



United States Department of the Interior

FISH AND WILDLIFE SERVICE WASHINGTON, D.C. 20240

In Reply Refer To: FWS/OES MM

DEC 9 1980

Mr. E.C. Fullerton
Director, California Department
of Fish and Game
1416 Ninth Street
Sacramento, California 95814

Dear Mr. Fullerton:

This replies to your letter of September 22, 1980. We appreciate your agency's participation in constructing, reviewing and developing the Sea Otter Recovery Plan, and your concern for the sea otter and its present status, particularly with regard to oilspill risks. Also, I would like to extend our gratitude to members of your staff for their constructive participation in the October 8-10 ad hoc meeting with Service representatives. At this meeting, sea otter recovery efforts were discussed and comments on the First Technical Review Draft were reworked into the Sea Otter Recovery Plan.

Specific concerns presented in your September 22 letter will be discussed in the Second Technical Review Draft of the Recovery Plan. The purpose of the Technical Review Draft of the Recovery Plan is to gather the available data and recommend actions that should be taken to insure the protection and restoration of the California sea otter population. Information on oilspill risks as well as other risks to the sea otter will be included in the Recovery Plan. available information will be considered when selecting alternatives for recovery actions. We feel confident that this data can be assembled through a cooperative effort between the State and the Service and progress in recommending projects and taking actions can proceed. Although the Service recognizes the value of identifying oilspill risks, we do not believe that progress of the recovery program need wait until such information is obtained. There are many projects relating to the biology and ecology of the sea otter that can proceed without knowing the degree of oilspill risk. The Service is implementing procedures by which recovery plans will receive periodic review and update. This will also facilitate monitoring of recovery implementation. As oil spill risks are identified and quantified, they will be incorporated into the Recovery Plan and appropriate tasks can be included for implementation through the updating process.

We agree that the precise threat from oilspills has never been identified for the Pacific Coast. We do not believe a precise measurement can be made; however, in order to proceed responsibly toward delisting the California sea otter population and complying with the Marine Mammal Protection Act of 1972, potential risks from oilspills must be identified for the present sea otter range in California and the rest of their historical range. To make sound management decisions regarding the sea otter, oilspill risks should be examined closely



including the identification of risks per continuous but distinct units of coastline, by the source of the spill, by quantum volumes of oil spilled, by seasonal differences in risk potential, and other relevant factors. A thorough examination of this sort will be costly. At present no funds have been allocated for this task. The Service is exploring sources for funding this project.

A major goal of the Recovery Plan is to return the California population of sea otters to a non-threatened status. This is achieved by the Secretary's determination that the population is secure and no longer threatened because of any of the following factors (pursuant to Section 4(a) of the Endangered Species Act of 1973):

- 1. The present or threatened destruction, modification, or curtailment of its habitat or range;
- Over-utilization for commercial, sporting, scientific, or educational purposes;
- 3. Disease or predation;
- 4. The inadequacy of existing regulatory mechanisms; or
- 5. Other natural man-made factors affecting its continued existence.

The Federal Register identified the existing threats within each of the above five categories. Jeopardizing threats to the sea otter's habitat (Item 1) were identified to be oilspills, and possibly pollution and competition with man. Over-utilization (Item 2), disease or predation (Item 3), and existing regulatory mechanisms (Item 4) were not identified as a problem. With regard to Item 5 (other factors), a major oilspill was identified as probably the most serious potential threat to the species.

The Secretary's decision to proceed with the delisting process must be based on substantial evidence which, in his judgement, eliminates any jeopardizing threats identified in the Federal Register notice of listing (42 FR 2966-2968), January 14, 1977) or any additional threats that have been identified since that time. One reason for developing the Recovery Plan is to aid the Secretary in making his decision.

Hence, the sea otter can be delisted once the population is restored so that an oilspill or other adverse impacts cannot reduce the population to a Threatened or Endangered status. The Service believes that the best method to expedite the restoration of the sea otter population is by translocating California sea ofters into an area with the greatest potential for success. Conditions that may pose a threat to that population or engender resource conflicts will be considered. Once this translocated population becomes established and is found to be reproducing and increasing and is secure from jeopardizing impacts, procedures can be taken to delist the California sea otter population.

The ad hoc group recognized that the sea otter was listed as Threatened based primarily on the threat of oilspills. Furthermore, the group noted that oil development along the coast was rapidly increasing while the sea otter population size and range was only marginally increasing. Considering these points and the Service's recovery plan guidelines (i.e. to identify the most practical and efficient means to secure and recover the population), there was a concensus among the group that a translocation would have the greatest potential for quickly restoring the sea otter to non-threatened status. We would like to receive comments from your Office that you agree with the group that the most practical method to restore the Threatened sea otter population in the shortest time is via a translocation. The Service agrees with the group on this issue. I would prefer we were in agreement on the issue prior to the releasing of the Recovery Plan.

We recognize the increasing threats from oil development to sea otters and the problems this creates. I encourage the cooperative effort between our two agencies in insuring that the recovery of the sea otter is achieved in a sound and responsible manner. If you have any further questions regarding the sea otter recovery plan, feel free to contact either William Sweeney (916/484-4664) or Carl Benz (916/440-2791) of our Sacramento Area Office.

Sincerely yours,

/s/ Harold J. O'Connor (Acting)

Director