

110TH CONGRESS  
1ST SESSION

# H. R. 3639

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2007

Mr. FARR (for himself, Mrs. CAPPS, Ms. ESHOO, Mr. BLUMENAUER, Mr. DEFazio, Mr. McDERMOTT, Mr. HINCHEY, Mr. KENNEDY, Ms. LEE, and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on Natural Resources

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## 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:

8               (1) Sea otters were hunted to near extinction in  
9       the 18th and 19th centuries along the west coast of

1 the United States. Today a small population of  
2 southern sea otters exists along the California coast-  
3 line.

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

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

11 (4) Recent studies have—

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

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

20 (5) Enactment of provisions to implement the  
21 United States Fish and Wildlife Service document  
22 entitled “Final Revised Recovery Plan for the south-  
23 ern sea otter (*Enhydra lutris nereis*)” could lead to  
24 delisting of the southern sea otter under the Endan-  
25 gered Species Act of 1973.

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

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

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

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

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

18           (2) Protection of southern sea otter popu-  
19       lations.

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

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

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

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

9           (c) HEALTH ASSESSMENT PLAN.—The Secretary  
10          shall—

11           (1) in consultation with the Southern Sea Otter  
12           Recovery Implementation Team referred to in sec-  
13           tion 5, develop a Southern Sea Otter Health Assess-  
14           ment Plan;

15           (2) collect and analyze tissue samples from  
16           southern sea otters;

17           (3) after such analysis, submit the tissue sam-  
18           ples to the Secretary of Commerce for inclusion in  
19           the National Marine Mammal Tissue Bank provided  
20           for under section 407 of the Marine Mammal Pro-  
21           tection Act of 1972 (16 U.S.C. 1421f) to allow for  
22           managed access to the tissues by other researchers;  
23           and

24           (4) review progress on the implementation of  
25           the Southern Sea Otter Health Assessment Plan de-

1 developed under paragraph (1) and report the status  
2 of the plan as part of the report under subsection  
3 (b).

4 (d) CONTENTS OF PLAN.—The Southern Sea Otter  
5 Health Assessment Plan developed under subsection  
6 (a)(1) shall include—

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

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

14 (e) PROMOTION OF ECOSYSTEM SUSTAINABILITY.—  
15 In implementing this section, the Secretary shall seek to  
16 recover sea otters while promoting ecosystem sustain-  
17 ability by addressing—

18 (1) key threats to marine ecosystem health, and  
19 ways to mitigate those threats; and

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

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

2 (a) GRANT AUTHORITY.—The Secretary shall award  
3 competitive grants to support research regarding southern  
4 sea otters.

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

10 (1) Southern sea otter demographics and nat-  
11 ural history.

12 (2) The effects and sources of contaminants on  
13 southern sea otters and sequestration of contami-  
14 nants.

15 (3) Infectious diseases and parasites affecting  
16 southern sea otters.

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

21 (c) RECOMMENDATION OF GRANTS BY RECOVERY  
22 IMPLEMENTATION TEAM REQUIRED.—The Secretary—

23 (1) shall submit each grant proposal submitted  
24 under this section to the Southern Sea Otter Recov-  
25 ery Implementation Team referred to in section 5;  
26 and

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

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

6           (a) ESTABLISHMENT.—There shall be a Southern  
7 Sea Otter Recovery Implementation Team (in this section  
8 referred to as the “Team”) established and appointed by  
9 the Secretary of the Interior in accordance with this sec-  
10 tion. The Federal Advisory Committee Act (5 App.  
11 U.S.C.) shall not apply to the Team.

12          (b) FUNCTIONS.—The Team shall—

13               (1) make recommendations to the Secretary re-  
14 garding overall implementation of the southern sea  
15 otter recovery program and research goals;

16               (2) make recommendations to the Secretary re-  
17 garding prioritization of recovery actions, funding  
18 needs, and implementation schedules;

19               (3) facilitate coordination, cooperation, and  
20 communication amongst persons interested in south-  
21 ern sea otter recovery;

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

24               (5) monitor progress of recovery actions for the  
25 southern sea otter;

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

4           (7) review the recommendations of the Sci-  
5       entific Advisory Subcommittee established by section  
6       6; and

7           (8) make recommendations to the Secretary re-  
8       garding funding of scientific research under section  
9       4.

10       (c) MEMBERSHIP.—

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

15           (A) individuals who are representatives of  
16       Federal, State, or local agencies with expertise  
17       in sea otter management;

18           (B) individuals who are representatives of  
19       local marine user groups, which may include  
20       commercial and recreational fishing organiza-  
21       tions;

22           (C) individuals who are representatives of  
23       marine conservation and other public interest  
24       organizations;



1 (D) individuals who are representatives of  
2 organizations involved in southern sea otter res-  
3 cue, rehabilitation, and release; and

4 (E) individuals who are representatives of  
5 scientific and educational organizations.

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

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

15 (e) ADMINISTRATION.—

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

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

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

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

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

13 (C) Members must not solicit business for  
14 themselves or their firms or seek an economic  
15 advantage based on their position on the Team.

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

23 (E) Members must not use the resources  
24 available to the Team for purposes of assisting

1 a political campaign, or for any political cam-  
2 paign business.

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

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

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

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

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

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

23 (1) Disbanding the Team.

24 (2) Defining team functions (including revising  
25 the terms of reference for the Team) and estab-

1       lishing schedules for the Team for completing its  
2       products.

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

5           (4) Transmitting Team recommendations to  
6       other agencies and organizations, as appropriate.

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

10 **SEC. 6. SCIENTIFIC ADVISORY SUBCOMMITTEE OF THE SEA**  
11 **OTTER RECOVERY IMPLEMENTATION TEAM.**

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

18       (b) FUNCTIONS.—The Advisory Subcommittee  
19       shall—

20           (1) evaluate the scientific merit and quality of  
21       southern sea otter research proposals submitted for  
22       funding in response to a request by the Secretary for  
23       proposals, based on the research goals established by  
24       the Southern Sea Otter Implementation Team under  
25       section 5(b)(1); and

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

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

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

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

19           (3) marine conservation and other public inter-  
20       est organizations;

21           (4) organizations involved in southern sea otter  
22       rescue, rehabilitation, and release; and

23           (5) scientific and educational organizations.

24       (d) TERMS.—

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

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

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

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

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

16   **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

23       (b) ADMINISTRATIVE EXPENSES.—Of amounts avail-  
24      able each fiscal year to carry out section 5, the Secretary  
25      may expend not more than 6 percent or \$80,000, which-

1 ever is greater, to pay the administrative expenses nec-  
2 essary to carry out section 5.

○