

Congress of the United States
Washington, DC 20515

July 5, 2017

The Honorable Ryan Zinke
Secretary
U.S. Department of the Interior
1849 C St., NW
Washington, DC 20240

The Honorable Greg Sheehan
Acting Director
U.S. Fish and Wildlife Service
1849 C St., NW
Room 3331
Washington, DC 20240

The Honorable Wilbur Ross
Secretary
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

The Honorable Chris Oliver
Assistant Administrator
NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Dear Secretary Zinke, Secretary Ross, Acting Director Sheehan, and Assistant Administrator Oliver:

We write to urge you to take swift action to prevent the approaching extinction of the vaquita. The vaquita is a porpoise species endemic to the upper Gulf of California, Mexico. With fewer than 30 vaquita estimated remaining in the wild and an annual rate of decline of nearly 50 percent, the vaquita is the most endangered marine mammal on the planet and will be extinct in two years unless we take immediate, drastic, and robust action.¹ For the United States, those actions include implementing the Marine Mammal Protection Act's (MMPA) ban on certain imports of fish and fish products from Mexico and certifying Mexico pursuant to the Pelly Amendment.

Both actions would directly target the sole threat to vaquita survival—the use of gillnets in and adjacent to the vaquita's habitat—and compel the Mexican government to take the kind of forceful actions necessary to save the species. For decades, vaquita have become entangled and drowned in gillnets used by fisheries in their range, leading vaquita specialists to repeatedly conclude that the use of gillnets in the upper Gulf of California is incompatible with vaquita survival. While Mexico's June 2017 decision to make permanent a temporary ban on gillnet fishing in the vaquita's habitat is a necessary step forward, their enforcement of the temporary ban has been inadequate.

In addition, Mexico has failed to halt the operation of an illegal fishery in the upper Gulf of California targeting the totoaba fish for a criminal export trade in totoaba swim bladders destined for China. Vaquita bycatch from the totoaba fishery's use of gillnets represents the biggest threat

¹ "Ninth Meeting of the Comité Internacional para la Recuperación de la Vaquita (CIRVA-9)." May 2017. Accessed June 21, 2017. <http://www.iucn-csg.org/wp-content/uploads/2010/03/CIRVA-9-Final-Report-May-11-2017.pdf>.

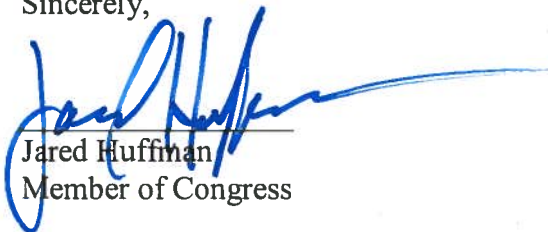
to the species and Mexico has not taken the steps necessary to close the illegal fishery. As a species listed on Appendix I of the Convention on International Trade in Endangered Species (CITES), export of totoaba is banned without permit and Mexico has an obligation to enforce the ban. In light of the above, we urge you to take swift action responding to two petitions before the government: a petition to certify Mexico under the Pelly Amendment and a petition to ban imports of fish and fish products from Mexico that fail to meet U.S. standards applicable to vaquita under the MMPA.

Under the Pelly Amendment to the Fishermen's Protective Act of 1967 (22 U.S.C. 1978), when the Secretary of the Interior or the Secretary of Commerce determine that nationals of a foreign country, directly or indirectly, are engaging in trade or taking that diminishes the effectiveness of any international program to protect endangered or threatened species, they shall certify such fact to the President. Mexico has demonstrated a failure to eradicate the export of totoaba, diminishing the effectiveness of the CITES treaty, which is critical to U.S. interests in combatting wildlife crime. The MMPA (16 U.S.C. 1371) requires the United States to ban imports of fish and fish products that do not meet U.S. standards for marine mammal protection. Because the vaquita bycatch rate exceeds that allowed by Congress under the MMPA, any fish or fish product from Mexico that is contributing to vaquita bycatch fails to meet U.S. standards and must be barred from importation. While the Department of Commerce has regulations for the implementation of this section of the MMPA, the implementation timeline outlined by those regulations is inadequate to provide vaquita the protection contemplated by Congress and we urge the Department of Commerce to take immediate action on the MMPA petition, including implementing emergency rulemaking provisions under Section 118(g) of the MMPA, and ban vaquita-harmful imports of fish and fish products.²

It is our view that Congress enacted the Pelly Amendment and the MMPA to provide tools to respond to precisely this type of situation. The facts related to the vaquita's status, the threats it faces, and Mexico's negligence in protecting the species demand action from the U.S. government. We urge you to swiftly apply the mandates of the Pelly Amendment and the MMPA by finalizing a determination that Mexico is undermining the effectiveness of CITES and, if found to be doing so, by banning the import of fish and fish products into the United States that were caught with gillnets in and adjacent to the vaquita's range. We believe these actions will further the policy goals of the MMPA and the Pelly Amendment, and leverage the power of the U.S. market to help save the vaquita from extinction.

Thank you for your attention to our request.

Sincerely,



Jared Huffman
Member of Congress



Raúl M. Grijalva
Member of Congress

² "Fish and Fish Product Import Provisions of the Marine Mammal Protection Act." Federal Register. August 15, 2016. Accessed June 21, 2017. <https://www.federalregister.gov/documents/2016/08/15/2016-19158/fish-and-fish-product-import-provisions-of-the-marine-mammal-protection-act>.

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Thomas R. Suozzi

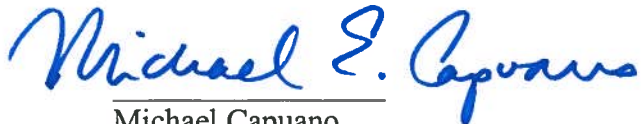
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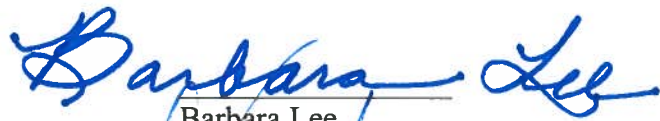

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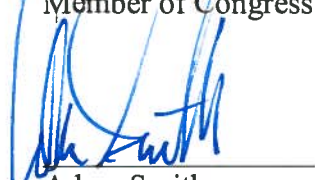

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cc: The Honorable Rex Tillerson
Secretary, U.S. Department of State