

115TH CONGRESS  
2D SESSION

# S. 3119

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 non-listed fish species.

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## IN THE SENATE OF THE UNITED STATES

JUNE 21, 2018

Mr. RISCH (for himself and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Endangered Salmon  
5 Predation Prevention Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of the Congress that—

8 (1) preventing predation by sea lions, recovery  
9 of listed salmonid stocks, and preventing future list-

1        ings of fish stocks in the Columbia River under the  
 2        Endangered Species Act of 1973 (16 U.S.C. 1531 et  
 3        seq.) is a vital priority; and

4            (2) the Federal Government should continue to  
 5        fund lethal and nonlethal removal, and deterrence,  
 6        measures for preventing such predation.

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

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

14            “(f) **TEMPORARY MARINE MAMMAL REMOVAL AU-**  
 15        **THORITY ON THE WATERS OF THE COLUMBIA RIVER OR**  
 16        **ITS TRIBUTARIES.—**

17            “(1) **REMOVAL AUTHORITY.—**Notwithstanding  
 18        any other provision of this Act, the Secretary may  
 19        issue a permit to an eligible entity to authorize the  
 20        intentional lethal taking on the waters of the Colum-  
 21        bia River and its tributaries of individually identifi-  
 22        able sea lions that are part of a population or stock  
 23        that is not categorized under this Act as depleted or  
 24        strategic for the purpose of protecting—

1           “(A) species of salmon, steelhead, or  
2 eulachon that are listed as endangered species  
3 or threatened species under the Endangered  
4 Species Act of 1973 (16 U.S.C. 1531 et seq.);  
5 and

6           “(B) species of lamprey or sturgeon that  
7 are not so listed as endangered or threatened  
8 but are listed as a species of concern.

9           “(2) PERMIT PROCESS.—

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

13           “(B) TIMELINES AND PROCEDURES OF AP-  
14 PPLICATION.—The timelines and procedures de-  
15 scribed in subsection (c) shall apply to applica-  
16 tions for permits under this subsection in the  
17 same manner such timelines apply to applica-  
18 tions under subsection (b).

19           “(C) COORDINATION.—The Secretary shall  
20 establish procedures to coordinate issuance of  
21 permits under this subsection, including appli-  
22 cation procedures and timelines, issuance to eli-  
23 gible entities, geographic and species-specific  
24 considerations, monitoring, and periodic review.

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

5           “(E) COORDINATION WITH OTHER  
6           TRIBES.—To the extent practicable, and prior  
7           to issuing a permit under this section, the Sec-  
8           retary shall consult with all Indian tribes with  
9           legal or historic interests in the protection of  
10          salmonid species in the area of the Columbia  
11          River and its tributaries described in paragraph  
12          (8).

13          “(3) LIMITATIONS ON ANNUAL TAKINGS.—The  
14          Secretary shall apply the process for determining  
15          limitations on annual take of sea lions under sub-  
16          section (c) to determinations on limitations under  
17          this subsection, and the cumulative number of sea  
18          lions authorized to be taken each year under all per-  
19          mits in effect under this subsection shall not exceed  
20          10 percent of the annual potential biological removal  
21          level for sea lions.

22          “(4) QUALIFIED INDIVIDUALS.—Intentional le-  
23          thal takings under this subsection shall be humane  
24          within the meaning of such term under section 3(4),  
25          and shall be implemented by agencies or qualified in-

1 individuals described in subsection (c)(4), or by indi-  
 2 viduals employed by the eligible entities described in  
 3 subsection (6).

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

13 “(6) ELIGIBLE ENTITY DEFINED.—

14 “(A) IN GENERAL.—

15 “(i) DEFINITION.—In this subsection,  
 16 the term ‘eligible entity’ means—

17 “(I) with respect to removal in  
 18 the mainstem of the Columbia River  
 19 and its tributaries, the State of Wash-  
 20 ington, the State of Oregon, and the  
 21 State of Idaho; and

22 “(II) with respect to removal in  
 23 the mainstem Columbia River and its  
 24 tributaries, the Nez Perce Tribe, the  
 25 Confederated Tribes of the Umatilla

1 Indian Reservation, the Confederated  
 2 Tribes of the Warm Springs Reserva-  
 3 tion of Oregon, the Confederated  
 4 Tribes and Bands of the Yakama Na-  
 5 tion, and the Columbia River Inter-  
 6 tribal Fish Commission.

7 “(ii) DELEGATION AUTHORITY.—The  
 8 Secretary may allow an eligible entity de-  
 9 scribed in clause (i)(I) to delegate its au-  
 10 thority under a permit under this sub-  
 11 section to any entity described in clause  
 12 (i)(II).

13 “(B) ADDITIONAL ELIGIBILITY.—

14 “(i) IN GENERAL.—Subject to the ap-  
 15 proval of the Secretary, the Indian tribes  
 16 described in subclauses (I) and (II) of  
 17 clause (ii) may remove sea lions pursuant  
 18 to a memorandum of understanding de-  
 19 scribed in clause (ii).

20 “(ii) MEMORANDA OF UNDER-  
 21 STANDING.—A memorandum of under-  
 22 standing described in this clause is—

23 “(I) between the State of Wash-  
 24 ington and the Cowlitz Indian Tribe

1 for deterrence and removal of sea  
2 lions on the Cowlitz River; or

3 “(II) between the State of Or-  
4 egon and the Confederated Tribes of  
5 the Grand Ronde Community of Or-  
6 egon or the Confederated Tribes of  
7 Siletz Indians of Oregon for deter-  
8 rence and removal of sea lions on the  
9 Willamette River.

10 “(iii) CONSIDERATIONS.—In deter-  
11 mining whether to approve a memorandum  
12 of understanding under clause (i), the Sec-  
13 retary shall consider each affected Indian  
14 tribe’s wildlife management capacity to  
15 meet the requirements of this Act.

16 “(7) INDIVIDUAL EXCEPTION.—For purposes of  
17 this section, any sea lion located upstream of river  
18 mile 112, or in any tributary to the Columbia River  
19 that includes spawning habitat of threatened or en-  
20 dangered salmon or steelhead is deemed to be indi-  
21 vidually identifiable.

22 “(8) SIGNIFICANT NEGATIVE IMPACT EXCEP-  
23 TION.—For purposes of this section, any sea lion lo-  
24 cated in the mainstem of the Columbia River up-  
25 stream of river mile 112, or in any tributary to the

1 Columbia River that includes spawning habitat of  
2 threatened or endangered salmon or steelhead is  
3 deemed to be having a significant negative impact,  
4 within the meaning of subsection (b)(1).

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

9 **SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**  
10 **DIAN TRIBES.**

11 Nothing in this Act or the amendments made by this  
12 Act shall be construed to affect or modify any treaty or  
13 other right of an Indian tribe (as defined in section 4 of  
14 the Indian Self-Determination and Education Assistance  
15 Act (25 U.S.C. 5304)).

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