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HOUSE COMMITTEE ON NATURAL RESOURCES

STATEMENT OF

MR. DONALD SCHREGARDUS
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ENVIRONMENT)

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Chairman Fleming , and members of the Committee, I am pleased to appear before you today to tell you about the Navy's efforts to help conserve the Southern Sea Otter in Southern California and the operational interests Representative Gallegly's proposed legislation would continue to protect.

The Navy has a long and distinguished history of species conservation on its installations. As a result of our robust environmental stewardship, the threatened and endangered species on and around our bases are thriving. The Southern Sea Otter is no exception. When the U.S. Fish & Wildlife Service (USFWS) transplanted 140 otters to San Nicolas Island, most initially dispersed. The colony had 17 otters in 1990, and 12 in 1993. Since that time, however, otter numbers have continued to increase to approximately 50 individuals. Prey resources around the island are abundant and the otters at the site are healthy and reproducing. The population remains small but it is growing, which is a positive sign.

The Southern California Bight is part of the Southern Sea Otter's historic range. Sea Otters were reintroduced at San Nicolas Island by the USFWS in the 1980's. Prior to the introduction program, the USFWS approached the Navy on a project to translocate otters to the island because of the otter's small population size on the mainland, its greatly reduced range, and the potential risk from oil spills. The goal of the translocation was to establish an independent colony of sea otters sufficiently removed from the parent population to serve as a safeguard for the population as a whole in the event of a natural or manmade catastrophe, such as an oil spill. Congress authorized the program in 1986 in Public Law 99-625 (Nov. 7, 1986, 100 Stat. 3500).

The law allows the Director of the USFWS to develop a plan for the relocation and management of a population of California Sea otters from the existing range of the parent population to another location. It also specified creation of a translocation zone, into which the experimental population of otters would be placed, and a management zone surrounding the translocation zone. One of the purposes of the management zone is to contain the experimental population within the translocation zone. The law gives the transplanted population a special status under the Endangered Species Act (ESA), such that Navy is not normally required to conduct ESA consultation with USFWS regarding the effects of Navy actions on the San Nicolas Island otters and their

offspring. It also specifies that any incidental taking of the experimental population within the management zone will not be treated as a violation of the ESA or Marine Mammal Protection Act (MMPA).

The USFWS promulgated governing regulations for the program on August 11, 1987 (52 FR 29754) per Section (b) of P.L. 99-625, and administered the plan between August 1987 and March 1990. In implementing regulations, the USFWS designated a translocation zone around San Nicolas Island and a management zone throughout the entire Southern California Bight, which encompasses the waters surrounding San Clemente Island and Camp Pendleton. The regulations specify that if the translocation fails to “produce a viable, contained experimental population,” the regulations would be amended to terminate the experimental population and all otters remaining within the translocation zone will “be captured and all healthy otters will be placed back into the range of the parent population.”

The program resulted in a healthy but much smaller-than-projected population of Southern Sea Otters at the translocation site around San Nicolas Island. As noted above, the population is reproducing and growing. Nonetheless, a 2000 USFWS Biological Opinion determined, in light of new information and circumstances, including the movement of large numbers of sea otters from the mainland range into the management zone, that continuing the containment portion of the program and restricting Southern Sea Otters to the area north of Point Conception would jeopardize the continued existence of the species. Consequently, in July 2007, the USFWS initiated a supplement to the 1987 Environmental Impact Statement, identifying program termination as the preferred alternative. On 26 August 2011, the USFSW published a proposed rule in the Federal Register to terminate the Southern Sea Otter Translocation Program. As proposed in the rule, termination would include leaving relocated otters (and their offspring) at San Nicolas Island and discontinuing the translocation and management zones, altering the current ESA and MMPA scheme associated with those zones and potentially affecting Navy Range operations.

The Navy agreed to allow the USFWS to establish the experimental population of Southern Sea Otters around San Nicolas Island because of the ESA and MMPA provisions for defense-related agency action established in Public Law (P.L.) 99-625. These provisions were an essential component of the Navy’s

agreement to enter into the program because San Nicolas Island and the other Naval installations in the Southern California Bight within the management zone provide testing and training ranges of critical importance to Naval readiness and national security. Over 30,000 Research, Development, Testing and Evaluation (RDT&E) and training events occur annually at San Nicolas Island, San Clemente Island and Marine Corps Base Camp Pendleton.

San Nicolas Island is a unique and irreplaceable national asset critical for Navy Test, Evaluation, Training and Experimentation (RDT&E) activities. A cornerstone of the Point Mugu Sea Range, it provides missile launch platforms, telemetry and tracking support, weapons storage, and air support facilities. Because of its central range location, San Nicolas Island is critical to overall Sea Range operations and supports testing on all parts of the Sea Range. The island also supports an increasing number of littoral warfare activities including theatre warfare exercises involving U. S. and foreign participants.

San Clemente Island is also a critical component of the Southern California Range Complex (SOCAL) training environment, supporting the training requirements of the largest concentration of naval forces in the world. Every Pacific Aircraft Carrier Strike Group and Amphibious Ready Group conducts the intermediate and final pre-deployment certification training in SOCAL extensively using the areas around San Clemente Island. The Navy requires the flexibility to access the entire shoreline from sea or from land to conduct mission-essential activities.

The island provides a venue for many live-fire training activities that cannot be conducted in other locations. Specifically, San Clemente Island is the only location on the west coast of the U.S. that supports live naval gunfire training coordinated with amphibious landings. It is particularly critical to training of Naval Special Warfare (NSW) forces because every SEAL receives a portion of their basic training on the island. Further, San Clemente Island's proximity to other units in the San Diego area allows for vast training of a large number of military personnel to ensure mission-readiness. Without the unique assets available at San Clemente Island, this critical training could not be achieved.

Termination of the translocation program without maintaining the ESA and MMPA alternative management framework afforded in the legislation authorizing it would impact the Navy for no added benefit to the species. The threshold of what constitutes a “may affect” situation under the ESA is extremely low, requiring some level of consultation virtually every time a species and a Naval activity co-exist. MMPA take authorizations, if required, must be supported by an analysis under the National Environmental Policy Act, and, since ESA authorization is dependent on MMPA authorization, both must be renewed every five years. Such cyclical consultations demand significant portions of limited fiscal and manpower expenditures. Statutory requirements necessitate mitigation or minimization measures even where there is the mere potential for a single disturbance, regardless of the significance on the recovery of the species or on the rate of recovery of the species.

Additional requirements on San Nicolas Island potentially encumber existing missile launch capabilities. Such requirements could require reorientation of missile launches which would shift hazard patterns and potentially create hazard conflicts with the nearby Channel Islands, Marine Protected Areas, commercial shipping traffic, and other military activities on the Sea Range. Significant costs could be incurred to relocate instrumentation sites to provide safe tracking and control of missile launches utilizing modified launch azimuths. Littoral warfare testing and training, including amphibious training, could be degraded or compromised. San Nicolas is surrounded by otter habitat and otter populations are increasing faster around the island than on the mainland coast. As the otter population increases at San Nicolas Island, the potential for encumbrances and conflicts also increases.

It is unlikely that otters will disperse from San Nicolas Island to San Clemente Island in any significant numbers for many years. However, military readiness activities at nearby San Clemente Island are of such critical importance that future potential impacts to those activities if otters migrate and establish a colony there must be considered. The four primary concerns for mission degradation based on frequency and importance are: (1) Underwater Detonations; (2) Ship to Shore Bombardment; (3) Amphibious Warfare, and (4) Antisubmarine Warfare. These activities are critical to Naval training and can only be accomplished on the west coast because of its unique attributes.

The legislation proposed by Representative Gallegly establishes Military Readiness Areas in which the consultation provisions of the ESA and MMPA remain inapplicable. Under the proposal, the area in which the MMPA and ESA alternative management framework is utilized is dramatically reduced. The proposed Military Readiness Areas are particularly important in light of the uncertainty surrounding whether the otters will migrate to San Clemente Island and to Camp Pendleton, and if so, how quickly. The legislation recognizes that, to date, national defense-related activities have not had an adverse effect on Southern Sea Otter populations. This language is consistent with the USFWS finding in the 2005 and the 2011 Draft Supplemental Environmental Impact Statements, both of which state that military readiness activities to date have posed no known threat to the conservation and recovery of the Southern Sea Otter. However, as recognized by the proposed legislation, continued expansion of the southern sea otter into the management zone may result in national security impacts. For this reason, we support enhancing conservation of the southern sea otter while allowing military readiness activities.

The proposed legislation recognizes that the Navy's Sikes Act Integrated Natural Resources Management Plans (INRMP) for military installations in California adequately address the special management needs of threatened and endangered species, and provide conservation benefits to the near shore and marine environments through watershed and land-based management actions. Navy is particularly effective in managing areas in which we have authority over entire island ecosystems, of which San Clemente Island and San Nicolas Island are perfect examples.

The Navy has a very robust program for conserving natural resources while achieving and sustaining military readiness. This program consists of many dedicated projects to recover threatened and endangered species and to promote the viability of species populations that may be at risk. For example, the Navy has returned the endangered San Clemente Island loggerhead shrike population from the brink of extinction. The Navy's conservation efforts increased the shrike population from about a dozen birds occupying Navy's only live fire, ship to shore bombing range to over 200 birds occupying the entire island. The San Clemente Island INRMP addresses over 10 threatened and endangered species, and numerous species at risk, and was recently accepted by the National Marine Fisheries Service as providing necessary conservation

benefits to the endangered black abalone. The Navy's INRMP includes management of the nearshore as well as upland areas. Elements of the management include surveys and monitoring, education, and collaboration with researchers and regulatory agencies. Navy has proven its ability to manage the ecosystem around San Clemente Island.

The San Nicolas Island INRMP was updated in 2010 in cooperation with the USFWS and the California Department of Fish and Game, to continue Navy's support of the recovery and conservation needs of all threatened and endangered species, and species "at risk." This includes those species and their habitats in the nearshore environment. In addition to supporting the research and monitoring needs of sea otters at San Nicolas Island, as performed by the USFWS, the INRMP recognizes that the nearshore environment needs special attention due to its designation as an Area of Special Biological Significance (ASBS) by the California State Water Resources Board. As such, measures to protect the nearshore environment include restrictions on waste discharges, and actions to reduce nonpoint source pollution caused by erosion. Nearshore habitat management and compliance with ASBS conservation measures are the primary mechanisms the Navy employs at San Nicolas Island to protect and maintain the Sea Otter population. In fact, the nearshore environment of San Nicolas currently occupied by sea otters was recognized by the scientific community (in a paper published by the National Academy of Sciences in 2008) as having abundant prey resources, because of which the sea otters there are in better body condition than their counterparts in the parent population along the central California coast. Navy is proud to have provided unprecedented, island-level support for the recovery of the Sea Otter.

Conclusion

The Navy is committed to continuing recovery and conservation efforts for the threatened, endangered, and at-risk species in and around our installations. We have developed an expertise in handling resource conservation in a manner that is compatible with our National security mandate. We look forward to working with the Committee and our Federal partners to ensure that this legislation appropriately balances national security priorities with endangered species protection. Such efforts will maintain Southern California as an ideal training and testing areas for the Navy for long in the future. I thank

you for the opportunity to testify before you today, and appreciate the continued support of Congress in providing the areas necessary for reliable defense of our national interests.