



# PRESS RELEASE

**For Immediate Release:** November 22, 2010

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## **‘NO OTTER ZONE’ COULD BE NO MORE**

### **LEGAL SETTLEMENT REQUIRES U.S. FISH AND WILDLIFE SERVICE TO REVIEW 1987 POLICY PROHIBITING THREATENED SOUTHERN SEA OTTERS FROM THEIR NATIVE SOUTHERN CALIFORNIA HABITAT**

San Jose/Santa Barbara, California—The Otter Project and Environmental Defense Center (EDC) formally settled their lawsuit against the U.S. Department of the Interior and Fish and Wildlife Service (FWS) challenging the FWS’ decades-long delay in determining whether the “no otter zone”—an outdated rule from 1987 prohibiting threatened southern sea otters from California waters south of Point Conception—has failed, and therefore must be repealed.

“Finally!” said Steve Shimek of The Otter Project. “It’s crazy, a legally protected sea otter loses many of its protections by swimming into its native habitat. We’re glad the Service will finally review its policies. This is the best news in years for the California sea otter population.”

The 1987 rule grew out of a Service proposal to artificially establish a new, “experimental,” population of sea otters at San Nicolas Island, located 60 miles off of the southern California coast, in an effort to prevent extinction of the species in the event of a catastrophic oil spill. The proposal engendered significant opposition from the oil and shellfish industries, and as a result FWS issued a “compromise” rule allowing the translocation of otters to San Nicolas, but prohibiting otters from all other southern California waters, from Pt. Conception to the Mexican border. This prohibition excluded otters from a huge expanse of their natural habitat. Because of uncertainty surrounding the program’s success, the rule also created “failure criteria” under which the translocation and “no otter zone” would be evaluated and, if necessary, would be terminated if unsuccessful. Despite the fact that FWS has issued preliminary failure findings for nearly 20 years, it has never issued a final decision. In the meantime, sea otters have migrated into the “no otter zone” without the full protections of the Endangered Species Act (ESA).

The Settlement requires that FWS:

- Prepare a draft Environmental Impact Statement and draft “failure determination,” assessing whether the translocation program has succeeded or failed, by September 1, 2011;

- If FWS makes a draft determination that the rule has failed, also publish a proposed rule by September 1, 2011 to terminate the program;
- Following public comment on the proposed rule, complete a final Environmental Impact Statement and final failure determination by December 7, 2012.

“Southern sea otters have been absent from their historic southern California habitat for far too long,” stated Brian Segee, EDC staff attorney. “This settlement agreement represents a key boost for the otter’s recovery and will hopefully result in new policies allowing their natural return to waters south of Point Conception.”

From its beginning in 1987, the translocation effort was plagued with difficulty, and after the fourth year of translocation only 10 percent of the 140 translocated otters remained at San Nicolas Island. The remaining 90 percent died during translocation, attempted to swim back north of Pt. Conception, or moved into the “no otter zone” and were removed. In 1991, FWS stopped translocating otters to the island, due to concerns that the effort was resulting in unacceptable mortality, and in 2001 it stopped removing otters found in the “no otter zone.” Those otters that remain in southern California, however, or that migrate there naturally, are not provided the full protections of the ESA. In 2001, FWS issued a “biological opinion” concluding that continuation of the translocation rule would jeopardize the continued existence of the southern sea otter species, in violation of the ESA. To this date, fewer than 50 otters exist at San Nicolas Island.

Despite their relatively small size, sea otters are a classic example of a “keystone” species within the nearshore marine kelp forest habitats they inhabit. Sea otters historically numbered between half million and one million individuals, ranging throughout the north Pacific basin, but were intensively hunted throughout the 18th and 19th centuries for their luxurious pelts. By the early 1900s, the global population of sea otters dwindled to less than 2,000 animals. The southern sea otter subspecies, also called the California sea otter, historically numbered between 16,000 and 18,000 individuals off the California coast. Like all sea otters, the southern sea otter was decimated by the fur trade, and indeed, was believed to be extinct by the early 1900s. In 1938, however, a small population of fewer than 50 southern sea otters was discovered near the mouth of Bixby Creek along the Big Sur coast. Following this re-discovery, the subspecies has slowly expanded its range and numbers. Despite this expansion, the southern sea otter continued to be highly imperiled, and in 1977 was listed as a threatened species under the ESA due to its small population size, limited distribution, and continuing vulnerability to habitat disturbance and destruction by oil spills and other activities.

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***The Otter Project*** promotes the rapid recovery of the threatened California sea otter through science-based policy and advocacy. Founded in 1998, The Otter Project has worked to improve nearshore ocean health and resolve the barriers to sea otter recovery. Learn more about The Otter Project at [www.otterproject.org](http://www.otterproject.org).

***The Environmental Defense Center***, a non-profit law firm, protects and enhances the local environment through education, advocacy, and legal action and works primarily within Santa Barbara, Ventura, and San Luis Obispo counties. Since 1977, EDC has empowered community based organizations to advance environmental protection. Program areas include protecting coast and ocean resources, open spaces and wildlife, and human and environmental health. Learn more about EDC at [www.EnvironmentalDefenseCenter.org](http://www.EnvironmentalDefenseCenter.org)