

**LEGISLATIVE HEARING BEFORE THE COMMITTEE ON NATURAL RESOURCES,  
SUBCOMMITTEE ON WATER, POWER AND OCEANS  
U.S. HOUSE OF REPRESENTATIVES**

June 8, 2017

Under the Marine Mammal Protection Act (MMPA), the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS), as delegated by the Secretary of Commerce, is responsible for protecting certain marine mammals, namely cetaceans and pinnipeds, excluding walrus. The MMPA mandates that death of, and serious injury to, marine mammals incidental to commercial fishing operations must be reduced to insignificant levels approaching a zero rate. The MMPA establishes a long-range regime to govern interactions between marine mammals and commercial fisheries which includes the requirement to assess all stocks in U.S. waters, continue the categorization of fisheries and registration of fishers based on their interaction with marine mammals, and implement take reduction plans as needed to achieve the zero mortality goal.

We are pleased to report that the MMPA has been a highly successful tool in the recovery of many stocks of seals and sea lions along the West Coast. The eastern stock of Steller sea lions has experienced a successful recovery over the past 30 years, and accordingly it was delisted from the Endangered Species Act (ESA) in November 2013. The California sea lion population has also increased from approximately 10,000 animals in the 1950s to approximately 240,000 animals coast-wide today. The rapid growth of the California sea lion population since the 1970s is likely due in large part to the protections afforded the species under the MMPA, specifically the prohibition, with certain exceptions, of "take" of marine mammals in U.S. waters. Currently, this species is believed to be at or near "carrying capacity" – near the highest level of individuals that the environment can sustain – based on the growth curve and historical numbers of the population.

NMFS is 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. For example, from 2002-2016, California sea lions consumed an estimated 51,000 salmonids within a quarter-mile of Bonneville Dam. To add a little perspective, total passage of spring chinook at the dam between 2002-2016 was about 2.9 million fish, and predation rates of spring chinook within a quarter-mile of Bonneville Dam over the same years has ranged from a low of 0.3 percent of the total run in 2002 to a high of 4.5 percent of the total run in 2016. This percentage loss of annual chinook salmon runs in the quarter-mile reach of river adjacent to the dam also represents some fraction of the total number of salmonids consumed by pinnipeds throughout the remaining 146 river miles below the dam.

With passage of the MMPA amendments of 1994, Congress recognized the limits of non-lethal deterrence of pinnipeds as a means to protect at-risk, threatened, and endangered salmonids along the West Coast. These amendments included MMPA Section 120, which allows states to apply for authority to lethally remove certain pinnipeds, such as California sea lions or Pacific harbor seals, to protect salmonids.

In accordance with the procedures in Section 120 of the MMPA, the National Environmental Policy Act (NEPA), and the ESA, NMFS authorized in 2008, 2012, and 2016 the states of Oregon,

Washington, and Idaho to remove or kill individual California sea lions that they determined to be having a significant negative impact on ESA-listed salmonid stocks.

Combined, the three States' authorizations allow up to 92 animals to be removed per year. Since receiving removal authority in 2008, the States have permanently removed (by captivity or euthanization) 190 California sea lions. The States are currently operating under a Section 120 program authorization, issued in 2016, that will expire on June 30, 2021.

Preliminary data suggest that the Section 120 program has been successful overall in reducing the predation rate on salmonids in the immediate vicinity of Bonneville Dam; however, even despite that reduction, the number of California sea lions (and predation rates on salmonids) have increased in recent years. Preliminary research in the lower Columbia River suggests that 10 to 43 percent of returning salmonids are lost during the 146 mile migration between the Columbia River estuary and Bonneville Dam. These losses are due to multiple sources, including foraging California sea lions.

Pinniped predation has also expanded to the Willamette River, where in 2016, California sea lions consumed an estimated 9 and 11 percent of the populations of ESA-listed wild spring-run Chinook salmon and winter-run steelhead, respectively, in the vicinity of Willamette Falls.

Section 120 of the MMPA requires that individual pinnipeds be identified as having “a significant negative impact on the decline or recovery of salmonid fishery stocks.”<sup>1</sup> The process of capturing and branding each pinniped in the Columbia River requires a significant investment of resources. This system also may require states to collect years of data to establish that predation by an individually identifiable pinnipeds is having a “significant” impact on salmonids.

NMFS agrees with the principle of only removing the minimum number of individuals necessary to provide adequate protection of at-risk fish populations, which currently is accomplished by targeting those animals with a history of eating salmonids in the vicinity of the dam (or a likelihood of doing so by their repeated presence within close proximity of the dam). The States and the U.S. Army Corps of Engineers have been collecting pinniped predation data at Bonneville Dam since 2002, and we are looking for options that will allow parties to more efficiently gather this information.

We stand ready to work with the Committee on the best ways to reduce predation on endangered Columbia River salmon.

Several aspects of H.R. 2083 are consistent with our 1999 Report to Congress titled *Impacts of California Sea Lions and Pacific Harbor Seals on Salmonids and West Coast Ecosystems*. The bill identifies and aims to address the complicated and controversial wildlife management conflict we face on the Columbia River today. It correctly recognizes that: non-lethal methods alone may not be enough to protect salmonids from sea lion predation; many agencies, organizations, and the public have made enormous investments to conserve and recover at-risk salmonid populations in the Columbia River basin; Steller sea lion predation on some non-salmonids (e.g., sturgeon) is a growing problem; and federally-recognized tribes should be included in addressing this conflict.

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<sup>1</sup> Section 120(b)(1) of the MMPA (16 U.S.C. 1389(b)(1)).

In conclusion, the MMPA has provided strong protections for all marine mammals, regardless of their population status (i.e., whether or not they are depleted), for more than 40 years. We appreciate the bill's recognition that in some cases, active wildlife management programs may be necessary to mitigate pinniped-fishery conflicts along with other threats (e.g., the presence of dams, commercial, tribal, and recreation fisheries, water quality, habitat degradation, bird predation, etc.).