

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF HAWAII

3 PALILA (Loxioides bailleui),)
4 an endangered species, et al.;) Civil No. 78-0030 SPK
5 Plaintiffs,)
6 v.)
7 HAWAII DEPARTMENT OF LAND AND)
NATURAL RESOURCES, et al;)
8 Defendants,)
9 and)
10 SPORTSMEN OF HAWAII, et al.,)
11 Defendant Intervenors.)
12

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JAN 27 1987

3 copies and 50 min
WALTER A. V. N. CHUNG, CLERK

13 JUDGMENT AND ORDER

14 For the reasons set forth in this court's Opinion
15 dated November 18, 1986, which Opinion constitutes the Findings
16 of Fact and Conclusions of Law of the court, it is hereby
17 ADJUDGED, DECLARED, AND ORDERED as follows:

18 1. The action of the defendants in maintaining
19 populations of mouflon sheep within the critical habitat of the
20 Palila on Mauna Kea, Island of Hawaii, and the defendants'
21 failure to remove said mouflon sheep from that critical
22 habitat, constitutes an unlawful taking of the Palila in
23 violation of Section 9 of the Endangered Species Act, 16 U.S.C.
24 § 1538(a)(1)(B).

25 2. The defendants are preliminarily and permanently
26 enjoined from continuing to maintain any population of mouflon
27 sheep within the Palila's critical habitat on Mauna Kea, and
28 from continuing to refuse to take positive steps completely and

1 permanently to remove said mouflon sheep from that critical
2 habitat.

3 3. Defendants are hereby ordered forthwith to remove,
4 completely and permanently, all said mouflon sheep from the
5 Palila's critical habitat no later than one year from the date
6 of this Judgment and Order.

7 4. The court's Judgment and Order dated August 1,
8 1979 ordering the defendants completely and permanently to
9 remove all feral goats and feral sheep from the Palila's
10 critical habitat is hereby re-affirmed and is incorporated
11 herein by reference.

12 5. Defendants are hereby further ordered forthwith
13 to remove, completely and permanently, all hybrid mouflon/feral
14 sheep from the Palila's critical habitat, no later than one
15 year from the date of this Judgment and Order.

16 6. If the defendants intend to utilize a plan for
17 effectuating the removal of the mouflon sheep and hybrid
18 mouflon/feral sheep that is different from the Plan For
19 Eradication of Feral Sheep and Goats on the Mauna Kea
20 Management Area and Forest Reserve approved and adopted by this
21 court on November 15, 1979, defendants shall submit to this
22 court for its approval and serve upon plaintiffs within thirty
23 (30) days such plan. Defendants shall consult with and attempt
24 to reach agreement with plaintiffs on such plan prior to
25 submission thereof to the court.

26 7. This court shall retain jurisdiction over the
27 cause to determine, as necessary, whether the defendants have
28 taken sufficient and effective action completely and

1 permanently to remove all feral goats, feral sheep, mouflon
2 sheep, and hybrid mouflon/feral sheep from the Palila's
3 critical habitat on Mauna Kea in compliance with the mandate of
4 this court. Defendants shall file with the court and serve
5 upon plaintiffs six months after the date of this Judgment and
6 Order, and every six months thereafter until the Judgment and
7 Order of this court is carried out, a report indicating what
8 actions have been taken to date to implement the mandate of
9 this court, what actions remain to be taken, and what the
10 current estimated populations of feral goats, feral sheep,
11 mouflon sheep, and hybrid mouflon/feral sheep are within the
12 Palila's critical habitat.

13 8. Plaintiffs are awarded costs of suit including a
14 reasonable attorney's fee in amounts to be determined after
15 submission to the court and service upon the defendants by
16 plaintiffs of appropriate documentation therefor.

17 DATED: Honolulu, Hawaii, January 27, ¹⁹⁸⁷~~1986~~. *SPK*

18 *Richard P. King*
19 _____
20 United States District Judge

21 Approved As To Form:

22 *Edwin P. Watson*
23 _____
24 Edwin P. Watson
25 Attorney for Defendants

26 *Michael R. Sherwood*
27 _____
28 Michael R. Sherwood
Attorney for Plaintiffs

~~*Katsuya Yamada*~~
~~_____~~
~~Katsuya Yamada~~
~~Attorney for Defendant/Intervenors~~

John S. Carroll

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