

115TH CONGRESS
1ST SESSION

H. R. 2083

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon and other nonlisted species, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2017

Ms. HERRERA BEUTLER (for herself and Mr. SCHRADER) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon and other nonlisted species, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Endangered Salmon
5 and Fisheries Predation Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) There are 13 groups of salmon and
9 steelhead that are listed as threatened species or en-

1 dangered species under the Endangered Species Act
2 of 1973 that migrate through the lower Columbia
3 River. All lower Columbia River tributaries contain
4 listed species including Chinook, Chum and Coho
5 salmon as well as winter-run steelhead.

6 (2) The people of the Northwest United States
7 are united in their desire to restore healthy salmon
8 and steelhead runs because they are integral to the
9 region's culture and economy.

10 (3) The Columbia River treaty Tribes retain
11 important rights with respect to salmon and
12 steelhead.

13 (4) Federal, State, and Tribal governments
14 have spent billions of dollars to assist the recovery
15 of Columbia River basin salmon and steelhead popu-
16 lations.

17 (5) One of the factors negatively impacting
18 salmonid populations is increased predation by ma-
19 rine mammals, including California sea lions.

20 (6) The population of California sea lions has
21 increased 10-fold over the last 3 decades, and is cur-
22 rently approximately 300,000 animals.

23 (7) Biologists estimate that in recent years as
24 many as 3,000 California sea lions have been for-
25 aging from the lower 145 miles of the Columbia

1 River up to Bonneville Dam during the peak spring
2 salmonid run.

3 (8) Historically, California sea lions, whose
4 habitat is fundamentally salt water, did not venture
5 very far up into the Columbia River.

6 (9) The percentage of the spring salmonid run
7 that has been eaten or killed by California sea lions
8 at Bonneville Dam has increased 7-fold since 2002.

9 (10) Federal, State and Tribal estimates indi-
10 cate that sea lions are consuming at least 20 percent
11 of the Columbia River spring chinook run and 15
12 percent of Willamette River steelhead run, two
13 salmonid species listed under the Endangered Spe-
14 cies Act of 1973.

15 (11) In recent years, California sea lions have
16 congregated with greater frequency near Willamette
17 Falls and Bonneville Dam and have entered the fish
18 ladders that salmon must use to return to their his-
19 toric and biological spawning grounds.

20 (12) These California sea lions have not been
21 responsive to extensive hazing methods employed to
22 discourage this behavior.

23 (13) The process established under the 1994
24 amendment to the Marine Mammal Protection Act
25 of 1972 to address predatory sea lion behavior nega-

1 tively impacting threatened or endangered salmon
2 runs is protracted and has not worked.

3 (14) The National Oceanic and Atmospheric
4 Administration has observed that—

5 (A) management efforts to reduce pinniped
6 predation of endangered and threatened salmon
7 and steelhead in the area around Bonneville
8 Dam has been insufficient to reduce the sever-
9 ity of the threat; and

10 (B) efforts need to focus more on the lower
11 river and at Willamette Falls.

12 (15) In the interest of protecting Columbia
13 River threatened and endangered salmonids, a tem-
14 porary expedited procedure is urgently needed to
15 allow removal of the minimum number of California
16 sea lions as is necessary to protect the passage of
17 threatened and endangered salmonids in the Colum-
18 bia River and its tributaries.

19 **SEC. 3. SENSE OF CONGRESS.**

20 It is the sense of the Congress that—

21 (1) preventing predation by sea lions, recovery
22 of listed salmonid stocks, and preventing future list-
23 ings of fish stocks in the Columbia River under the
24 Endangered Species Act of 1973 (16 U.S.C. 1531 et
25 seq.) is a vital priority; and

1 (2) the Federal Government should continue to
2 fund lethal and nonlethal removal measures for pre-
3 venting such predation.

4 **SEC. 4. TAKING OF SEA LIONS ON THE COLUMBIA RIVER**
5 **AND ITS TRIBUTARIES TO PROTECT ENDAN-**
6 **GERED AND THREATENED SPECIES OF SALM-**
7 **ON AND OTHER NONLISTED FISH SPECIES.**

8 Section 120(f) of the Marine Mammal Protection Act
9 of 1972 (16 U.S.C. 1389(f)) is amended to read as fol-
10 lows:

11 “(f) TEMPORARY MARINE MAMMAL REMOVAL AU-
12 THORITY ON THE WATERS OF THE COLUMBIA RIVER OR
13 ITS TRIBUTARIES.—

14 “(1) REMOVAL AUTHORITY.—Notwithstanding
15 any other provision of this Act, the Secretary may
16 issue a permit to an eligible entity to authorize the
17 intentional lethal taking on the waters of the Colum-
18 bia River and its tributaries of individually identifi-
19 able sea lions that are part of a population that is
20 not categorized under this Act as depleted for the
21 purpose of protecting species of salmon that are list-
22 ed as endangered species or threatened species
23 under the Endangered Species Act of 1973 (16
24 U.S.C. 1531 et seq.) and other nonlisted fish spe-
25 cies.

1 “(2) PERMIT PROCESS.—

2 “(A) IN GENERAL.—An eligible entity may
3 apply to the Secretary for a permit under this
4 subsection.

5 “(B) DEADLINE FOR CONSIDERATION OF
6 APPLICATION.—The Secretary shall approve or
7 deny an application for a permit under this sub-
8 section by not later than 30 days after receiving
9 the application.

10 “(C) DURATION OF PERMIT.—A permit
11 under this subsection shall be effective for no
12 more than one year after the date it is issued,
13 but may be renewed by the Secretary.

14 “(3) LIMITATIONS.—

15 “(A) LIMITATION ON PERMIT AUTHOR-
16 ITY.—Subject to subparagraph (B), a permit
17 issued under this subsection shall not authorize
18 the lethal taking of more than 100 sea lions
19 during the duration of the permit.

20 “(B) LIMITATION ON ANNUAL TAKINGS.—
21 The cumulative number of sea lions authorized
22 to be taken each year under all permits in ef-
23 fect under this subsection shall not exceed 10
24 percent of the annual potential biological re-
25 moval level.

1 “(4) TRAINING IN NATURAL RESOURCES MAN-
2 AGEMENT.—Permit holders exercising lethal removal
3 authority pursuant to this Act shall be trained in
4 natural resource management.

5 “(5) DELEGATION OF PERMIT AUTHORITY.—
6 Any eligible entity may delegate to any other eligible
7 entity the authority to administer its permit author-
8 ity under this subsection.

9 “(6) NEPA.—Section 102(2)(C) of the Na-
10 tional Environmental Policy Act of 1969 (42 U.S.C.
11 4332(2)(C)) shall not apply with respect to this sub-
12 section and the issuance of any permit under this
13 subsection during the 5-year period beginning on the
14 date of the enactment of this subsection.

15 “(7) SUSPENSION OF PERMITTING AUTHOR-
16 ITY.—If, 5 years after the date of the enactment of
17 this subsection, the Secretary, after consulting with
18 State and tribal fishery managers, determines that
19 lethal removal authority is no longer necessary to
20 protect salmonid and other fish species from sea lion
21 predation, the Secretary may suspend the issuance
22 of permits under this subsection.

23 “(8) ELIGIBLE ENTITY DEFINED.—In this sub-
24 section, the term ‘eligible entity’ means each of the
25 State of Washington, the State of Oregon, the State

1 of Idaho, the Nez Perce Tribe, the Confederated
2 Tribes of the Umatilla Indian Reservation, the Con-
3 federated Tribes of the Warm Springs Reservation
4 of Oregon, the Confederated Tribes and Bands of
5 the Yakama Nation, the Columbia River Inter-Tribal
6 Fish Commission, and the Cowlitz Indian Tribe.

7 “(9) INDIVIDUAL PINNIPED EXCEPTION.—For
8 purposes of this section, any pinniped located up-
9 stream of river mile 112 of the Columbia River and
10 all tributaries that include spawning habitat of
11 threatened or endangered salmon or steelhead is
12 deemed to be individually identifiable.”.

13 **SEC. 5. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**
14 **DIAN TRIBES.**

15 Nothing in this Act or the amendment made by this
16 Act shall be construed to affect or modify any treaty or
17 other right of any federally recognized Indian Tribe.

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