

EXECUTIVE ORDER NO. 230

Declaring Open Season for Harvesting of Trochus in 2005

WHEREAS, pursuant to 24 PNC Section 1243(b), the Olbiil Era Kelulau has enacted House Joint Resolution No. 7-6-3S, SDI (the “Resolution”), declaring and designating 15 May 2005 through 15 June 2005, to be an open season for the harvesting of trochus; and

WHEREAS, upon passage of such a resolution, Section 1243(b) directs the President of the Republic to declare such open season, together with any applicable area restrictions, by Executive Order; and

WHEREAS, a limited 2005 trochus season will provide income to Palauan families without depleting the resources; and

WHEREAS, apart from Hatohobei State, the Resolution does not itself identify any geographical areas of the Republic’s waters to which the open season does not extend; and

WHEREAS, existing law prohibits all taking of trochus from the Ngerukewid Islands Wildlife Preserve under 24 PNC Section 3001; and

WHEREAS, the states have broad powers under 24 PNC Section 1243 to prohibit or limit the taking of trochus within state waters; ;and

WHEREAS, existing law imposes various restrictions on the methods of capture which apply to the taking of trochus;

NOW, THEREFORE, by virtue of the authority vested in me as President of the Republic of Palau, I do hereby proclaim and order as follows:

1. PROCLAMATION OF OPEN SEASON DATES

From 12:01 a.m. on 15 May 2005 through 11:59 p.m. on 15 June 2004, is hereby declared to be an open season for citizens of the Republic of Palau to harvest trochus in the waters of the Republic of Palau.

2. GEOGRAPHIC RESTRICTIONS

The following geographic restrictions apply to the taking of trochus during the open season:

- a. The open season declared herein does not extend to Hatohobei State waters. Trochus may be harvested from Hatohobei State waters to the extent permitted by, and in accordance with the requirements of, Hatohobei State law.

- b. No trochus may be taken in the area defined by 24 PNC Section 3001 as the Ngerukewid Islands Wildlife Preserve.
- c. No person may harvest trochus outside of the area(s) where he has the right to fish under established local custom.
- d. No trochus may be taken from waters which have been declared “no harvest zones” by any state government.

3. SIZE RESTRICTIONS ON TROCHUS

Unless amended by law, no trochus that is less than three inches in diameter at the base may be taken or purchased. Violation of this restriction is subject to criminal penalties under 24 PNC Section 1243(d).

4. PROHIBITION ON USE OF UNDERWATER BREATHING APPARATUS

No person may take trochus by means of any kind of underwater breathing apparatus other than a snorkel. Violations of this prohibition are subject to criminal penalties under Republic of Palau Public Laws 4-18 and 4-35.

5. STATE LAW RESTRICTIONS

- a. State governments that wish to designate some or all of the state’s waters or reefs as “no harvest zones” for the 2005 trochus season must deliver notice of laws imposing such restrictions to the Office of the President by not later than 1 May 2005.
- b. Each state that permits harvesting of trochus is encouraged to take all reasonable steps both to assist in the sale of legally-harvested trochus and to ensure that trochus storage complies with 24 PNC Sections 1245 and 1246, the terms of this Executive Order and issued permits, and is not a nuisance.
- c. States that permit harvesting of trochus are encouraged to assist the Republic in enforcement of the restrictions on harvesting, storing, processing and selling trochus.

6. SELLING AND PURCHASE RESTRICTIONS

Each state which allows harvesting of trochus shall designate an area for the sale of trochus by harvesters. No trochus may be sold or purchased in areas other than those designated areas. States shall not allow the sale in such areas of trochus which are below the minimum size, trochus which were taken by means of underwater breathing apparatuses other than snorkels, or trochus taken from “no

harvest zones.”

7. STORAGE AND PROCESSING RESTRICTIONS

- a. No person shall commercially process or store trochus except in accordance with a permit issued by the Division of Environmental Health of the Ministry of Health.
- b. In accordance with 24 PNC Section 1245(d), the Division of Environmental Health of the Ministry of Health shall inspect facilities which are proposed for use for trochus storage or processing, and if such facilities comply with 24 PNC Section 1245(a), (b) and (c), shall issue permits, along with any conditions to the permit that are necessary to protect the health, safety and welfare of the public. No facilities shall be inspected and no permits issued after 1 May 2005. Any person applying for a permit must give the Division five (5) working days in order to inspect facilities.
- c. No person shall commercially process or store trochus within 200 feet of any occupied residential structure.
- d. Any person desiring to store any quantity of trochus for commercial purposes shall, prior to such storage, have such trochus inspected by an officer of the Republic of Palau Bureau of Marine Resources to ensure compliance with size and other legal restrictions.
- e. Violations of any storage and processing restrictions are subject to criminal penalties, under 24 PNC Section 1245(e).

8. ENFORCEMENT

- a. Compliance with processing and storage restrictions shall be monitored by staff of the Division of Environmental Health of the Ministry of Health.
- b. Each state that designates “no harvest zones” shall place markers at their sanctuary sites and are responsible for patrolling their reefs, with any necessary assistance provided by the Division of Marine Law Enforcement and the Division of Fish & Wildlife.
- c. The Ministry of Justice, Bureau of Public Safety, Marine Law Enforcement Division, the Division of Fish and Wildlife, and Bureau of Marine Resources shall consult to organize an enforcement plan involving random spot checks during the entire trochus season. All violations of any applicable law or regulation shall be reported to the Attorney General’s Office for prosecution.

9. RECORDKEEPING

- a. Purchasers shall submit copies of records of purchases to the Bureau of Marine Resources. The Bureau shall record the total volume of trochus stored and shall compile statistics from commercial processors and the Bureau of the National Treasury to show the total tonnage stored, total tonnage exported, and gross receipts from the 2005 trochus season.
- b. The Bureau of Marine Resources shall randomly measure 10% of the total trochus shells bought by a purchaser for statistical purposes ten (10) days before scheduled shipment.

IN WITNESS WHEREFORE, [sic] I have hereunto set my hand and affixed my official seal on this 20th day of April, 2005 in the State of Koror, Republic of Palau.

/s/

Tommy E. Remengesau, Jr.
President of the Republic of Palau