

**MARINE MAMMAL COMMISSION  
4340 EAST-WEST HIGHWAY, ROOM 905  
BETHESDA, MARYLAND 20814**

13 May 2004

Rosa Meehan, Ph.D.  
Supervisor  
U.S. Fish and Wildlife Service  
Marine Mammals Management Office  
1011 East Tudor Road  
Anchorage, AK 99503

Dear Dr. Meehan:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors, has reviewed and offers the following comments on the Fish and Wildlife Service's 11 February 2004 *Federal Register* notice proposing to list the southwest Alaska population of northern sea otters (*Enhydra lutris kenyoni*) as threatened under the Endangered Species Act. The *Federal Register* notice provides an excellent, thorough review of available information on the status of sea otters in the Aleutian Islands and western Gulf of Alaska. As discussed below, the Marine Mammal Commission fully supports the proposed action and recommends that the Service proceed with the listing. The Marine Mammal Commission also recommends that the Service move expeditiously to establish a recovery team, begin work on developing a recovery plan, and evaluate options for designating critical habitat.

Distinct Vertebrate Population Segment (pages 6613–6615)

Based on information on their distribution, population trends, genetics, and morphological differences, the Service has concluded that sea otters between the western end of the Aleutian Islands and Cook Inlet, including the Kodiak Island area, comprise a distinct population segment (i.e., the southwest Alaska sea otter population) as defined by the Endangered Species Act and in accord with Service policy. The Marine Mammal Commission believes that, based on the best available science, it is reasonable and appropriate to deal with this group of otters as a separate population for listing purposes. However, we note that additional studies should be done to confirm or better define the eastern and western boundaries of this population, as well as to examine genetic characteristics of animals within this population segment. The western boundary, located at the U.S.-Russia border, is considered the boundary between two sea otter subspecies. However, it is not clear if specific genetic comparisons have been done between animals in the Near Islands and those in the Commander Islands. Such comparisons should be done to determine the degree of relatedness between the westernmost animals in the western Alaska population and those in easternmost Russia. Similarly, at the eastern boundary, comparisons should be made between otters in western Cook Inlet and Kodiak, considered to be in the southwest Alaska stock, and animals from eastern Cook Inlet and the Kenai Peninsula, which are considered part of the south-central Alaska stock.

**PHONE: (301) 504-0087  
FAX: (301) 504-0099**

Also, as described in the *Federal Register* notice and discussed below, the degree of population decline varies considerably in different parts of southwestern Alaska. This suggests that otters in some areas are being affected by different factors or to different degrees and that dispersal rates are relatively low between some parts of the population's overall range. A thorough knowledge of the population's genetic structure would be very useful for both understanding the population decline and designing recovery strategies. Therefore, the Marine Mammal Commission recommends that the Service provide support for further studies of sea otter genetics and stock structure within the range of the southwest Alaska sea otter population as it is now defined.

#### Summary of Factors Affecting the Species (Pages 6615–6617)

The *Federal Register* notice provides a useful review of what is known about factors that may be affecting the southwest Alaska sea otter population. Unfortunately, with the exception of some sites in the Aleutian Islands, there have been few detailed biological studies of sea otters in this area. Therefore, information for evaluating possible causes of the population decline is limited. Nonetheless, the notice concludes that the weight of evidence suggests that predation by killer whales may have been the most likely cause, at least in the Aleutian Islands, and that other natural or manmade factors were likely of minor importance.

Although these conclusions may be correct, the Service should continue to evaluate all potential factors adversely affecting sea otter population trends in this area and, where possible, take steps to mitigate anthropogenic impacts. For example, although a take of fewer than 100 otters by Alaska Native subsistence hunters may have little impact on the southwest Alaska population as a whole, given the severe depletion of otters in certain regions, harvests at any level might increase the likelihood of local extirpations. The Marine Mammal Commission therefore recommends that the Service work with the Alaska Sea Otter and Steller Sea Lion Commission through its co-management process to ensure that subsistence harvests can continue in ways that do not result in additional risk to local populations. Also, while available data may indicate that few otters are taken incidentally in commercial fisheries, it is unclear how thorough observer coverage has been for all the fisheries that operate within the range of the southwest Alaska sea otter population. Sea otters become entangled and die in a variety of types of fishing gear, including both nets and pots. Numerous major fisheries that use these types of gear operate in southwestern Alaska and the Aleutian Islands. The Marine Mammal Commission recommends that the Service consult with the National Marine Fisheries Service to (1) evaluate the adequacy of existing observer programs for estimating the number of sea otters being taken incidentally in commercial fisheries in southwestern Alaska and (2) design and implement such additional studies as may be necessary to adequately estimate that incidental take.

#### Conclusion of Status Evaluation (Pages 6617–6618)

The *Federal Register* notice indicates that, based on a comparison of southwest Alaska sea otter abundance estimates developed in 1976 and the results of surveys conducted between 2000 and 2002, the southwest Alaska sea otter population has declined by at least 56–68 percent overall and currently numbers about 41,000 animals. Survey data show that sea otter abundance has declined throughout the region from the western Aleutian Islands to Castle Cape and that the declines in some areas far exceed the average decline. In the Aleutian Islands, for example, the

abundance estimate for 2000 was 84–88 percent lower than for the 1970s. Data recently released by the Service from skiff counts at selected locations in the Aleutian Islands in 2003 show an additional decline of 63 percent in just the last three years. Combining these figures suggests that otter abundance in the Aleutians may be only 4–6 percent of levels prior to the decline. In contrast, sea otter numbers between Castle Cape and Kamishak Bay have been stable or perhaps increasing.

The Endangered Species Act defines an endangered species or population as one in danger of extinction throughout all or a significant portion of its range; a threatened species is one that is likely to become endangered within the foreseeable future. In its *Federal Register* notice, the Service concludes that, while the southwest Alaska population does not currently meet the definition of endangered, it would likely do so within the next 20 years if recent rates of decline continue. Accordingly the Service concludes that the southwest Alaska sea otter population satisfies the Act's definition of a "threatened species," and it proposes to list them as such on the List of Endangered and Threatened Wildlife. The Marine Mammal Commission concurs with these conclusions and recommends that the Service proceed with the proposed listing action. However, we note that certain regions, such as the Aleutian Islands and parts of the southern side of the Alaska Peninsula, have already shown declines in abundance of more than 90 percent. If they were considered as separate distinct population segments, they might presently qualify for listing as endangered. This adds further support for the need for the additional studies discussed above to verify that sea otters in the region from the western Aleutians to Cook Inlet comprise a single distinct population segment.

#### Critical Habitat (Page 6618)

The Endangered Species Act requires that the Service identify critical habitat at the time a species or population is listed unless doing so could threaten the species or if information on its biological needs is not sufficient to identify such areas. The notice states that Service has determined that information is not sufficient to designate critical habitat at this time. It also notes, however, that the Service plans to consider whether to propose such a designation after the listing action is completed. The Marine Mammal Commission concurs with this approach.

As a related matter, the *Federal Register* notice states that some scientists have hypothesized that the sea otter decline in southwestern Alaska may have been caused by killer whale predation and that an observation of markedly lower sea otter mortality rates in a sheltered lagoon where killer whales cannot go provides partial support for this hypothesis. If specific habitats in southwestern Alaska, such as shallow coves, and lagoons, are important for avoiding predation by killer whales or for some other reasons, it may be reasonable to conclude that such areas are essential for persistence and eventual recovery of the population. Special management actions also may be needed to assure that human activities do not disturb or otherwise interfere with sea otters using those areas. Thus, designation of such areas as critical habitat may be warranted. To further examine this possibility, the Marine Mammal Commission recommends that the Service review available data and support further field work to determine if certain protected near-shore waters merit designation as critical habitat.

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Available Conservation Actions (Pages 6618–6619)

This portion of the *Federal Register* notice provides a helpful review of conservation actions that may be authorized under the Endangered Species Act for listed species. In part, it notes that section 7 of the Act requires federal agencies to consult with the Service on any action they plan to undertake that might jeopardize the continued existence of a listed species or result in the destruction or adverse modification of its critical habitat. The notice identifies various actions by federal agencies other than the Fish and Wildlife Service that might require such a review. The list of actions, however, does not include actions that the Service itself might undertake that also could be subject to such a review. Such actions might include research or management actions in National Wildlife Refuges that are part of the southwest Alaska sea otter population's range and support for certain marine mammal co-management activities with Alaska Native organizations. Presumably the Service intends to consider the need for section 7 reviews of such actions as warranted.

This section of the notice also notes that the listing would lead to the development of a recovery plan to help bring together federal, state, local, and private efforts in support of the population's conservation. For other listed marine mammals, the preparation of recovery plans has been an integral step for encouraging and organizing actions by agencies and groups in support of related conservation efforts. Accordingly, the Marine Mammal Commission recommends that the Service take steps to develop such a plan for the southwest Alaska sea otter population as soon as it is listed. As part of that plan, the Marine Mammal Commission recommends that objective, measurable criteria be developed for both removing the population from the list of threatened species and reclassifying the population as endangered, should that be warranted.

The Act also authorizes the establishment of a recovery team composed of representatives of concerned agencies and groups and qualified individuals to provide advice on recovery actions and priorities. In many cases, such teams have assisted in drafting recovery plans. Such teams provide a valuable opportunity and mechanism for designing and implementing recovery work, and the Marine Mammal Commission recommends that upon listing the southwest Alaska sea otter population as threatened, the Service establish a recovery team for this population including representatives of Native organizations, federal and state agencies, environmental groups, and others. Representatives of the Commission have participated on several recovery teams, and we would be pleased to participate on such a team for southwest Alaska sea otters.

I hope these comments are helpful. If you or your staff have questions, please call.

Sincerely,

A handwritten signature in black ink that reads "David Cottingham". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

David Cottingham  
Executive Director