

NCTC Webinar Series for CW/CT  
The Craft of Persuasion  
Reading Examples

A

**Rather than** [...], **the Service used** the existing MOCA network as the baseline for the owl's critical habitat. **By substituting** the MOCA network for the statutory baseline, **the Service excluded lands**, including federal lands on the east side of the Cascade Range, other federal lands, and all non-federal lands, from critical habitat **without first considering** whether they contain biological and physical features that are essential to the conservation of the species that require special management considerations or protection. **Further by starting** with the MOCA network instead of the statutory baseline, **the Service excluded** from the critical habitat designation areas that meet the statutory definition of critical habitat **without considering** whether the benefits of including these lands were outweighed by the benefits of excluding them, **and without considering** whether their exclusion would result in the extinction of the owl.

B

In any **nonviolent** campaign there are **four basic steps: collection of the facts to determine whether injustices exist; negotiation; self purification; and direct action.** We have gone through all these **steps** in Birmingham. There can be **no gainsaying the fact** that racial injustice engulfs this community. Birmingham is probably the **most thoroughly segregated** city in the United States. Its ugly record of brutality is widely known. Negroes have experienced grossly unjust **treatment in the courts.** There have been more **unsolved bombings** of Negro homes and churches in Birmingham than in any other city in the nation. These are the **hard, brutal facts** of the case. On the basis of these **conditions**, Negro leaders **sought to negotiate** with the city fathers. But the latter **consistently refused** to engage in **good faith negotiation.**

C

We should never forget that everything **Adolf Hitler** did in Germany was "legal" and everything the **Hungarian freedom fighters** did in Hungary was "illegal." It was "illegal" to **aid and comfort** a Jew **in Hitler's Germany.** Even so, I am sure that, had I lived in Germany at the time, I would have **aided and comforted my Jewish brothers.** If today I lived in a **Communist country** where certain **principles dear to the Christian faith** are suppressed, I would openly advocate disobeying **that country's antireligious laws.**

D

Recent landscape-level analyses suggest that a mosaic of late-successional habitat interspersed with other vegetation types may benefit spotted owls more than large, homogeneous expanses of older forests (Franklin et al. 2000, Meyer et al. 1998). In redwood forests along the coast range of California, spotted owls may be found in younger forest stands with structural characteristics of older forests (Thomas et al. 1990). However, spotted owls do not generally appear to select for stands of intermediate or younger ages (Solis and Gutierrez 1990).

## E

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. **To put it in the terms of St. Thomas Aquinas:** An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. Segregation, to use the terminology of the **Jewish philosopher Martin Buber**, substitutes an "I it" relationship for an "I thou" relationship and ends up relegating persons to the status of things. Hence segregation is not only politically, economically and sociologically unsound, it is morally wrong and sinful. **Paul Tillich has said** that sin is separation. Is not segregation an existential expression of man's tragic separation, his awful estrangement, his terrible sinfulness? Thus it is that I can urge men to obey the 1954 decision of the Supreme Court, for it is morally right; and I can urge them to disobey segregation ordinances, for they are morally wrong.

## F

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used **the best scientific information available** to identify areas that contain the physical and biological features that are essential for the conservation of the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow. This information included: **peer-reviewed scientific publications** (e.g., Baker 1951, Jenkins 1983, Wiles et al. 1995, NRC 1997); **published and draft revised recovery plans** (USFWS 1990a, 1990b, 2002); **the final listing rule** (49 FR 33881); **unpublished reports** by the Guam Division of Aquatic and Wildlife Resources (GDAWR), CNMI Division of Fish and Wildlife (DFW), and the Service (e.g., Wiles 1982a, Engbring and Ramsey 1984, Morton 1996, Morton et al. 1999); **aerial photographs and satellite imagery** of Guam and Rota; **personal communications with scientists familiar with the species and habitats**; and **responses to critical habitat outreach packages** mailed to Federal, Territory of Guam, CNMI, and private landowners. **Specific information we used from these sources includes** estimates of historic and current distribution, abundance, and territory sizes for the three species, as well as data on resource and habitat requirements. **From recovery plans, we considered** the recovery objectives and the assessments of the habitat necessary to meet these objectives, as well as life history information.

## G

Moreover, I am cognizant of the **interrelatedness** of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable **network of mutuality**, tied in a single garment of destiny. **Whatever affects one directly, affects all indirectly.** Never again can we afford to live with the narrow, provincial "outside agitator" idea. Anyone who lives inside the United States can never be considered an outsider anywhere within its bounds.

## H

**In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives."** Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or would result in adverse modification of critical habitat. **A Federal agency and an applicant may elect to implement a reasonable and prudent alternative** associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. **An agency or applicant could alternatively choose to seek an exemption** from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

**Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures** designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. However, the Act does not prohibit the take of listed plant species or require terms and conditions to minimize adverse effect to critical habitat. **We may also identify discretionary conservation recommendations** designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to gather information that could contribute to the recovery of the species.

**Based on our experience with section 7 consultations for all listed species, virtually all projects--including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations--can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. Furthermore, these measures must be economically feasible, consistent with the intended purpose of the action, and within the scope of authority of the Federal agency involved in the consultation** (see 50 CFR. 404.2, definition of reasonable and prudent alternative). Based on our consultation history, we can describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats they face, especially as described in the final listing rule and in this proposed critical habitat designation, as well as our experience with the listed species in Guam and Rota. The kinds of actions that may be included in future reasonable and prudent alternatives include, but are not limited to, management of competing non-native species and predators, restoration of degraded habitat, construction of protective fencing, and regular monitoring. Therefore, such measures are not likely to result in a significant economic impact to a substantial number of small entities.

## J

In your statement you assert that our actions, even though peaceful, must be condemned because they precipitate violence. But is this a logical assertion? Isn't this like condemning a robbed man because his possession of money precipitated the evil act of robbery? Isn't this like condemning Socrates because his unswerving commitment to truth and his philosophical inquiries precipitated the act by the misguided populace in which they made him drink hemlock? Isn't this like condemning Jesus because his unique God consciousness and never ceasing devotion to God's will precipitated the evil act of crucifixion? We must come to see that, as the federal courts have consistently affirmed, it is wrong to urge an individual to cease his efforts to gain his basic constitutional rights because the quest may precipitate violence.

## K

**The little Mariana fruit bat, Guam broadbill, and bridled white-eye are believed extinct on Guam.** The little Mariana fruit bat was last observed in 1968 and subsequent surveys for this species in the 1970s and 1980s yielded no observations (USFWS 1990a). The Guam broadbill was last observed in 1984 and subsequent forest bird surveys and other ornithological activities in areas where this species would likely occur have yielded no observations (Wiles et al. 1995). A proposed rule to remove the Guam broadbill from the Endangered Species list was published in the Federal Register on January 25, 2002 (67 FR 3675). The bridled white-eye was last observed on Guam in 1984 and subsequent forest bird surveys and other ornithological activities in areas where this species would likely occur have yielded no observations (Wiles et al. 1995). Therefore, **because these species are believed extinct on Guam, we propose that designation of critical habitat for the little Mariana fruit bat, Guam broadbill, and bridled white-eye is not prudent because such designation would be of no benefit to these species.** If these species are rediscovered, we may revise this proposal to address the new information (see 16 U.S.C. 1532 (5)(B); 50 CFR 424.13(f)).

## L

Let us consider a more concrete example of **just and unjust laws**. An unjust law is **a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself**. This is difference made legal. By the same token, **a just law is a code that a majority compels a minority to follow and that it is willing to follow itself**. This is sameness made legal. Let me give another explanation. A law is unjust if it is inflicted on a minority that, as a result of being denied the right to vote, had no part in enacting or devising the law. Who can say that the legislature of Alabama which set up that state's segregation laws was democratically elected? Throughout Alabama all sorts of devious methods are used to prevent Negroes from becoming registered voters, and there are some counties in which, even though Negroes constitute a majority of the population, not a single Negro is registered. Can any law enacted under such circumstances be considered democratically structured?

## M

The establishment of two geographically separated populations on Guam is important to decrease the risk of extinction of the species as a result of localized, stochastic events such as typhoons and disease outbreaks (Dobson and May 1986, NRC 1997). **A long-accepted view developed from ecological research is that the existence of more than one population**

**increases the long-term likelihood of species' persistence (Raup 1991, Meffe and Carroll 1996).** The specific areas proposed as critical habitat in northern and southern Guam were selected based upon their current status as blocks of largely forested land containing the primary constituent elements required by each species. These areas include the last relatively large blocks of native forest on the island within each species' historical range.

## N

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals and commitment to public service. For more information on our work and the people who make it happen, visit [www.fws.gov](http://www.fws.gov).

## O

ABC builds coalitions and establishes consensus on conservation priorities using the best available science, develops collaborative solutions engaging the best and most appropriate skills from each partner, and openly shares credit with its partners. ABC measures its success in terms of changes on the ground for the benefit of target bird species and populations. ABC has over 7,000 members throughout the United States, including Hawaii. ABC and its members are concerned with the conservation of endangered species, including the Akikiki and Akekee, and the effective implementation of the ESA.

## P

While confined here in the Birmingham city jail, I came across your recent statement calling my present activities "unwise and untimely." Seldom do I pause to answer criticism of my work and ideas. If I sought to answer all the criticisms that cross my desk, my secretaries would have little time for anything other than such correspondence in the course of the day, and I would have no time for constructive work. But since I feel that you are men of genuine good will and that your criticisms are sincerely set forth, I want to try to answer your statement in what I hope will be patient and reasonable terms.

## Q

I am writing to you in response to your June 17, 2009, letter to Ken Salazar, Secretary for the Department of the Interior. I would like to begin by thanking you for your continued interest in the management of Burmese pythons. I sincerely hope that we can foster a collaborative relationship with your organization in responding to this situation.

## R

While we **may not be in agreement** on the source of Burmese pythons within the ENP, we **believe** that a **partnership** with USARK would greatly **enhance** our abilities to meet all of our objectives by moving forward with several actions **both separately and together**. . In order to meet our obligations to listed species protected under the Act, we believe it is imperative that the Service use our funds for continued research as well as eradication of the python

population. As you are aware, the number of pythons has increased between 1979 and 2007 from just a few animals, to 250, according to National Park Service data. In addition, breeding of Burmese pythons has been confirmed in the wild. With an increasing population, we need to ensure that our eradication efforts are as effective and efficient as possible in order to solve this problem. We believe the best means of improving our eradication efforts is to better understand the biology and habits of the Burmese python. For this reason, we believe continued research on trap design and development, diet analysis, and other areas will lead to improved capture techniques. **At the same time, we agree with your statement that every attempt needs to be made to inform the public about the importance of responsible reptile keeping.** We therefore propose that, while we continue funding our own research, we also form a partnership under which we will match a portion of the \$10,000 you offered for eradication, and will also match whatever funds you may offer for public information and education efforts.

## S

Although the Bureau reduced the number of coalbed natural gas (CBNG) wells constructed by 360 during the five reporting periods (October 1, 2004, through March 23, 2007), the Semi-Annual Reports identify that the Bureau authorized 66 CBNG projects in which the final as-approved project exceeded the amount and type of disturbance identified in the Bureau's biological assessments and consulted upon during section 7 consultations. During the five reporting periods project modifications undertaken after site-specific section 7 consultations were completed included the construction of an additional 51 CBNG wells, 139 well pads, 9 meter facilities, 7 compressor stations, 40.7-miles of overhead power lines, 167.8-miles of 2-track roads, 110.0-miles of improved roads, 233.9-miles of pipeline, 53 water discharge points and 145 CBNG water impoundments, all totaled resulting in approximately 2,353 acres of ground disturbing activities which were not identified during the site-specific Section 7 consultations.

## T

At our last conversation, I notified you of my intention to communicate to you my decision in regard to the subject of that conversation. Having carefully considered everything, I am writing now with the object of fulfilling that promise. My decision is as follows. Whatever your conduct may have been, I do not consider myself justified in breaking the ties in which we are bound by a Higher Power. The family cannot be broken up by a whim, a caprice, or even by the sin of one of the partners in the marriage, and our life must go on as it has done in the past. This is essential for me, for you, and for our son. I am fully persuaded that you have repented and do repent of what has called for the present letter, and that you will cooperate with me in eradicating the cause of our estrangement, and forgetting the past. In the contrary event, you can conjecture what awaits you and your son. All this I hope to discuss more in detail in a personal interview. As the season is drawing to a close, I would beg you to return to Petersburg as quickly as possible, not later than Tuesday. All necessary preparations shall be made for your arrival here. I beg you to note that I attach particular significance to compliance with this request.

--A. Karenin.

*P.S. – I enclose the money which may be needed for your expenses.*

## U

We have waited for more than 340 years for our constitutional and God given rights. The nations of Asia and Africa are moving with jetlike speed toward gaining political independence, but we still creep at horse and buggy pace toward gaining a cup of coffee at a lunch counter. Perhaps it is easy for those who have never felt the stinging darts of segregation to say, "Wait." But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate filled policemen curse, kick and even kill your black brothers and sisters; when you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six year old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her eyes when she is told that Funtown is closed to colored children, and see ominous clouds of inferiority beginning to form in her little mental sky, and see her beginning to distort her personality by developing an unconscious bitterness toward white people; when you have to concoct an answer for a five year old son who is asking: "Daddy, why do white people treat colored people so mean?"; when you take a cross county drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading "white" and "colored"; when your first name becomes "nigger," your middle name becomes "boy" (however old you are) and your last name becomes "John," and your wife and mother are never given the respected title "Mrs."; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tiptoe stance, never quite knowing what to expect next, and are plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of "nobodiness"--then you will understand why we find it difficult to wait. There comes a time when the cup of endurance runs over, and men are no longer willing to be plunged into the abyss of despair. I hope, sirs, you can understand our legitimate and unavoidable impatience.

## V

Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the *bondage of myths and half truths to the unfettered realm* of creative analysis and objective appraisal, so must we see the need for nonviolent gadflies to create the kind of tension in society that will help men *rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood*. The purpose of our direct action program is to create a situation so crisis packed that it will inevitably open the door to negotiation. I therefore concur with you in your call for negotiation. Too long has our *beloved Southland been bogged down in a tragic effort* to live in monologue rather than dialogue.

## W

No Akikiki have **tested positive for malaria** (C. Atkinson, USGS, unpubl. data, cited in LaPointe 2000), but the sample of Akikiki examined for disease was very small and more data are needed to determine if this low infection rate is caused by a low transmission rate or high mortality of infected birds. Some related species are known to **be highly susceptible** to introduced diseases and to have ranges largely restricted by disease (USFWS 2006). During clinical trials with some Hawaiian forest bird species, **virtually all experimentally infected**

**individuals died**, so the absence of infected birds in the wild may in fact indicate a **very high mortality rate from disease, and thus that disease is a very serious threat** (Atkinson *et al.* 1995).

## X

**Hurricanes struck Kauai** in 1983 and 1992 and significantly reduced habitat of the Akikiki and Akekee by **blowing down large trees and creating openings in the forest that facilitated the spread of invasive alien plants. Large numbers of dead trees killed by hurricane Iniki in 1992 are still visible on the ground** in several areas where Akikiki have declined in abundance or disappeared. **Many large wind-thrown trees** blocked the Mohihi-Waialae Trail south of Koaie Camp in April 1996, **and the trunks of these trees were still visible on the ground** in May 2007 (E. VanderWerf pers. obs.). Akikiki and Akekee still occur in this area, but have declined in abundance (Foster *et al.* 2000, Hawaii Division of Forestry and Wildlife and USGS unpubl. data). Habitat **damage by the hurricane was more severe** at higher elevations near Keaku Cave on the western slope of Waialeale (E. VanderWerf pers. obs.), and neither the Akikiki nor the Akekee have been found in this area recently.

## Y

Species like the Akikiki and Akekee that are endemic to single small islands or habitat areas are **inherently more vulnerable to extinction** than widespread species because of the higher risks posed to a single population by random demographic fluctuations **and localized catastrophes such as hurricanes, fires, and disease outbreaks** (Wiley and Wunderle 1994). As populations and ranges of island birds decline due to other threats, the extinction risk from catastrophic events also increases.

## Z

Polar bears are completely dependent upon Arctic sea-ice habitat for survival. They use sea ice as a platform to hunt and feed upon seals, as a habitat on which to seek mates and breed, as a platform to move to onshore maternity denning areas, and make long-distance movements, and occasionally for maternity denning. Most populations use onshore habitat partially or exclusively for maternity denning.