EXHIBIT 6

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11	CALIFORNIA ABALONE ASSOCIATION, ANI SONOMA COUNTY ABALONE NETWORK	
12		
13	UNITED STATES DISTRICT COURT	
14	NORTHERN DISTRICT OF CALIFORNIA	
15		
16	THE OTTER PROJECT; ENVIRONMENTAL DEFENSE CENTER,) Case No: 5:09-cv-04610-JW
	,	DECLARATION OF SONOMA COUNTY
17	Plaintiffs,	ABALONE NETWORK
18	VS.	[Filed Concurrently With:1) Notice of Motion and Motion of California
19	KEN SALAZAR, et al.,	Sea Urchin Commission, <i>et al.</i> , For Leave to Intervene Under FRCP 24;
20	Defendants.	 2) Memorandum in Support Thereof; 3) Declaration of California Sea Urchin
21		Commission
22		4) Declaration of Peter Halmay;5) Declaration of Harry Liquornik;
23		6) Declaration of California AbaloneAssociation
24		7) [Proposed] Order; and8) [Proposed] Answer in Intervention]
))
25		Hearing Date: March 8, 2010 Time: 9:00 a.m.
26		Courtroom: 8, 4 th Floor
27))
28		-

DECLARATION OF SONOMA ABALONE NETWORK

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Case No: 5:09-cv-04610-JW

DECLARATION OF SONOMA COUNTY ABALONE NETWORK

- 1. I, Milo Vukovich, submit this declaration on behalf of the Sonoma County Abalone Network ("SCAN"). I am the President of SCAN and have served in that capacity for four years.
- 2. SCAN is a non-profit public service corporation of approximately 500 members, whose main purpose is public education regarding, and the protection of, the abalone resources found off the coast of California. SCAN's members actively advocate for abalone conservation and enjoy diving in the ocean to observe abalone and other ocean resources. Where the population level of the abalone resource allows a recreational fishery, SCAN's members dive recreationally for abalone.
- 3. SCAN works closely with the California Department of Fish and Game regarding abalone regulations, meeting with and advising law enforcement officers, biologists, and other officials on abalone issues prior to the promulgation of any regulations.
- 4. A past President and two other SCAN members sit on the Fish and Game Recreational Abalone Advisory Committee ("RAAC"), and were instrumental in developing the Abalone Recovery Management Plan ("ARMP"). This plan covers black and white abalone, both of which are listed as endangered under the Endangered Species Act ("ESA"), as well as other abalone throughout the State.
- 5. SCAN has consistently supported effective and conservative management of abalone, including appropriate limits on abalone harvests and diving. SCAN and its members were instrumental in the adoption of California state legislation that became law in 1997 closing all abalone harvests south of San Francisco for conservation reasons. SCAN sought for years to protect southern California abalone resources, including white abalone and black abalone before either was listed pursuant to the ESA.
- 6. SCAN's members recognize the importance of understanding the factors that impact abalone populations. SCAN members love to dive for abalone and want to pass along this love for the

outdoors and of abalone to future generations of Californians. This love for diving for abalone includes a desire to protect the resource.

- 7. One of the principal reasons SCAN supported legislation closing the abalone harvests south of San Francisco was the impact recreational and commercial fishing was having on white abalone. SCAN supports the healthy and sustainable management of abalone throughout the State. At one time, abalone covered most of the rocky areas of southern California. Today, abalone are extremely rare. SCAN hopes the abalone resource will be restored to the abundance that we once had in Southern California. SCAN believes that every effort should be made to bring the white and black abalone back from the brink of extinction.
- 8. White abalone was listed as endangered pursuant to the ESA in 2001. The White Abalone Recovery Plan published by the National Oceanic and Atmospheric Administration ("NOAA") in October, 2008 identifies the southern sea otter as a predator of white abalone recognizing that "it is possible that otters (and other predators) may influence the future recovery potential of white abalone." Because the historic range of sea otters includes the entire range of white abalone, the White Abalone Recovery Plan recommends in Recovery Action 3.3.2 that sea otter "management areas" may need to be considered as a means to control sea otter predation where it is likely to inhibit the recovery of the endangered abalone. The current no otter management zone is the only thing that prevents sea otter predation on the endangered white abalone.
- 9. A 1999 report by California Cooperative Oceanic Fisheries Investigations regarding sea otter incursions into areas south of Point Conception found: "Persistent occupation and continued immigration into Southern California can have serious ramifications for the recovery of the abalone resource and for other invertebrates as well." In addition, the report states that allowing otters into the existing no otter management zone could be a major cause of extirpation of some abalone species. Review of Some California Fisheries for 1998, CalCOFI Reports, Vol. 40, 1999.

- 10. The Abalone Recovery and Management Plan prepared by the California Department of Fish and Game in 2005 specifically states that recovery of abalone populations is not achievable in areas where sea otters forage and prey on abalone. Abalone Recovery and Management Plan, adopted by the Ca. Dept. of Fish & Game, 2005, at 6-1.
- 11. A recent study on the feeding habits of otters on the central coast, and their subsequent rates of infection by the two most common pathogens related to otter mortality show that otters who prey on abalone have far lower rates of infection from other otters. Among sea otters whose diets consisted of over 10% abalone, outside of high-risk areas for infection, only 7% were found to have been infected by *T. gondii*, while the general sea otter population in the same areas showed 45% infection. For *S. neurona*, the study was even more striking. For otters with diets of more than 10% abalone, none were found with the pathogen, including otters in high risk areas, while otters who did not prey heavily on abalone had infection rates as high as 95%. This report illustrates that available habitat and ecology will select for sea otters that prey heavily on abalone, killing otters that do not eat abalone at much higher rates than otters that do eat abalone. This magnifies the direct threat otters pose to both the endangered white and black abalone, and existing red abalone fisheries. Johnson, *et al.*, Prey Choice and Habitat Use Drive Sea Otter Pathogen Exposure in a Resource-Limited Coastal System, Proceedings of the National Academy of Sciences, 2009.
- of abalone so that California may recover its depleted abalone stocks in southern California. Our work in advocating to close our own recreational fishery south of San Francisco, and to then maintain an active presence in the area through assisting law enforcement efforts and tightening fines and penalties for poaching, clearly illustrates our desire for wise abalone management throughout its California range. If the Fish and Wildlife Service allows otters to locate south of the current no-otter line, the subsequent impact of otter predation on recovering abalone, including the federally listed white and black abalone,

will harm SCAN's interests in advocating wise management of abalone species and in enjoying and using this resource. I hereby declare and certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. It is based on my personal knowledge and, if I were called to testify in this court proceeding, my testimony would be the same as that contained in this Affidavit. Dated: December 15, 2009 SONOMA COUNTY ABALONE NETWORK By: Milo Vukovich, President