient and work within the system," till I die, till all the generations pass, till the Hawaiians don't know who they are?

How much do we charge the Dept of Commerce and Interior for denying us our aboriginal rights, one dollar, a million, or more? What about the Freedom of Religion Act of 1978, does this not pertain to Hawaii?

Again, I'm asking the W. P. F.M.C. to take a stand on this turtle issue, for it is our aboriginal rights, and we need help.

ALOHA A NUI LOA KAKOU,

*Alia*

TRANSCRIPT OF AN UNSIGNED LETTER RECEIVED FROM KAUAI ON FEBRUARY 13, 1974

February 11, 1974

Illegal methods of catching green sea turtles— There is reliable information as to an explosive device called powerhead being used by a few fishermen on Kauai—names not mentioned—but they know who they are. Turtles killed by this method are butchered at sea and the meat portions are brought back on the boats. The reason for this is that the said turtles were taken illegally and contrary to the Hawaiian Statute Laws which prohibit taking any fish or turtles with the use of firearms—and the powerhead is considered a firearm. Would be impossible for these few fishermen to go out and kill approximately 15 to 20 turtles in one day without employing the use of powerhead. They have been seen to come in with just the meat portion.

In a recent public hearing on Kauai in the presence of a large number of people several fishermen boasted how many turtles they had caught last year (one said 200 another 100) which clearly revealed that they were falsifying their fish catch reports which were sent in to the Honolulu Fish and Game office for compiling. These reports came to a total of only 200 lbs. This was done to evade taxes and is also done with fish taken and sold by them. If the turtles were taken legally by non-firearm methods there would be no reason for conservation measures. By using legal methods it would be impossible to catch 15 turtles in one day. If the meat were examined on being brought to shore it would be discovered that there are puncture marks on the turtle meat.

The turtle population on Kauai has been depleted to a point where something has to be done to curb the greed of these few fishermen who fish by using only illegal methods.

1 May 1982

TO: Doyle Gates  
Administrator  
NMFS Western Pacific Program Office

FROM: George Balazs *George Balazs*

SUBJECT: Invitation extended in your recent memo to Mr. Shomura for me to attend a meeting on sea turtles scheduled for May 4

I appreciated being asked to attend your meeting on Tuesday morning and, as always, you may count on me to contribute information and advice stemming from my knowledge of Pacific sea turtles.

In your memo to Mr. Shomura, you indicated that the meeting will be a "follow-up" to one held on 15 April in American Samoa. Since you were on leave Friday, I made inquiries to both Gene Nitta and Dale Coggeshall (through Lucian Kramer) to obtain a copy of the minutes for that meeting. I was sorry to learn that apparently typed minutes were not made. It would be helpful to have such a written record so that Bill Gilmartin and I would know what transpired, and what exactly will be followed-up on. Is the meeting we are having on Tuesday the meeting that Mr. Barrett recommended to Mr. Ford?

I believe that the keeping of accurate and reasonably detailed minutes is an essential part of any meeting of this sort dealing with an ESA listed species. I therefore respectfully request that such minutes be taken on Tuesday and subsequently distributed to all participants. You will probably recall that draft minutes were sent out for comment following the last meeting (on FMP Emergency Provisions) you invited me to attend on September 9, 1981 (copy enclosed). At that time I provided your office with corrections and additions, but to my knowledge the final minutes were never distributed. The subsequent last-minute deletion of sea turtles from the Emergency Provisions is still a subject of my concern.

I look forward to working together with you and your staff on Tuesday.

cc  
Bill Gilmartin

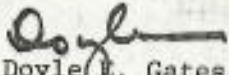


**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
Southwest Region  
Western Pacific Program Office  
P. O. Box 3830  
Honolulu, Hawaii 96812

April 29, 1982

F/SWR1:DEG

TO: Richard S. Shomura, Director, Honolulu Laboratory, F/SWC2

FROM:  Doyle L. Gates, Administrator, WPP0, F/SWR1

SUBJECT: Sea Turtles

We plan to meet with Dale Coggeshall and Lucian Kramer, USFWS, at <sup>930</sup> 0900, Tuesday, May 4, here at the Lab to discuss sea turtles. This is a follow-up to a meeting held in American Samoa on April 15 with Dale, Alan Ford, Iz Barrett, Henry Sesepasara, Paul Kawamoto, and Harry Kami.

The purpose of this meeting is to define the sea turtle problem and establish a basis for developing a process that will assist us in resolving the various issues concerning sea turtles. If schedules permit, it would be most helpful if you, Bill Gilmartin and George Balazs could attend this meeting. The results of this session will be discussed with the various Island Directors at the Council meeting scheduled June 10-11 on Kauai.

955-8831

546-7530



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Fisheries Center  
P.O. Box 271  
La Jolla, California 92038

April 8, 1982

F/SWC:IB

TO: F/SWR - Alan W. Ford  
FROM: F/SWC - ~~Izadore Barrett~~  
SUBJECT: Status review of Pacific Sea Turtles

Enclosed is a memorandum to you from Bill Gilmartin (through Richard Shomura and myself) which conveys several concerns from George Balazs on the Region's plans to review the status of Pacific sea turtles, and to include in that review the issue of subsistence take.

In view of these concerns, perhaps it would be useful to convene a small informal group to discuss the data and evidence as to the need for re-opening the subsistence question. The results of such a meeting can be documented for later evidence should your office decide to go ahead with the formal review. Possible participants could include Regional Office personnel, State people, specialists (Bishop Museum staff), industry persons (Buz Agard, Alike Cooper, ??), FWS personnel, and Honolulu Laboratory staff.

Let me know if I can help in any way.

Enclosure

cc: F/SWC2 - Richard S. Shomura







**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

March 31, 1982

F/SWC2:WGG

TO: Alan Ford, Regional Director, SWR

THRU: (1) Richard S. Shomura, Director, Honolulu Laboratory  
(2) Izadore Barrett, Center Director

FROM: William G. Gilmartin, Leader, Marine Mammal and Endangered Species  
Investigation, Honolulu Laboratory

SUBJECT: Southwest Region's planned status review of Pacific sea turtles and  
attached memorandum from George Balazs to Bill Gilmartin dated 21  
March 1982

It appears that your office is making plans to review the status of Pacific sea turtles with consideration to be given to a subsistence take (your letter to Myshak dated February 12, 1982). In this regard I asked George Balazs to research the matter and bring any pertinent information to my attention.

The attached memorandum raises many questions with regard to why this is being done at this time when there does not appear to be reasonable justification for it. I have thoroughly discussed this memorandum with George Balazs and I believe this is an accurate description of the present situation.

Accordingly, I do not think it inappropriate to ask your office to comment on each of the points raised, especially items 3 and 7: Is the requestor a potential subsistence user and/or does he represent such a group or groups, and, what new information has been presented to the Region to justify the proposed status review?

Enclosure



United States Department of the Interior

ADDRESS ONLY THE DIRECTOR,  
FISH AND WILDLIFE SERVICE

FISH AND WILDLIFE SERVICE  
WASHINGTON, D.C. 20240

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

MAR 9 1982

Dear George:

Thank you for the letter and alert to the potential for a NMFS move on a reclassification of the green turtle in the Pacific. I do not think they have any idea what they would be in for. With regard to the five year review process, the U.S. Fish and Wildlife Service is the designated lead agency to conduct the review. Hence, I don't think that any attempt by a NMFS office would get very far. In any case, any decision to allow opening of subsistence take would require a proposal in the Federal Register since the regulations would have to be changed. This would require concurrence with FWS because of our joint responsibilities. Such would not be approved by FWS even given the new administration because of the wide range of economic document and OMB approval required. The situation needs to be closely watched, but I really don't think it would get very far. You might inform NMFS of their joint responsibilities and the probable lack of FWS approval (an approval, I might add, that must be obtained through the Washington office, not some local refuge biologist). You might also remind them that the five year review is mandated by Congress; unless there are new data on the worldwide status of greens, then a review is biologically unwarranted and will not be approved probably even by NMFS here.

No new word on the petition although Mike Bean told me that there will be a good memorandum put out by our Solicitor's office (in favor of keeping the ban). We still have no idea about what the bigwigs will do.

The hawksbill critical habitat final rule is stalled on the desk of a guy named Spradley (a political appointee who is anti-endangered species). I will only let it stay there so long before I put the word out to get things going again.

That's about all for now. Thanks for letting me know about the NMFS position. Keep me informed.

Sincerely

Kew

21 March 1982

TO: Bill Gilmartin, Leader  
Marine Mammal and Endangered Species Investigation  
NMFS Honolulu Laboratory

FROM: George Balazs  
Fishery Biologist

SUBJECT: Recent letters exchanged between the NMFS Southwest Region, Mr. Cooper, and the State Division of Aquatic Resources concerning a "take" exemption and review of the ESA listing of Hawaiian and other Pacific sea turtle populations.

The purpose of this memo is to give you my initial thoughts on the statements and viewpoints contained in the above correspondence. These letters have been copied to us over the past 3 months and, in my opinion, deserve some sort of enlightened response. As the contracted researcher specializing in sea turtles within your program, I anticipate that a formal opinion will eventually be requested from us by our Honolulu Lab Director, or by Southwest Regional Director Alan Ford based in California, who has apparently already initiated action as a result of Mr. Cooper's inquiry and complaint. The following narrative outline of significant points should serve as the basis for further discussion between the two of us at the earliest opportunity.

1. Insinuation that the listing of Hawaiian and Pacific sea turtle populations was conducted in haste, was not justified by available data, and/or somehow did not give all interested parties the opportunity to make their views, needs, requests and data known- There is no factual basis for such beliefs. When the Threatened listing of green sea turtle populations in the U.S. Pacific islands became effective in September of 1978, it was the culmination of no less than 54 months (4½ years) of evaluation. During this time, numerous comment periods were opened to the public and specifically brought to the attention of state, territorial and federal government officials. All available data were evaluated several times over by both the NMFS and the Fish and Wildlife Service. In addition, a full EIS was prepared on the listing.

The Hawaii State Department of Land and Natural Resources also conducted an exhaustive review of the known status of Hawaiian sea turtles over a 14-month period leading up to May of 1974. Written testimony was repeatedly solicited, and full public hearings were convened on each of the Hawaiian Islands so that verbal data could also be gathered. The information received led the State Board of Land and Natural Resources to adopt measures to ban all commercial turtle fishing, and to restrict the noncommercial catch of green turtles to those over 90 cm for fishermen with a permit issued free of cost. If any requests were made to the State at that time for a "subsistence" or "traditional Hawaiian" take exemption of turtles (and I doubt if there were), then the State must have rejected them as being unwarranted since such provisions were not part of the final fishery regulation (DLNR-36) that was

adopted. After the implementation of the State regulation in May of 1974, the records show that the following numbers of turtles were taken under the permit system. Please note that this constitutes the total legal take throughout the Hawaiian Islands.

May-Dec. 1974	-	9
1975	-	6
1976	-	21
1977	-	32
Jan.-Sept. 1978	-	<u>16</u>
Total	-	84

The statistics available to the public do not show how many fishermen were actually involved, however, it is reasonable to assume that a number of these individuals were responsible for repeat catches. I therefore estimate that not more than 35 fishermen ever exercised their legal right to catch turtles under the State regulation. I have good reason to believe that most of these 35 people caught turtles for a) food preference, i.e. they like the flavor; b) sport or recreation; c) ornamental use of the carapace; or d) because they accidentally encountered a turtle during other fishing activities and the opportunity was just too good to pass up. However, a few of these 35 people (not necessarily of native Hawaiian heritage) may have caught turtles for true subsistence purposes, as defined by regulatory provisions of the ESA. Under the auspices of the Hawaii Institute of Marine Biology, I submitted testimony to the NMFS (copies attached) concerning these few possible people involved in a true subsistence take. To my knowledge, I was the only one to do so. The "rights and privileges" of these few people needed to be, and subsequently were, considered by the NMFS. However, there is something in excess of 900,000 people in Hawaii. After being involved in all aspects of research on Hawaiian sea turtles for the past 10 years, I am confident that the vast majority of these people want their own rights and privileges extended on behalf of securing the survival of Hawaiian sea turtles, instead of gambling through any further direct exploitation. Alternate sources of protein are available for subsistence purposes, and indeed certain practices have had to be altered on behalf of sea turtles by a number of people throughout the United States (e.g. shrimp fishermen, mariculture interests, beach resort developers, Army Corps of Engineers).

2. Absence of new or any other data or evidence to support the request for action by the Southwest Region- Requests for exemptions, changes, or delistings of ESA listed species are usually made in the form of petitions that contain supporting data and other substance. Such material has not been provided in this present case. Instead, several vague and unsubstantiated statements are made, followed by threats to violate the law if the requests are not approved in short order (see letter of 11-12-81). On such a basis, it certainly seems inappropriate for the Southwest Region to initiate action that will consume dollars and personnel otherwise intended for the recovery of Pacific sea turtles and other listed species. Furthermore, it is my understanding that any petition so filed must be submitted, or at least forwarded, to the NMFS and FWS in Washington D.C. for evaluation and publication in the Federal Register.

3. Absence of a request by the Southwest Region for relevant basic facts-  
Some very fundamental and important questions were left unanswered in relation to the initial letter of 11-12-81 sent to the Southwest Region. There is no indication in the copied letters we have received that an effort was made by the Southwest Region to obtain these facts. It seems to me that at least the following should have been requested at the onset. a) Does the petitioner have a history of subsistence use of turtles, as opposed to being a commercial turtle fisherman? b) Does the petitioner follow a subsistence life style, as opposed to being in the mainstream market economy of modern life?(see M. McCoy's 1974 paper on the Western Caroline Islands for a comparison) c) Did the petitioner exercise his legal right to take turtles when this was an authorized activity under State regulation between May 1974 and September 1978? d) How does the petitioner define "aboriginal rights" and "aborigine" as he applies these descriptive terms to Hawaii? Does the petitioner qualify under these definitions? e) What specific organizations or groups of people, or specific individuals, have authorized the petitioner to file and speak on their behalf? What is the nature of the organizations- private or commercial? What is the life-styles being followed by the individuals- true subsistence or modern market economy? In this respect, it is appropriate to note that the petitioner's letterhead states "Commercial Fishing , Wholesale Retail , Oceanographic Research , Aquaculture" and "Import & Export".
4. Traditional Hawaiian usage of sea turtles within the context of the historic Polynesian society- On the basis of Hawaiian scholars who have recorded the history of their own culture, the traditional consumption of green sea turtles is known to have been the exclusive privilege of male chiefs and priests. Turtles were occasionally kept in special stone enclosures along the shoreline, but only as a holding measure until they were ready to be eaten by the chiefs and priests. A total prohibition traditionally existed on the consumption of the hawksbill turtle (probably because of toxicity), but their scutes were sometimes used to make fishhooks and a certain medicine. The traditional Hawaiian usage of sea turtles declined after 1819 when prominent Hawaiian nobility abolished the traditional Hawaiian "kapu" system and adopted Christianity. Between 1819 and May of 1974 there were in essence no legal or traditional controls on the capture of green turtles in Hawaii. Any number of any size could be taken for any purpose- both commercial and noncommercial. Any method could be used to take them, except firearms and shark guns, but I have evidence to show that these were also regularly used by certain elements of the commercial trade.
- The intentional placement of turtles in Hawaiian fishponds (used for raising fish) seems unlikely since too much benthic algae is seldom a problem, and turtles are known to prey on or bite at fish when in a pond environment. In any event, I can find no record of this practice being carried out in the traditional Hawaiian culture.
5. State regulation on sea turtles (DLNR-36) deleted by the Division of Aquatic Resources- The State of Hawaii's sea turtle regulation was deleted as a legal precept in May of 1981 after being described in a public notice as "obsolete and inactive". Up to that time, certain sections of the regulation that

remained valid after the ESA listing were still being used by the State Division of Conservation and Resources Enforcement to help protect Hawaiian sea turtles from illegal take. Since May of 1981 State enforcement officers have not had a legal precept under which they are empowered to protect sea turtles. They have not been given the authority, or have not requested the authority (I do not know which is the case), to enforce the listed status under the ESA. Another legal precept of the State of Hawaii (Wildlife- Chapter 124) was supposed to have encompassed the protection of sea turtles in a manner identical to the ESA listed status, but this has been pending now for over 8 months. At present when State enforcement officers receive a violation report involving turtles they notify the NMFS agents. All 4 of these agents are based in Honolulu and most of their activities seem to be devoted to hump-back whales and other marine mammals.

6. The ESA listing has somehow reduced the quality and/or quantity of tagging and other research on Hawaiian sea turtles- There is no factual basis for such beliefs. Actually the exact opposite is true because the listing made it possible for the Honolulu Lab (and the Southwest Region) to receive additional funds for the research, recovery and protection of Hawaiian and other Pacific sea turtles. The State regulation that eliminated the commercial turtle fishery to some extent reduced the opportunities for certain types of research (mainly with dead turtles). However, in this case, the continued survival of the population was obviously more important than any research benefits, and the State clearly made a wise choice.
7. Southwest Region's proposal and initial steps to form a "working group" to open and review the ESA listing record- The letter from the Southwest Region dated 1-21-82 states that "...if (my emphasis) new information is available or if pertinent information was not considered during the rulemaking process, we (NMFS) and the U.S. Fish and Wildlife Service share a responsibility to open the record and review that information." As I outlined in items No. 2 and 3 of the above, no supporting information of substance, or even basic data, has been supplied to the Southwest Region by the petitioner. Nevertheless, without receiving this material, and acting contrary to the stated prerequisite, the Southwest Region has proposed that the record be opened and a "working group" of government representatives be formed to review and collect information.

The more reasonable, prudent and productive course of action, in my view, would be for the Southwest Region, or perhaps the FWS, to now constitute the formal Recovery Team needed for Hawaiian and Pacific sea turtles listed under the ESA. A Recovery Team composed of researchers and other scientific authorities on sea turtles was assembled over 2 years ago to address the problems of sea turtle populations in the southeastern United States. As indicated in the Southwest Region's letter of 1-21-82, the ESA requires that the status of listed species be reviewed every 5 years. Sea turtles are therefore up for review in September of 1983, about 18 months from now. It is my understanding that the FWS is the designated lead agency for the review. If a Recovery Team is not appointed and functioning by that time, I believe that it will be very difficult to explain and justify to the many private and governmental organizations that have interests

in sea turtles. Certainly a working group of government representatives cannot fulfill this need. It was not possible in the case of the Hawaiian monk seal (for which there is now a Recovery Team appointed by the Southwest Region), and it would even be less likely for Pacific sea turtles.

8. Possible reason for the Southwest Region's apparent absence of key information and a factual historic perspective, such as I have outlined in this memo-  
As you know, there is now a considerable body of literature dealing with Hawaiian sea turtles. The available information covers such aspects as reproductive biology, migrations, life history, historical overviews of exploitation and management, and pioneer findings on growth rates and movements within the breeding colony (to name several). A comprehensive bibliography of this published and unpublished material, current to September 1979, was included in my NOAA-TM-SWFC-7 synopsis report. It would appear that the Southwest Region office in California is not fully aware of the contents of this literature. Not having a good grasp of the literature may very well be the reason why many key points and questions were not contained in the letters written. I realize that there are many other important issues besides sea turtles to be dealt with by this administrative level. Nevertheless, when decisions are made and actions taken that are potentially far reaching, such as in this case, they should be founded on the very best and most complete background information available.



# University of Hawaii at Manoa

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

November 27, 1978

Mr. Richard B. Roe, Acting Director  
Office of Marine Mammals and Endangered Species  
National Marine Fisheries Service  
Washington, D. C. 20235

Dear Dick:

I acknowledge with many thanks your letter of October 2, 1978 concerning the recent listing of sea turtles, the problems relating to Cayman Turtle Farm, and the question of subsistence turtle fishing in Hawaii.

I have not seen a copy of the official comments submitted by the State of Hawaii on the listing, if indeed such comments were ever formalized and communicated to your office. On August 21, 1978 an informal meeting was held in Honolulu concerning this subject. Certain State officials in attendance voiced strong opposition to the Threatened listing for Hawaiian Chelonia. The principal reason for taking this position seemed to be a matter of pre-emption of state's rights by the federal government. The biology and conservation status of the turtle appeared to be a secondary consideration.

I have been troubled for some time now over the issue of subsistence turtle fishing in Hawaii. I interpret "subsistence" to be "the use of endangered or threatened wildlife for food, clothing, shelter, heating, transportation and other uses necessary (my emphasis) to maintain the life of the taker of the wildlife, or those who depend upon the taker to provide them with such subsistence" (FEDERAL REGISTER, 44416, 26 September 1975). There is reason to believe that several of Hawaii's residents (not necessarily all native Hawaiians) utilize green turtles in a true subsistence manner. The problem of any legal exception, however, would of course be the enforcement officers' and courts' ability to distinguish true subsistence from food preferences, sport and trophy hunting. In my opinion, there would be no practical solution to the problem. The question is then: do we make several of Hawaii's residents law-breakers in the eyes of the federal government, or do we make a legal exception for subsistence that in practice destroys the law's effectiveness? I do not know the answer. However, I do know that enforcement is the key to any law relating to turtle protection. It is my understanding that our Division of Fish and Game may not enforce the federal regulations now in effect. Furthermore, there are presently only two NMFS enforcement officers in Hawaii, both of which are based in Honolulu.





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Washington, D.C. 20235

F6:JCT

FEB 13 1979

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

Dear George,

This is in response to your letter of November 27, 1978, commenting on the prohibitions against the subsistence take of sea turtles in Hawaii. I appreciate the concern you express that the Hawaiian subsistence take is normally for home consumption only and that the regulations against this are difficult to enforce.

It is our feeling that the sea turtle populations of Hawaii are sufficiently threatened that even the subsistence take by natives (a difficult to define category if an exemption for them were allowed) has an adverse effect on our efforts to conserve and restore their numbers. While we realize that enforcement is a real problem, we are acting in conjunction with the U.S. Fish and Wildlife Service in order to augment our own agency's efforts along these lines.

A number of people other than Hawaiian natives are variously impacted by our sea turtle conservation efforts, such as the shrimping industry and mariculture interests, not to mention beach development enterprises, but we hope to achieve understanding from all of these groups that we must attempt to eliminate any further reductions in sea turtle population strengths.

In regard to what you might expect in sea turtle research activities in our Southwest Region, including Hawaii, you are probably well aware of the recent severe funding and personnel constraints that have forced us so far to restrict our sea turtle conservation efforts mainly to our Southeast Region where most of our problems occur. Please be assured that just as soon as funds and personnel can be made available, we do plan to initiate a sea turtle Recovery Team in the Southwest Region, charged with proposing a Recovery Plan that will include suggestions of appropriate avenues of research leading to the type of status and structure of stocks data we require for our management regimes.

I look forward to your continued cooperation on Hawaiian sea turtle matters.

Best regards,

Richard B. Roe  
Acting Deputy Director  
Office of Marine Mammals  
and Endangered Species



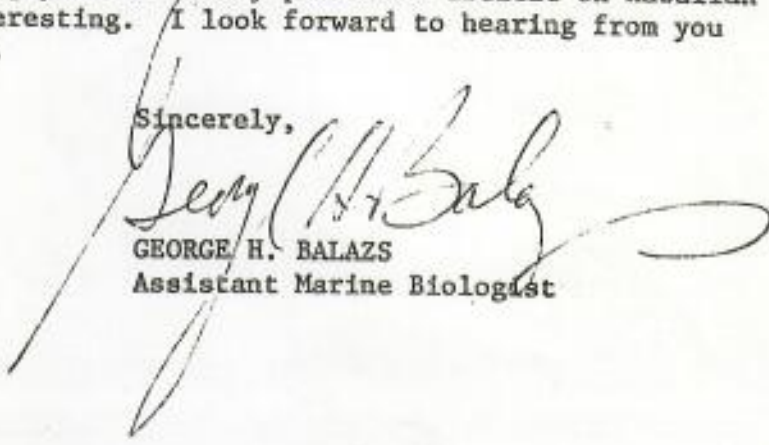
Mr. Richard B. Roe  
Acting Director

November 27, 1978  
Page -2-

I appreciate your kind words of acknowledgement concerning my involvement in the NSTL, Mississippi meeting. Since six months have now passed, I am, of course, wondering what results may have been achieved with respect to sea turtle research, management and recovery in the Pacific. Has any action been taken to incorporate the 14 areas under U.S. jurisdiction in the Pacific into the NMFS national turtle program? Have sea turtle funds now been budgeted for the NMFS Southwest Region? These are important questions to my own efforts in planning a Hawaiian sea turtle research program with a stable funding base and some degree of continuity.

Under separate cover I am sending you a recently published article on Hawaiian wildlife which you may find interesting. I look forward to hearing from you when your busy schedule permits.

Sincerely,



GEORGE H. BALAZS  
Assistant Marine Biologist

GHB:ec

U  
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



**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" or "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.

ARCHAEOLOGY ON KAUAI  
Kauai Community College  
RR 1, Box 216 3-1901 Kaunualii Hwy  
Lihue, Hawaii 96766

May 17, 1982

Dr. Balazs

Aloha:

Thank you for your letter and newspaper copy of 12 May 1982. I will put both in my files.

I am very familiar with the Kalahuihua fishponds. I did one of the early surveys in the 60's with Dr. John Belsho. Bishop Museum has a report of the archaeological sites found around the ponds. Very good report. The author was Dr. P. V. Kirch.

I am glad someone is taking care of the ponds and putting fry ~~into~~ to stock the waters. I once knew the Hawaiian caretaker who maintained all 7 ponds. No turtles, all were mullet. I did see a most unusual sight. Traditional references say that a white mullet acted as leader of a school of mullet. I saw 2 white mullet there. I don't know if they were albino but I was most impressed with Hawaiian tradition. The ones I saw were also leading a school of mullet. I hope the new caretakers are keeping the white ~~mullet~~ <sup>mullet</sup> around. Again much thanks for the clippings!

Sincerely yours

William K. Kikuchi  
William K. Kikuchi



**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

May 28, 1982

F/SWC:GHB

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

FROM: George H. Balazs

SUBJECT: Results of my literature search on procedures used to carry out a "5-year status review" of species listed under the Endangered Species Act

Recently I carried out a short literature search as a follow-up to the meeting we were asked to attend on May 4, 1982 with personnel from WPP0 and the Fish and Wildlife Service. As a result, significant background material was found in the Federal Register for the dates May 21, 1979 (Vol. 44, No. 99: 29566-29577) and February 27, 1981 (Vol. 46, No. 39: 14652-14658). Copies of these interesting pages are included along with this memo for your own analysis. The highlights of the information contained are as follows:

1. In 1979 the 5-year status review required in Section 4(c)(4) of the Endangered Species Act of 1973 (as amended) was carried out for all wildlife classified as endangered or threatened prior to 1975. The review included the hawksbill, leatherback, and Kemp's ridley sea turtles as they occur over their entire range. The review also covered all birds in the Hawaiian Islands and the western Pacific that were listed prior to 1975.
2. In 1981 another 5-year status review was carried out for all wildlife classified as endangered or threatened during the years 1975 and 1976. The review included the Hawaiian monk seal, as well as several species of Hawaiian birds.
3. The lead agency for these reviews was the Fish and Wildlife Service working through its Office of Endangered Species in Washington, D.C. The purpose of such reviews, as stated in the Federal Register, "...is to insure that the listing accurately reflects the most current status of the listed species."
4. A fundamental part of the review process appears to be the publication of a formal notice in the Federal Register. The reason for the notice is given as follows: "In order to aid the Service in discharging this (review) responsibility, the Director is requesting from any party comments and appropriate data which might document the need to delist or reclassify any of the selected species of endangered or threatened wildlife listed below." The comment periods were open for 90 days during the 1979 review, and 120 days during the 1981 review.

5. "Substantial evidence" or "significant data" that would warrant a change in listing, according to the Federal Register notices, must include (among other things) "supporting documentation," and "must not essentially repeat scientific, commercial, or other relevant information already cited by the Director in an earlier rulemaking process or notice of review."
6. Based on my reading of the Federal Register, it would appear that the critical habitat for a listed species may be proposed during the review process.

I do not remember any mention being made of these 1979 and 1981 reviews, or the Federal Register notices, during the course of our meeting on May 4. In fact, I recall that discussions were carried out on whether or not the hawksbill and the leatherback should be included in the review now being contemplated for the green turtle in the Pacific. The clarification of these points will be possible when the minutes, or other written materials, resulting from the meeting become available. In the meantime, I have sent a request to the Fish and Wildlife Service in Washington, D.C. asking for copies of any written comments pertaining to the hawksbill and leatherback that were submitted from the Pacific region during the 1979 review.

The question of allowing greater latitude in any "subsistence" take of Pacific green turtles, or limiting the legal take that now exists, does not seem to be germane to the 5-year status review. The facets of the subsistence subject can be addressed under "special regulations" opportunities in 50 CFR (Subpart 17.40-17.48) for species listed as threatened. An investigation and analysis of the subject can, in my view, be best carried out within the context of a recovery plan. Recovery plans are now required by the Endangered Species Act for all listed species.





memo

Office of the Pacific Islands Administrator  
Fish and Wildlife Service

6-14-82

George -  
Thanks for cc of Ken  
Dodd's letter concerning  
review of RST. As part  
of the "review team" you  
will be kept informed  
of developments as they  
are reviewed.

Mahalo,  
Doh

cc w/incoming:  
Doyle Gates  
ES - Lucienne  
RWR - Lab



ADDRESS ONLY THE DIRECTOR,  
FISH AND WILDLIFE SERVICE

# United States Department of the Interior

FISH AND WILDLIFE SERVICE

WASHINGTON, D.C. 20240

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

NOV 27 1982

Dear George:

With regard to questions concerning the five year review of species as mandated by the Endangered Species Act amendments, I can only offer the following comments. Any species, either listed or unlisted, can be proposed for a status review at any time providing substantial biological or commercial data are available to warrant such review. The green turtle, listed in 1978, has not been the subject of any recent status review or inquiries to the Washington Office of Endangered Species since it was listed. As you know, there have been no data either compiled since that time which would give any evidence that the species was incorrectly listed or that data were ignored during the listing process. I keep up on the literature and research activities in progress and would be aware of such if were available.

The five year review of species listed in 1978 should be conducted in 1983. All past notices of review (see enclosed) were conducted by the Washington office and indeed such activity is solely Washington responsibility through our FWS Program Advice. As far as I am aware, the green turtle will be included in the 1983 notice like it should be (i.e., with all other species listed in 1983). I can see no justification for doing otherwise.

Notices are published in the Federal Register and appropriate governmental, state, university, and private individuals and organizations are contacted for their input. Only biological and commercial data concerning the species' status is considered and even then it must be new data (i.e., obtained after the original listing). Public meetings, hearings, review panels etc. are not held for this type of notice. Indeed, such meetings have never been held for any notice and I can see no justification for such in these times of tight money.

The green turtle, as far as I am aware, is properly listed in Hawaii and the Pacific. No new biological or commercial data have been forthcoming since the original listing. If such were available we would be glad to examine it in terms of the status of the species throughout its range. However, added expense must be avoided. In reality, I wish we could report improved status for this species, but I am afraid that that is not possible at this time. I hope this answers some of the questions raised.

Sincerely

C. Kenneth Dodd Jr. PhD.  
Office of Endangered Species

United States Department of the Interior



ST

*Dr. C. Kenneth Dodd*  
George - you can show this  
formal letter to anyone & use  
it if you see fit. I can get  
NO answers to questions so  
far.

K.



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

Southwest Region  
300 South Ferry Street  
Terminal Island, California 90731

June 15, 1982

F/SWR31:JHL

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

Dear George,

This responds to the letters you sent me on April 28, and May 10, 1982. As we discussed over the phone in April, we have received requests for Guam and Hawaii to look at the subsistence taking regulation. These requests indicate that information may have been overlooked during the rule making process. We believe we have a responsibility to respond to these requests and have agreed to establish a working group to collect and synthesize information and recommend appropriate actions to the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS).

Since the issue of subsistence taking is closely related to the status of the sea turtle populations, we decided to expand the task of the working group to include completion of the periodic status review per section 4(c)(4)(A) of the Endangered Species Act. We believe that combining the reviews of subsistence taking and status of populations will be an efficient and cost effective method of completing both tasks. The working group could consider a broad set of issues and make recommendations to the FWS and the NMFS regarding management actions such as declaration of critical habitat, appointment of a recovery team, and development of guidelines to reduce adverse effects of human activities on sea turtles.

In response to your request for copies of previously completed reviews, I am enclosing status reviews for two species of Great Lakes fish published in the Federal Register by the FWS. The NMFS is near completing reviews of the status of the gray whale and bowhead whale populations. I will provide you with copies when they are available.

In response to the questions enumerated in your April 28, letter:

1. We forwarded reports of incidental taking of sea turtles in foreign pelagic drift gillnets to our Office of International Affairs (IA). We



requested the IA express our concerns to the government of the vessels involved.

2. We believe protection of terrestrial habitat for turtle nesting is of primary concern to conservation of sea turtles. According to the agreement between NMFS and FWS this would be the responsibility of FWS. If there is a need to protect marine habitat, that need should be made visible during the status review.

3. The sea turtle data that was collected by NMFS porpoise observers in 1975 was analyzed for rate of take. The analysis indicated the rate of incidental taking was low. I suggest you contact Gary Sakagawa at the Southwest Fisheries Center regarding a copy of that analysis and the possibility of using that data for analysis of turtle distribution.


4. Sea turtle strandings along the West Coast are reported to the Smithsonian for incorporation in their Scientific Events Alert Network Bulletin.

5. I believe Dick Roe's May 14, 1982, letter to you responds to your concerns about sea turtles protective measures in the Spiny Lobster plan.

6. I appreciate receiving your annotated bibliography of turtle/long line interactions. I have no additional records to provide.

I know you have some good ideas of what might be done to establish an active sea turtle research and management program to promote the recovery of sea turtles in the central and western Pacific. I believe the upcoming status review will provide an opportunity for formally presenting those ideas to the NMFS and the FWS for consideration.

Sincerely yours,



James H. Lecky  
Wildlife Biologist

Encls

cc:  
F/SWR, A. Ford  
F/SWR1, D. Gates



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

December 8, 1981

F/SWR31:JHL

Mr. Alike Cooper  
163 Kaulani Street  
Hilo, HI 96720

Dear Alike:

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

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

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

Sincerely,

Alan W. Ford  
Regional Director



November 29, 1981

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

Aloha Chairman Wads and Council:

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

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

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

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

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

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

This is not just three miles off shore.

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

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

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

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

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

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



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

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

Aloha A Nui Loa Kakou,

*Alika Cooper*

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

Commercial Fishing  
Wholesale, Retail  
Oceanographic Research  
Aquaculture  
Import & Export

ALIKA COOPER & SONS, INCORPORATED  
163 Kaiulani Street  
Hilo, Hawaii 96720  
November 12, 1981

Telephone: (808) 935-8871

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

Dear Doyle:

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

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

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

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

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

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

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

Mr. Doyle Gates  
November 12, 1981  
Page 2

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

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

Aloha A Nui Loa Kakou,

*Alika Cooper*

Alika Cooper

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



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

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

November 24, 1981

F/SWRI:DEG

Mr. Alika Cooper  
163 Kaiulani Street  
Hilo, Hawaii 96720

Dear Alika,

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

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

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

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

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

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

Aloha A Nui Loa Kakou.

Sincerely yours, .



Doyle E. Gates  
Administrator

Enclosures

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

ALIKA COOPER & SONS, INCORPORATED

163 Kaiulani Street

Hilo, Hawaii 96720

January 5, 1981

Fishing  
Retail  
Geographic Research  
Agriculture  
Import & Export

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

Dear Alan:

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

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

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

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

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

Mr. Alan Ford  
January 5, 1982  
Page 2

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

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

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

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

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

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

Mr. Alan Ford  
January 5, 1982  
Page 3

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

Aloha A Nui Loa Kakou,

*Alika*

ALIKA COOPER, Vice-President

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



Geo-FYI



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

Southwest Fisheries Center  
P.O. Box 271  
La Jolla, California 92038

*will*

December 22, 1982 F/SWC:IB

TO: F/SWC2 - Richard Shomura  
FROM: F/SWC - Izadore Barrett  
SUBJECT: Turtles

I've talked over with Alan Ford your proposal for doing the turtle review and he has agreed that a team chaired by Gilmartin, with Balazs and a pop dy person from the lab on it can produce the needed review material (new information since the listing and status of stocks). Alan asks (and I concur) that Gene Nitta participate in the team's work, because Gene is responsible for doing the subsistence part of the review and because Gene should be kept aware of what's going on.

A schedule hasn't been worked out yet (I'll get one to you as soon as its available) but don't let that hold you up on getting started. The sooner we get moving, the better.

cc: F/SWR - Alan Ford  
F/M4 - Richard Roe

NATL MARINE FISHERIES SERVICE

DEC 27 10 10 AM '82

HONOLULU LABORATORY



14 Dec 1982

Dear Dr. Piaria:

Enclosed is an article about Hawaiian sea turtles that I thought you might find interesting.

When you have the time, I would still very much like to know if Kalanianaʻokalani's 1887 reference to a kapu for sea turtles is valid in your view. If you feel it is in error, could you please tell me another reference source on this subject that gives accurate information.

Thank you for your help.

Sincerely,  
George Balazs

CONFIDENTIAL

Need one  
to R.Sy/va

4-23-83

Dear Bill and Don-

Let me be the first to tell you that those behind a renewal of green turtle exploitation have won something of a "first victory". During May, the NMFS regional office will be holding "public hearings" on all the main Hawaiian Islands to examine "subsistence" taking of turtles. In June hearings will also be held out in the TT, Guam and Samoa. To my knowledge, nothing like this is being held in the Caribbean U.S. islands, or eastern seaboard states. So you can see what one outspoken letter-writing person can do (undo?) here in Hawaii! Even Jim is surprised, given his record of being a commercial turtle fisherman. Most of the planning for these hearings occurred at the NMFS office in California, so Jim is still trying to sort out what will happen. As you

Comments

may know, the existing regs for  
green turtles under the Endangered Species  
Act allow residents of the TT  
to take greens in <sup>(for personal use)</sup> the water " ... if  
such taking is customary, traditional  
and necessary for the sustenance  
of such resident and his immediate  
family." I suspect that what  
will be entertained at the  
Hawaii hearing is to charge this  
definition so it will be more  
applicable to Hawaii residents, and  
then grant a "subsistence" allowance  
for Hawaii. What it will amount to,  
if this happens, is that everyone in  
Hawaii will be able to take turtles  
for ~~non-commercial~~ purpose. In my view,  
if any "take" is allowed now, what  
little enforcement there is will be made  
impossible, and the hopeful signs of  
stock recovery I discussed in my Hawaii  
Fishing News article will surely be reversed.  
The leadership at DNR has supported Mr. Cooper,  
hence the reason this has progressed as far as  
it has. This may turn out to be a difficult  
situation for both of you, so please keep the best  
interests of your family and job in mind. George



ADDRESS ONLY THE DIRECTOR,  
FISH AND WILDLIFE SERVICE

## United States Department of the Interior

FISH AND WILDLIFE SERVICE

WASHINGTON, D.C. 20240

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

APR 20 1982

Dear George:

I just wanted to let you know that I have been receiving your letters concerning the green turtle situation in Hawaii and the Territories. At this level, I have heard absolutely nothing concerning any moves for a status review or a potential reclassification. Indeed, except for the information that you have sent, I would not even be aware that any problems exist. However, this is certainly not to say that the Program Manager or some other Washington level management types are not fully aware of the situation. I suspect that they are very up on it. The current practice, however, is to completely ignore OES in some cases, or to not inform certain "problem" people of developments. This happened to our ichthyologist some time ago and it is now apparent to me that I have finally been included in this category. In any case, I have passed on the info to people who might help (except where you gave something in strict confidence).

There is no way I can initiate programs to start a Recovery Team for the Pacific Region sea turtles from Washington. In the past when I attempted to get something going about a particular species, I was simply told to mind my own business. However, I suggest that you write the people in Portland since they would have to initiate the Team. Write: Mr Richard Myshak, Regional Director, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 N.E. Multnomah Street, Portland, OR. 97232. You must remember that anything dealing with sea turtles must be jointly agreed to by NMFS. Indeed, I believe that NMFS initiated the Southeast Sea Turtle Recovery Team. Perhaps you should contact Peter Pritchard. In any case, I strongly agree that one is needed and I hope someone can successfully lobby for such.

The rumor now has it that FWS intends to reject Pacific Legal Foundation's petition but include information telling them what data would specifically be needed for a reclassification. More when I get specific details.

Keep me informed with the situation in the Pacific. However, I don't really know whether I will be of any help. To this day, they still haven't asked me to review the PLF petition. God only knows what else is going on.

Sincerely

*C. Kenneth Dodd Jr.*

C. Kenneth Dodd Jr. PhD.  
Staff Herpetologist  
Office of Endangered Species

*How's this for formal!  
K.*

April 19, 1982

Mr. George H. Balazs  
Assistant Marine Biologist  
University of Hawaii at Manoa  
Hawaii Institute of Marine Biology  
P. O. Box 1346 Coconut Island  
Kaneohe, Hawaii 96744

Dear Mr. Balazs:

In regards to your question on sea turtles - I believe my parents introduced them into the pond merely for people to look at and not for the purpose of controlling limu or for aiding in the culture of mullet and other fish. We do not have any turtles now because of the damage they cause to our fish nets. Our neighbor has a couple of small turtles in his pond and he said they are kept in the pond for looks.

The salinity of our pond is about 2 ppt and the temperatures range around 70 degrees F.  $\pm$  5 degrees depending on the time of the year, location and depth of the pond.

Sincerely,

*S. Nakagawa*

Susumu Nakagawa

1180 Mililani St.  
Hilo, Hawaii 96720

26 March 82

Dear Jack.

I've got some potentially serious problems for sea turtles brewing out here in the Pacific. Confidentially, I suspect that the NMFS Southwest Region in California may simply want to get turtles off the list and out of their hair. This is my opinion.

When you have a chance, would you please read through the enclosed dossier to acquaint yourself with this issue. Maybe there is something you can do to help out - without indicating I alerted you. At this stage, I think the best thing FWS can do is take the lead and form a Recovery Team.

If nothing else, all of this should be good reading for you. Please keep all of this in your confidential file - but use the contents in any way you see fit.

Best regards, George



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

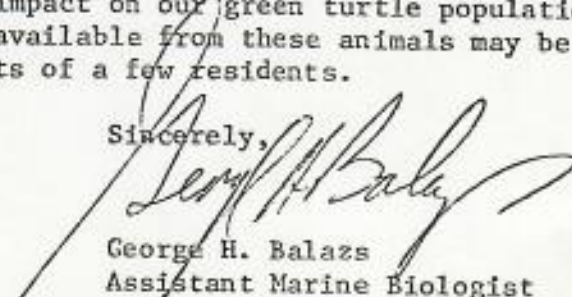
Mr. Richard B. Roe  
Acting Chief, Marine Mammals and  
Endangered Species Division  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
3300 Whitehaven Street, NW  
Washington, D. C. 20235

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





# University of Hawaii at Manoa

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

November 27, 1978

Mr. Richard B. Roe, Acting Director  
Office of Marine Mammals and Endangered Species  
National Marine Fisheries Service  
Washington, D. C. 20235

Dear Dick:

I acknowledge with many thanks your letter of October 2, 1978 concerning the recent listing of sea turtles, the problems relating to Cayman Turtle Farm, and the question of subsistence turtle fishing in Hawaii.

I have not seen a copy of the official comments submitted by the State of Hawaii on the listing, if indeed such comments were ever formalized and communicated to your office. On August 21, 1978 an informal meeting was held in Honolulu concerning this subject. Certain State officials in attendance voiced strong opposition to the Threatened listing for Hawaiian Chelonia. The principal reason for taking this position seemed to be a matter of pre-emption of state's rights by the federal government. The biology and conservation status of the turtle appeared to be a secondary consideration.

I have been troubled for some time now over the issue of subsistence turtle fishing in Hawaii. I interpret "subsistence" to be "the use of endangered or threatened wildlife for food, clothing, shelter, heating, transportation and other uses necessary (my emphasis) to maintain the life of the taker of the wildlife, or those who depend upon the taker to provide them with such subsistence" (FEDERAL REGISTER, 44416, 26 September 1975). There is reason to believe that several of Hawaii's residents (not necessarily all native Hawaiians) utilize green turtles in a true subsistence manner. The problem of any legal exception, however, would of course be the enforcement officers' and courts' ability to distinguish true subsistence from food preferences, sport and trophy hunting. In my opinion, there would be no practical solution to the problem. The question is then: do we make several of Hawaii's residents law-breakers in the eyes of the federal government, or do we make a legal exception for subsistence that in practice destroys the law's effectiveness? I do not know the answer. However, I do know that enforcement is the key to any law relating to turtle protection. It is my understanding that our Division of Fish and Game may not enforce the federal regulations now in effect. Furthermore, there are presently only two NMFS enforcement officers in Hawaii, both of which are based in Honolulu.

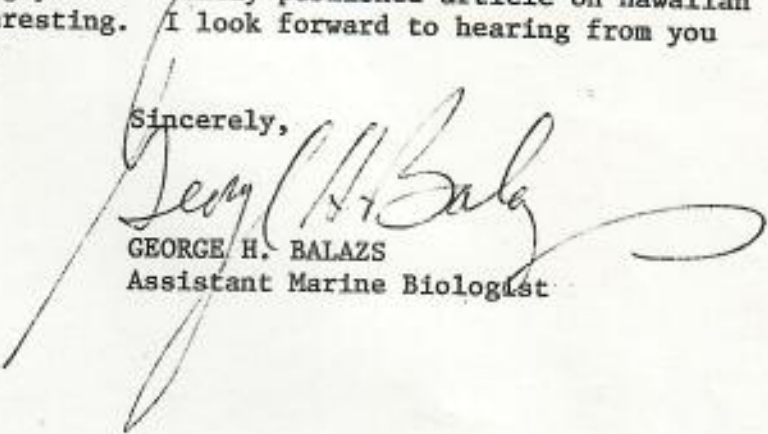
Mr. Richard B. Roe  
Acting Director

November 27, 1978  
Page -2-

I appreciate your kind words of acknowledgement concerning my involvement in the NSTL, Mississippi meeting. Since six months have now passed, I am, of course, wondering what results may have been achieved with respect to sea turtle research, management and recovery in the Pacific. Has any action been taken to incorporate the 14 areas under U.S. jurisdiction in the Pacific into the NMFS national turtle program? Have sea turtle funds now been budgeted for the NMFS Southwest Region? These are important questions to my own efforts in planning a Hawaiian sea turtle research program with a stable funding base and some degree of continuity.

Under separate cover I am sending you a recently published article on Hawaiian wildlife which you may find interesting. I look forward to hearing from you when your busy schedule permits.

Sincerely,



GEORGE H. BALAZS  
Assistant Marine Biologist

GHB:ec



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Washington, D.C. 20235

F6:JCT

FEB 13 1979

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

Dear George,

This is in response to your letter of November 27, 1978, commenting on the prohibitions against the subsistence take of sea turtles in Hawaii. I appreciate the concern you express that the Hawaiian subsistence take is normally for home consumption only and that the regulations against this are difficult to enforce.

It is our feeling that the sea turtle populations of Hawaii are sufficiently threatened that even the subsistence take by natives (a difficult to define category if an exemption for them were allowed) has an adverse effect on our efforts to conserve and restore their numbers. While we realize that enforcement is a real problem, we are acting in conjunction with the U.S. Fish and Wildlife Service in order to augment our own agency's efforts along these lines.

A number of people other than Hawaiian natives are variously impacted by our sea turtle conservation efforts, such as the shrimping industry and mariculture interests, not to mention beach development enterprises, but we hope to achieve understanding from all of these groups that we must attempt to eliminate any further reductions in sea turtle population strengths.

In regard to what you might expect in sea turtle research activities in our Southwest Region, including Hawaii, you are probably well aware of the recent severe funding and personnel constraints that have forced us so far to restrict our sea turtle conservation efforts mainly to our Southeast Region where most of our problems occur. Please be assured that just as soon as funds and personnel can be made available, we do plan to initiate a sea turtle Recovery Team in the Southwest Region, charged with proposing a Recovery Plan that will include suggestions of appropriate avenues of research leading to the type of status and structure of stocks data we require for our management regimes.

I look forward to your continued cooperation on Hawaiian sea turtle matters.

Best regards,

Richard B. Roe  
Acting Deputy Director  
Office of Marine Mammals  
and Endangered Species



February 12, 1982

Mr. Leon A. Thevenin  
104 Puako Beach Drive  
Waimea, Hawaii 96743

Dear Mr. Thevenin:

Your name has come to my attention as an individual having knowledge about the status and usage of marine resources along the Puako coastline. As a biologist that studies Hawaiian sea turtles, I am especially interested in obtaining both current and historical information on turtles in your area. Would you be kind enough to provide me with some personal perspectives of this subject? Were turtles more abundant during former years? Are you aware of any beach sites that were ever used for nesting? I noticed with interest that you referred to indiscriminate netting of turtles at Kiholo in your letter of May 1978 to Hawaii Fishing News. Can you give me more details on this case, or refer me to someone who may know more about it?

I have enclosed several articles relating to sea turtles that I thought you might find interesting. Thank you very much for any assistance you can provide.

Sincerely,

George H. Balazs  
Assistant Marine Biologist

GHB:md

Enclosures

January 14, 1982

Mr. Rene Sylva  
P. O. Box  
Paia, Maui, Hawaii

Dear Rene:

I am writing to ask if you would be willing to give me your views on the enclosed letters relating to the capture and use of turtles by Hawaiians. Any information or comments that you can offer on this subject will be greatly appreciated and beneficial to helping me formulate an enlightened opinion.

Best wishes for the New Year. I look forward to hearing from you when your time permits.

Sincerely,

George H. Balazs  
Assistant Marine Biologist

GHB:mf

Enclosures

BILL POLELOA

567-6696

Box 175

Kualapuu 96757

29 January 1982

Bill -

Many thanks for your most interesting and informative letter of Jan 27<sup>th</sup>. I appreciate all of these things that you have related to me, especially the yesterday's sightings off Kaula Kai. Have you tried going to that same coastal area to see if maybe some turtles can still be seen today? It might be a nice trial. Exactly what previous years were you referring to? (sorry to indirectly be asking your age!)

I have some information on a hawkbill nesting at Halawa during late 1980. I know it's accurate because I personally saw the nest. When we get together, I can give you the details.

When you mentioned butchering out turtles at Kaurakakai in relation to gill netters, do

you think the turtles are being caught accidentally in the nets, or do the "gill netters" go out looking for them after setting nets? That's probably a tough question to answer.

The last time I was on Molo kai (Dec 1980) I visited the "Wai A hane" area on the south shore - the shallows off there are reported (or were reported) to be a good feeding area for green turtle. I didn't see any live turtles because the water was so cloudy, but I did find a butchered porpoise (~2') on shore.

Bill, I think you should have some of my turtle tags on hand, just in case you have occasion to need them.

Perhaps the enforcement people may confiscate a live turtle and give you the chance to examine and tag it.

Can I send you a dozen?

Yes, we certainly need to talk more about the possibilities of a turtle expedition to Bikar. I mentioned Bikar in the short writeup (copy enclosed) that is scheduled to be published in the South Pacific Commission Fisheries Newsletter. I'll save this topic for when we are together here in my office.

The last thing I want to bring up in this correspondence is the enclosed dossier relating to Alike Cooper. I am sending this to you, and asking for your comments, on a confidential basis. As a person raised on Molokai, your opinions on the capture and use of turtles by Hawaiians will be extremely beneficial in helping me formulate an enlightened view. In reading through Alike Cooper's letters, I have a number of



problems. For one thing, he is a commercial fisherman representing commercial fishing interests, but ironically asking for a "subsistence" exemption for taking turtles. I also know that he was a big-time commercial turtle fisherman some years ago.

Also, in one of my old notebooks from 1971, I have record of an informant telling me that Alicka Cooper was "asked" to get out of Molokai waters because she was indiscriminately killing turtles for his commercial buyers. I have no idea if this report is actually true.

Anyway, read this all over and let me know what you think.

That's all for now -

Sincerely,  
George Balazs

19 January 1982

Mike-

I am confidentially sending you the enclosed dossier in your capacity as a member of the Turtle Group. After you have had a chance to read through it, I would greatly appreciate hearing your thoughts and opinions.

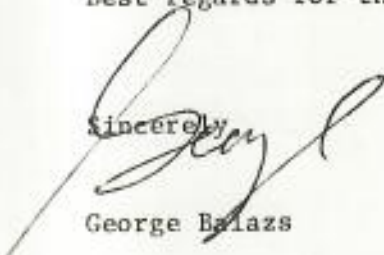
It seems to me that Kenji Ego (former director of Hawaii Fish & Game) is somewhat confused, in that he has not distinguished between 1) subsistence use by native Hawaiians, and 2) taking for reasons of food preference or sport/recreation by all people that live in Hawaii. The letters that were written by the State to the Federal government in 1975-76 tried to make a case for No. 2. Alike Cooper is now trying to make a case for No. 1. Of course neither are taking into accurate account the status of the resource, or the heavy commercial exploitation directed at the Hawaiian green turtle population for many years up until May of 1974. Alike Cooper, ironically was one of the big-time commercial net fishermen for green turtles.

You undoubtedly already know this, but perhaps I should also mention that Part 227 of the Rules and Regs of the US Endangered Species Act defines "subsistence taking" as being for personal consumption and "customary, traditional and necessary for the sustenance of such resident and his immediate family". This is what was granted for the TT. Obviously its not a fair ruling for all the TT, because the circumstances just wouldn't apply everywhere. In my view, it would even be more unfair (to the turtles) if such a ruling were made for Hawaii (Hawaiians), unless perhaps it was restricted to Niihau, and maybe a few other remote settlements (Milolii?).

I am also confidentially sending you some correspondence that I recently exchanged with Henry Sesepa's office.

Best regards for this New Year.

Sincerely,

  
George Balazs

The news article you sent me about the Arnavon sanctuary in the Solomons has been xeroxed and sent to several other Group members, Archie included.



ADDRESS ONLY THE DIRECTOR,  
FISH AND WILDLIFE SERVICE

# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
WASHINGTON, D.C. 20240

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

MAR 9 1982

Dear George:

Thank you for the letter and alert to the potential for a NMFS move on a reclassification of the green turtle in the Pacific. I do not think they have any idea what they would be in for. With regard to the five year review process, the U.S. Fish and Wildlife Service is the designated lead agency to conduct the review. Hence, I don't think that any attempt by a NMFS office would get very far. In any case, any decision to allow opening of subsistence take would require a proposal in the Federal Register since the regulations would have to be changed. This would require concurrence with FWS because of our joint responsibilities. Such would not be approved by FWS even given the new administration because of the wide range of economic document and OMB approval required. The situation needs to be closely watched, but I really don't think it would get very far. You might inform NMFS of their joint responsibilities and the probable lack of FWS approval (an approval, I might add, that must be obtained through the Washington office, not some local refuge biologist). You might also remind them that the five year review is mandated by Congress; unless there are new data on the worldwide status of greens, then a review is biologically unwarranted and will not be approved probably even by NMFS here.

No new word on the petition although Mike Bean told me that there will be a good memorandum put out by our Solicitor's office (in favor of keeping the ban). We still have no idea about what the bigwigs will do.

The hawksbill critical habitat final rule is stalled on the desk of a guy named Spradley (a political appointee who is anti-endangered species). I will only let it stay there so long before I put the word out to get things going again.

That's about all for now. Thanks for letting me know about the NMFS position. Keep me informed.

Sincerely

Kew



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Washington, D.C. 20235

November 18, 1976

F33/RES

Mr. George H. Balazs  
Jr. Marine Biologist  
Hawaii Institute of Marine Biology  
University of Hawaii at Manoa  
PO Box 1346, Coconut Island  
Kaneohe, Hawaii 96744

Dear Mr. Balazs:

Larry Ogren was right! I do appreciate the complimentary copy of your beautiful booklet. The photographs are superb and those on monk seals and basking turtles give me a much needed appreciation for their habitat in the Leeward Islands.

Sincerely,

Robert E. Stevens, Ph.D.  
Endangered Species Administrator

