



**Statement of Michelle Bender
on behalf of Friends of the Sea Otter**

Marine Mammal Commission

Annual Meeting

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Good afternoon, my name is Michelle Bender speaking on behalf of the Friends of the Sea Otter (FSO). Thank you for the opportunity to speak to you today.

Founded in 1968, FSO is an advocacy group dedicated to protecting and conserving sea otter populations and their habitat. Celebrating its 50th anniversary of sea otter conservation activities, FSO is pleased to see the progress that has been made in recovery for some sea otter populations, but we remain greatly concerned by the threats that remain.

We thank the Marine Mammal Commission for its long track record of guiding sea otter conservation and look forward to continuing to work with you to achieve full species recovery and to bring about the health and stability of the marine ecosystems of which sea otters are a part.

Our statement focuses on the threats and long-term conservation issues for the Southern Sea Otter population in California and the Northern Sea Otter populations in Washington and Alaska.

California Sea Otters

The southern sea otter population in California was listed as "threatened" under the ESA in 1977 because of "its small size and limited distribution." As set forth in the 2003 Recovery Plan, should the population exceed an average size of 3,090 animals over a consecutive three-year period, the southern sea otter can then be re-evaluated and

considered for delisting. The 2017 Stock Assessment report estimated a minimum population in 2015 at 3,054 animals and in 2016 at 3,272. However, the 2017 annual count showed an unprecedented decline of 25% from 2016. FSO fully understands the importance of the three-year average population size, but the magnitude of the decline reported in the 2017 annual count is a matter of considerable concern. While the size of the population has increased as reported in the three-year average, that growth has not been as expected. Particularly, the population has only reclaimed approximately 13 percent of its historic range, and the southern and northern portions of their range have been experiencing a declining trend most likely due to increased shark bite mortality.

FSO provided comments to the U.S. Fish and Wildlife Service (FWS) last year encouraging the Service to revise the Stock Assessment Report (SAR) to confirm that population growth alone is not a sufficient basis for delisting in the absence of range expansion and the reduction of the other threats that served as the basis for listing in 1977. However, the response given insisted the SAR is not the appropriate document in which to discuss threats to the species in comprehensive detail or to make recommendations regarding delisting.

Therefore, we recommend no action on delisting should be taken in advance of the next five-year review, which would occur in 2020, regardless of the population size reflected in the three-year average. We also request that the review fully cover the threats impeding the recovery of the species and delisting criteria, including full consideration of the need to revise the Recovery Plan. Simply put, although important progress has been made in the recovery of the southern sea otter over the 50 years of FSO's existence, 46 years of protection under the MMPA, and 41 years of protection under the ESA, recovery is not yet assured and much work still needs to be done.

Washington Sea Otters

The Washington sea otter population is not designated as "depleted" under the MMPA nor listed as "threatened" or "endangered" under the ESA. It is listed as "State endangered" due to small population size, restricted distribution, and vulnerability.

Based on the 2016 survey, the minimum population estimate of the Washington sea otter population is 1,806 individuals. Under the Washington State Recovery Plan, the population will be considered for downlisting to State Threatened status when the average population level over a three-year period equals or exceeds 1,640 sea otters and when the population is distributed such that a single catastrophic event, such as a major oil spill, would be unlikely to cause severe decline of the population.

While Washington's sea otter population has exhibited consistent growth, there are potential issues that could severely threaten their presence in Washington. The biggest issue for Washington sea otters is the threat of an oil spill, which would impact 70 to 90% of the population. Downlisting should only be a possibility if its range is further distributed, the likelihood of an oil spill or disease epidemic is decreased and climate change impacts are accounted for.

Consideration also should be given to the need for added federal protection, possibly as depleted under the MMPA. For this purpose, a comprehensive review should be taken by FWS, working with the Washington Department of Fish and Wildlife, to determine the carrying capacity of sea otter habitat in Washington State and the population's maximum net productivity level against which the current population size can be evaluated. As noted in the January 2018 Draft FWS Washington Stock report, the current carrying capacity estimate used for this population "may not be a good representation of current habitat capabilities in Washington." This fact, plus the fact that the overall rate at which the population is increasing (9 percent per year) suggests carrying capacity has been achieved, calls into question the conclusion that sea otters in Washington are above the lower bound of OSP. Clearly, a reliable estimate of carrying capacity is needed, and depleted status under the MMPA may be appropriate.

Alaska Sea Otters

There are three stocks of sea otters in Alaska. The Southwest stock is listed as threatened under the ESA and is subject to a recovery plan issued in 2013. As noted in the Plan, the objectives of recovery are not only to achieve a demographically viable population, but also to achieve an ecologically effective sea otter population density due to its role as a keystone species and the wholesale shift that has occurred in the Southwest Alaska Aleutian archipelago from kelp forests to deforested sea urchin barrens as a result of the sea otter population decline. Unfortunately, not much progress has been made in achieving the objectives of the Plan, and in fact no monitoring survey has even been conducted since 2014-2015.

The Southcentral sea otter population has grown and achieved some stability but remains subject to threats from oil and gas exploration, development, and transport, incidental take in fisheries, and climate change. As is the case for all sea otter populations, take by Alaska Natives for subsistence and handicraft purposes must be properly monitored and limited to the uses authorized by the MMPA.

Our strongest concern is for the Southeast Alaska population. Ironically, FSO's concerns are largely associated with the success of the MMPA in bringing about the growth of this population, as the law intends and requires. Following the fur trade, there were no remnant colonies of sea otters in Southeast Alaska. Translocations from the Southwest and Southcentral populations in the 1960s, however, re-established sea otters in Southeast Alaska, and the population has grown to about 27,000. Again, no reliable estimates exist for carrying capacity in Southeast Alaska, but considering the abundance of excellent habitat over a large area, this population size could nonetheless qualify as depleted for being under the lower bound of OSP.

FSO's greatest concern for this population are political efforts to manufacture inappropriate forms of take authorization for the purpose of managing population growth in areas where sea otters come into conflict with shellfish fisheries. For example, in 2013 FWS attempted to define what constitutes legally authorized take of sea otters by Alaska Natives for handicraft purposes for the apparent purpose of increasing the number of sea otters killed in areas of shellfish fishery conflicts. In effect, FWS sought to create an improper and unlawful mechanism for achieving "predator control" under the MMPA Alaska Native take exemption. Fortunately, FSO and other conservation and animal welfare organizations were able to prevent the worst changes to the definition of what constitutes a legitimate handicraft article from being made by FWS. We remain concerned, however, that Alaska Native take is not being properly monitored or enforced.

The complaints about sea otter predation on shellfish also ignore the fact that the shellfish stocks in the affected areas reached their levels of high abundance and commercial exploitation as a result of the eradication of sea otters during the fur trade. A naturally occurring and healthy nearshore ecosystem, where sea otters are present and play their keystone species role, would not sustain the shellfish levels that fishery interests now complain they are being deprived of.

The most recent attempt to achieve an end-run around MMPA requirements is Alaska State Senate Joint Resolution 13. This Resolution calls for a variety of measures to control sea otter population growth, most of which would violate the MMPA. The Resolution fails to consider nonlethal methods of deterrence that might be appropriate in some circumstances, and most importantly gives no recognition to the vitally important ecological and, therefore economic, role that sea otters play in marine ecosystem health, including for habitat for commercially valuable fish stocks. Senate Resolution 13 is premised on an incomplete analysis of costs and benefits, and it would fundamentally undermine the key principles of the MMPA to call for protection of

marine mammals under a conservative approach to management that makes economic interests secondary. Senate Resolution 13 is the wrong place to start for sea otter conservation and for resolving sea otter-shellfish fishery conflicts, and it should be opposed.

Federal Funding

As a final general issue, FSO notes its strong concern over the proposals by the Trump Administration to defund the Marine Mammal Commission, reduce funding to FWS and USGS, and to weaken the ESA through administrative actions. These actions have already been felt in the sea otter conservation program, where the USGS capability for the Southern Sea Otter has been greatly reduced. The importance of a strong science-based sea otter program is essential not only for the recovery of this species, but also for the entire marine ecosystem of central California and its economy. There is even some evidence now that the kelp forest ecosystems from southern Monterey Bay to the northern Big Sur coastline are shifting in some areas to the urchin-dominated deforested state. If true, this pattern of change is similar to what happened in Southwest Alaska with the collapse of sea otter populations in the 1990s.

The bottom line is that sea otter conservation efforts under the MMPA and the ESA are, for the most part, working. And the benefits of their success have gone well beyond the trend toward population recovery in some locations to also include associated and derivative benefits for the marine ecosystem and the economy. FSO has been privileged to play a role in this continuing success story, and we are grateful for the opportunity to work with the Commission toward this end for many decades. We urge the Commission to apply its expertise, and to undertake advisory and oversight actions, to address the issues and recommendations set forth in this statement. We, in turn, will continue to join with the bipartisan, cross-sector, and ever-growing list of supporters for the Commission to ensure it survives the politics of the short-sighted budget slashing of the current Administration and its attack on the agencies that implement the nation's important environmental laws, including the MMPA.

Thank you for considering these comments, and please contact FSO if you have any questions about our statement.



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