



February 24, 2025

The Honorable Harriet Hageman
Chair, Subcommittee on Water, Wildlife and Fisheries
1324 Longworth House Office Building,
Washington, DC 20515-4704

Dear Chair Hageman:

We are writing to express our views on the important work the Subcommittee is conducting on February 26, 2025 to evaluate the Implementation of the Marine Mammal Protection Act and the Endangered Species Act.

The California Sea Urchin Commission (CSUC), a State Agency Marketing Program represents California sea urchin divers and processors. Our industry operates in State waters, but has been systematically harmed by the indiscriminate actions taken by the Federal Bureaucrats in the U.S. Fish & Wildlife Service (USFWS).

In 1986 we agreed to forfeit prime fishing grounds to support the recovery of the threatened sea otter and, worked out a plan with the USFWS to establish a new colony of sea otters at San Nicolas Island. That agreement was codified in P.L. 99-625. The USFWS reneged on every aspect of the agreement including placing significantly fewer animals on the Island, without adjusting the success/failure criteria. If it was deemed a failure the Service agreed they would remove all the animals and place them back to their original colony. They also promised to constrain strays. In return the USFWS provided relief from incidental take and agreed to consult with the National Marine Fisheries Service (NMFS) regarding other Endangered Species such as Abalone in the No Otter Zone. The USFWS eventually declared the translocation a failure even though some there was some population growth,

but failed to acknowledge the impact of moving fewer animals than proposed. The Service decided to leave the animals in place even though the agreement was to move them back. The USFWS acknowledged that leaving the sea otters at San Nicolas Island would result in range expansion and cause additional lost fishing opportunities. The Service never consulted with the NMFS regarding endangered Abalone or other species. By terminating P.L. 99-625 the Service exposed the sea urchin and other fisheries to incidental take provisions of the MMPA. The CSUC sued the Service which ultimately led us to the U.S. Supreme Court in 2018 with the underlying premise that the Service knew better and changed the rules as they saw fit. We brought up the Chevron Deference clause as the basis for the Service's actions. The Supreme Court did not take our case. They did eventually decide a case by striking down the Chevron Deference. Unfortunately, the 2024 Supreme Court Ruling *Loper Bright Enterprises v. Raimondo* precludes us from seeking relief.

In 2020 the CSUC petitioned the USFWS to delist the Southern Sea Otter as a threatened species due to their increasing population. Once again the USFWS used their discretion to deny the petition by continually changing the minimum population numbers, citing a lack of genetic diversity and claiming they needed to update their Recovery Plan.

In June 2022, a USFWS report, *Feasibility Assessment: Sea Otter Reintroduction to the Pacific Coast*, was released in response to a largely-unvetted Congressional mandate. In this report, the Agency lays out the potential benefits of reintroducing sea otters to new areas of the West Coast and identifies some – but not all – significant areas of concern. For Southern Oregon and Northern California coastal communities dependent on Dungeness crab, sea urchin, and other shellfish, reintroducing sea otters in an area where they have been absent for more than 100 years will spell big trouble. Our ports, our charter, sport and commercial fisheries, our livelihoods depend on robust fisheries management by State and

Federal Agencies. Introducing sea otters, especially as they would be protected under the Endangered Species and Marine Mammal Protection Acts, creates another layer of fisheries management problems. The USFWS only response to our concerns was to offer to “buy us out.” This is totally unacceptable.

Lastly, the USFWS indiscriminately decided to regulate sea urchin imports and exports even though Congress expressly exempted seafood and shellfish products. The Service wrongly interprets sea urchin econoderms used for human consumption as exempted from Congress’ intentions. Sea Urchin processors must obtain a federal import/export license, submit to inspections after providing 48 hours of notice to USFWS, and pay fees that can cost hundreds of dollars per shipment. Very often the USFWS are late to the inspections and cause serious economic losses due to the highly perishable nature of these products.

The CSUC stands ready to assist your Subcommittee’s efforts to review and find recommendations on how to improve implementation of the Marine Mammal Protection Act and the Endangered Species Act.

Sincerely,

A handwritten signature in black ink, appearing to read "David Gubler". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Executive Director
California Sea Urchin Commission

cc: Congressman Tom McClintock