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.

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

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 non-listed fish species.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) preventing predation by sea lions, recovery of listed salmonid stocks, and preventing future list-
ings of fish stocks in the Columbia River under the
seq.) is a vital priority; and

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

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

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

“(f) Temporary Marine Mammal Removal Au-
thority on the Waters of the Columbia River or
Its Tributaries.—

“(1) Removal authority.—Notwithstanding
any other provision of this Act, the Secretary may
issue a permit to an eligible entity to authorize the
intentional lethal taking on the waters of the Colum-
bia River and its tributaries of individually identifi-
able sea lions that are part of a population or stock
that is not categorized under this Act as depleted or
strategic for the purpose of protecting—
“(A) species of salmon, steelhead, or eulachon that are listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

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

“(2) PERMIT PROCESS.—

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

“(B) TIMELINES AND PROCEDURES OF APPLICATION.—The timelines and procedures described in subsection (c) shall apply to applications for permits under this subsection in the same manner such timelines apply to applications under subsection (b).

“(C) COORDINATION.—The Secretary shall establish procedures to coordinate issuance of permits under this subsection, including application procedures and timelines, issuance to eligible entities, geographic and species-specific considerations, monitoring, and periodic review.
“(D) Duration of permit.—A permit under this subsection shall be effective for not more than 5 years, and may be renewed by the Secretary.

“(E) Coordination with other tribes.—To the extent practicable, and prior to issuing a permit under this section, the Secretary shall consult with all Indian tribes with legal or historic interests in the protection of salmonid species in the area of the Columbia River and its tributaries described in paragraph (8).

“(3) Limitations on annual takings.—The Secretary shall apply the process for determining limitations on annual take of sea lions under subsection (c) to determinations on limitations under this subsection, and the cumulative number of sea lions authorized to be taken each year under all permits in effect under this subsection shall not exceed 10 percent of the annual potential biological removal level for sea lions.

“(4) Qualified individuals.—Intentional lethal takings under this subsection shall be humane within the meaning of such term under section 3(4), and shall be implemented by agencies or qualified in-
individuals described in subsection (c)(4), or by individuals employed by the eligible entities described in subsection (6).

“(5) SUSPENSION OF PERMITTING AUTHORITY.—If, 5 years after the date of the enactment of the Endangered Salmon Predation Prevention Act, the Secretary, after consulting with State and tribal fishery managers, determines that lethal removal authority is no longer necessary to protect salmonid and other fish species from sea lion predation, the Secretary shall suspend the issuance of permits under this subsection.

“(6) ELIGIBLE ENTITY DEFINED.—

“(A) IN GENERAL.—

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

“(I) with respect to removal in the mainstem of the Columbia River and its tributaries, the State of Washington, the State of Oregon, and the State of Idaho; and

“(II) with respect to removal in the mainstem Columbia River and its tributaries, the Nez Perce Tribe, the Confederated Tribes of the Umatilla
Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, and the Columbia River Inter-tribal Fish Commission.

“(ii) DELEGATION AUTHORITY.—The Secretary may allow an eligible entity described in clause (i)(I) to delegate its authority under a permit under this subsection to any entity described in clause (i)(II).

“(B) ADDITIONAL ELIGIBILITY.—

“(i) IN GENERAL.—Subject to the approval of the Secretary, the Indian tribes described in subclauses (I) and (II) of clause (ii) may remove sea lions pursuant to a memorandum of understanding described in clause (ii).

“(ii) MEMORANDA OF UNDERSTANDING.—A memorandum of understanding described in this clause is—

“(I) between the State of Washington and the Cowlitz Indian Tribe.
for deterrence and removal of sea lions on the Cowlitz River; or


“(iii) CONSIDERATIONS.—In determining whether to approve a memorandum of understanding under clause (i), the Secretary shall consider each affected Indian tribe’s wildlife management capacity to meet the requirements of this Act.

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

“(8) SIGNIFICANT NEGATIVE IMPACT EXCEPTION.—For purposes of this section, any sea lion located in the mainstem of the Columbia River upstream of river mile 112, or in any tributary to the
Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead is deemed to be having a significant negative impact, within the meaning of subsection (b)(1).

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

SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED INDIAN TRIBES.

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