

115TH CONGRESS
2D SESSION

S. 3119

AN ACT

To allow for the taking of sea lions on the Columbia River and its tributaries to protect endangered and threatened species of salmon and other nonlisted fish species.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Endangered Salmon
3 Predation Prevention Act”.

4 **SEC. 2. SENSE OF CONGRESS.**

5 It is the sense of the Congress that—

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

11 (2) the Federal Government should continue to
12 fund lethal and nonlethal removal, and deterrence,
13 measures for preventing such predation.

14 **SEC. 3. TAKING OF SEA LIONS ON THE COLUMBIA RIVER**
15 **AND ITS TRIBUTARIES TO PROTECT ENDAN-**
16 **GERED AND THREATENED SPECIES OF SALM-**
17 **ON AND OTHER NONLISTED FISH SPECIES.**

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

21 “(f) TEMPORARY MARINE MAMMAL REMOVAL AU-
22 THORITY ON THE WATERS OF THE COLUMBIA RIVER OR
23 ITS TRIBUTARIES.—

24 “(1) REMOVAL AUTHORITY.—Notwithstanding
25 any other provision of this Act, the Secretary may
26 issue a permit to an eligible entity to authorize the

1 intentional lethal taking on the waters of the Colum-
2 bia River and its tributaries of individually identifi-
3 able sea lions that are part of a population or stock
4 that is not categorized under this Act as depleted or
5 strategic for the purpose of protecting—

6 “(A) species of salmon, steelhead, or
7 eulachon that are listed as endangered species
8 or threatened species under the Endangered
9 Species Act of 1973 (16 U.S.C. 1531 et seq.);
10 and

11 “(B) species of lamprey or sturgeon that
12 are not so listed as endangered or threatened
13 but are listed as a species of concern.

14 “(2) PERMIT PROCESS.—

15 “(A) IN GENERAL.—An eligible entity may
16 apply to the Secretary for a permit under this
17 subsection.

18 “(B) TIMELINES AND PROCEDURES OF AP-
19 PPLICATION.—The timelines and procedures de-
20 scribed in subsection (c) shall apply to applica-
21 tions for permits under this subsection in the
22 same manner such timelines apply to applica-
23 tions under subsection (b).

24 “(C) COORDINATION.—The Secretary shall
25 establish procedures to coordinate issuance of

permits under this subsection, including application procedures and timelines, delegation and revocation of permits to and between eligible entities, monitoring, periodic review, and geographic, seasonal take, and species-specific considerations.

“(D) DURATION OF PERMIT.—A permit under this subsection shall be effective for a period of not more than 5 years, and may be renewed by the Secretary.

“(3) LIMITATIONS ON ANNUAL TAKINGS.—The Secretary shall apply the process for determining limitations on annual take of sea lions under subsection (c) to determinations on limitations under this subsection, and the cumulative number of sea lions authorized to be taken each year under all permits in effect under this subsection shall not exceed 10 percent of the annual potential biological removal level for sea lions.

“(4) QUALIFIED INDIVIDUALS.—Intentional lethal takings under this subsection shall—

“(A) be humane within the meaning of such term under section 3(4);

“(B) require that capture, husbandry, transportation, and euthanasia protocols are

1 based on standards propagated by an Institu-
 2 tional Animal Care and Use Committee and
 3 that primary euthanasia be limited to humane
 4 chemical methods; and

5 “(C) be implemented by agencies or quali-
 6 fied individuals described in subsection (c)(4),
 7 or by individuals employed by the eligible enti-
 8 ties described in paragraph (6).

9 “(5) SUSPENSION OF PERMITTING AUTHOR-
 10 ITY.—If, 5 years after the date of the enactment of
 11 the Endangered Salmon Predation Prevention Act,
 12 the Secretary, after consulting with State and tribal
 13 fishery managers, determines that lethal removal au-
 14 thority is no longer necessary to protect salmonid
 15 and other fish species from sea lion predation, the
 16 Secretary shall suspend the issuance of permits
 17 under this subsection.

18 “(6) ELIGIBLE ENTITY DEFINED.—

19 “(A) DEFINITION.—In this subsection, the
 20 term ‘eligible entity’ means—

21 “(i) with respect to removal in the
 22 mainstem of the Columbia River, from
 23 river mile 112 to the McNary Dam and its
 24 tributaries in the State of Washington, and
 25 its tributaries in the State of Oregon above

1 Bonneville Dam, the State of Washington,
2 the State of Oregon, and the State of
3 Idaho;

4 “(ii) with respect to removal in the
5 mainstem Columbia River from river mile
6 112 to the McNary Dam and its tribu-
7 taries within the State of Washington and
8 in any of its tributaries above Bonneville
9 Dam within the State of Oregon, the Nez
10 Perce Tribe, the Confederated Tribes of
11 the Umatilla Indian Reservation, the Con-
12 federated Tribes of the Warm Springs Res-
13 ervation of Oregon, and the Confederated
14 Tribes and Bands of the Yakama Nation;
15 and

16 “(iii) with respect to removal in the
17 Willamette River and other tributaries of
18 the Columbia River within the State of Or-
19 egon below Bonneville Dam, a committee
20 recognized by the Secretary under sub-
21 paragraph (D).

22 “(B) DELEGATION AUTHORITY.—The Sec-
23 retary may allow eligible entities described in
24 clause (i) or (ii) of subparagraph (A) to dele-
25 gate their authority under a permit under this

subsection to the Columbia River Intertribal Fish Commission for removal in the mainstem of the Columbia River above river mile 112 and below McNary Dam, in the Columbia River tributaries in the State of Washington, or in tributaries within the State of Oregon above Bonneville Dam and below McNary Dam.

“(C) ADDITIONAL DELEGATION AUTHORITY.—The Secretary may allow an eligible entity described in subparagraph (A)(i) to delegate its authority under a permit under this subsection to any entity described in subclause (i) or (ii) of subparagraph (A) with respect to removal in the mainstem of the Columbia River above river mile 112 and below McNary Dam, in the Columbia River tributaries in the State of Washington, or in tributaries in the State of Oregon above Bonneville Dam and below McNary Dam.

“(D) COMMITTEE REQUIREMENTS.—

“(i) IN GENERAL.—The Secretary shall recognize a committee established in accordance with this subparagraph as being eligible for a permit under this sub-

1 section, for purposes of subparagraph
2 (A)(iii).

3 “(ii) MEMBERSHIP.—A committee es-
4 tablished under this subparagraph shall
5 consist of the State of Oregon and each of
6 the following:

7 “(I) The Confederated Tribes of
8 Siletz Indians or the Confederated
9 Tribes of the Grand Ronde Commu-
10 nity, or both.

11 “(II) The Confederated Tribes of
12 the Warm Springs or the Confed-
13 erated Tribes of the Umatilla Res-
14 ervation, or both.

15 “(iii) MAJORITY AGREEMENT RE-
16 QUIRED.—A committee established under
17 this subparagraph may take action with re-
18 spect to a permit application and removal
19 under this subsection only with majority
20 agreement by the committee members.

21 “(iv) NONAPPLICABILITY OF FACA.—
22 The Federal Advisory Committee Act (5
23 U.S.C. App.) shall not apply to a com-
24 mittee established under this subpara-
25 graph.

1 “(7) INDIVIDUAL EXCEPTION.—For purposes of
 2 this subsection, any sea lion located upstream of
 3 river mile 112 and downstream of McNary Dam, or
 4 in any tributary to the Columbia River that includes
 5 spawning habitat of threatened or endangered salm-
 6 on or steelhead is deemed to be individually identifi-
 7 able.

8 “(8) SIGNIFICANT NEGATIVE IMPACT EXCEP-
 9 TION.—For purposes of this subsection, any sea lion
 10 located in the mainstem of the Columbia River up-
 11 stream of river mile 112 and downstream of McNary
 12 Dam, or in any tributary to the Columbia River that
 13 includes spawning habitat of threatened or endan-
 14 gered salmon or steelhead is deemed to be having a
 15 significant negative impact, within the meaning of
 16 subsection (b)(1).

17 “(9) DEFINITION.—In this subsection, the term
 18 ‘Indian tribe’ has the meaning given such term in
 19 section 4 of the Indian Self-Determination and Edu-
 20 cation Assistance Act (25 U.S.C. 5304).”.

21 **SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**
 22 **DIAN TRIBES.**

23 Nothing in this Act or the amendments made by this
 24 Act shall be construed to enlarge, confirm, adjudicate, af-
 25 fect, or modify any treaty or other right of an Indian tribe

1 (as defined in section 4 of the Indian Self-Determination
2 and Education Assistance Act (25 U.S.C. 5304)).

3 **SEC. 5. REPORT.**

4 Not later than 3 years after the date of the enact-
5 ment of this Act, the Secretary of Commerce shall study
6 and report to Congress on the effects of deterrence and
7 the lethal taking of sea lions on the recovery of endangered
8 and threatened salmon and steelhead stocks in the waters
9 of the Columbia River and the tributaries of the Columbia
10 River subject to section 120(f) of the Marine Mammal
11 Protection Act of 1972 (16 U.S.C. 1389(f)), as amended
12 by this Act.

Passed the Senate December 6, 2018.

Attest:

Secretary.

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