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*I have raised my children from the gifts
from this sea.*

*It's our mission to pass this treasure to
our offspring.¹*

- Oba San, 92-year-old
Okinawan protestor

**The Cultural Significance of Wildlife:
Using the National Historic
Preservation Act to Protect
Iconic Species**

*By Ingrid Brostrom**

I. Introduction

Whether it be the emblematic bald eagle flying majestically overhead or the spawning salmon winding its way upstream, certain animals represent the cultural backbone of a people and bring meaning to the human world around them. A community can survive without these species but its unique cultural identity may not. While every species has biological and ecological value, some deserve extra protection for the significance they derive from the human populations around them.

This note examines the cultural significance of wildlife and how the National Historic Preservation Act (NHPA or "Act") can be used to protect culturally signifi-

* The author received her B.A. from U.C. Santa Cruz and is currently a J.D. Candidate at U.C. Hastings College of the Law. The author would like to thank Brent Plater and Peter Galvin at the Center for Biological Diversity for their dedication to preserving our natural heritage and for providing the inspiration for this note. I would also like to thank Marcello Mollo for providing me with documents and information used throughout this note and especially for all his work to preserve the Okinawa dugong. Finally, I would like to acknowledge and commend the countless individuals and community groups in Okinawa who have rallied so effectively for the preservation the Okinawa dugong in the face of numerous hardships and seemingly powerful adversaries.

cant species. This paper presents the current battle of the Okinawan people to protect one of their national icons—the dugong, an animal that has shaped the mythology and history of their small island for centuries. Section II (A) discusses the general evolution of cultural laws which have steadily become more inclusive and prevalent as people and governments come to appreciate the value of cultural identity and heritage. Next, section II (B) examines the cultural importance of wildlife in general and why certain animal species should be protected under cultural preservation laws because of their specific contributions to the cultural heritage of many traditional societies. The next two sections describe in more detail the policy and procedures of the National Historic Preservation Act and how it can be applied to protect wildlife in the United States. The second half of the note applies this reasoning to *Okinawa Dugong v. Rumsfeld*² and concludes that the U.S. failed to meet its obligations under the NHPA with regard to the Okinawa dugong. The last section explores the ramifications and potential usefulness of the NHPA both in the U.S. and abroad by discussing the applicability of the court's ruling in *Okinawa Dugong v. Rumsfeld* to other culturally significant species.

II. Background

A. *Okinawa Dugong v. Rumsfeld*

According to legend, dugongs³ fooled desperately lonely sailors into mistaking them for mermaids.⁴ Today, in Okinawa, these huge relatives of the manatee are themselves in danger of disappearing into mythology. In fact, Okinawa's dugong population is teetering on the brink of extinction, confined to a single bay off the east coast of the island. Residents throughout northeast Okinawa,⁵ led by local village elders, are engaged in an intense battle to protect this only remaining natural dugong habitat in Japanese waters from becoming the latest U.S. military airbase, complete with floating helipad. The villagers have organized a protracted sit-in at the site of the proposed military base, which has slowed construction since April 19, 2004.⁶ Once preliminary seabed drilling began in December 2004, the villagers further attempted to stall the construction by canoeing out to the drilling sites daily to protest the destruction of coral habitat. A 70-year-old protester, who recently learned to paddle a canoe as part of her effort in the protest, said that it had "been a life-threatening experience for me but I am not going to quit it. If I cannot stop

1. ENVIRONMENTAL ASSESSMENT WATCH GROUP FOR THE DUGONGS IN OKINAWA, *LET THE SEA STAIN OUR HEARTS* (June 16, 2004).

2. *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. Lexis 3123 (N.D. Cal. Mar. 1, 2005).

3. The dugong (*Dugong dugon*) is a large sea-mammal distantly related to the manatee.

4. It is theorized that the dugong's mammary glands which are reminiscent of human breasts may have caused sailors to mistake them for mermaids or sirens. ARKive: Images of Life on Earth, Dugong Facts, http://www.arkive.org/species/GES/mammals/Dugong_dugon/more_info.html (last visited Mar. 28, 2006); see also Dennis Pfaff, 'Historic' Act May Keep Sea Creature From Being History, *THE DAILY JOURNAL*, Apr. 8, 2004, available at http://www.mongabay.com/external/okinawa_dugong.htm (last visited Mar. 20, 2006).

5. Okinawa is an island 1,000 miles southwest of Tokyo, at the southern edge of Japan.

6. Environment News Service, *Reef Experts Object to U.S. Military Heliport off Okinawa*, July 9, 2004, available at <http://www.ens-newswire.com/ens/jul2004/2004-07-09-09.asp#anchor3> (last visited Mar. 20, 2006).

them from making a new military base, what's the meaning of my life?"⁷ That same month, a 64-year-old Okinawan woman began a hunger strike, vowing to starve herself until Tokyo stopped boring holes into the seabed.⁸ She told reporters that "before the vast power of the national government, our struggle is like a war of ants against a huge elephant," but declared she would do all she could as long as her strength held up.⁹ To these villagers, the fight is not only about saving a unique and rare species. It is about protecting their way of life and preserving a cultural icon that has become a fixture of Okinawan tradition over hundreds of years.

The battle between the villagers of Okinawa and the Japanese and U.S. governments stems from a 1995 agreement between the two governments to replace the existing Futenma¹⁰ U.S. military base with a sea-based facility off the east coast of Okinawa.¹¹ In 2002, the two governments agreed on Henoko Bay as the most suitable location for the base. Henoko Bay lies atop a fragile coral reef ecosystem and sea grass beds that serve as a critical feeding ground for the small and isolated group of dugong that remain in Japan.

While the protestors may have a difficult time beating elephants as large as the U.S. and Japanese governments when it comes to sheer power, they hope to gain an advantage with a strategic maneuver that, in late 2003, moved the battle from the home front in Japan to the jurisdiction of the U.S. courts. A number of conservation organizations from both the U.S. and Japan, along with several individual Japanese citizens, filed suit in the Northern District of California alleging that the U.S. government failed to comply with the NHPA by neglecting to take into account the presence of the dugong before beginning construction on the new base.¹² The Act specifically mandates that the U.S. consider the effect of any international undertaking that may adversely affect a property which is on the applicable country's equivalent of the National Register of Historic Places¹³ ("National Register") for the purposes of avoiding or mitigating any adverse affects.¹⁴ The dugong is a protected monument under the Japanese Register of Cultural properties, a designation which serves to protect historic and cultural artifacts and properties, much in the same way as the National Register does in the U.S.

7. Chiyomi Sumida, *Okinawan Begins Hunger Strike to Protest Plans for New Base*, STARS AND STRIPES, Dec. 7, 2004, available at <http://www.estripes.com/article.asp?section=104&article=24987&archive=true> (last visited Mar. 20, 2006).

8. *Id.*

9. *Id.*

10. Futenma Air Station, home base for Marine Air Group 36, is one of the preeminent Marine Corps air stations in Japan, located in the center of Ginowan City. See Military Base Affairs Office, *U.S. Military Issues in Okinawa* 26 (2004), available at [http://www3.pref.okinawa.jp/site/contents/attach/7005/pamphlet\(English\).pdf](http://www3.pref.okinawa.jp/site/contents/attach/7005/pamphlet(English).pdf) (last visited Mar. 21, 2006).

11. The Ministry of Foreign Affairs of Japan, *The SACO Final Report on Futenma Air Station (an integral part of the SACO Final Report)*, available at <http://www.mofa.go.jp/region/n-america/us/security/96saco2.html> (last visited Mar. 20, 2006).

12. See *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. Lexis 3123 (N.D. Cal. Mar. 1, 2005).

13. The National Register is a list of historic properties composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. See 16 U.S.C. § 470a(a)(1)(A) (2000).

14. 16 U.S.C. § 470a-2 (2000).

B. Cultural Preservation in Law

Culture serves to connect one generation to another and has an inherent capacity to mold and reinforce our identities as social creatures.¹⁵ But as boundaries between traditional and modern societies have gradually faded away, many communities are pressured to abandon their long-established traditions in favor of new, trendier lifestyles. Even the most tucked away and forgotten societies have faced the encroachment of modern and westernized values. Faced with a pressing need to protect the heritage and identity of all communities, governments have recognized their role in protecting traditions by adopting a series of international and domestic obligations and laws to preserve and revitalize culture.

“Culture” has been defined as “the traditions, beliefs, practices, lifeways, arts, crafts, and social institutions of any community, be it an Indian tribe, a local ethnic group, or the people of the nation as a whole.”¹⁶ The international community has acknowledged that cultural identity is a fundamental human right, integrating it into human rights laws. The Draft United Nations Declaration on the Rights of Indigenous Peoples includes several provisions on the preservation of cultural heritage. Article 12 recognizes that:

Indigenous peoples have the

15. NAT'L PARK SERV., A.I. NPS-28: CULTURAL RESOURCE MANAGEMENT GUIDELINE (June 11, 1998) [hereinafter NPS-28].

16. See Patricia L. Parker and Thomas King, Nat'l Park Serv., *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, 1 National Register Bulletin 38, available at <http://www.cr.nps.gov/nr/publications/bulletins/nrb38/> (last visited Mar. 20, 2006) [hereinafter National Register Bulletin 38]; see also NPS-28, *supra* note 15.

17. U.N. Econ. & Soc. Council [ECOSOC],

right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.¹⁷

Article 25 further provides that:

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard.¹⁸

International environmental treaties have also contemplated the special role the natural environment plays in many traditional societies. The Convention on Biological Diversity includes a provision that mandates that each party to the treaty respect and preserve indigenous traditional knowledge within the framework of their national legislation.¹⁹

Sub-Comm. on Prevention of Discrimination & Prot. of Minorities, *Report of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities*, 46th Sess., Annex., at 115, U.N. Doc. E/CN.4/2 (1995), E/CN.4/Sub.2/56 (1994).

18. *Id.* at art. 25. See also arts. 13, 14 (protecting cultural heritage).

19. United Nations Conference on Environment and Development, Convention on Biological Diversity, Rio de Janeiro, June 5, 1992, art. 8(j), 31 I.L.M. 818 (1992). The U.S. has signed

While the U.S. is not bound by either of these agreements, they are party to the UNESCO World Heritage Convention which stipulates that

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavor, in so far as possible, and as appropriate for each country:

- a. to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes.²⁰

The U.S. satisfies its responsibility under the UNESCO World Heritage Convention through its implementation of the NHPA, which is discussed in detail below.

C. The Cultural Significance of Wildlife

When most people think of iconic species, the first thing that comes to mind is the bald eagle, a symbol of the strength and freedom of America.²¹ Often, however, the significance of certain species transcends mere symbolism to embody deeply held religious and tra-

ditional beliefs. Throughout history, cultures have evolved with the environment around them, making associations with those resources they depend on most. For example, the nomadic Moken people of Myanmar value the turtle not only as a food staple but a symbol of the female spirit in rituals and practices.²² The turtle is sanctified in the community's most sacred rituals, such as when a shaman tastes the head, blood, and flippers of a fresh turtle before asking favors from his ancestors and translating their replies for the community.²³ When a Moken harpoons a turtle, it is a sign that he will soon marry a woman.²⁴ If the turtle were to become extinct, so too would many of the unique traditions and rituals of the Moken belief system.

Closer to home, animals have taken on a special significance for many Native American cultures. According to Iroquois mythology, the land now known as North America was formed

when the Sky-Woman fell through a hole in the sky. At that time, the earth was covered with water. The creatures living in the water looked up and saw her falling and realized that they needed to make a place for her to land. The great turtle offered his back. The duck said that there must be earth on turtle's back, and dove to the bottom

but not yet ratified this treaty.

20. U.N. Educational, Scientific and Cultural Organization, World Heritage Comm., 27th Sess., *Convention Concerning the Protection of the World Cultural and Natural Heritage: Decisions Adopted by the 27th Sess.*, art. 5 U.N. Doc. WHC-03/27.COM/24 (Dec. 10, 2003), available at <http://whc.unesco.org/archive/decrec03.htm> (last visited Apr. 2, 2006).

21. Home of Heroes.com, *The Bald Eagle Symbol*

of the United States, http://www.homeofheroes.com/hallofheroes/1st_floor/flag/1bfc_eagle.html (last visited Mar. 20, 2006).

22. Jacques Ivanoff, *Sea Gypsies of Myanmar*, NATIONAL GEOGRAPHIC, April 2005, at 49.

23. *Id.*

24. *Id.*

but could not dive deep enough. Loon and beaver both tried, but they could not reach the bottom either. Finally, muskrat was able to reach the bottom and bring back a small piece of earth, which, when he placed it on turtle's back, grew larger until it became the whole world. A pair of swans flew up to catch Sky-Woman and set her down gently on the earth on turtle's back.²⁵

That the tribe attributes the creation of North America to the benevolence of animals is typical of how many indigenous cultures view the interrelationship between animals and humans as being harmonious rather than contentious, and integral rather than separate. According to Ronald Trosper, Director of the National Indian Policy Center at George Washington University, many indigenous cultures of North America have

a perception of the earth as an animate being; a belief that humans are in a kinship system with other living things; a perception of the land as essential to the identity of the people; a concept of reciprocity and balance that extends to relationships among humans, including future generations, and between humans and the natural world.²⁶

For many indigenous cultures, the most sacred places are those that have

not been disrupted by human activity—those places where the web of life flourishes unscathed.²⁷ From eagles to wolves and salmon to buffalo, particular species have heightened spiritual and cultural status in Native American societies. These and other species are valued not only for their ecological importance but are critical to the cultural survival of many traditional lifestyles by providing subsistence, spiritual healing, religious symbolism and ceremonial artifacts.²⁸ For the Gwitchen Indians of Canada and Alaska, the survival of a caribou herd is essential to their culture and way of life. Sarah James, a Gwitchen leader in Arctic Village, Alaska, explains that “the caribou is not just what we eat; it's who we are. It is in our dances, stories, songs, and the whole way we see the world.”²⁹

Difficulties arise when agencies, acting pursuant to U.S. laws and regulations, fail to take into account traditional world-views in deciding which animal species deserve protection. Some populations of animals that are not threatened or endangered may still be of critical importance to the survival of traditional beliefs and practices. If a species is valued not for its ecological role, but for its significance to a human population, environmental laws such as the Endangered Species Act (ESA) will be insufficient to protect it. Indigenous communities have criticized the ESA for its failure to address tribal issues or recognize an ecosystem approach that would acknowledge the

25. Dean B. Suagee, *The Cultural Heritage of American Indian Tribes and the Preservation of Biological Diversity*, 31 ARIZ. ST. L.J. 483, 485 (1999) (citing JOSEPH BRUCHAC, *IROQUOIS STORIES: HEROES AND HEROINES, MONSTERS AND MAGIC* 15-17 (1985)).

26. *Id.* at 488 (citing Ronald Trosper, *Traditional American Indian Economic Policy*, 19 AM. INDIAN

CULTURE & RES. J. 65, 67 (1995)).

27. Suagee, *supra* note 25, at 487.

28. *Id.*

29. Canadian Embassy, *Arctic National Wildlife Refuge: Protecting a Traditional Way of Life*, <http://www.canadianembassy.org/environment/gwitchin-en.asp> (last visited Mar. 21, 2006).

relationship between different life-forms.³⁰ A more appropriate legal tool to protect culturally significant animals is the National Historic Preservation Act, which serves to protect historic and culturally significant resources and properties. The NHPA, recognizing that “the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people,”³¹ provides a mechanism to protect iconic and culturally significant species.

D. NHPA Policy and Procedure

Congress enacted the NHPA in 1966 to establish “the policy of the Federal Government . . . [to] provide leadership in the preservation of the prehistoric and historic resources of the U.S. and of the international community of nations.”³² The NHPA creates a process similar to that used in the National Environmental Policy Act of 1969,³³ whereby federal agencies must consider the effect on any property listed on the National Register of Historic Places before they authorize or fund a project.³⁴ The statute grants the Secretary of the Interior the authority to maintain a National Register “composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.”³⁵

In 1980, in order to implement U.S. obligations under the Convention Concerning the Protection of the World

Cultural and Natural Heritage (“World Heritage Convention”), Congress enacted section 402 of the NHPA to mitigate adverse affects to cultural artifacts stemming from federal undertakings outside the U.S. Section 402a-2 provides:

[p]rior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country’s equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.³⁶

The Secretary of the Interior in 1998 developed guidelines to help agencies conform to section 402a-2. While not binding on agencies, the guidelines explain that “efforts to identify and consider effects on historic properties in other countries should be carried out in consultation with the host country’s historic preservation authorities, with affected communities and groups, and with relevant professional organizations.”³⁷ Thus, using similar procedures as for domestic projects, agencies are obligated to consider adverse effects and instructed to consult with foreign bodies before undertaking any international action.

30. Suagee, *supra* note 25, at 515.

31. 16 U.S.C. § 470b-2 (2000).

32. *Id.* § 470-1(2).

33. 42 U.S.C. §§ 4321-4347 (2000).

34. GEORGE CAMERON COGGINS, ET AL., *FEDERAL PUBLIC LAND AND RESOURCES LAW 1052* (5th ed. 2002).

35. 16 U.S.C. § 470a(a)(1)(A) (2000).

36. *Id.* § 470a-2.

37. The Secretary of the Interior’s Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act, 63 Fed. Reg. 20,496, 20,504 (April 24, 1998).

E. Using NHPA to Protect Wildlife

Though NHPA provides that “properties of traditional religious and cultural importance to an indigenous group may be determined to be eligible for inclusion in the National Register,”³⁸ cultural properties were rarely protected prior to the 1980s. During these early years, the dominant federal agency view of the role of the NHPA as protecting only those properties impressive to academics and professionals gave rise to an elitist pattern of protection. This agency interpretation was fundamentally at odds with the NHPA’s mandate to preserve the “cultural foundations of the Nation” in order to “give a sense of orientation to the *American people*.”³⁹ The National Park Service (NPS) and the Advisory Council on Historic Preservation (ACHP) became increasingly concerned that places of traditional cultural importance were being inappropriately regarded as ineligible for the National Register because they were not of historical interest to professional archeologists, historians, and architectural historians.⁴⁰ To address this concern, the agencies drafted National Register Bulletin 38 (“Bulletin 38”) in 1990 to define traditional cultural properties and to clarify that “wholly natural places can be found eligible for the National Register if they are ascribed cultural significance by living communities based on traditional beliefs.”⁴¹

Even though traditional cultural properties are increasingly being protected under the NHPA, the plain language of

the statute precludes the listing of any animal species (even those with special cultural significance) on the National Register. The Act is designed and written to protect and preserve specific categories of historic property. Regulations implementing NHPA define historic property as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior.”⁴² The basic criteria used to determine whether or not a specific property is eligible for inclusion on the National Register is whether:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. that are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. that are associated with the lives of significant persons in our past; or
- C. that embody the distinctive characteristics of a type, period, or method of construction, or that represent a significant and distinguishable entity whose

[hereinafter King Declaration] (emphasis added).

40. *Id.*

41. *Id.* ¶ 10 (citing National Register Bulletin 38, *supra* note 16, at 2, 14).

42. 36 C.F.R. § 800.16(l)(1) (2006).

38. 16 U.S.C. § 470a(d)(6)(A) (2000). *See also* 36 C.F.R. § 800.1 (2006).

39. Declaration of Thomas F. King, Ph.D In Support of Plaintiffs’ Opposition to Defendants’ Motion to Dismiss at ¶ 9, *Okinawa Dugong v. Rumsfeld*, No. C-03-4350 (N.D. Cal. Aug. 4, 2004)

components may lack individual distinction; or

D. that may have yielded, or may be likely to yield, information important in history or pre-history.⁴³

The National Register is not an appropriate place to list purely intangible cultural resources or those that have no property referents.⁴⁴ By its plain language, the statute appears to preclude any listing of animals because wildlife are not “districts,” “buildings” or “structures.” Even if animals are classified as “objects,” they still do not possess “integrity of location.” Finally, wild animals are generally not regarded as historic property.⁴⁵

Although animal species cannot be listed on the National Register, their protection is not precluded by the statute. The cultural significance of a historic property is derived from the role the property plays in a community’s historically rooted beliefs, customs, and practices.⁴⁶ The land on which specific animal species are found may be valued by traditional societies because of the presence of culturally significant wildlife. Therefore, a

species’ habitat, though not the animal itself, can be protected by the NHPA. Some authority indicates that this is indeed the case, as Bulletin 38 directs agencies to evaluate all attributes that give a site its significance, even those that are intangible, in determining their eligibility for the National Register.⁴⁷

This interpretation fits easily within the framework of the regulatory language. A culturally significant natural landscape or the specific location where significant traditional events, activities, or cultural observances have taken place may be classified as a “site,” even if no structures are in place. Bulletin 38 explicitly states that natural objects that are untouched by human hands, such as trees or a rock outcrop, may be eligible if they are associated with significant tradition or use.⁴⁸

The intent of regulating agencies to include wildlife in the analysis of historic properties is evident in Preservation Brief 36.⁴⁹ The Preservation Brief, which describes the step-by-step process for preserving historic and vernacular landscapes, defines cultural landscape as “a geographic area, including both cultural

43. National Register Criteria for Evaluation, 36 C.F.R. 60.4 (2006), available at http://www.cr.nps.gov/nr/publications/bulletins/nrb15/nrb15_2.htm.

44. *Id.* at sec. IV.

45. See *Christy v. Hodel*, 857 F.2d 1324, 1335 (9th Cir. 1988) (explaining that the federal government does not “own” wild animals). But see *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. LEXIS 3123, at *35 (N.D. Cal. Mar. 1, 2005) (“Whether the government owns the property is irrelevant to a determination of eligibility for the National Register.”).

46. National Register Bulletin 38, *supra* note 16, Introduction.

47. *Id.* Every historic property is made up of

what the National Register calls “contributing” and often “non-contributing” elements. The plants and animals within a natural cultural property usually contribute to its significance. U.S. Dep’t of the Interior, How to Complete the National Registration Form, Nat’l Register Bulletin 16a (1997) at Section III, available at http://www.cr.nps.gov/nr/publications/bulletins/nrb16a/nrb16a_III.htm (last visited Apr. 4, 2006).

48. National Register Bulletin 38, *supra* note 16, Determining Eligibility Step by Step.

49. CHARLES A. BIRNBAUM, NATIONAL PARK SERVICE, TECHNICAL PRESERVATION BRIEF 36: PROTECTING CULTURAL LANDSCAPES: PLANNING, TREATMENT, AND MANAGEMENT OF HISTORIC LANDSCAPES 2 (1994) (emphasis added), available at <http://www.cr.nps.gov/hps/TPS/briefs/brief36.htm> (last visited Apr. 11, 2006).

and natural resources and the *wildlife or domestic animals therein*, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.”⁵⁰ It describes the ethnographic landscape as

a landscape containing a variety of natural and cultural resources that associated people define as heritage resources. Examples are contemporary settlements, religious sacred sites and massive geological structures. Small plant communities, *animals*, subsistence and ceremonial grounds are often components.⁵¹

The presence of culturally significant animals has been the basis of many listings and determinations of eligibility for the National Register, including several animal habitats important in Native American tribal histories.⁵² The National Register includes three wildlife refuges: the Lower Klamath Wildlife Refuge, the Lake Merritt Wild Duck Refuge, and the Pelican Island Wildlife Refuge.⁵³ Other sites “such as Devil’s Tower in Montana [sic] and Massacre Canyon in Nebraska are listed based on cultural traditions and events associated with animals living at the site.”⁵⁴

Other examples of natural places where animals contribute to cultural sig-

nificance and therefore are regarded as eligible for the National Register include:

* The Mattaponi River in Virginia . . . , regarded as eligible by the U.S. Army Corps of Engineers in part because of the cultural importance of the shad fisheries to the Mattaponi and Pamunkey Tribes.

* The Mushgigagamongsebe historic district in Wisconsin, regarded as eligible by the Corps of Engineers as one of the last places the Mole Lake Sokaogon Community of Great Lakes Ojibwe can carry out their traditional hunting and gathering.

* Mauna Kea in Hawaii, where the weikiu bug, an insect that lives at the mountain’s summit, is regarded by Native Hawaiians as a spiritually significant creature and contributes to the mountain’s cultural importance.⁵⁵

Finally, while no animals are listed on the UNESCO World Heritage List, several natural areas are included because they provide marine mammal habitat or breeding grounds. In fact, Shark Bay of Western Australia and the Great Barrier Reef of Australia are included, in part, because of their dugong populations.⁵⁶

50. *Id.* (emphasis added).

51. *Id.* (emphasis added).

52. *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. Lexis 3123, at *24 (N.D. Cal. Mar. 1, 2005). See also King Declaration, *supra* note 39, ¶¶ 12, 34-35.

53. *Okinawa Dugong*, 2005 U.S. Dist. LEXIS 3123, at *36 n.6.

54. *Id.* See also Nat’l Park Serv., National Register Information System, <http://www.nr.nps.gov/nrname1.htm> (follow “Nationwide

Resources Name” hyperlink; then enter “wildlife refuge” in search field and select “Execute”) (last visited Apr. 11, 2006).

55. King Declaration, *supra* note 39, ¶ 35.

56. *Okinawa Dugong*, 2005 U.S. Dist. LEXIS 3123, at *26 n.4. See also World Heritage Sites, Shark Bay, http://www.wcmc.org.uk/protected_areas/data/wh/sharkbay.html; World Heritage Site; Great Barrier Reef World Heritage Area, http://www.wcmc.org.uk/protected_areas/data/wh/gbrmp.html (last visited April 1, 2006).

III. Applying the NHPA to *Dugong v. Rumsfeld*

According to a 2002 United Nations Environment Programme report, the construction of a military base near Henoko could “destroy some of the most important remaining dugong habitat in Japan,” with “potentially serious” repercussions for such a small population.⁵⁷ The report predicts that “unless measures are undertaken to protect dugongs in the Okinawan region they will soon be extinct in Japanese waters.”⁵⁸

As the seabed drilling in Henoko Bay continues, and the protests of the Okinawan community go unheeded, the legal challenge to the military base is perhaps the last resort to preserve the Okinawan dugong and everything it stands for in Okinawan culture.

A. The Cultural Significance of the Okinawan Dugong

The dugong (*dugong dugon*) is a large sea mammal distantly related to the manatee and the extinct Steller's sea cow.⁵⁹ The slow-moving shy giants grow up to 11 and a half feet long and can weigh as much as 800 pounds. The creatures, listed as vulnerable to extinction on a global

scale by the World Conservation Union (IUCN), are highly vulnerable to anthropogenic influences because of their dependence on sea grasses that are restricted to coastal habitats often under pressure from human activities.⁶⁰ Because the dugong delay breeding when there is a short supply of sea grass, habitat conservation is a critical issue in protecting the species.⁶¹ While the dugong's range spans 37 countries and territories from East Africa to Vanuatu, the animal is believed to be represented by relict populations separated by large areas where its numbers have been greatly reduced or where it has already been extirpated.⁶² The waters surrounding the Japanese Island of Okinawa are home to some of the few remaining Okinawa dugong, a rare, genetically isolated and unique member of the dugong species.⁶³ The Okinawan waters form the creature's northernmost range, where it is believed that only about fifty dugong remain.⁶⁴

Dugongs are deeply significant to Okinawan culture and have been for centuries.⁶⁵ Archeological excavations of Okinawa have uncovered dugong bones dating from before the 15th century.⁶⁶ As early as 1919, it is thought that the dugong was designated as a “Natural

57. U.N. Environment Programme (UNEP), *Dugong Status Report and Action Plans for Countries and Territories*, 42-43, U.N. Doc. UNEP/DEWA/RS.02-1 (2002) [hereinafter *Dugong Status Report*], available at <http://www.tesag.jcu.edu.au/dugong/doc/dugongactplan.pdf> (last visited Apr. 7, 2006).

58. *Id.* at 46.

59. Earthjustice, *Background: The Dugongs vs. the Department of Defense*, <http://www.earthjustice.org/backgrounder/display.html?ID=103> (last visited Apr. 1, 2006).

60. *Dugong Status Report*, *supra* note 57, at 1.

61. *Id.* (also noting that sea grass meadows

border only 10 percent of the Okinawan coastline).

62. *Id.*

63. See *id.* at 41; see also MARINE MAMMAL COMM'N, 2001 ANNUAL REPORT TO CONGRESS 129 (Mar. 31, 2002), available at <http://www.mmc.gov/reports/annual/pdf/2001annualreport.pdf>.

64. Earthjustice, *Background: The Dugongs vs. the Department of Defense*, *supra* note 59.

65. See *Dugong Status Report*, *supra* note 57, at 10 (“Dugongs are culturally significant to communities throughout their range.”).

66. *Id.* at 41.

Symbol” under the Law to Protect Historical and Scenic Sites, though the Agency for Cultural Affairs denies this designation.⁶⁷ There is no dispute, however, that the Okinawa dugong has been listed by the government since 1955 as a “Natural Monument” under Japan’s “Cultural Properties Protection Law.”⁶⁸ In recognition of the historic and cultural significance of the Okinawa dugong, the Ryukyu Islands government issued a postage stamp commemorating the Okinawa dugong in 1966, describing it as “Natural Monument Dugong (Mermaid).”⁶⁹

Okinawan oral history demonstrates the cultural importance of the dugong as it is regularly associated with traditional Okinawan creation mythology. The dugong, according to some traditional myths, is the progenitor of the local people.⁷⁰ In one such myth a dugong princess and a short-finned whale boy gave birth to an animal with a human form. That child became the ancestor of Yabuchi Island and the progenitor of the people of Yakena, an island in the Okinawa prefecture. In another story, a naked man and woman became curious about sex after observing a pair of mating dugongs and, later, mimicked their behavior.⁷¹ Their decedents are today’s Okinawans.

Not only has the dugong regularly appeared in the oral mythology of the

Okinawan people in creation myths, but also have long been revered by native Okinawans as “sirens” or “mermaids” who bring friendly warnings of tsunamis.⁷² Legends also attribute the power to create tsunamis to dugongs.⁷³

In past centuries, dugong meat was traditionally offered to royalty as sacred food and medicine.⁷⁴ Royalty and common people both used dried dugong to help ease the pain of childbirth.⁷⁵ Carvings made from dugong rib bones have been found throughout Okinawa.⁷⁶ The most common is a carving of a butterfly, which is believed to take the spirit of the dead to another world.⁷⁷ Dugong-bone ornaments and tools as much as 3500 years old have been found in Okinawa.⁷⁸ Scholars believe that the people who used these objects considered them to contain spiritual power.⁷⁹

Hunters traditionally chose dugong bones for use as hunting tools presumably because of their belief that they were imbued with magic that would aid in their quest.⁸⁰ Until less than a century ago, prayers to the dugong were considered essential to successful fishing expeditions.⁸¹ One legendary fishing practice had young men expose their penises to attract the dugong, which they considered a mermaid spirit, and then try to capture it.⁸²

67. *See id.* at 43.

68. *See id.*

69. *See id.*

70. Declaration of Isshu Maeda in Support of Plaintiff’s Opposition to Defendants’ Motion to Dismiss at ¶¶ 6-7, *Okinawa Dugong v. Rumsfeld*, No. C-03-4350 (N.D. Cal. Aug. 4, 2004) [hereinafter Maeda Declaration].

71. *Id.*

72. *Id.*

73. *Id.* ¶¶ 8-9, 22.

74. *Id.* ¶¶ 10-12.

75. *Id.*

76. *Dugong Status Report*, *supra* note 57, at 43.

77. *Id.*

78. Maeda Declaration, *supra* note 70, at ¶¶ 13-20.

79. *Id.* ¶¶ 18, 20.

80. *Id.* ¶ 20.

81. *Id.* ¶¶ 26-30.

82. *Id.*

Dugongs continue to play a role in Okinawan spiritual and cultural practices, including folk songs and religious ceremonies.⁸³ Because of its cultural significance, the Okinawa dugong is listed as a protected “natural monument” on the Japanese Register of Cultural Properties, established under Japan’s “Law for the Protection of Cultural Properties.”⁸⁴

B. The Equivalence of U.S. and Japanese Historic Preservation Laws

The NHPA applies to “properties” that are listed on another country’s equivalent to the U.S. National Register.⁸⁵ The Japanese Register of Cultural Properties is considered by Japanese and American legal scholars to be equivalent to the U.S. National Register.⁸⁶ The authorization for the Japanese Register is the Japanese Law for the Protection of Cultural Properties, which seeks to “preserve and utilize cultural properties, so that the culture of the Japanese people may be furthered and a contribution made to the evolution of world culture.”⁸⁷ This is the only law in Japan concerned with protecting culturally significant properties. No other law in Japan could feasibly be considered an equivalent to the NHPA.⁸⁸ One of the types of “properties” protected by the Japanese law is “Natural Monuments,”

which is limited to wild animal populations that have special cultural significance.⁸⁹ The Japanese Law indicates that “animals (including their habitats, breeding places and summer and winter resorts)” may be designated as protected cultural properties.⁹⁰ Japanese law expert Sekine Takamichi⁹¹ explained that “like the NHPA, the only objective of the Japanese Cultural Protection Law is to protect objects of cultural value; species with no independent cultural value are not eligible for listing under the Japanese Cultural Protection Law, no matter how endangered they might be.”⁹² Japan has promulgated other laws for the protection of flora and fauna for their biological significance. The dugong is also protected under Japan’s equivalent to the Endangered Species Act: the Law for the Conservation of Endangered Species of Wild Fauna and Flora.

C. The Ruling

On March 1, 2005, the district court issued its ruling on *Okinawa Dugong v. Rumsfeld*.⁹³ The court dismissed the defendant’s motion to dismiss and motion for summary judgment on the issue of the applicability of the National Historic Preservation Act to the dugong affected by the proposed military base.⁹⁴

83. *Id.* ¶¶ 26-34.

84. Declaration of Sekine Takamichi in Support of Plaintiffs’ Opposition to Defendants’ Motion to Dismiss at ¶ 16, *Okinawa Dugong v. Rumsfeld*, No. C-03-4350 (N.D. Cal. Aug. 4, 2004) [hereinafter Takamichi Declaration].

85. 16 U.S.C. § 470a-2 (2000).

86. See Takamichi Declaration, *supra* note 86, ¶ 2; *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. Lexis 3123, at *68, (N.D. Cal. Mar. 1, 2005).

87. Takamichi Declaration, *supra* note 86, ¶ 7.

88. See *id.* ¶¶ 2, 4.

89. *Id.* ¶ 9.

90. *Id.* ¶ 8.

91. Sekine Takamichi is a member of the Japanese Environmental Lawyers Federation. He lectures and publishes articles on Japanese, U.S., and international law.

92. Takamichi Declaration, *supra* note 86, at ¶ 12.

93. *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. Lexis 3123 (N.D. Cal. Mar. 1, 2005).

94. *Id.* at *68.

95. *Id.*

The court considered, among other issues, whether Japan's Cultural Preservation Law is equivalent to the NHPA and whether the dugong could be considered "property" as defined by the NHPA.⁹⁵

The defendants argued that the Japanese law could not be considered equivalent to the National Register because the Japanese law provides protection for both inanimate and animate things, whereas the U.S. Register "provides no legal recognition or protection whatever for any animal species."⁹⁶ The court rejected this argument by explaining that "by employing the word 'equivalent,' section 470a-2 does not require that the National Register and the foreign list in question be identical."⁹⁷ The court determined that a requirement that the two lists be identical would contradict the international scope of the provision. The court explained: "To require that foreign lists include only those types of resources which are of cultural significance in the United States would defy the basic proposition that just as cultures vary, so too will their equivalent legislative efforts to preserve their culture."⁹⁸ The defendant's reading would render the provision meaningless because no other country will provide for the same identification and scope of protection as the U.S. The court ultimately looked at the Japanese law's function of protecting cultural resources as being equivalent to the U.S. National Register.

The court noted that the presence of culturally significant animals has been the

basis of many listings on the National Register in reasoning that "the statutes demonstrate an equivalent commitment to protecting significant bridges between human culture and history, on the one hand, and wildlife on the other."⁹⁹ The court also noted that both statutes "have evolved in a similar direction towards greater inclusiveness of natural, as well as cultural, places and things."¹⁰⁰

The second argument raised by defendants is that even if the Japanese law is equivalent, the dugong need not be considered because the language of section 470a-2 only requires that "properties" on an applicable country's equivalent of the National Register be taken into account. The dugong, they argue, cannot be understood as property within the NHPA's statutory scheme. To evaluate this claim, this court looked to the definitions within the NHPA. The statute does not define the term "property" but does define "historic property" as "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource."¹⁰¹ However, section 470a-2 does not refer to "historic property" and instead uses the term "property." The court concluded that the term "historic property" with its defined categories applies only to domestic activities, and requiring otherwise would conflict with the statute's explicit reference to foreign

96. Defendants' Motion to Dismiss at ¶ 15, *Okinawa Dugong v. Rumsfeld*, No. C-03-4350 (N.D. Cal. Aug. 4, 2004).

97. *Okinawa Dugong*, 2005 U.S. Dist. Lexis 3123, at *20.

98. *Id.* at *22.

99. *Id.*

100. *Id.* at *24 (citing King Declaration, *supra* note 39, at ¶¶ 9-14, 45(b)).

101. 16 U.S.C. § 470w-5 (2000). See also *Hoonah Indian Ass'n v. Morrison*, 170 F.3d 1223, 1230 (9th Cir. 1999).

law. The court pointed to legislative history to determine that Congress intended that a different standard for domestic and international provisions of the law be used, noting that Congress acknowledged that the UNESCO convention that gave rise to section 470a-2 “leaves it to each participating nation to identify and delineate the meritorious heritage properties situated in its own territory.”¹⁰²

The court then addressed whether the dugong could be classified as property. In deciding how the section 470a-2 meant to define “property,” the court looked to the existing definition of “historic property” and removed the reference to American history to conclude that property is simply a “district, site, building, structure, or object.” An object is defined as “a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, moveable yet related to a specific setting or environment.”¹⁰³ The court found that the plaintiffs demonstrated that the dugong could be classified as property because

[t]he dugong is indisputably a “material thing,” as opposed to something of a spiritual or intellectual nature . . . the dugong possesses “functional, aesthetic, cultural, historical or scientific value,” particularly of special cultural significance in Okinawa . . . and there can be no dispute

that the Okinawan dugong is “moveable yet related to a specific setting or environment,” namely Henoko Bay.¹⁰⁴

The court dismissed out of hand defendant’s contentions that dugong are not property because of the Ninth Circuit’s ruling in *Christy v. Hodel*¹⁰⁵ that state and federal governments cannot “own” wild animals.¹⁰⁶ The court found that whether the government owns the property is irrelevant to a determination of eligibility for the National Register, as is whether or not the object is owned at all.¹⁰⁷ The court found the case to be analogous to *Hatmaker v. Georgia Department of Transportation*, which held that an unaltered oak tree of significance in Native American history was potentially eligible for the National Register.¹⁰⁸

The court considered and rejected several additional claims including the allegation that Henoko Bay is not sufficiently bounded or defined to be protected, and that the military base relocation was not a federal undertaking.¹⁰⁹

D. Potential Effects of the Court’s Ruling

In determining the equivalence of the Japanese Statute to the NHPA, the court noted that “[t]he presence of culturally significant animals has been the basis of many listings and determinations of eligibility for the National Register, including several animal habitats important in Native American tribal histories.”¹¹⁰ The

102. *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. Lexis 3123, at *30 (N.D. Cal. Mar. 1, 2005).

103. 36 C.F.R. § 60.3(j).

104. *Okinawa Dugong*, 2005 U.S. Dist. Lexis 3123, at *31-32.

105. 857 F.2d 1324, 1335 (9th Cir. 1988).

106. *Okinawa Dugong*, 2005 U.S. Dist. Lexis

3123, at *35.

107. *Id.* See also 36 C.F.R. § 60.2.

108. 973 F. Supp. 1047 (M.D. Ga. 1995).

109. *Okinawa Dugong v. Rumsfeld*, No. C 03-4350, 2005 U.S. Dist. Lexis 3123, at *37, *42 (N.D. Cal. Mar. 1, 2005).

110. *Id.* at *24.

court went even further, stating that the National Register lists properties solely for their biological value, without reference to an explicit cultural dimension.¹¹¹ As proof of this proposition, the court points to several wildlife refuges on the National Register which are listed without reference to any cultural or historical links.¹¹² Implicit in this reasoning is that the refuges were protected only for the cultural significance of the species that reside within, not for any independent cultural values that may be found in the physical space listed.

The court's ruling is important for two reasons. First, it acknowledges the NHPA's potential use in protecting wildlife habitat in the U.S. and secondly, it paves the way for the Act to be applied directly to federal actions affecting culturally significant species abroad. Traditional groups should be aware of the expansive reading the court gives the NHPA, and use the statute to propose listing habitat of culturally significant wildlife. For example, an area of a stream used for traditional salmon fishing may be protected, not for any features on the land, but merely for the presence of a culturally important species.¹¹³ Such use of the statute may have far-reaching implications as it may protect culturally significant species that are not endangered or threatened but are facing local extirpations near

indigenous populations. If such habitat is listed, a federal agency will have to undergo a NEPA-like process and take any adverse effect on the habitat-dependent species into consideration before proceeding with the action.

Furthermore, because of the court's willingness to find equivalency between the U.S. and Japanese laws, in the future the U.S. will have to take a closer look at their actions abroad to determine if it may affect any property *or animal* protected by that country's cultural preservation laws. The court referenced Cultural Resource Specialist Thomas King's Declaration which noted that "[s]pecies are entitled to protection for their cultural value in many nations. Some, like Japan, protect culturally significant species directly; others, like the United States, protect culturally significant species by protecting the locations in which that significance is expressed."¹¹⁴ A quick review of cultural preservation laws of other countries supports this view. Canada lists "heritage animals" on the basis of a species' historic and cultural value.¹¹⁵ Denmark's program for cultural heritage in planning protects cultural landscapes which it defines as representing "the combined works of nature and humans."¹¹⁶ Australia's Register of the National Estate explicitly covers both cultural and natural

111. *Id.*

112. *Id.* This is a reference to the listing of the Lower Klamath Wildlife Refuge, the Lake Merritt Wild Duck Refuge, and the Pelican Island Wildlife Refuge.

113. However, in *Hoonah Indian Ass'n v. Morrison*, 170 F.3d 1223, 1231 (1999), the court found that properties listed on the National Register must be more concretely bounded and defined than a general area.

114. *Okinawa Dugong v. Rumsfeld*, No. C 03-4350,

2005 U.S. Dist. Lexis 3123, at *23 (N.D. Cal. Mar. 1, 2005).

115. See Government of Newfoundland & Labrador, Chapter H-2.1: An Act Respecting the Protection of Heritage Animals, <http://www.gov.nf.ca/hoa/chapters/1996/H02-1.c96.htm> (last visited Mar. 22, 2006).

116. See Danish Forest and Nature Agency, Cultural Heritage in Planning, http://www.sns.dk/udgivelser/2001/87-7279-298-1/default_eng.htm (last visited Mar. 22, 2006).

resources, and recognizes that cultural values are linked closely to plant and animal populations.¹¹⁷

The NHPA can be applied to species abroad when there is a U.S. undertaking (which may include U.S. funding or support), there is a culturally significant species that may be affected by the U.S. action present, and where the species is protected under that country's laws for its cultural importance. While international use may be limited, the NHPA is another tool human rights activists and environmentalists can use to benefit both local communities and species.

E. The Current Situation

After losing their initial court battle and pressured by long-term protests, the U.S. Department of Defense and the Japanese government formally abandoned the initial Henoko Bay military base plan.¹¹⁸ On October 29, 2005, the U.S. and Japan released a proposal to substitute the Henoko Bay airbase with a smaller facility on the adjacent Marine base, Camp Schwab.¹¹⁹ The new proposal includes filling in part of Oura Wan Bay and a small section of Henoko Bay.¹²⁰

While the abandonment of the Henoko Bay plan is a success for dugong supporters, many still view the new plan as unacceptable.¹²¹ Refilling portions of Oura Wan and Henoko Bays will destroy habitat essential for dugong survival and recovery.¹²² Moreover, the new location is virtually inaccessible to community members, who need to be given clearance to enter the Camp Schwab Marine base if they are to continue their protests.¹²³ Construction in the new proposed area would result in severe soil erosion into Henoko and Oura Wan Bays which will diminish the sea grass beds vital to dugong survival.¹²⁴ Finally, some think that the new proposal was adopted in part to curtail the protestors' use of canoes to stall construction efforts, as the sea in Oura Wan is rough and inaccessible to small boats.¹²⁵

Earthjustice, the lead organization bringing the challenge, has indicated that it will continue its lawsuit.¹²⁶ However, most are hopeful that the tremendous will and strength exhibited by the people of Okinawa in fighting for the preservation of the dugong will force the U.S. and Japanese governments to withdraw all plans of building in the Henoko region.¹²⁷

117. See Australian Heritage Commission, Criteria for the Register of the National Estate, <http://www.ahc.gov.au/register/furtherinfo/criteria.html> (last visited Mar. 22, 2006).

118. 2005 *in Review*, *Okinawa: From Fighting Wars to Taking Part in Disaster Relief, an Eventful Year*, STARS AND STRIPES, Dec. 31, 2005, available at <http://www.stripes.com/article.asp?section=&article=33184&archive=true> (last visited Mar. 26, 2006).

119. *Id.*

120. *Id.*

121. Sarah Buckley, *Okinawa Base Battle Resolved*, BBC NEWS, Oct. 26, 2005, available at <http://news.bbc.co.uk/1/hi/world/asia-pacific/4357098.stm> (last visited Apr. 9, 2006).

122. Earthjustice, *Okinawa Air Base Deal Still Controversial*, Oct. 26, 2005, <http://www.earthjustice.org/news/display.html?ID=1069> (last visited Mar. 26, 2006).

123. Buckley, *supra* note 121.

124. Conversation with members of the Association to Protect Northernmost Dugong, in San Francisco, Cal. (Feb. 3, 2006).

125. *Id.*

126. Earthjustice, *Urgent Cases: Okinawa Dugong and Proposed Military Base*, <http://earthjustice.org/urgent/display.html?ID=154> (last visited Apr. 9, 2006).

127. Earthjustice, *Okinawa Air Base Deal Still Controversial*, Oct. 26, 2005, <http://www.earthjustice.org/news/display.html?ID=1069> (last visited Mar. 26, 2006).

IV. Conclusion

The movement toward greater inclusiveness of cultural preservation laws took another step forward with the district court's acceptance that wildlife may be protected under the National Historic Preservation Act. This acceptance, already alluded to in several agency documents and guidelines, has now been preliminarily confirmed with the ruling in *Dugong v. Rumsfeld*. The court's reasoning will help pave the way for traditional groups to petition for the protection of habitat crucial to the survival of culturally significant animals, both in the U.S. and abroad.