H. R. 564

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

JANUARY 27, 2015

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

The Congress finds the following:

(1) There are 13 groups of salmon and steelhead that are listed as threatened species or en-
dangered species under the Endangered Species Act of 1973 that migrate through the lower Columbia River.

(2) The people of the Northwest United States are united in their desire to restore healthy salmon and steelhead runs, as they are integral to the region’s culture and economy.

(3) The Columbia River treaty tribes retain important rights with respect to salmon and steelhead.

(4) Federal, State, and tribal governments have spent billions of dollars to assist the recovery of Columbia River salmon and steelhead populations.

(5) One of the factors impacting salmonid populations is increased predation by marine mammals, including California sea lions.

(6) The population of California sea lions has increased 6-fold over the last 3 decades, and is currently greater than 250,000 animals.

(7) In recent years, more than 1,000 California sea lions have been foraging in the lower 145 miles of the Columbia River up to Bonneville Dam during the peak spring salmonid run before returning to the California coast to mate.
(8) The percentage of the spring salmonid run that has been eaten or killed by California sea lions at Bonneville Dam has increased 7-fold since 2002.

(9) In recent years, California sea lions have with greater frequency congregated near Bonneville Dam and have entered the fish ladders.

(10) These California sea lions have not been responsive to extensive hazing methods employed near Bonneville Dam to discourage this behavior.

(11) The process established under the 1994 amendment to the Marine Mammal Protection Act of 1972 to address aggressive sea lion behavior is protracted and will not work in a timely enough manner to protect threatened and endangered salmonids in the near term.

(12) In the interest of protecting Columbia River threatened and endangered salmonids, a temporary expedited procedure is urgently needed to allow removal of the minimum number of California sea lions as is necessary to protect the passage of threatened and endangered salmonids in the Columbia River and its tributaries.

(13) On December 21, 2010, the independent Pinniped-Fishery Interaction Task Force rec-
ommended lethally removing more of the California
sea lions in 2011.

(14) On August 18, 2011, the States of Wash-
ington, Oregon, and Idaho applied to the National
Marine Fisheries Service, under section
120(b)(1)(A) of the Marine Mammal Protection Act
of 1972 (16 U.S.C. 1389(b)(1)(A)), for the lethal re-
moval of sea lions that the States determined are
having a “significant negative impact” on the recov-
ery of Columbia River and Snake River salmon and
steelhead.

(15) On September 12, 2011, the National Ma-
rine Fisheries Service announced it was accepting
the States’ application for lethal removal of sea lions
and that it would reconvene the Pinniped-Fishery
Interaction Task Force to consider the States’ appli-
cation. This Act will ensure the necessary authority
for permits under the Marine Mammal Protection
Act of 1972 to be issued in a timely fashion.

(16) During a June 14, 2011, hearing, the
Committee on Natural Resources of the House of
Representatives received testimony from State and
tribal witnesses expressing concern that significant
pinniped predation of important Northwest fish re-
sources other than salmonids is severely impacting
fish stocks determined by both Federal and State
fishery management agencies to be at low levels of
abundance, and that this cannot be addressed by
section 120 of the Marine Mammal Protection Act
of 1972 (16 U.S.C. 1389), which as in effect before
the enactment of this Act restricted control of predas-
tory pinnipeds’ impact only with respect to endan-
gerled salmonids.

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

Section 120 of the Marine Mammal Protection Act
of 1972 (16 U.S.C. 1389) is amended by striking sub-
section (f) and inserting the following:

“(f) Temporary Marine Mammal Removal Au-
thority on the Waters of the Columbia River or
Its Tributaries.—

“(1) Removal authority.—Notwithstanding
any other provision of this Act, the Secretary may
issue a permit to an eligible entity authorizing the
intentional lethal taking on the waters of the Colum-
bia River and its tributaries of sea lions that are
part of a healthy population that is not listed as an
endangered species or threatened species under the

“(2) PERMIT PROCESS.—

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

“(B) DEADLINE FOR CONSIDERATION OF APPLICATION.—The Secretary shall approve or deny an application for a permit under this subsection by not later than 30 days after receiving the application.

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

“(3) LIMITATIONS.—

“(A) LIMITATION ON PERMIT AUTHORITY.—Subject to subparagraph (B), a permit issued under this subsection shall not authorize the lethal taking of more than 10 sea lions during the duration of the permit.

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

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

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

“(6) SUSPENSION OF PERMITTING AUTHOR-
ITY.—If, 5 years after enactment, the Secretary,
after consulting with State and tribal fishery man-
gers, determines that lethal removal authority is no
longer necessary to protect salmonid and other fish
species from sea lion predation, may suspend the
issuance of permits under this subsection.

“(7) ELIGIBLE ENTITY DEFINED.—In this sub-
section, the term ‘eligible entity’ means each of the
State of Washington, the State of Oregon, the State
of Idaho, the Nez Perce Tribe, the Confederated
Tribes of the Umatilla Indian Reservation, the Con-
federated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, and the Columbia River Inter-
Tribal Fish Commission”.

SEC. 4. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) preventing predation by sea lions, recovery of listed salmonid stocks, and preventing future list-
ings of fish stocks in the Columbia River is a vital priority;

(2) permit holders exercising lethal removal au-
thority pursuant to the amendment made by this Act should be trained in wildlife management; and

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

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

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

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