

MARINE MAMMAL COMMISSION  
4340 East-West Highway, Room 700  
Bethesda, MD 20814-4447

26 August 2008

Ms. Diane Noda  
Field Supervisor  
U.S. Fish and Wildlife Service  
2493 Portola Road, Suite B  
Ventura, CA 93003

Dear Ms. Noda:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the draft revised stock assessment report for the southern sea otter (73 Fed. Reg. 32732) and offers the following recommendations and comments.

## RECOMMENDATIONS

The Marine Mammal Commission recommends that the Fish and Wildlife Service further revise the draft southern sea otter stock assessment report by—

- replacing the current minimum population size estimate of 3,026 southern sea otters with an estimate based on the 20th percentile of the log-normal distribution of the average count for the 2006 to 2008 surveys, and
- recalculating the stock's potential biological removal (PBR) level using the revised minimum population size estimate.

The Marine Mammal Commission also recommends that the Fish and Wildlife Service arrange for observer coverage of trap fisheries for lobster, crab, and fish in waters occupied by sea otters south of Point Conception.

## COMMENTS

Page 1, Stock Definition and Geographic Range, Paragraph 1: This paragraph notes that most southern sea otters occur along the mainland coast of central California and that a small colony also occurs at San Nicolas Island as a result of a translocation effort that began in 1987. Later in the assessment, the San Nicolas colony is referred to as an “experimental population,” a term presumably indicating its status under the Endangered Species Act. Neither the meaning nor the derivation of the term is explained in the draft stock assessment. To place that term in context, either this paragraph or the paragraph under the heading “stock status” should be expanded to note that the San Nicolas Island colony is considered to be a “non-essential experimental population” under the Endangered Species Act because it was established during a translocation experiment. The assessment also should state whether this population was included in the estimation of population parameters used to characterize the stock's status, including its population size, reproduction rate, and determination of its PBR level.

Page 2, Minimum Population Size: This section states that the southern sea otter's minimum population size is 3,026 otters based on a count made in the spring of 2007. Using an actual count of animals may be appropriate for estimating minimum population size when stock assessments are updated regularly to ensure that monitored changes in population abundance are factored into recalculations of PBR levels on a timely basis. However, because the Service has not routinely updated stock assessments for marine mammals under its jurisdiction and has not updated this assessment in more than ten years, we do not believe this method of identifying a minimum population size estimate is appropriate. Moreover, we note that in 2008 the count of southern sea otters fell to 2,760 otters. If that count reflects the beginning of a downward trend and this assessment is not updated in the next few years, the minimum population estimate used in this draft stock assessment could soon be significantly higher than the true population size. As pointed out later in the draft assessment, the Service's Final Revised Recovery Plan for the Southern Sea Otter uses a three-year running average to dampen effects of anomalous counts in any given year and thereby provide a better measure of actual population size. As indicated in the plan, the three-year running average is a better benchmark for changing a listing status because of potential errors in individual population counts due to various factors such as observer bias, counting conditions, and changes in sea otter distribution and movement. Although not specifically noted in the assessment, the three-year running average was 2,818 otters for the 2005–2007 surveys and 2,826 otters for the 2006–2008 surveys. Both averages are about 7 percent lower than the 2007 count of 3,026.

Considering the uncertainty in sea otter counts (which includes both measurement error and actual annual variability), the decline in the 2008 sea otter count, the absence of routine updates of this stock assessment, the Service's adopted approach of using a three-year running average as a population benchmark, and the need for a precautionary approach in choosing appropriate population size data for species listed under the Endangered Species Act, we believe the use of a single high count is not the best way to estimate minimum population size. Rather, the Marine Mammal Commission recommends that the Service replace the current minimum population size estimate of 3,026 southern sea otters with an estimate based on the 20th percentile of the log-normal distribution of the average count for the 2006 to 2008 surveys. This approach for estimating minimum population size is consistent with recommendations set forth in the guidelines adopted by the Service for preparing stock assessments.

Page 2, Current and Maximum Net Productivity Rates: This section includes a graph showing population counts for the mainland population from 1983 through 2007. It also notes that, from 2001 through 2007, the annual population growth rate has been about 5 percent. As noted above, data are now available through the spring of 2008. This section should be updated to include the 2008 count.

Page 3, Potential Biological Removal Level: This section calculates a PBR level of nine animals based on a minimum population size estimate of 3,026 otters (i.e., the 2007 survey count) and a maximum net productivity rate of 6 percent per year (i.e., the average annual growth rate between 1983 and 1995). As noted above, the three-year (2006–2008) running average provides a more appropriate minimum population size estimate. If the 2008 three-year average count (2,826 otters) is used as the

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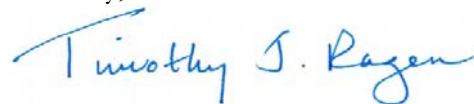
minimum population size estimate, the population's PBR level would be eight otters per year or perhaps fewer, rather than nine. The Marine Mammal Commission recommends that the Service recalculate the PBR level using the revised minimum population size estimate as a precautionary approach consistent with intent of the Marine Mammal Protection Act and the purpose of the calculating PBR level.

Page 7, Status of Stock: As noted above, this may be an appropriate place to clarify the status of the San Nicolas Island colony as a "non-essential experimental population." It may also be an appropriate place to describe the extent to which sea otter numbers at San Nicolas were used in analyses in this stock assessment.

The section also states that "because of the lack of observer data for several fisheries that may interact with otters, it is not possible to determine whether the total fishery mortality and serious injury for sea otters is insignificant and approaching zero." Earlier sections of the stock assessment report note that sea otter exclusion rings are required on fish traps between Point Montera at the north end of the current sea otter range and Point Arguello at the south end, but that no rings are required on traps set for lobster or crab anywhere in the state or on fish traps south of Point Conception. The report also indicates that none of these fisheries has been observed since at least 2002. We believe that trap fisheries, particularly those at the southern end of the sea otter range (i.e., south of Point Conception), should be monitored for incidental take of otters because (a) the range of sea otters has expanded to south of Point Conception where trap fishing for lobster, crab, and fish is more intense; (b) fishermen are not required to use sea otter exclusion rings in that area; (c) past evidence indicates some incidental take of sea otters in those fisheries; and (d) the population has a small PBR level, which could be exceeded by low levels of take. For these reasons, the Marine Mammal Commission recommends that the Fish and Wildlife Service arrange for observer coverage of trap fisheries for lobster, crab, and fish in waters occupied by sea otters south of Point Conception.

I hope these comments and recommendations will be helpful. Please contact me if you or your staff has any questions.

Sincerely,



Timothy J. Ragen, Ph.D.  
Executive Director