

Congress of the United States

Washington, DC 20515

April 7, 2008

Nick J. Rahall
Chairman
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Don Young
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
1329 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Rahall and Ranking Member Young:

We would like to urge immediate action on the *Endangered Salmon Predation Act* (H.R. 1769) in the House Natural Resources Committee. Efforts to address the problem of sea lion predation on endangered and threatened salmon on the Columbia River under the framework permitted in current law have recently been derailed.

Thousands of endangered and threatened Pacific salmon are being consumed each year on the Columbia River by California sea lions, a species that is neither endangered nor threatened. Last year, 4.2% of the total salmon run was observed being consumed by sea lions and estimates of actual take run as high as 12%. The number of sea lions along the Columbia River has tripled since 2002 alone.

In late 2006, as permitted under Section 120 of the Marine Mammal Protection Act, Oregon, Washington and Idaho made a formal request of NOAA Fisheries Service to authorize the lethal take of certain California sea lions below Bonneville Dam that were eating federally-protected salmon and steelhead. In response, NOAA Fisheries convened a Section 120 Pinniped-Fishery Interaction Task Force. Task Force members included representatives from the Marine Mammal Commission, Salmon for All, Confederated Tribes of the Warm Springs Reservation, NOAA Fisheries Service National Marine Mammal Laboratory, NOAA Fisheries Service Northwest Region Salmon Recovery Division, Columbia River Inter-Tribal Fish Commission, Lower Columbia River Estuary Partnership, American Fisheries Society, Washington Department of Fish and Wildlife, Nez Perce Tribe, Oregon Anglers, Confederated Tribes of the Umatilla Indian Reservation, Oregon Zoo, Confederated Bands of the Yakama Nation, the Oregon Department of Fish and Wildlife, the U.S. Army Corps of Engineers, the Humane Society, and an independent marine mammal scientist.

In its final report in November, the Task Force recommended, on a vote of 17 to 1, that lethal take be authorized. On March 18, NOAA Fisheries released a Record of Decision, approving the recommendation and allowing the states to use lethal removal only on individual sea lions that continue to eat salmon after deterrence methods are not successful. The decision allows an estimated 30 nuisance animals to be killed annually, only after the agencies declare that there were no alternatives, such as aquariums or zoos, which would take the animals.

Unfortunately, on March 24, the Humane Society filed a lawsuit in the District Court of Oregon for declaratory and injunctive relief. On April 1, 2008, under an agreement reached by the Humane Society and the federal and state governments, the authorized lethal take of sea lions will be postponed until the court can rule on the Humane Society's request for a preliminary injunction. We have reason to believe that, in the coming weeks, the court is likely to approve the request for a preliminary injunction until a decision is made on the merits of the lawsuit. This will almost certainly prevent any action this season. In fact, it is likely that the lawsuit will delay action for several years, representing a breakdown in the Section 120 process and resulting in the death of thousands and thousands of endangered and threatened Pacific salmon.

It is our belief that the Section 120 process is flawed and fails to provide the states and tribes with the tools that they need to protect endangered salmon. As you may be aware, the only other attempt to use Section 120 met a similar fate. In June of 1994, the Washington Department of Fish and Wildlife applied to NOAA Fisheries Service for authorization to lethally take California sea lions at the Ballard Locks. In January of 1995, following convening of a Pinniped-Fishery Interaction Task Force, NOAA Fisheries Service approved Washington's request for authority to lethally remove sea lions with specific conditions. Unfortunately, the decision was blocked by a Humane Society lawsuit for several years. The court ultimately found in favor of NOAA Fisheries. However, by then, the Lake Washington winter steelhead run had continued to decline, eventually reaching non-viable levels.

Pacific Northwest salmon are a national treasure and are critical to the Northwest economy, environment and culture. In light of the unfair and unnecessary delay caused by the Humane Society's lawsuit, it is our hope that the Committee will immediately consider the Endangered Salmon Predation Prevention Act and bring it up for a vote. As you may recall, in August of last year, the Fisheries, Wildlife and Oceans Subcommittee held a hearing on the Endangered Salmon Predation Act. Unfortunately, no further action has been taken on this legislation.

We thank you for your consideration of our request and look forward to providing you with any additional information you may need or desire.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is for Brian Baird, and the signature on the right is for Doc Hastings. Both signatures are fluid and cursive.

Brian Baird

Doc Hastings