

EXHIBIT 6

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9 *Attorneys for Proposed Intervenor-Defendants*
CALIFORNIA SEA URCHIN COMMISSION,
10 PETER HALMAY, HARRY LIQUORNIK,
CALIFORNIA ABALONE ASSOCIATION, AND
11 SONOMA COUNTY ABALONE NETWORK

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 THE OTTER PROJECT; ENVIRONMENTAL)
16 DEFENSE CENTER,)

17 Plaintiffs,)

18 vs.)

19 KEN SALAZAR, *et al.*,)

20 Defendants.)

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

**DECLARATION OF SONOMA COUNTY
ABALONE NETWORK**

[Filed Concurrently With:

- 1) Notice of Motion and Motion of California
Sea Urchin Commission, *et al.*, For Leave to
Intervene Under FRCP 24;
2) Memorandum in Support Thereof;
3) Declaration of California Sea Urchin
Commission
4) Declaration of Peter Halmay;
5) Declaration of Harry Liquornik;
6) Declaration of California Abalone
Association
7) [Proposed] Order; and
8) [Proposed] Answer in Intervention]

Hearing Date: March 8, 2010

Time: 9:00 a.m.

Courtroom: 8, 4th Floor

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

3 7. One of the principal reasons SCAN supported legislation closing the abalone harvests
4 south of San Francisco was the impact recreational and commercial fishing was having on white
5 abalone. SCAN supports the healthy and sustainable management of abalone throughout the State. At
6 one time, abalone covered most of the rocky areas of southern California. Today, abalone are extremely
7 rare. SCAN hopes the abalone resource will be restored to the abundance that we once had in Southern
8 California. SCAN believes that every effort should be made to bring the white and black abalone back
9 from the brink of extinction.
10

11 8. White abalone was listed as endangered pursuant to the ESA in 2001. The White
12 Abalone Recovery Plan published by the National Oceanic and Atmospheric Administration (“NOAA”)
13 in October, 2008 identifies the southern sea otter as a predator of white abalone recognizing that “it is
14 possible that otters (and other predators) may influence the future recovery potential of white abalone.”
15 Because the historic range of sea otters includes the entire range of white abalone, the White Abalone
16 Recovery Plan recommends in Recovery Action 3.3.2 that sea otter “management areas” may need to be
17 considered as a means to control sea otter predation where it is likely to inhibit the recovery of the
18 endangered abalone. The current no otter management zone is the only thing that prevents sea otter
19 predation on the endangered white abalone.
20

21 9. A 1999 report by California Cooperative Oceanic Fisheries Investigations regarding sea
22 otter incursions into areas south of Point Conception found: “Persistent occupation and continued
23 immigration into Southern California can have serious ramifications for the recovery of the abalone
24 resource and for other invertebrates as well.” In addition, the report states that allowing otters into the
25 existing no otter management zone could be a major cause of extirpation of some abalone species.
26 Review of Some California Fisheries for 1998, CalCOFI Reports, Vol. 40, 1999.
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1 10. The Abalone Recovery and Management Plan prepared by the California Department of
2 Fish and Game in 2005 specifically states that recovery of abalone populations is not achievable in areas
3 where sea otters forage and prey on abalone. Abalone Recovery and Management Plan, adopted by the
4 Ca. Dept. of Fish & Game, 2005, at 6-1.

5 11. A recent study on the feeding habits of otters on the central coast, and their subsequent
6 rates of infection by the two most common pathogens related to otter mortality show that otters who
7 prey on abalone have far lower rates of infection from other otters. Among sea otters whose diets
8 consisted of over 10% abalone, outside of high-risk areas for infection, only 7% were found to have
9 been infected by *T. gondii*, while the general sea otter population in the same areas showed 45%
10 infection. For *S. neurona*, the study was even more striking. For otters with diets of more than 10%
11 abalone, none were found with the pathogen, including otters in high risk areas, while otters who did not
12 prey heavily on abalone had infection rates as high as 95%. This report illustrates that available habitat
13 and ecology will select for sea otters that prey heavily on abalone, killing otters that do not eat abalone
14 at much higher rates than otters that do eat abalone. This magnifies the direct threat otters pose to both
15 the endangered white and black abalone, and existing red abalone fisheries. Johnson, *et al.*, Prey Choice
16 and Habitat Use Drive Sea Otter Pathogen Exposure in a Resource-Limited Coastal System, Proceedings
17 of the National Academy of Sciences, 2009.

18 12. SCAN and its members have consistently and vigorously pursued the wise management
19 of abalone so that California may recover its depleted abalone stocks in southern California. Our work
20 in advocating to close our own recreational fishery south of San Francisco, and to then maintain an
21 active presence in the area through assisting law enforcement efforts and tightening fines and penalties
22 for poaching, clearly illustrates our desire for wise abalone management throughout its California range.
23 If the Fish and Wildlife Service allows otters to locate south of the current no-otter line, the subsequent
24 impact of otter predation on recovering abalone, including the federally listed white and black abalone,
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1 will harm SCAN's interests in advocating wise management of abalone species and in enjoying and
2 using this resource.

3 I hereby declare and certify, under penalty of perjury under the laws of the United States of
4 America, that the foregoing is true and correct. It is based on my personal knowledge and, if I were
5 called to testify in this court proceeding, my testimony would be the same as that contained in this
6 Affidavit.

7
8 Dated: December 15, 2009

SONOMA COUNTY ABALONE NETWORK

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12 By: 
13 Milo Vukovich, President