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SHARON HURD
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Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

July 7, 2023

TO: Advisory Committee on Plants and Animals

FROM: Emily Richards, President
John Nogawski, CEO
AWAKE Community – Shambhala Gardens

THROUGH: Noni Putnam
Land Vertebrate Specialist
Plant Quarantine Branch

SUBJECT: Request to: (1) Allow the Importation of One (1) Desert Tortoise, *Gopherus (Xerobates) agassizi*, (*Gopherus agassizii*) an Animal on the List of Restricted Animals (Part B), by Permit, for Private Research, Exhibition and Filming, by the AWAKE Community – Shambhala Gardens; and (2) Establish Permit Conditions for the Importation of One (1) Desert Tortoise, *Gopherus (Xerobates) agassizi*, (*Gopherus agassizii*) an Animal on the List of Restricted Animals (Part B), by Permit, for Private Research, Exhibition and Filming, by the AWAKE Community - Shambhala Gardens.

PQB NOTES: *Per the information provided on the Permit Application, the reasons for introduction include: "Research: Monitoring the adaptation of this desert tortoise to a warmer climate with cleaner air quality is integral research for threatened and endangered species as conducted by the nonprofit AWAKE Community.; Exhibition: George the desert tortoise will be an important teaching tool for visitors for Shambhala Gardens.; Filming: George will be featured in short films and virtual courses broadcasted on environment justice."*

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I. Summary Description of the Request

PQB NOTES: *The Plant Quarantine Branch (PQB) submittal for requests for import or possession permits, as revised, distinguishes information provided by the applicant from procedural information and advisory comment and evaluation presented by PQB. With the exception of PQB notes, hereafter “PQB NOTES,” the text shown below in Section II from page 4 through page 16 of the submittal was taken directly from the Awake Community application and subsequent written communications provided by the applicants, Emily Richards and John Nogawski. For instance, the statements on page 14 regarding effects on the environment are the applicants’ statements in response to standard PQB questions and are not PQB’s statements. This approach for PQB submittals aims for greater applicant participation in presenting import requests in order to move these requests to the Board of Agriculture (Board) more quickly, while distinguishing applicant provided information from PQB information. The portion of the submittal prepared by PQB, including the Advisory Subcommittee Review and Proposed Import Conditions, is identified as Sections III and IV of the submittal, which starts at pages 16 and 20, respectively.*

PQB NOTES: *The applicants utilized hyperlinks to provide additional information regarding their request and are displayed throughout the submittal. Whenever hyperlinks are indicated in the submittal, the respective Appendices or Attachments are attached as physical documents, in addition to being viewable through the hyperlinks.*

We have a request to review the following:

COMMODITY: Quantity: One
Number of Shipments: One
Common Name: Desert Tortoise
Scientific Name: *Gopherus agassizii*
(Refer to Appendix A for Permit Application).

Refer to the link below for additional information included with the permit application.

https://drive.google.com/file/d/1v - UCdE3L4jwxohYxJchuiPWFvI853zW/view?usp=share_link

(Refer to Appendix B for additional information included with permit).

SHIPPERS: Emily Richards & John Nogawski
AWAKE Community - Brentwood Urban Farm
Address: 1000 S Carmelina Avenue
Los Angeles, California 90049

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IMPORTER: Emily Richards, President
John Nogawski, CEO
AWAKE Community – Shambhala Gardens
7475 Koolau Road E
Kilauea, Hawaii 96754
Phone No.: (808) 320-8871 Fax No.: (810) 454-1663
(Refer to Appendix C and D for Resumes).

Refer to the links below for Emily Richards and John Nogawski's resumes for review:

[Emily Richards Resume](#)
[John Nogawski Resume](#)

CATEGORY: The Desert Tortoise, *Gopherus (Xerobates) agassizi*, (*Gopherus agassizii*), is on the List of Restricted Animals (Part B). Pursuant to Hawaii Administrative Rules (HAR) Chapter 4-71, *Gopherus (Xerobates) agassizi*, (*Gopherus agassizii*), may be imported into Hawaii for government use, or private and commercial use, including research, zoological parks, or aquaculture production. (Refer to Attachment 1 for the species proposed for import).

PQB NOTES: *The applicants have provided the following documents: (Internal Revenue Service (IRS) Determination Letter, Secretary of State filing with California, Current Good Standing with IRS, Current Good Standing with Franchise Tax Board of California and the State of California – The Resources Agency, Department of Fish and Game Desert Tortoise Permit application. (Refer to Attachments 2, 3, 4, 5, and 6 respectively for the aforementioned documents.)*

The applicants also provided the following answers when asked to provide additional documentation that establishes the source of funding for this research project, and the name of the sponsor who has approved this research that demonstrates that this research has been peer-reviewed.

“AWAKE Community is a small nonprofit organization whose research is funded by generous individual donors. There is no "sponsor" for this research, however, the research is performed in cooperation with/to be shared with [California's Turtle & Tortoise Club](#) (CTTC), the official adoption arm of California's Fish & Game Department.”

Documentation that demonstrates that the research, including the use of human subjects and/or animals, are approved by their institutions through the Institutional Review Board (IRB) or an Institutional Animal Care and Utilization Committee (IACUC).

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“AWAKE Community is the steward and caretaker of the desert tortoise, under permit issued by California's Department of Fish & Game, granted in March of 2016. The research being performed is not "testing" the animal, but rather observing and compiling data about his every-day adaptation to a warmer climate with comparable humidity. The tortoise is not classified as a "subject" and therefore this item is not applicable.”

II. Information Provided by the Applicant in Support of the Application

PROJECT: AWAKE Community (AWAKE) is a nonprofit organization with a mission focused on sustainability, natural habitat, and threatened/endangered species preservation. The desert tortoise, “George,” is an integral species for AWAKE’s educational programs and mission as outlined.

OBJECTIVE: AWAKE has a list of desired results and expectations in moving the desert tortoise “George” to Shambhala Gardens on Kaua’i:

1. It is AWAKE’s hypothesis that a coastal climate like that on Kaua’i would be beneficial to the health and well-being of a desert tortoise, a threatened species facing endangerment.
 - a. Between [200-300 desert tortoises](#) are annually placed for adoption by the [California Turtle & Tortoise Club](#) (representatives of California’s Department of Fish & Wildlife for the relocation of desert tortoises.) (Refer to Attachments 7 & 8). AWAKE has received approval from Karen Berry, Director of Adoptions for CTTC, to move George to Kaua’i.
 - b. A significant number of those adoptions place the tortoise in a coastal community of southern California where summer temperatures are over 20 degrees lower than those in the desert, and where a significant number of mornings are clouded by marine layer. George was born and has lived his life in two of those coastal communities, Venice Beach and Santa Monica.
 - i. The temperatures most hospitable to a tortoise’s movement, basking and eating are 70 – 90 degrees.
 - ii. Humidity combined with cold temperatures can present challenges to a tortoise’s health.

- iii. In Santa Monica, on more than half of early summer and early fall days AWAKE has noted the tortoise requires a warm bath to increase his body temperature to help him move and digest.
 - iv. On days with marine layer, the tortoise doesn't wake at all on his own due to low temperatures and lack of sun that inhibit his movement.
 - v. On summer days with cloud cover, the tortoise eats and basks less than is optimal and sleeps more than expected.
- c. On Kaua'i where summer temperatures are 5 to 15 degrees higher than in Los Angeles and humidity is actually lower than Los Angeles, AWAKE will observe and record the tortoise's waking, basking, movement, eating, napping, and eliminations in comparison to historical observations in Santa Monica.
 - d. AWAKE hypothesizes one way to help save this 40 million year-old species is to explore other geographic locations with climates similar to Kaua'i for possible desert tortoise habitats where the species can continue to exist and thrive.
2. AWAKE expects to prove that the hotter temperatures in Kaua'i will benefit the desert tortoise and thereby provide a more hopeful outlook for the species in southern California coastal communities where eventually average summer temperatures are projected in southern California coastal communities while temperatures in the tortoise's natural desert habitat becomes hotter and less hospitable. (Refer to Attachment 9 for the Climate Change in California website and the link below).

Scripps Institution of Oceanography, UC San Diego: [Climate Change in California](#)

3. On Kaua'i, AWAKE will continue its education program around this threatened species (that is facing endangerment) through its creative works (film, music, live broadcasts) and exhibition (tours, visitors, volunteers, locals). See summary and links to films featuring George at the link(s) below:

https://docs.google.com/document/d/1UZRiAzBVCy14_Fu_Bc8ME29_QRJECdzQalpdO3DHNauE/edit?usp=share_link

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[The Brentwood Urban Farm: A Journey to Sustainability \(short documentary\)](#)

[Adaptation \(official lyric video\)](#)
[Environmental Justice: November 13, 2020](#)

[Environmental Justice Mar 5, 2021](#)

[Environmental Justice June 4, 2021](#)

4. AWAKE has transitioned its operational headquarters from the Brentwood Urban Farm in Los Angeles to Shambhala Gardens on Kaua'i. Desert tortoises become very attached to their caretakers. For the well-being of the tortoise, AWAKE's desired result is that George remain in the care of those he has closely bonded with since being adopted via CTTC.

See data collection and analysis in the spreadsheet at the link below:

[Climate Research Summary](#)

(Refer to Attachment 10 for the Tortoise Climate Research Summary and the Comparative Weather History).

See Research Process and Procedures overview here:

[Research Process and Procedures Overview](#)

(Refer to Attachment 11 for the Research Process and Procedures Overview).

Note: The tortoise will be observed and used in research to track the health of the desert tortoise in a warmer coastal climate, and also for education about this threatened species. With summer months important to AWAKE's research, and with the transfer of AWAKE's headquarters to Hawai'i, the ideal timeline to move George to Kaua'i is in spring of 2023.

(Refer to Attachment 12 to the paper AWAKE is working to publish with Scientific Research Publishing-<https://www.scirp.org/index.aspx>).

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PROCEDURE: Procedures Summary

AWAKE will track specific behavioral patterns of the tortoise (waking, eating, basking, napping, etc.) in relation to: weather (temperature, humidity, etc.), time of day, and month of year.

See detailed Standard Operating Procedures document at the link below:

[Standard Operating Procedures](#)

(Refer to Attachment 13 for the Standard Operating Procedures).

Timeline

AWAKE is working to import George from Los Angeles to Kaua'i as soon as reasonably possible in spring 2023. This next set of research will begin to be collected as soon as he emerges from brumation, anticipated to be March 1, 2023. Weather data will be collected and recorded for both LA and Kaua'i (as was done in 2021 and 2022) and additionally, daily, weekly and monthly tortoise patterns will be recorded for at least the years of 2023-2025. Data collection will likely continue, though may be modified after the first two years are completed. It is anticipated George will remain on Kaua'i for the rest of his life. Should unusual circumstances arise (such as AWAKE relocating its headquarters) George would likely move with his caretakers. Upon end of his life, George would be cremated by [North Shore Animal Clinic](#). (Refer to Attachment 14 for General Information about the North Shore Animal Clinic).

DISCUSSION:

1. Person Responsible:

Emily Richards, President of AWAKE Community
Shambhala Gardens
7475 Koolau Rd E
Kilauea, HI 96754

Phone No.: (808) 320-8871. Fax No.: (810) 454-1663

Emily Richards has been the direct caretaker of George the tortoise for seven years at the Brentwood Urban Farm. As the President of AWAKE Community, Emily oversees the research arm of the nonprofit, not only on desert tortoises, but also other threatened and endangered species (monarch and other butterflies, Laysan albatross). Emily is advised by AWAKE volunteers: biologist Linds Merrick Richards and geographer/ornithologist Sharee Aposhian.

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2. Safeguard Facility and Practices:

Shambhala Gardens
7475 Koolau Rd E
Kilauea, HI 96754

Shambhala Gardens is located in the agricultural zone of Kilauea on the North Shore of Kauai.

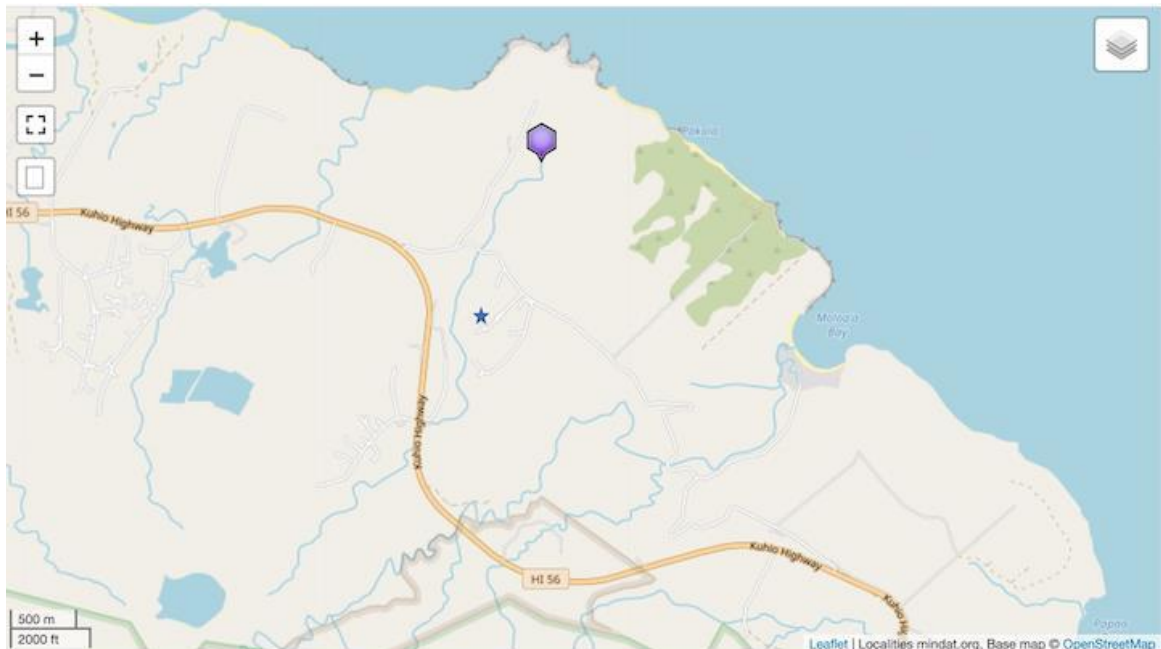
Directions from the Lihue airport (LIH):

Take Mokulele Loop and Ahukini Rd to HI-51 N (0.4 mi); follow HI-56 N (18.8 mi); turn right onto Koolau Rd just past Mile Marker 19 (Note: there is another Koolau Rd earlier but don't turn there! If you get to Mile Marker 20 you've gone too far.) After turning right onto Koolau Rd the road quickly turns again to the right. Drive along Koolau Rd (0.7 mi) then turn right at the first road (not driveway) after the one lane bridge. You'll come to a 3-way fork in the road, continue straight through the canopy of trees. 7475 E is at the top of the road and just to the right (.2 miles from the main Koolau Rd). Enter Shambhala through the open white gate and park in front of the garage.



Aerial Map 1: Depicts the location of Shambhala Gardens.
Stream

The Waipake Stream is a seasonal stream (rainy season) at the far west border of Shambhala Gardens, more than 150 yards from the designated tortoise habitat. Because the habitat is contained 15 feet above ground, and due to the distance from the habitat to the stream, as well as observable run-off patterns, it is expected the tortoise habitat will have no impact whatsoever on the stream. There are no drains or sumps near the desert tortoise habitat.



Aerial Map 2: Depicts the location of the Waipake Stream.

For a detailed tour of the desert tortoise habitat and gardens, please view the video at the link below:

[AWAKE Tortoise Habitat Kauai Video](#)

(Please refer to Attachment 15 for photographs of the desert tortoise habitat and gardens).

And at the schematic below:

[AWAKE Desert Tortoise Schematic](#) (Refer to Attachment 16).

Biosecurity:

The tortoise habitat has been built 15 feet above ground to ensure the tortoise does not interact with Kauai's sensitive environment. The habitat's perimeter is fully secured by rails, wirecloth and a locked gate to minimize theft or vandalism. Only registered visitors, with a reservation, are allowed entrance into the habitat and only a Shambhala caretaker has access to the lock code. There are multiple security cameras leading to and directly on the habitat, which are monitored 24 7 of 12 hours a day. One of the four sides of the habitat is adjacent to the caretakers' building, allowing for direct observation of the habitat. One half of the habitat is covered by a newly constructed roof to protect the habitat from rain, while one side remains uncovered to allow for tortoise sun basking.

Desert tortoises don't have a risk of carrying infectious diseases and George has been given a clean bill of health and also approval to move to Kaua'i by veterinary expert Dr. Frank Lavac in Santa Monica, CA. George will be isolated to the secured habitat, and thus will have no interaction with other wildlife.

AWAKE constructed two habitats in Los Angeles, and now a third habitat on Kaua'i, since adopting George from the CTTC. George has never escaped his habitat. Pictures of previous habitats are included in the "Desert Tortoise Habitat" video above.

Ensuring the desert tortoise remains securely within his designated habitat is of utmost priority to AWAKE, for the health and safety of the tortoise AND also the health and sensitive environment of Mother Kaua'i. The security of the tortoise habitat at Shambhala has been mindfully architected and specific Biosecurity procedures for caretakers, volunteers and visitors have been outlined in the

Standard Operating Procedures outline linked below:

[Standard Operating Procedures](#)

(Refer to Attachment 13 for the Standard Operating Procedures).

3. Method of Disposition:

George the desert tortoise was given a clean bill of health by Dr. Frank Lavac in November of 2022, just prior to his current brumation. George has been under the regular veterinary care of Dr. Lavac who is regarded as a desert tortoise expert. It is highly unlikely George would contract an infectious disease. When George dies

he will be securely stored in isolation until he can be cremated by the North Shore Animal Clinic.

4. **Abstract of Organisms:**

a. Organism's available levels of classification including scientific name. If common names are known then they should also be included.

Kingdom: Animalia

Phylum: Chordata.

Class: Reptilia (Laurenti, 1768)

Order: Testudines (Batsch, 1788) – turtles, tortoises, terrapins.

Family: Testudinidae (Batsch, 1788) - tortoises.

Genus: *Gopherus* (Rafinesque, 1832) - gopher tortoises, North American tortoises.

Species: *Gopherus agassizii* - desert tortoise.

b. Organism's life history (e.g., biology, reproductive habits, temperature requirements, natural habitat, growth rate, biotic potential, size at maturity, dispersal capabilities, longevity, etc.)

Life History

George is a 23-year-old desert tortoise born in captivity in the year 2000 in the southern California town of Venice Beach, along with seven brothers. At age 16 his caretaker, in her late 80s, engaged the CTTC to adopt out the tortoises. Emily Richards, President of AWAKE Community, communicated with CTTC about adopting a tortoise. Under the CTTC's advisement on how to construct a secure desert tortoise habitat and hut, and two inspections as well as a thorough approval process, California's Department of Fish & Wildlife issued the permit to adopt George.

Biology

The desert tortoise (*Gopherus agassizii*) is an adept burrower (thus the importance of secured perimeters when in captivity) and retreats to cover sites

(thus the importance of the hut and covered half of the desert tortoise at Shambhala Gardens), where it spends significant time to avoid harsh conditions (sun, heat, rain, cold). Agassiz's desert tortoise populations have declined markedly in recent decades from urbanization, development of roads, transmission lines, and pipelines, agriculture, livestock grazing, military training, off-road vehicle recreation, and illegal dumping, among many others.

Reproductive Habits

As a single male tortoise George is unable to reproduce alone.

Temperature Requirements

Desert tortoises require sunlight (UVB) to eat and synthesize calcium, with optimal night time temperatures averaging 70-75 degrees and optimal daytime basking temperatures averaging between 80-95 degrees. The day and night average temperatures on Kaua'i are ideal for a desert tortoise. George has brumated each year during the colder months of December, January and February and is anticipated follow a similar brumation pattern on Kaua'i.

Natural Habitat

Though the natural habitat of a desert tortoise is indeed the desert, George was born in captivity and lived his first 16 years in the southern California coastal community of Venice Beach. In 2016 he was adopted by AWAKE and thus moved a few miles north to the Brentwood Urban Farm in Santa Monica where he has lived the past 7 years.

Growth Rate

The desert tortoise reaches maturity between the ages of 13 to 20 years. George is 23 years old and has reached his maturity.

Biotic Potential

Biotic potential is not relevant for this project as George is a single desert tortoise that will live in a confined, restricted area. Additionally, there is not a desert tortoise population on the island of Kaua'i thereby no reproductive possibility.

Size at Maturity

George has reached maturity and his size is 15 inches long, 10 inches wide and 7 inches high while standing at full height and 4 inches high while lying down.

Dispersal Capabilities

George's entire life since birth has been in captivity, secured by perimeters that he has never breached. Given the secure perimeter of the habitat at Shambhala Gardens, there is no dispersal capability of this species on Kaua'i.

Longevity

The lifespan of a male desert tortoise ranges 30-50.

c. What are the habitats (e.g., wet forest, ocean reef, etc.) and niche requirements?

While the desert tortoise habitat is natively the desert, a large population of desert tortoises have been placed under the care of humans in coastal communities due to threats to the species and in widespread effort to save the species from endangerment and extinction. The most important requirements for the species are sunlight and heat, as outlined above.

d. What is the native range of the organism? Is it naturalized in Hawaii?

Because George has lived his entire life in captivity his range has been that of his secured pens, approximately 120 square feet. To AWAKE's knowledge, the desert tortoise is not naturalized in Hawai'i.

e. Does the organism have the potential to become established in Hawaii? If so, likelihood to become invasive or injurious?

Because Shambhala is applying for only one permit for only one desert tortoise, which will be housed in a secured habitat, there is no potential for the species to become established in Hawai'i from this project.

f. Has the species established viable populations beyond its native range? If so, is the organism a pest or considered invasive?

California's Department of Fish & Wildlife prohibits the breeding of desert tortoises in captivity and while there are estimated to be a few small populations outside its native range, the desert tortoise is threatened because there are so few of this species remaining both in the wild and in captivity. The desert tortoise is definitely not considered invasive, and rather, has declined over the past 100 years because of human impacts on its habitat.

g. What is the host range and what does it feed on? Are hosts and alternate hosts present in Hawaii and how abundant or widely is it distributed?

N/A.

h. Is the species highly domesticated, cultivated or cultured for commercial purposes?

Desert tortoises placed through adoption by CTTC have become domesticated and deeply attached to their caretakers for conservation purposes, not for commercial purposes. AWAKE's importing of this tortoise is for conservation and research, as well as education. Continuity with the desert tortoise's caretakers is important for the health and well-being of the animal.

i. In its native range, are there impacts to wild stocks, commercial species, aquaculture, aquarium and/or ornamental species, etc.?
It is other species impacting the desert tortoise, not the inverse.

j. List diseases or other pests associated with the organism.

Under the specialized veterinary care of Dr. Frank Lavac and the watchful eyes of his caretakers at the Brentwood Urban Farm, George has no known diseases, pests, or other issues.

k. Does the organism have potential to be toxic and/or pathogenic?

A desert tortoise in captivity that is properly cared for with a proper diet and healthy lifestyle is anticipated to live without health issues. George has no known conditions that give potential to becoming toxic or pathogenic.

5. Effects on the Environment:

a. Assess the probability of establishment and/or spread of the requested organism, associated diseases and/or pests.

None.

b. Assess the potential economic and environmental consequences of importing this organism into Hawaii. What are the potential impacts to native and endemic species, agriculture industries, natural resources, the economy, and human and animal health and safety.

None.

c. **Biosecurity.** Describe the equipment, practices and procedures that will be used to minimize escape, theft or release of the organism or associated diseases and/or pests, that are specific to your facility. Describe the security features of the facility that minimize theft, vandalism or damage from natural elements (wind/rain etc.). Provide any examples, such as previous projects, that demonstrates the biosecurity of the facility, practices and/or procedures.

As stated above, The tortoise habitat has been built 15 feet above ground to ensure the tortoise does not interact with Kauai's sensitive environment. The habitat's perimeter is fully secured by rails, wirecloth and a locked gate to minimize theft or vandalism. Only registered visitors, with a reservation, are allowed entrance into the habitat and only a Shambhala caretaker has access to the lock code. There are multiple security cameras leading to and directly on the habitat, which are monitored 24 hours a day. One of the four sides of the habitat is adjacent to the caretakers' building, allowing for direct observation of the habitat. One half of the habitat is covered by a newly constructed roof to protect the habitat from rain, while one side remains uncovered to allow for tortoise sun basking.

To view video of the habitat watch at the link below:

[AWAKE Tortoise Habitat Kauai Video](#)

To review more detailed measures of biosecurity, read the Standards and Operating Procedures manual at the link below:

[Standard Operating Procedures](#)

(Refer to Attachment 13 for the Standard Operating Procedures).

6. Alternatives: (What are the alternatives for this project? Please explain.)

Currently there are no other alternatives for the project.

7. References:

References are included via hyperlink and footnote.

AWAKE is dedicated to its work to conserve threatened and endangered species like the desert tortoise, as well as plants and animals that are native to Kaula'i but

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at risk of endangerment. Mahalo for your time and consideration in reviewing this application.

8. Letters of Recommendations:

California Turtle and Tortoise Club: (Refer to Attachment 17).

VCA Wilshire Animal Hospital: (Refer to Attachment 18).

III. Advisory Subcommittee Review

This request was submitted to the Advisory Subcommittee on Land Vertebrates for their review and recommendations. Their recommendations and comments are as follows:

1. I recommend approval ___ / ___ disapproval to allow the importation of One (1) Desert Tortoise, *Gopherus (Xerobates) agassizi*, (*Gopherus agassizii*), Animal on the List of Restricted Animals (Part B), by Permit, for Private Research, Exhibition, and Filming, by the AWAKE Community – Shambhala Gardens.

Dr. Allen Allison, Vice President/Assistant Director, Research and Scholarly Studies, Bernice Pauahi Bishop Museum: Recommends approval.

Comments: “As a scientist, it is a little hard to find much of a compelling rationale in the proposed research plan involving the transport of a desert-adapted tortoise to the windward side of subtropical Kaua’i, where monthly rainfall exceeds the annual total in the tortoise’s native range. I’m assuming that “George” is a pet. As such, I have no objections to the application to import the George to Hawai’i. I notice that a related species, the gopher tortoise of the SE U.S., is on the restricted list and that is appropriate. But the potential threat to the biota of Hawai’i from a desert tortoise is probably very low and likely lower than the species of tortoises that are currently available for sale in pet stores in Hawai’i.”

Dr. Lanie Berry, Wildlife Program Manager, Department of Land and Natural Resources, Division of Forestry and Wildlife: Recommends disapproval.

Comments: “The purported research and conservation benefit of moving a single male desert tortoise from its home state in the US mainland to Hawaii is tenuous at best. The research described in the application does not appear to have any scientific or conservation merit.

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The application claims that this relocation of the animal to Hawaii is being planned in coordination with the California Turtle and Tortoise Club, whose representative is acting "on behalf of and in collaboration with" the California Department of Fish and Wildlife. California laws and regulations prohibit possession, transportation, and exportation of desert tortoises, among other activities, that were acquired after March 7, 1973, without prior permission from the Department (Fish and Game Code §§ 2080, 5000 & 5001; California Code of Regulations Title 14 §§ 40, 674 & 783.1). This tortoise was acquired in 2015 and so is not exempt from these requirements. The applicant has a permit from California Department of Fish and Wildlife to possess the animal as a pet, but does not have authorization from that department to export the animal from California for research purposes. I therefore recommend denying this import permit application on the grounds that the applicant does not have authorization to export the animal from California, as required by California statute and regulations."

Dr. Isaac Maeda, DVM, Administrator/State Veterinarian, HDOA-Animal Industry Division: Recommends disapproval.

Comments: "Environmental conditions at the Kauai import location are not similar to the species' native habitat. As noted in the request to import section III, humidity presents challenges to a tortoise's health. Relocating the animal under the justification of observing how it survives in a tropical climate (with average humidity substantially higher than the locations cited in California) does not seem reasonable or necessary."

Mr. Tom May: No response.

Dr. Carolyn McKinnie, DVM, Senior Veterinary Medical Officer – Marine Mammals and Exotics, National Policy Staff, USDA, APHIS-Animal Care: No recommendation.

Comments: "AWAKE community-Shamabahala Gardens is not licensed with USDA APHIS Animal Care, though if they would only be exhibiting tortoises they would not be required to. From an Animal Welfare Act (AWA) perspective, if this was a regulated facility, they would be required to have an attending veterinarian. Additionally, we would look closely at personnel to see if they were adequately trained, we would examine handling practices, food preparation and storage, primary enclosures, protection from predators, substrate, fencing etc. To reiterate, based on this one animal, they do not require a license."

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Dr. Robert Reed, Deputy Director of the United States Geological Survey, Pacific Island Ecosystems Research Center, Hawaii Volcanoes National Park: Recommends disapproval.

Comments: “This species is listed under both the U.S. Endangered Species Act and the California Endangered Species Act. Applicant has provided no evidence that required permits to export the animal from California are in hand. The research component of the application is vague and extremely unlikely to yield results useful for conservation purposes. Applicants' statement that 'desert tortoises don't have a risk of carrying infectious disease' is incorrect - they can carry viral, bacterial, mycotic, and parasitic disease. Applicants state that no IACUC is needed because the 'research' is observational, but if they are indeed considered institutional then IACUC is required just to hold the animal in captivity. If application were approved, I would recommend thorough screening for external and internal parasites and disease, including fecal and blood testing.”

Dr. Robert Thomson, Associate Director, School of Life Sciences, University of Hawaii at Manoa: Recommends approval.

Comments: “Desert Tortoise presents little risk of wild reproduction or establishment of invasive population in Hawaii. Upper Respiratory Tract Disease, a potentially chronic infection, is common in captive desert tortoises and is caused by an unknown pathogen. This is known to be transferable to other turtle and tortoise species, but no native population of these occur on Kauai.”

Dr. Amber Wright, Associate Professor, School of Life Sciences, University of Hawaii at Manoa: Recommends disapproval.

Comments: “There is no compelling scientific or conservation reason to bring this animal to Hawaii. It is an endangered species native to the continental US, and there have never been native populations of any tortoises in Hawaii. Studies of physiological tolerance are relevant to this species conservation, but there is no scientific reason to conduct such studies in Hawaii, and studying one captive individual regardless of location would not be informative.”

Advisory Committee
Desert Tortoise, (*Xerobates*) *agassizi* (*Gopherus agassizii*)
AWAKE Community – Shambhala Gardens
July 7, 2023

2. I recommend approval ___ / ___ disapproval to establish permit conditions for the importation of One (1) Desert Tortoise, *Gopherus (Xerobates) agassizi*, (*Gopherus agassizii*), Animal on the List of Restricted Animals (Part B), by Permit, for Private Research, Exhibition, and Filming, by the AWAKE Community – Shambhala Gardens.

Dr. Allen Allison, Vice President/Assistant Director, Research and Scholarly Studies, Bernice Pauahi Bishop Museum: Recommends approval.

Comments: No comments.

Dr. Lanie Berry, Wildlife Program Manager, Department of Land and Natural Resources, Division of Forestry and Wildlife: Recommends disapproval.

Comments: No comments.

Dr. Isaac Maeda, DVM, Administrator/State Veterinarian, HDOA-Animal Industry Division: Recommends disapproval.

Comments: "Refer to #1."

Mr. Tom May: No response.

Dr. Carolyn McKinnie, DVM, Senior Veterinary Medical Officer – Marine Mammals and Exotics, National Policy Staff, USDA, APHIS-Animal Care: No recommendation.

Comments: "Do not oppose, do not need an AWA licenses."

Dr. Robert Reed, Deputy Director of the United States Geological Survey, Pacific Island Ecosystems Research Center, Hawaii Volcanoes National Park: Recommends disapproval.

Comments: "No comments."

Dr. Robert Thomson, Associate Director, School of Life Sciences, University of Hawaii at Manoa: Recommends approval.

Comments: "No comments."

Advisory Committee
Desert Tortoise, (*Xerobates*) *agassizi* (*Gopherus agassizii*)
AWAKE Community – Shambhala Gardens
July 7, 2023

Dr. Amber Wright, Associate Professor, School of Life Sciences, University of Hawaii at Manoa: Recommends disapproval.

Comments: “There is no compelling scientific or conservation reason to bring this animal to Hawaii.”

IV. Proposed Import Permit Conditions

1. The restricted article(s), one (1) Male Desert Tortoise, (*Xerobates*) *agassizi* (*Gopherus agassizii*), identification number (227062), shall be used for private research, exhibition, and filming, purposes approved by the Hawaii Department of Agriculture (HDOA), Board of Agriculture (Board), and shall not be given away, sold, and/or transferred in Hawaii unless approved by the Board. Release of the restricted article(s) into the environment or breeding is prohibited.
2. All subsequent requests to import or transfer the restricted article(s) shall be approved by the Board on a case-by-case basis.
3. The permittee(s), Emily Richards & John Nogawski, AWAKE Community – Shambhala Gardens, 7475 Koolau Road E, Kilauea, Hawaii 96754, shall be responsible and accountable for the restricted article(s) imported from the time of their arrival to their final disposition.
4. The restricted article(s) shall be safeguarded at AWAKE Community – Shambhala Gardens, 7475 Koolau Road E, Kilauea, Hawaii 96754, a site inspected and approved by the Plant Quarantine Branch (PQB) prior to importation. Prior to the removal of the restricted article(s) to another site, a site inspection and approval by the PQB Chief is required.
5. The restricted article(s) shall be maintained by the responsible person, Emily Richards & John Nogawski, AWAKE Community – Shambhala Gardens, 7475 Koolau Road E, Kilauea, Hawaii 96754, or by trained or certified personnel designated by the permittee(s).
6. The restricted article(s) shall be imported only through the port of Honolulu except as designated by the Board. Entry into Hawaii through another port is prohibited unless designated by the Board.
7. The permittee(s) shall provide the HDOA, PQB and Animal Industry Division (AID) with the confirmed arrival date, time, mode of transportation, and any other required information for the arrival of the restricted article(s) at least 48 hours prior to arrival. The permittee shall immediately notify the HDOA, PQB and AID of any

changes to this information.

8. Each shipment shall be accompanied by a complete copy of the PQB permit for the restricted article(s) and an invoice, packing list, or other similar PQB approved document listing the scientific and common names of the restricted article(s), the quantity of the restricted article(s), the shipper, and the permittee for the restricted article(s).
9. All parcels containing these organisms imported into the State shall be placed in containers separate from other animals, and be conspicuously marked on at least four sides “LIVE REPTILES” and “MAY BE OPENED AND DELAYED FOR AGRICULTURAL INSPECTION” in ½-inch minimum sized font. In addition, said parcels shall be delivered to:

ANIMAL QUARANTINE HOLDING FACILITY – AIRPORT
Daniel K. Inouye International Airport
Honolulu, Hawaii 96819
Phone: (808) 837-8092.
10. The restricted article(s) shall comply with all pre-entry animal health requirements of the HDOA AID (Ph: (808) 837-8092).
11. The restricted article(s) shall be subject to inspection by the HDOA, PQB, and the AID prior to entering the State. It is the responsibility of the permittee(s) to provide any restraint(s), including chemical restraint(s), deemed necessary by the AID to conduct a proper inspection. The permittee(s) shall be responsible for ensuring an inspection is conducted.
12. The restricted article(s) shall be permanently marked with a unique identification code that is approved by the PQB Chief.
13. All bedding used to transport the restricted article(s) and fecal material from the restricted article(s) shall be bagged and disposed of directly into the municipal landfill.
14. The approved site, restricted article(s), records, and any other document pertaining to the restricted article(s) under this permit, may be subject to post-entry inspections by the HDOA, PQB, and the AID. The permittee(s) shall make the site, restricted article(s) and records pertaining to the restricted article(s) available for inspection upon request by a PQB inspector.

15. The permittee(s) shall adhere to the use, facility, equipment, procedures, and safeguards described in the permit application and as approved by the PQB Chief and Board.
16. The permittee(s) shall have a biosecurity manual available for review and approval by the PQB, at the time of the initial site inspection and any subsequent post-entry inspection(s), which identifies the practices and procedures to be adhered to by the permittee(s) to minimize or eliminate the risk of theft, escape, or accidental release of the restricted article(s), including the risk of introduction and spread of diseases and pests associated with the restricted article(s) to the environment. The permittee(s) shall adhere to all practices and procedures as stated in this biosecurity manual.
17. The permittee(s) shall immediately notify the PQB Chief verbally and in writing under the following circumstances:
 - a. If any escape, theft, release, disease outbreaks, pest emergence and/or mortality involving the restricted article(s) under this permit occurs. If the restricted article(s) escape or are found to be free from confinement, the HDOA may confiscate or capture the restricted article(s) at the expense of the permittee(s), pursuant to the Hawaii Revised Statutes (HRS), §150A-7(c). The AID shall also be notified of any sign or occurrence of disease.
 - b. If any changes to the approved site, facility, and/or procedures regarding the restricted article(s) occur or are to be made, the permittee(s) shall obtain written approval from the PQB Chief as soon as practicable (if unplanned) or prior to implementation (if planned). Also, the permittee(s) shall submit a written report documenting the specific changes to the PQB Chief.
 - c. If a shipment of the restricted article(s) is delivered to the permittee(s) without a PQB “Passed” stamp, tag or label affixed to the article, container, or delivery order that indicates that the shipment has passed inspection and is allowed entry into the State, then the permittee(s) shall not open or tamper with the shipment and shall secure, as evidence, all restricted article(s), shipping container(s), shipping document(s) and packing material(s) for PQB inspection.
 - d. If the permittee(s) will no longer import or possess the restricted article(s) authorized under this permit, then the permittee(s) shall submit a written report to the PQB Chief stating the name and address of the individual to whom the restricted article(s) will be transferred to. If the restricted article(s) will be transferred within the State, a PQB possession permit shall be

obtained by the new owner prior to transfer. Once the transfer is complete, this permit shall be cancelled.

- e. If the restricted article(s) expires, the permittee(s) shall submit a written report to the PQB Chief that details the circumstances surrounding the death of the restricted article(s), the cause of death of the restricted article(s), and any other information deemed necessary by the PQB Chief. The permittee(s) shall also submit a necropsy report from a U.S. Department of Agriculture accredited veterinarian within thirty (30) days post-mortem.
18. The permittee(s) shall submit a copy of all valid licenses, permits, certificates or other similar documents required by other agencies for the restricted article(s) to the PQB Chief. The permittee(s) shall immediately notify the PQB Chief in writing when any of the required documents are suspended, revoked, or terminated. This permit may be amended, suspended, or canceled by the PQB Chief upon suspension, revocation, or termination of any license, permit, certificate, or similar documents required for the restricted article(s).
 19. It is the responsibility of the permittee(s) to comply with all applicable requirements of municipal, state, or federal law pertaining to the restricted article(s).
 20. The permittee(s) shall submit a semi-annual report to the PQB Chief in January and July of all restricted articles(s) imported or possessed. The report shall be in a format approved by the PQB Chief and include the following information for the prior 6-month period:
 - a. The permit number, quantity, scientific name of each restricted article(s);
 - b. The status of the use and possession of the restricted article(s);
 - c. A summary of any significant changes to the permittee's operation, personnel, and/or procedures; and
 - d. Any significant events that occurred at the permittee's site.
 21. Any violation of the permit conditions may result in citation, permit cancellation, and enforcement of any or all of the penalties set forth in HRS §150A-14.
 22. The permittee(s) are responsible for costs, charges, or expenses incident to the inspection, treatment, or destruction of the restricted article(s), as provided in Act 173, Session Laws of Hawaii 2010, Section 13, including, if applicable, charges for overtime wages, fixed charges for personnel services, and meals.
 23. A canceled permit is invalid and upon written notification from the PQB Chief, all

restricted article(s) listed on the permit shall not be imported. In the event of permit cancelation, any restricted article(s) imported under permit may be moved, seized, treated, quarantined, destroyed, or sent out of State at the discretion of the PQB Chief. Any expense or loss in connection therewith shall be borne by the permittee(s).

24. The permit conditions are subject to cancelation or amendment at any time due to changes in statute or administrative rules restricting or disallowing import of the restricted article(s) or due to Board action disallowing a previously permitted use of the restricted article(s).
25. These permit conditions are subject to amendment by the PQB Chief in the following circumstances:
 - a. To require disease screening, quarantine measures, and/or to place restrictions on the intrastate movement of the restricted article(s), as appropriate, based on scientifically validated risks associated with the restricted article(s), as determined by the PQB Chief, to prevent the introduction or spread of disease(s) and/or pests associated with the restricted article(s).
 - b. To conform to more recent Board approved permit conditions for the restricted article(s), as necessary to address scientifically validated risks associated with the restricted article(s).
26. The permittee(s) shall agree in advance to defend and indemnify the State of Hawaii, its officers, agents, employees and the Board of Agriculture members for any and all claims against the State of Hawaii, its officers, agents, employees or Board of Agriculture members that may arise from or be attributable to any of the restricted article(s) that are introduced under this permit. This permit condition shall not apply to a permittee that is a federal or State of Hawaii entity or employee, provided that the state or federal employee is a permittee in the employee's official capacity.

ADVISORY COMMITTEE REVIEW: We request your recommendation and comments at the next meeting of the Advisory Committee on Plants and Animals.