



AMENDMENT NO. _____

Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

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 nonlisted fish species.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Ms. Cantwell for herself and Mr. Risch

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 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-
- 10 ings of fish stocks in the Columbia River under the

1 Endangered Species Act of 1973 (16 U.S.C. 1531 et
2 seq.) is a vital priority; and

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

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

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

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

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

24 “(A) species of salmon, steelhead, or
25 eulachon that are listed as endangered species

1 or threatened species under the Endangered
2 Species Act of 1973 (16 U.S.C. 1531 et seq.);
3 and

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

7 “(2) PERMIT PROCESS.—

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

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

17 “(C) COORDINATION.—The Secretary shall
18 establish procedures to coordinate issuance of
19 permits under this subsection, including appli-
20 cation procedures and timelines, delegation and
21 revocation of permits to and between eligible
22 entities, monitoring, periodic review, and geo-
23 graphic, seasonal take, and species-specific con-
24 siderations.

1 “(D) DURATION OF PERMIT.—A permit
2 under this subsection shall be effective for a pe-
3 riod of not more than 5 years, and may be re-
4 newed by the 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—

24 “(A) be humane within the meaning of
25 such term under section 3(4);

1 tributaries, the State of Washington, the
2 State of Oregon, and the State of Idaho;

3 “(ii) with respect to removal in the
4 mainstem Columbia River and its tribu-
5 taries, the Nez Perce Tribe, the Confed-
6 erated Tribes of the Umatilla Indian Res-
7 ervation, the Confederated Tribes of the
8 Warm Springs Reservation of Oregon, and
9 the Confederated Tribes and Bands of the
10 Yakama Nation; and

11 “(iii) with respect to removal in the
12 mainstem Columbia River and its tribu-
13 taries, the Columbia River Intertribal Fish
14 Commission.

15 “(B) DELEGATION AUTHORITY.—The Sec-
16 retary may allow an eligible entity described in
17 clause (i) to delegate its authority under a per-
18 mit under this subsection to any entity de-
19 scribed in subclause (ii) or (iii).

20 “(7) INDIVIDUAL EXCEPTION.—For purposes of
21 this subsection, any sea lion located upstream of
22 river mile 112, or in any tributary to the Columbia
23 River that includes spawning habitat of threatened
24 or endangered salmon or steelhead is deemed to be
25 individually identifiable.

1 “(8) SIGNIFICANT NEGATIVE IMPACT EXCEP-
2 TION.—For purposes of this subsection, any sea lion
3 located in the mainstem of the Columbia River up-
4 stream of river mile 112, or in any tributary to the
5 Columbia River that includes spawning habitat of
6 threatened or endangered salmon or steelhead is
7 deemed to be having a significant negative impact,
8 within the meaning of subsection (b)(1).

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

13 **SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**
14 **DIAN TRIBES.**

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

20 **SEC. 5. REPORT.**

21 Not later than 3 years after the date of the enact-
22 ment of this Act, the Secretary of Commerce shall study
23 and report to Congress on the effects of deterrence and
24 the lethal taking of sea lions on the recovery of endangered
25 and threatened salmon and steelhead stocks in the waters

1 of the Columbia River and the tributaries of the Columbia
2 River subject to section 120(f) of the Marine Mammal
3 Protection Act of 1972 (16 U.S.C. 1389(f)), as amended
4 by this Act.