

ENDANGERED SALMON AND FISHERIES PREDATION  
PREVENTION ACT

SEPTEMBER 5, 2017.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2083]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2083 is to amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon and other nonlisted species.

BACKGROUND AND NEED FOR LEGISLATION

According to the National Oceanic and Atmospheric Administration (NOAA), the Lower Columbia River is home to multiple species of salmon listed under the Endangered Species Act of 1973 (ESA, 16 U.S.C. 1531 et seq.), including the Lower Columbia River chinook, steelhead, coho, and chum salmon. A 2013 ESA recovery plan for these species released by NOAA cited marine mammal predation, specifically by California sea lions, as a significant factor in the initial species listings and a hurdle to their recovery. Further,

testimony submitted by a NOAA official to the Committee on Natural Resources during the 114th Congress stated that the agency is “very concerned about the impact robust populations of pinnipeds in the Columbia River and elsewhere in the Pacific Northwest are having on ESA-listed salmon and steelhead stocks.”<sup>1</sup>

The NOAA official further testified that “from 2002–2015, California sea lions consumed an estimated 46,000 salmonids within a quarter mile of the Bonneville Dam.” Written testimony submitted by the Columbia River Inter-Tribal Fish Commission (CRITFC) in the 115th Congress states that sea lion consumption has dramatically increased since 2015. According to CRITFC Chairman Leland Bill, sea lions killed over 8,900 salmon in the same area in 2016 alone.

The Marine Mammal Protection Act of 1972 (MMPA, Public Law 92–522), prohibits, with certain exceptions, the lethal taking of *any* marine mammal in United States waters and by United States citizens on the high seas. NOAA, the agency that implements and enforces MMPA as well as ESA-listed salmon and steelhead species, defines a “marine mammal” as any species of dolphin, porpoises, whales, seals, and sea lions.

Under current law, section 120 of MMPA allows States to apply to the Secretary of Commerce for intentional lethal taking of specific “individually identifiable” predator seals and sea lions that are having a significant negative impact on ESA-listed salmon stocks. NOAA authorized the States of Oregon, Washington and Idaho to permanently remove sea lions in 2008. This authority was reauthorized by NOAA in 2016. The Oregon Department of Fish and Wildlife estimates that 166 sea lions have been taken under this authority. However, some including the States and Columbia River tribes believe that the current federal application process needs to be updated.

The history of seemingly endless litigation challenges by certain groups surrounding issuance of these permits and the permit requirement are some reasons cited for the introduction of H.R. 2083. Mr. Guy Norman, Regional Director of the Washington Department of Fish and Wildlife, indicated in his testimony submitted to the Committee on Natural Resources in 2013, “[T]he conditions associated with the current requirements of Section 120 of the Marine Mammal Protection Act (MMPA) are challenging and expensive to implement, limited in scope, and legal challenges have slowed the progress in reducing impacts to salmon.”<sup>2</sup> In addition, tribal requests to be eligible entities under Section 120 of the MMPA are further reasons for the bill.

H.R. 2083 would clarify the authority and streamline the process afforded to the Secretary under Section 120 of the MMPA to allow for lethal taking of sea lion populations that are decimating ESA-listed salmon, steelhead and other non-listed species, such as white sturgeon, in the Lower Columbia River. The goal of this bipartisan legislation is to provide ESA-listed salmon in the Lower Columbia

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<sup>1</sup> Submitted testimony of Mr. Barry Thom, NMFS Deputy West Coast Regional Administrator, to the House Committee on Natural Resources, 114th Cong, Legislative Hearing on H.R. 564, July 23, 2015.

<sup>2</sup> Submitted testimony of Mr. Guy Norman, Regional Director—Washington Department of Fish and Wildlife, to the House Committee on Natural Resources, 113th Cong. Legislative Hearing on H.R. 1308. June 13, 2013.

River a habitat where they can recover while controlling the stocks of sea lions on a limited basis. In CRITFC Chairman Leland Bill's written testimony to the Subcommittee on Water, Power and Oceans he states, "H.R. 2083 is informed by evaluations from fisheries and marine mammal experts and will allow us to employ a management regimen that is appropriate for the Columbia River taking into consideration the years of data, observation and resources available."<sup>3</sup> CRITFC members have further testified that "the real challenge has been NOAA's ability to shepherd any decision through the NEPA process and to withstand relentless legal challenges by well-funded special interest groups."<sup>4</sup>

#### SECTION-BY-SECTION ANALYSIS

*Section 1* of H.R. 2083 designates the short title of the bill as the "Endangered Salmon and Fisheries Predation Prevention Act".

*Section 2* of the bill outlines several congressional findings specific to predation impacts on ESA-listed species in the Columbia River.

*Section 3* of the bill states that preventing predation of salmonid stocks in the Columbia River by lethal and nonlethal means is a vital priority of Congress.

*Section 4* of H.R. 2083 amends Section 120 of the MMPA (16 U.S.C. 1389) to authorize the Secretary of Commerce to issue permits to eligible entities authorizing the intentional lethal take of sea lions on the waters of the Columbia River and its tributaries as long as the sea lions are part of a non-listed ESA population. This section defines "eligible entities" as the States of Washington, Oregon, and Idaho, as well as the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, the Columbia River Inter-Tribal Fish Commission, and the Cowlitz Indian Tribe.

Each permit issued is active for one year from the date of issuance and authorizes the taking of up to 100 sea lions. Permits may be renewed for an additional year at the discretion of the Secretary. This section also sets an annual cumulative limit for lethal takings of sea lions to 10 percent of the annual potential biological removal level.

This section also directs the Secretary to approve or deny an application for a permit not later than 30 days after receiving the application. Further, this section states that the National Environmental Policy Act of 1969 does not apply with respect to the issuance of any permit under the authority of the bill during the five-year period beginning on the date of the enactment. Permitting can expire five years after enactment if the Secretary determines that lethal removal authority is no longer necessary to protect salmonid and other fish species from sea lion predation.

<sup>3</sup>Submitted testimony of the Honorable Leland Bill, Chairman of the Columbia River Tribal Fish Commission, to the House Committee on Natural Resources, 115th Cong. Legislative Hearing on H.R. 2083, June 8, 2017.

<sup>4</sup>Submitted testimony of the Honorable Leotis McCormack, Commissioner of the Columbia River Inter-Tribal Fish Commission, to the House Committee on Natural Resources, 114th Cong. Leg., Legislative Hearing on H.R. 564, July 23, 2015.

## COMMITTEE ACTION

H.R. 2083 was introduced on April 8, 2017, by Congresswoman Jaime Herrera Beutler (R-WA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. On June 8, 2017, the Subcommittee held a hearing on the bill. On July 25, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Jared Huffman (D-CA) offered an amendment designated 003; it was not agreed to by a bipartisan roll call vote of 14 ayes and 20 noes, as follows:

## Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 07-26-17

Recorded Vote #: 4

Meeting on / Amendment on: FC Mark Up on 21 bills: **Huffman\_003** Amendment to H.R. 2083 (Rep. Jamie Herrera Beutler), "Endangered Salmon and Fisheries Predation Prevention Act"

| MEMBERS                                 | Yes | No | Pres | MEMBERS                       | Yes | No | Pres |
|---|-----|----|------|-------------------------------|-----|----|------|
| <b>Mr. Bishop, UT, Chairman</b>         |     | X  |      | <b>Mr. Cook, CA</b>           |     | X  |      |
| <i>Mr. Grijalva, AZ, Ranking Member</i> |     | X  |      | <i>Mr. Soto, FL</i>           | X   |    |      |
| <b>Mr. Young, AK, Chairman Emeritus</b> |     |    |      | <b>Mr. Westerman, AR</b>      |     | X  |      |
| <i>Mrs. Napolitano, CA</i>              |     |    |      | <i>Mr. McEachin, VA</i>       | X   |    |      |
| <b>Mr. Gohmert, TX, Vice Chairman</b>   |     |    |      | <b>Mr. Graves, LA</b>         |     | X  |      |
| <i>Ms. Bordallo, Guam</i>               |     |    |      | <i>Mr. Brown, MD</i>          | X   |    |      |
| <b>Mr. Lamborn, CO</b>                  |     | X  |      | <b>Mr. Hice, GA</b>           |     | X  |      |
| <i>Mr. Costa, CA</i>                    | X   |    |      | <i>Mr. Clay, MO</i>           | X   |    |      |
| <b>Mr. Wittman, VA</b>                  |     | X  |      | <b>Mrs. Radewagen, AS</b>     |     | X  |      |
| <i>Mr. Sablan, CNMI</i>                 | X   |    |      | <i>Mr. Gomez, CA</i>          | X   |    |      |
| <b>Mr. McClintock, CA</b>               |     | X  |      | <b>Mr. LaHood, IL</b>         |     | X  |      |
| <i>Ms. Tsongas, MA</i>                  | X   |    |      | <b>Mr. Webster, FL</b>        |     | X  |      |
| <b>Mr. Pearce, NM</b>                   |     | X  |      | <b>Mr. Bergman, MI</b>        |     | X  |      |
| <i>Mr. Huffman, CA</i>                  | X   |    |      | <b>Ms. Cheney, WY</b>         |     | X  |      |
| <b>Mr. Thompson, PA</b>                 |     |    |      | <b>Mr. Johnson, LA</b>        |     |    |      |
| <i>Mr. Lowenthal, CA</i>                | X   |    |      | <b>Ms. González-Colón, PR</b> |     |    |      |
| <b>Mr. Gosar, AZ</b>                    |     | X  |      | <b>Mr. Gianforte, MT</b>      |     | X  |      |
| <i>Mr. Beyer, VA</i>                    | X   |    |      |                               |     |    |      |
| <b>Mr. Labrador, ID</b>                 |     |    |      |                               |     |    |      |
| <i>Mrs. Torres, CA</i>                  | X   |    |      |                               |     |    |      |
| <b>Mr. Tipton, CO</b>                   |     | X  |      |                               |     |    |      |
| <i>Mr. Gallego, AZ</i>                  |     |    |      |                               |     |    |      |
| <b>Mr. LaMalfa, CA</b>                  |     | X  |      |                               |     |    |      |
| <i>Ms. Hanabusa, HI</i>                 | X   |    |      |                               |     |    |      |
| <b>Mr. Denham, CA</b>                   |     | X  |      |                               |     |    |      |
| <i>Ms. Barragán, CA</i>                 | X   |    |      | <b>TOTAL:</b>                 | 14  | 20 |      |

No additional amendments were offered, and on July 26, 2017, the bill was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 21 ayes and 14 noes, as follows:

## Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 07-26-17

Recorded Vote #: 5

Meeting on / Amendment on: FC Mark Up on 21 bills: **On Favorably Reporting** H.R. 2083 (Rep. Jamic Herrera Beutler), "Endangered Salmon and Fisheries Predation Prevention Act"

| MEMBERS                                 | Yes | No | Pres | MEMBERS                       | Yes | No | Pres |
|---|-----|----|------|-------------------------------|-----|----|------|
| <b>Mr. Bishop, UT, Chairman</b>         | X   |    |      | <b>Mr. Cook, CA</b>           | X   |    |      |
| <i>Mr. Grijalva, AZ, Ranking Member</i> |     | X  |      | <i>Mr. Soto, FL</i>           |     | X  |      |
| <b>Mr. Young, AK, Chairman Emeritus</b> |     |    |      | <b>Mr. Westerman, AR</b>      | X   |    |      |
| <i>Mrs. Napolitano, CA</i>              |     |    |      | <i>Mr. McEachin, VA</i>       |     | X  |      |
| <b>Mr. Gohmert, TX, Vice Chairman</b>   |     |    |      | <b>Mr. Graves, LA</b>         | X   |    |      |
| <i>Ms. Bordallo, Guam</i>               |     |    |      | <i>Mr. Brown, MD</i>          |     | X  |      |
| <b>Mr. Lamborn, CO</b>                  | X   |    |      | <b>Mr. Hice, GA</b>           | X   |    |      |
| <i>Mr. Costa, CA</i>                    | X   |    |      | <i>Mr. Clay, MO</i>           |     | X  |      |
| <b>Mr. Wittman, VA</b>                  | X   |    |      | <b>Mrs. Radewagen, AS</b>     | X   |    |      |
| <i>Mr. Sablan, CNMI</i>                 |     | X  |      | <i>Mr. Gomez, CA</i>          |     | X  |      |
| <b>Mr. McClintock, CA</b>               | X   |    |      | <b>Mr. LaHood, IL</b>         | X   |    |      |
| <i>Ms. Tsongas, MA</i>                  |     | X  |      | <b>Mr. Webster, FL</b>        | X   |    |      |
| <b>Mr. Pearce, NM</b>                   | X   |    |      | <b>Mr. Bergman, MI</b>        | X   |    |      |
| <i>Mr. Huffman, CA</i>                  |     | X  |      | <b>Ms. Cheney, WY</b>         | X   |    |      |
| <b>Mr. Thompson, PA</b>                 |     |    |      | <b>Mr. Johnson, LA</b>        |     |    |      |
| <i>Mr. Lowenthal, CA</i>                |     | X  |      | <b>Ms. González-Colón, PR</b> | X   |    |      |
| <b>Mr. Gosar, AZ</b>                    | X   |    |      | <b>Mr. Gianforte, MT</b>      | X   |    |      |
| <i>Mr. Beyer, VA</i>                    |     | X  |      |                               |     |    |      |
| <b>Mr. Labrador, ID</b>                 |     |    |      |                               |     |    |      |
| <i>Mrs. Torres, CA</i>                  |     | X  |      |                               |     |    |      |
| <b>Mr. Tipton, CO</b>                   | X   |    |      |                               |     |    |      |
| <i>Mr. Gallego, AZ</i>                  |     |    |      |                               |     |    |      |
| <b>Mr. LaMalfa, CA</b>                  | X   |    |      |                               |     |    |      |
| <i>Ms. Hanabusa, HI</i>                 |     | X  |      |                               |     |    |      |
| <b>Mr. Denham, CA</b>                   | X   |    |      |                               |     |    |      |
| <i>Ms. Barragán, CA</i>                 |     | X  |      | <b>TOTAL:</b>                 | 21  | 14 |      |

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 10, 2017.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2083, the Endangered Salmon and Fisheries Predation Prevention Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 2083—Endangered Salmon and Fisheries Predation Prevention Act*

H.R. 2083 would amend the Marine Mammal Protection Act of 1972 to authorize the National Oceanic and Atmospheric Administration (NOAA) to issue permits that would allow states and tribal entities in the Northwest United States to kill sea lions in the Columbia River and its tributaries under certain circumstances. Each permit would allow up to 100 sea lions a year to be removed from populations that threaten species of salmon and other fish listed as endangered or threatened under the Endangered Species Act. Under the bill, individuals granted permits to kill sea lions would need to be trained in wildlife management.

Under current law, NOAA has the authority to issue permits to kill certain marine mammals that threaten other species. Based on information from the agency, CBO estimates that giving NOAA the authority to issue such permits would have a negligible effect on the federal budget. Enacting H.R. 2083 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting that legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2083 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The bill would authorize the states of Washington, Oregon, and Idaho, along with several tribal governments, to use lethal force against sea lion predators that threaten important Northwest fish resources.

The CBO staff contacts for this estimate are Robert Reese (for federal costs) and Jon Sperl (for intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, is to amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon and other nonlisted species.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

#### **MARINE MAMMAL PROTECTION ACT OF 1972**

\* \* \* \* \*

TITLE I—CONSERVATION AND PROTECTION OF MARINE  
MAMMALS

\* \* \* \* \*

**SEC. 120. PACIFIC COAST TASK FORCE; GULF OF MAINE.**

(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the intentional lethal taking of pinnipeds in accordance with this section.

(b) APPLICATION.—(1) A State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

te through the Ballard Locks at Seattle, Washington.

(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the taking.

(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking authority; and

(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the inten-

tional lethal taking, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Pinniped-Fishery Interaction Task Force and the Secretary shall consider—

(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

(3) the extent to which such pinnipeds are causing undue injury or impact to, or imbalance with, other species in the ecosystem, including fish populations; and

(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

(e) LIMITATION.—The Secretary shall not approve the intentional lethal taking of any pinniped from a species or stock that is—

(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) depleted under this Act; or

(3) a strategic stock.

[(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.—

[(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

[(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or which the Secretary finds are approaching such endangered species or threatened species status; or

[(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

[(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be sub-

mitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

【(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

【(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

【(5) The amounts appropriated under section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).】

*(f) TEMPORARY MARINE MAMMAL REMOVAL AUTHORITY 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 to authorize the intentional lethal taking on the waters of the Columbia River and its tributaries of individually identifiable sea lions that are part of a population that is not categorized under this Act as depleted for the purpose of protecting species of salmon that are listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and other nonlisted fish species.*

*(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 100 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 effect under this subsection shall not exceed 10 percent of the annual potential biological removal level.*

*(4) TRAINING IN NATURAL RESOURCES MANAGEMENT.—Permit holders exercising lethal removal authority pursuant to this Act shall be trained in natural resource management.*

*(5) DELEGATION OF PERMIT AUTHORITY.—Any eligible entity may delegate to any other eligible entity the authority to administer its permit authority under this subsection.*

*(6) NEPA.—Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply with respect to this subsection and the issuance of any permit under*

*this subsection during the 5-year period beginning on the date of the enactment of this subsection.*

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

(8) *ELIGIBLE ENTITY DEFINED.—In this subsection, 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 Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, the Columbia River Inter-Tribal Fish Commission, and the Cowlitz Indian Tribe.*

(9) *INDIVIDUAL PINNIPED EXCEPTION.—For purposes of this section, any pinniped located upstream of river mile 112 of the Columbia River and all tributaries that include spawning habitat of threatened or endangered salmon or steelhead is deemed to be individually identifiable.*

(g) **REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—**

(1) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

(A) fish behavior in the presence of predators generally;

(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

(D) other issues the Secretary considers relevant.

(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d).

(h) **GULF OF MAINE TASK FORCE.—**The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment of this section, the Secretary shall after notice and opportunity for public comment submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Com-

merce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

(i) REQUIREMENTS APPLICABLE TO TASK FORCES.—(1) Any task force established under this section—

(A) shall to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests; and

(B) shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

(2) Meetings of any task force established under this section shall be open to the public, and prior notice of those meetings shall be given to the public by the task force in a timely fashion.

(j) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

(2) In developing and implementing a take reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 118(f)(5)(A), but in no case may such modification extend the date of compliance beyond April 1, 1997.

\* \* \* \* \*

## DISSENTING VIEWS

H.R. 2083, the Endangered Salmon and Fisheries Predation Prevention Act, would amend the Marine Mammal Protection Act (MMPA) to authorize the Secretary of Commerce to issue annual permits to Washington, Oregon, Idaho, six tribal groups (Nez Perce, Umatilla, Warm Springs, Yakama, Cowlitz and the Columbia River Inter-Tribal Fish Commission) to kill California sea lions. The bill's stated intent is to reduce the effect of predation by sea lions on salmon and steelhead listed under the Endangered Species Act (ESA), as well as any non-listed fish, including non-native species.

H.R. 2083 targets the threat that fish face from predation by marine mammals, specifically California sea lions, but does not address far more significant factors impacting endangered salmonids and non-listed fish. Dams—particularly deadbeat dams like the four on the lower Snake River that no longer provide any great benefit to society—are the main factor. Habitat loss, fishing pressure, interactions with hatchery fish, climate change, pesticides, and predation by fish and wildlife other than sea lions also impact salmonid runs. In reality, sea lion predation represents a very small proportion of total salmon mortality, and the current lethal take authorization permitted under the MMPA is sufficient.

Under H.R. 2083, as many as 920 California sea lions could be killed each year—10 times as many as are currently allowed to be killed. Take would not be limited to “bottlenecks” such as the area immediately below the Bonneville Dam or around Willamette Falls, as it is now. We agree that these manmade barriers to fish passage create conditions that make salmon and steelhead easy prey for sea lions but strongly disagree that granting expanded authority to kill nearly 1,000 sea lions anywhere in the river would address this problem.

H.R. 2083 also waives Section 102(2)(c) of the National Environmental Policy Act (NEPA), which would eliminate the requirement that the Secretary consider the environmental impacts associated with the permit and alternatives to the permitted action. This NEPA waiver is unacceptable and would shut out the public from reviewing and commenting on proposed permits.

For the second congress in a row, Water, Power, and Oceans Subcommittee Ranking Member Huffman offered an amendment to place reasonable limits on the authority contained in the bill, and Republicans defeated the amendment. If enacted, H.R. 2083 would not address the real threats faced by endangered salmon and non-listed species, but would needlessly target sea lions, which are a native and critical part of the Columbia River ecosystem. For these reasons, we oppose H.R. 2083 as reported.

RAÚL M. GRIJALVA,  
*Ranking Member, Committee  
on Natural Resources.*

A. DONALD MCEACHIN.  
NANETTE DIAZ BARRAGÁN.  
DARREN SOTO.  
JARED HUFFMAN.  
GRACE F. NAPOLITANO.  
COLLEEN HANABUSA.

