



MARINE MAMMAL COMMISSION

17 April 2018

State Supervisor
Washington Fish and Wildlife Office
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Lacey, WA 98503

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Dear Supervisor:

In response to the Fish and Wildlife Service's (FWS) 17 January 2018 *Federal Register* notice (83 Fed. Reg. 2461), the Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the draft stock assessment report (SAR) for the northern sea otter in Washington State. We offer the following recommendations and comments.

Timing of review and revision of the stock assessment report

Because the Washington sea otter population is not considered a strategic stock, section 117(c) of the Marine Mammal Protection Act (MMPA) requires that the SAR be reviewed at least annually only if significant new information becomes available. Otherwise, the SAR must be reviewed at least once every three years. However, as indicated in the *Federal Register* notice, four years transpired between the previous review (2011) and the 2014 review that forms the basis for the revised SAR made available for public review in January 2018. Apparently, it has taken FWS four years since its 2014 review to update the draft SAR and release it for public comment. This timeline far exceeds the statutory requirements and the Commission urges FWS to take all necessary steps to improve the timeliness of its review and revision of the SAR for the Washington stock of sea otters and those for other species under its jurisdiction.

Given the rapid increase in the Washington sea otter population (9 percent annually on average since 1989, Jeffries *et al.* 2016) to a level now approaching one unpublished estimate of carrying capacity (1,854 sea otters (95 percent CI 1,499-2,208), Laidre *et al.* 2011), and the availability of annual count data, the Commission believes more frequent reviews are warranted and recommends that FWS conduct annual reviews of this SAR. The Commission further recommends that FWS make additional efforts to assess the status of this stock relative to its Optimum Sustainable Population (OSP) level. In addition, the Commission recommends that the annual reviews and OSP analysis be reviewed by, and incorporate input from, the Pacific Scientific Review Group before revised SARs are made available for public review and comment, as required by section 117(b)(3) of the MMPA.

Total abundance estimate

As this stock continues to grow and approaches its estimated carrying capacity, the need for a total abundance estimate that includes the associated uncertainty increases. The adjusted minimum count currently included in the SAR is sufficient for estimating N_{min} and calculating the stock's potential biological removal level, but is not appropriate for making comparisons with carrying capacity or for use in an OSP analysis. For the Alaska sea otter stocks, various correction factors (ranging from 2 to 3.6) are estimated and applied to counts to derive adjusted population estimates. If a similar correction factor also were applied to the WA stock, there would be more otters than indicated by the current SAR. The Commission therefore recommends that FWS develop methods for estimating total abundance of sea otters and associated uncertainty to inform an OSP analysis and so that more accurate comparisons with carrying capacity estimates can be made.

Tribal fishery and commercial fishery interactions and observers

The Commission found some of the discussion of fisheries information in the draft SAR to be confusing. That section states that sea otters are susceptible to drowning in gillnets and notes that they have been reported as taken in the Makah Northern Washington Marine Set-gillnet Fishery. The discussion also indicates that there is no observer coverage of this fishery, but that Makah regulations require reporting of takes of marine mammals. It is unclear exactly to what fishery the SAR is referring, and whether it is considered a tribal fishery or a commercial fishery, or both. The most recent [List of Fisheries](#) published by the National Marine Fisheries Service does not include any Washington State set-gillnet fishery or include any documented take of sea otters in any Washington State fishery. This suggests that this is not considered a commercial fishery. On the other hand, the SAR discusses available information about takes of sea otters in "other commercial fisheries," suggesting that the Makah fishery is in fact a commercial fishery. The Commission recommends that the discussion of fisheries information be revised to indicate more precisely the nature of the Makah fishery, including the target species, where it is active, and whether it is a commercial fishery. If it is a commercial fishery, it presumably is subject to the reporting requirements of MMPA section 118(e) as well as those applicable under tribal regulations.

The discussion of fisheries information concludes that, because there is no observer program for gillnet, purse seine, or pot fisheries, the SAR cannot provide "a reasonable, science-based estimate of the annual rate of mortality and serious injury...for these fisheries." This situation has remained unchanged from when we commented on a previous version of the Washington sea otter SAR in 2008. At that time, the Commission wrote—


The draft report concludes that available information is not adequate for making a reliable assessment of incidental take levels or risks for this population. Experience in California and other areas clearly indicates that incidental taking in gillnets and traps can pose a significant conservation issue for small sea otter populations, such as the one in Washington, and that proper management to address those threats will require reliable information on incidental take levels in the state's trap and gillnet fisheries. As noted in this section, the likelihood of incidental taking in fisheries will increase as this population grows and its range expands. Therefore, the Marine Mammal Commission recommends that the Fish and Wildlife Service consult with

the National Marine Fisheries Service, tribal authorities, and other relevant groups to arrange for the placement of observers aboard trap and gillnet fishing vessels that may pose a significant risk of incidentally taking sea otters within their range in Washington State.

It is unfortunate that, ten years later, we are still in the same position. If, as noted in the discussion on page 5 of the draft SAR, the risk of entrapment of sea otters in crab pots potentially is increasing as the range of this stock expands into areas south of La Push (where fishing effort is greater), the need for reliable information on fisheries take may be more important than before. Therefore, the Marine Mammal Commission reiterates its recommendation from 2008 that the Fish and Wildlife Service consult with the National Marine Fisheries Service, tribal authorities, and other relevant groups to arrange for the placement of observers aboard trap and gillnet fishing vessels that may pose a significant risk of incidentally taking sea otters within their range in Washington State.

The Commission appreciates the opportunity to provide comments and recommendations on the draft SAR for the northern sea otter in Washington State. Please contact me if you have any questions regarding the Commission's rationale and/or recommendations.

Sincerely,



Peter O. Thomas, Ph.D.,
Executive Director

cc: Deanna Lynch, Fish and Wildlife Biologist, U. S. Fish and Wildlife Service
Diane Bowen, National Marine Mammal Coordinator, U. S. Fish and Wildlife Service
Tim Ragen, Acting Chair, Pacific Scientific Review Group

References

- Jeffries, S., D. Lynch, and S. Thomas. 2016. Results of the 2016 Survey of the Reintroduced Sea Otter Population in Washington State. Unpublished Report. 9pp. Copies may be obtained from the Washington Department of Fish and Wildlife or U.S. Fish and Wildlife Service's Washington Fish and Wildlife Office.
- Laidre, K., R.J. Jameson, S.J. Jeffries, and E. Gurarie. 2011. Updated estimates of carrying capacity for sea otters in Washington state. Unpublished final contract report, December 31, 2011, 12 pp. + appendix.