

Congress of the United States
Washington, DC 20515

September 8, 2010

The Honorable Jane Lubchenco
Administrator
National Oceanic and Atmospheric Administration
Herbert Clark Hoover Building, Room 5128
14th Street and Constitution Avenue, NW
Washington, DC 20230

Dear Dr. Lubchenco:

We want to thank you for making Dr. Steve Murawski and Dr. Jim Lecky available to meet with us to discuss our mutual interests in sustainable fishery management and sea turtle conservation.

Working in partnership with your agency, US fisheries continue to make some of the most important contributions to restoration and protection of sea turtles in the world. Meanwhile, our fishing industry is essential to the economies of coastal communities, especially when our Nation is struggling with high unemployment. Protection of sea turtle populations and preservation of our fisheries are not – and must not become – mutually exclusive goals.

With that in mind, we continue to have serious concerns regarding the agency's March 16, 2010, Proposed Rule issued pursuant to the Endangered Species Act (ESA) to divide the loggerhead turtle species into nine Distinct Populations Segments (DPS) and to uplist seven of those proposed DPSs from threatened to endangered status, including the proposed Northwest Atlantic Ocean DPS with which our fisheries interact. Critical questions remain regarding the policy and scientific basis for those proposed actions and their impacts on our fisheries.

As you may know, on April 27, 2010, we introduced H.R. 5155 which expresses the need for aerial surveys to address substantial deficiencies in existing sea turtle abundance data and assessment methods. Current abundance assessments are based heavily, and in some key analyses, entirely, on estimates of nesting females which represent a small fraction of the total population. Since female loggerheads only begin nesting at an average age of 30 years, this approach does not account for the large number of turtles protected by the bycatch mortality reduction measures adopted by our fisheries over the past two decades.

Since introducing our bill, our concerns have been confirmed by the National Research Council (NRC) of the National Academies, in their new report "*Assessment of Sea-Turtle Status and Trends: Integrating Demography and Abundance*". In this report, the Committee on the Review of Sea Turtle Population Assessment Methods reached the following conclusion:

"Sea turtle population assessments in the United States are based too heavily on abundance estimates of adult females at nesting beaches. Although abundance estimates of adult females are critical, without knowledge of accompanying

changes in demographic rates for all life stages, the proximate and ultimate causes of population trends cannot be determined. Selection and evaluation of the best management options depend on an understanding of the basis for change in population abundance.”

Given this report, we were pleased to learn in our meeting that NOAA will partner with the Navy and other federal agencies to perform a comprehensive, multi-year aerial survey of sea turtles in order to improve population assessments of abundance. We would appreciate receiving further details on that program so we can share this important development with our fishing industry.

Considering the NRC's conclusions concerning the scientific limitations of the agency's 2009 Status Review and assessments as well as the growing body of scientific evidence and observations by our fishermen which strongly suggest the existence of a large, pre-nesting component of the loggerhead population, this comprehensive aerial survey is clearly the correct action for NOAA to take at this time.

We also believe it would be ill advised to implement the dramatic changes to loggerhead management set forth in the Proposed Rule before this new abundance data becomes available and improvements to the population assessments are made. The proposed management changes would trigger a series of ESA-mandated actions including new biological opinions; jeopardy determinations; the setting of new, presumably lower incidental take limits; and the development of more onerous regulations needed to achieve those take limits that may cause irreversible economic impacts on America's fisheries. It would be counterproductive for the agency to proceed in this way with the knowledge that the underlying science is likely to be substantially revised by the agency's ongoing research.

Implementing the actions set forth in the Proposed Rule prior to updating the population assessments might be justified if loggerhead turtles were faced with imminent extinction; but our review of the scientific information does not support that conclusion. Again, there is mounting evidence of large numbers of juvenile turtles not accounted for by current loggerhead population assessments. We are also advised that expert sea turtle biologist Dr. Benny Gallaway of LGL Ecological Associates in Texas has determined that, for example, there is a 1 in 100,000 chance that the Northwest Atlantic Peninsular Florida Recovery Unit will reach the quasi-extinction threshold in the next 20 years. We understand Dr. Gallaway used the agency's own data and statistical model to perform this analysis.

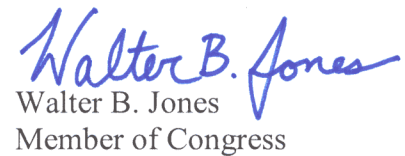
With this in mind, we ask you to clarify the agency's discretion regarding the Final Rulemaking process. Based on our meeting with your experts, we understand the agency may be compelled by litigation and statutory requirements to make this proposal and render a Final Rule by a date certain. However, it is also our understanding that the substantive content of the Final Rule is not so dictated and may differ markedly from the Proposed Rule based on new information and comments received from the public and from within the agency itself. We would appreciate your explanation on this so that we can properly inform the fishing families we represent.

Again, in our view, consistent with the conclusions of the NRC, sound policy dictates that the agency should defer making fundamental changes to the management of loggerheads until after the new aerial survey information can be incorporated into improved population assessments. Thank you again for the opportunity to discuss these issues with your agency's experts as well as for your decision to move forward with the comprehensive aerial survey program. We look forward to continuing this dialogue and receiving your responses to the issues we've raised.

Sincerely,



Solomon P. Ortiz
Member of Congress



Walter B. Jones
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