

109TH CONGRESS
1ST SESSION

H. R. 2323

To establish a program of research and other activities to provide for the recovery of the southern sea otter.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2005

Mr. FARR (for himself, Mrs. CAPPS, Ms. WOOLSEY, Mr. LANTOS, Ms. ESHOO, Mr. BERMAN, Mr. CASE, Mr. HINCHEY, Mr. McDERMOTT, Mr. GEORGE MILLER of California, Mr. OWENS, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mr. SHERMAN, Mrs. TAUSCHER, Mr. VAN HOLLEN, Mr. GRIJALVA, Mr. FOLEY, Mr. ABERCROMBIE, Mr. BLUMENAUER, Mr. SHAYS, and Mr. ISSA) introduced the following bill; which was referred to the Committee on Resources

A BILL

To establish a program of research and other activities to provide for the recovery of the southern sea otter.

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 “Southern Sea Otter
5 Recovery and Research Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Sea otters were hunted to near extinction in
2 the 18th and 19th centuries along the west coast of
3 the United States. Today a small population of
4 southern sea otters exists along the California coast-
5 line.

6 (2) Southern sea otters are listed as a threat-
7 ened species under the Endangered Species Act of
8 1973, and are recognized as depleted under the Ma-
9 rine Mammal Protection Act of 1972.

10 (3) Southern sea otters have educational, eco-
11 nomic, ecological, and scientific importance to the
12 people of California and the Nation.

13 (4) Recent studies have—

14 (A) determined that an elevated level of
15 mortality, particularly in adult southern sea ot-
16 ters, is limiting recovery of the population; and

17 (B) determined that the major threats to
18 the southern sea otter are largely due to de-
19 graded marine ecosystems, including infectious
20 diseases, sequestration of contaminants, food
21 resource limitations, and coastal oil spills.

22 (5) Enactment of provisions to implement the
23 United States Fish and Wildlife Service document
24 entitled “Final Revised Recovery Plan for the south-
25 ern sea otter (*Enhydra lutris nereis*)” could lead to

1 delisting of the southern sea otter under the Endan-
2 gered Species Act of 1973.

3 (6) The public would benefit from having well
4 managed and viable fisheries, healthy marine eco-
5 systems, and a recovered sea otter population.

6 (7) Research underlies every aspect of recov-
7 ering southern sea otter populations, educating citi-
8 zens and stakeholders, and restoring coastal eco-
9 systems.

10 **SEC. 3. SOUTHERN SEA OTTER RECOVERY PROGRAM.**

11 (a) IN GENERAL.—The Secretary of the Interior, act-
12 ing through the United States Fish and Wildlife Service
13 (in this Act referred to as the “Secretary”), shall carry
14 out a recovery program for southern sea otter populations
15 along the coast of California. The recovery program shall
16 include the following:

17 (1) Monitoring and analysis of southern sea
18 otter population demographics and life history pa-
19 rameters, including a biannual population count.

20 (2) Protection of southern sea otter popu-
21 lations.

22 (3) Reduction or elimination of potential factors
23 limiting southern sea otter populations that are re-
24 lated to human activities.

1 (4) Assessment of southern sea otter health in
2 accordance with the Southern Sea Otter Health As-
3 sessment Plan developed under subsection (c).

4 (5) Education and outreach to the public about
5 southern sea otters and how human activities affect
6 their survival.

7 (b) ANNUAL REPORT.—The Secretary shall report on
8 the status of southern sea otter populations as part of an-
9 nual reports to the Congress under the Marine Mammal
10 Protection Act of 1972 (16 U.S.C. 1361 et seq.) or other
11 reporting requirements.

12 (c) HEALTH ASSESSMENT PLAN.—The Secretary
13 shall—

14 (1) in consultation with the Southern Sea Otter
15 Recovery Implementation Team established under
16 section 6, develop a Southern Sea Otter Health As-
17 sessment Plan;

18 (2) collect and analyze tissue samples from
19 southern sea otters;

20 (3) after such analysis, submit the tissue sam-
21 ples to the Secretary of Commerce for inclusion in
22 the National Marine Mammal Tissue Bank provided
23 for under section 407 of the Marine Mammal Pro-
24 tection Act of 1972 (16 U.S.C. 1421f) to allow for

1 managed access to the tissues by other researchers;
2 and

3 (4) review progress on the implementation of
4 the Southern Sea Otter Health Assessment Plan de-
5 veloped under paragraph (1) and report the status
6 of the plan as part of the report under subsection
7 (b).

8 (d) CONTENTS OF PLAN.—The Southern Sea Otter
9 Health Assessment Plan developed under subsection
10 (a)(1) shall include—

11 (1) mechanisms to systematically assess and
12 evaluate, among other matters, the immunology, vi-
13 rology, toxicology, bacteriology, parasitology, endo-
14 crinology, and nutritional status of southern sea ot-
15 ters; and

16 (2) identification of centers of expertise and re-
17 sources to implement the plan.

18 (e) PROMOTION OF ECOSYSTEM SUSTAINABILITY.—
19 In implementing this section, the Secretary shall seek to
20 recover sea otters while promoting ecosystem sustain-
21 ability by addressing—

22 (1) key threats to marine ecosystem health, and
23 ways to mitigate those threats; and

1 (2) mechanisms to revise the plan developed
2 under subsection (c) to adapt in a timely manner to
3 new information on the health of marine ecosystems.

4 **SEC. 4. SOUTHERN SEA OTTER RESEARCH PROGRAM.**

5 (a) GRANT AUTHORITY.—The Secretary shall award
6 competitive grants to support research regarding southern
7 sea otters.

8 (b) RESEARCH SUBJECTS.—Research funded with
9 grants under this section shall be in accordance with the
10 research goals established by the Sea Otter Recovery Im-
11 plementation Team under section 5, and shall include the
12 following topics:

13 (1) Southern sea otter demographics and nat-
14 ural history.

15 (2) The effects and sources of contaminants on
16 southern sea otters and sequestration of contami-
17 nants.

18 (3) Infectious diseases and parasites affecting
19 southern sea otters.

20 (4) Limitations on the availability of food re-
21 sources for southern sea otters and the impacts of
22 food limitation on southern sea otter carrying capac-
23 ity.

24 (c) RECOMMENDATION OF GRANTS BY RECOVERY
25 IMPLEMENTATION TEAM REQUIRED.—The Secretary—

1 (1) shall submit each grant proposal submitted
2 under this section to the Southern Sea Otter Recov-
3 ery Implementation Team established under section
4 5; and

5 (2) may not make a grant under this section
6 unless the grant proposal has been recommended by
7 such Team.

8 **SEC. 5. SOUTHERN SEA OTTER RECOVERY IMPLEMENTA-**
9 **TION TEAM.**

10 (a) ESTABLISHMENT.—The Secretary of the Interior
11 shall establish the Southern Sea Otter Recovery Imple-
12 mentation Team (in this section referred to as the
13 “Team”). The Federal Advisory Committee Act (5 App.
14 U.S.C.) shall not apply to the Team.

15 (b) FUNCTIONS.—The Team shall—

16 (1) make recommendations to the Secretary re-
17 garding overall implementation of the southern sea
18 otter recovery program and research goals;

19 (2) make recommendations to the Secretary re-
20 garding prioritization of recovery actions, funding
21 needs, and implementation schedules;

22 (3) facilitate coordination, cooperation, and
23 communication amongst persons interested in south-
24 ern sea otter recovery;

1 (4) facilitate implementation of actions identi-
2 fied in the recovery plan for the southern sea otter;

3 (5) monitor progress of recovery actions for the
4 southern sea otter;

5 (6) recommend changes to the recovery plan as
6 new information is obtained or unexpected conserva-
7 tion issues arise;

8 (7) review the recommendations of the Sci-
9 entific Advisory Subcommittee established by section
10 6; and

11 (8) make recommendations to the Secretary re-
12 garding funding of scientific research under section
13 4.

14 (c) MEMBERSHIP.—

15 (1) IN GENERAL.—The Team shall have bal-
16 anced representation and shall consist of no more
17 than 13 members. The Secretary shall appoint mem-
18 bers of the Team from among—

19 (A) individuals who are representatives of
20 Federal, State, or local agencies with expertise
21 in sea otter management;

22 (B) individuals who are representatives of
23 local marine user groups, which may include
24 commercial and recreational fishing organiza-
25 tions;

1 (C) individuals who are representatives of
2 marine conservation and other public interest
3 organizations;

4 (D) individuals who are representatives of
5 organizations involved in southern sea otter res-
6 cue, rehabilitation, and release; and

7 (E) individuals who are representatives of
8 scientific and educational organizations.

9 (2) CHAIR.—The Team shall elect a member of
10 the Team as chair of the Team for a term of 3
11 years. A member of the Team may not serve more
12 than 2 terms as chair.

13 (d) STAFFING AND ASSISTANCE.—The Secretary
14 may make available to the Team any staff, information,
15 administrative services, or assistance the Secretary deter-
16 mines is reasonably required to enable the Team to carry
17 out its function.

18 (e) ADMINISTRATION.—

19 (1) INTERNAL ADMINISTRATIVE REGULA-
20 TIONS.—The Team shall adopt rules, procedures,
21 and other internal administrative regulations as may
22 be necessary to carry out its functions.

23 (2) SUBSIDIARY BODIES.—The Team may es-
24 tablish such subsidiary bodies as it considers nec-
25 essary to carry out its functions.

1 (3) CONFLICTS OF INTEREST.—Team members
2 shall address conflicts of interest and other ethical
3 problems in accordance with the following guidelines:

4 (A) Members must disqualify themselves
5 from advising on a matter that has direct and
6 predictable effect on their personal financial
7 matters, those of a client, or those of a com-
8 pany by which they are employed, apart from
9 matters that are inherent in their employment
10 or outside affiliation.

11 (B) Members who participated in the de-
12 velopment of a proposal may not participate in
13 the review and recommendation of grants under
14 section 4(c) with respect to the proposal by the
15 Team.

16 (C) Members must not solicit business for
17 themselves or their firms or seek an economic
18 advantage based on their position on the Team.

19 (D) Members must hold any nonpublic in-
20 formation obtained as a result of their services
21 on the Team in confidence and ensure that it
22 is used exclusively for official purposes. Mem-
23 bers should not use or permit the use of such
24 information for their own private gain or the
25 gain of another person.

1 (E) Members must not use the resources
2 available to the Team for purposes of assisting
3 a political campaign, or for any political cam-
4 paign business.

5 (f) PUBLIC PARTICIPATION AND PROCEDURAL MAT-
6 TERS.—The following apply with respect to the conduct
7 of business meetings of the Team:

8 (1) With the exception of executive sessions,
9 each meeting shall be open to the public, and inter-
10 ested persons shall be allowed to present oral or
11 written statements on items on the agenda.

12 (2) Regular business meetings of the Team
13 shall occur at least once each year. Other meetings
14 of the Team may be held at the call of the chair.

15 (3) Timely notice of each meeting, including the
16 time, place, and agenda of the meeting, shall be pub-
17 lished locally and may be published in the Federal
18 Register.

19 (4) Minutes of each meeting shall be kept, and
20 shall contain a summary of attendees and matters
21 discussed.

22 (g) RESPONSIBILITIES OF THE SECRETARY.—The
23 Secretary shall oversee and coordinate all Team activities,
24 and shall be responsible for the following:

25 (1) Establishing and disbanding the Team.

1 (2) Defining team functions (including revising
2 the terms of reference for the Team) and estab-
3 lishing schedules for the Team for completing its
4 products.

5 (3) Approving, adopting, and amending recov-
6 ery plans.

7 (4) Transmitting Team recommendations to
8 other agencies and organizations, as appropriate.

9 (5) Providing staff, information, and adminis-
10 trative services necessary for the Team to carry out
11 its function.

12 **SEC. 6. SCIENTIFIC ADVISORY SUBCOMMITTEE OF THE SEA**
13 **OTTER RECOVERY IMPLEMENTATION TEAM.**

14 (a) ESTABLISHMENT.—The Southern Sea Otter Re-
15 covery Implementation Team established under section 5
16 shall establish the Scientific Advisory Subcommittee (in
17 this section referred to as the “Advisory Committee”). The
18 Federal Advisory Committee Act (5 App. U.S.C.) shall not
19 apply to the Advisory Subcommittee.

20 (b) FUNCTIONS.—The Advisory Subcommittee
21 shall—

22 (1) evaluate the scientific merit and quality of
23 southern sea otter research proposals submitted for
24 funding in response to a request by the Secretary for
25 proposals, based on the research goals established by

1 the Southern Sea Otter Implementation Team under
2 section 5(b)(1); and

3 (2) make recommendations to the Southern Sea
4 Otter Recovery Implementation Team regarding
5 funding of such proposals.

6 (c) MEMBERSHIP.—The Advisory Subcommittee shall
7 have balanced representation, and shall consist of no more
8 than 11 members appointed by the Southern Sea Otter
9 Recovery Implementation Team from among individuals
10 with a doctorate or equivalent education degree or with
11 proven expertise in sea otter science or sea otter health.
12 The Southern Sea Otter Recovery Implementation Team
13 shall, in consultation with the Secretary and the Marine
14 Mammal Commission, appoint members of the Advisory
15 Committee from among qualified individuals who rep-
16 resent the views of—

17 (1) Federal, State, or local agencies with exper-
18 tise in sea otter management;

19 (2) local marine user groups, which may include
20 commercial and recreational fishing organizations;

21 (3) marine conservation and other public inter-
22 est organizations;

23 (4) organizations involved in southern sea otter
24 rescue, rehabilitation, and release; and

25 (5) scientific and educational organizations.

1 (d) TERMS.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the term of a member of the Advisory
4 Subcommittee shall be 3 years.

5 (2) INITIAL APPOINTMENTS.—Of the members
6 first appointed as members of the Advisory Sub-
7 committee—

8 (A) 3 shall be appointed to an initial term
9 of 1 year; and

10 (B) 3 shall be appointed to an initial term
11 of 2 years.

12 (e) CONFLICTS OF INTEREST.—A member of the Ad-
13 visory Subcommittee who participated in the development
14 of a proposal may not participate in the review and rec-
15 ommendation of grants under section 4(c) with respect to
16 the proposal by the Advisory Subcommittee.

17 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) IN GENERAL.—There is authorized to be appro-
19 priated to the Secretary of the Interior to carry out this
20 Act \$5,000,000 for each of fiscal years 2007 through
21 2012, of which \$2,000,000 each fiscal year shall be for
22 grants under section 4 and the remainder for carrying out
23 the recovery activities listed in section 3.

24 (b) ADMINISTRATIVE EXPENSES.—Of amounts avail-
25 able each fiscal year to carry out section 5, the Secretary

1 may expend not more than 6 percent or \$80,000, which-
2 ever is greater, to pay the administrative expenses nec-
3 essary to carry out section 5.

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