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# Exploding Populations of California Sea Lions: A Crisis with No Political Solution on the Horizon

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**ABSTRACT:** Since the passage of the Marine Mammal Protection Act (MMPA) of 1972, populations of California Sea Lions have increased, until today their numbers are reported to be larger than at any other time in the past several centuries. This is a case of a federal law being too successful. In 1997, a report co-authored by the National Marine Fisheries Service (NMFS) and the Pacific States Marine Fisheries Commission offered Congress some sound recommendations for changes to the MMPA, aimed at beginning to place some management controls on this exploding population. Eleven years later, not one of the recommendations has been implemented, and there has been no reauthorization of the MMPA. A number of incidents have pointed up the fact that injuries of humans by sea lions have been increasing, and some regulatory changes are needed now to slow down the aggressive packs of sea lions. In addition, more and more property damage has been reported, both against boats and on the docks in marinas, up and down the coast. We no longer have the luxury of ignoring what is becoming a very serious public problem. The sportfishing industry is working for changes in the MMPA and for appropriate funding, and is asking Congress to direct the NMFS to take the lead in the development of effective non-lethal deterrent devices, so as to allow the industry to co-exist with these marauding gangs of pinnipeds. The funding would create the incentives so that the private sector would partner with NMFS in developing the needed deterrent devices.

**KEY WORDS:** California sea lions, fisheries, Marine Mammal Protection Act, non-lethal deterrents, public safety, seals, sportfishing, West Coast, *Zalophus californianus*

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## INTRODUCTION

West coast populations of California sea lions (*Zalophus californianus*) are increasing at an alarming rate and are today reported to be larger than at any other time in the past several centuries. At present, aggressive herds of these animals are causing increasing problems, including preventing the recovery of endangered fish stocks, attacks on valuable spawning adult female sturgeon in the Columbia River, increasing threats to public safety, and threatening the future survival of small sport and commercial fishing businesses. Unless the Congress acts to ease the burden created by these exploding populations, the future of many of these small fishing businesses will be in serious doubt.

## IMPACTS OF SEALS AND SEA LIONS ON WEST COAST ECOSYSTEMS

In 2008, we are celebrating the 11<sup>th</sup> anniversary of the National Marine Fisheries Service (NMFS) / Pacific States Marine Fisheries Commission (PSMFC) report to Congress, entitled "Impacts of California Sea Lions and Pacific Harbor Seals on Salmonids and West Coast Ecosystems" (NOAA 1997, 1999). The report explains the problems these huge and increasing populations have been having on living marine resources. It is more relevant today than ever before. One of the key findings is that these uncontrolled mammal populations are negatively impacting recreational and commercial fishing businesses by consuming bait, depredating hooked fish, increasing the rate of mortality on fish populations, destroying fishing gear, and ruining the sportfishing experience. As the President of the largest sportfishing association in California, representing 130+ boats in southern California, I can personally testify to the many

incidents where these aggressive sea lions have prevented my members from providing even a minimally rewarding angling experience for their passengers. Unfortunately, none of the recommendations have been adopted as changes to federal law through the Marine Mammal Protection Act of 1972 (MMPA) (MMPA 2007). The future is looking bleak!

The report makes some sound recommendations, which should have been supported by Congress. These include: 1) implementation of site specific management in cases where mammals are preying on depleted salmonid populations; 2) removal of impediments and agency support for testing non-lethal deterrent technologies; and (3) selectively reinstate authority for intentional lethal take, in order to protect fishing gear and catch.

A closer look at the report reveals a recommendation that is more valid today than ever, and should be part of the discussion when (and if) reauthorization of the MMPA begins, hopefully in the 2009 session. The recommendation is as follows: "In situations where California sea lions or Pacific harbor seals conflict with human activities, such as at fishery sites and marinas, lethal removal by state or federal resource agency officials would be authorized as a last resort when an individual pinniped fails to respond to repeated deterrence attempts, or when repeated deterrence attempts do not effect the behavior of an individual pinniped over the long-term." Another recommendation, mentioned earlier, is to "Develop Safe, *Effective*, Non-Lethal Deterrents" (emphasis mine). While NMFS has listed a number of approved non-lethal devices, none of them has proven to be effective, and it will take money and political will from Congress to offer incentives to the private sector to

develop a device that will, in fact, effectively deter seals and sea lions from anglers catch and gear. We need to develop ways to co-exist with these hungry hoards of sea lions, and Congress needs to act, the sooner the better!

### **DETERRENCE RESEARCH NEEDED**

Prior to the MMPA reauthorization discussion of 1999, which failed to result in any changes to federal law, an environmental group, then known as the Center for Marine Conservation, submitted proposed changes to the MMPA that they called the “Pinniped Deterrence Research Program.” The Sportfishing Association of California (SAC) believes that this approach has promise. We would like to see the burden for developing effective non-lethal deterrence devices placed with NMFS, along with the money needed to implement such work. Hopefully, this could lead to a unit that would allow the boats in the sportfishing industry to co-exist with California sea lions while providing reasonable opportunities to passengers to catch a few fish. One memorable fish report from one of the SAC boats, returning from a day at the Coronado Islands, said it all: “While we had an enjoyable day on the water, we are returning with only 28 yellowtail heads. Sea lions 28, anglers zip!” Research done a few years ago from California Department of Fish & Game log books revealed that close to 25% of the fish hooked by the passengers of the commercial passenger fishing vessel (CPFV) fleet in southern California were taken by sea lions! Sea lions may kill us before the MLPA shuts us down.

While much has been said about the exploding populations of sea lions in California, it is interesting to note that it has been a relative few rogue or nuisance animals that have caused the great majority of the problems. Unfortunately, it is those problem critters that are the most difficult to deter with the devices that are currently approved by NMFS. Unless the incentive for the creation of an effective non-lethal deterrent is offered to the private sector, I don’t see that we have much of a future. In addition to these animals depredating anglers catch, the fleet of boats harvesting live bait faces an uncertain future. The simple fact is that sport-fishing in southern California relies on a reliable and stable supply of live bait. With hoards of sea lions swarming over the cork lines of the bait nets in search of food, there is no guarantee that the fleet will have enough chum and hook bait to make a catch— that is, if the MLPA process leaves us places to use that bait!

### **SEAL AND SEA LION PROBLEMS INCREASING**

As the population of sea lions increases and the aggressiveness of the increasing numbers of problem animals increases, the human interactions and injuries will increase. A few years ago, a female deckhand was walking up the dock from her boat when a 500-lb. sea lion came out of the water and bit her on the hand, perhaps thinking she had a fish. Her fingers were lacerated, and she needed medical attention. Earlier, another deckhand was scooping bait on the bait docks, and he was grabbed by a sea lion and dragged part way off the dock, probably because he was blocking the sea

lion’s access to the bait in the net. These animals are not dumb, and they clearly can learn from experience.

Another problem has developed in Mission Bay, San Diego, on the docks of the Hyatt Islandia Hotel. The general manager of the hotel described how “...we are being overrun by aggressive seals climbing on our newly renovated docks and reeking havoc for our overnight guests. The oil residue left on the docks and the weight factor of these seals is sure to cause property damage. In addition, in the last 30 days, the problem has become so severe we are now comping hotel room stays due to our guests’ inability to sleep. This problem, as you can see, is now costing lost revenue in addition to property damage... Additionally, we are spending payroll dollars to patrol the docks to keep the seals off. Something must be done before this problem continues and attracts sharks into our Bay.” The General Manager of the Hyatt Islandia wrote this letter almost 6 years ago, and to my knowledge, no solutions have yet been found.

### **TAKING ACTION TO SOLVE SEAL AND SEA LION ACTIONS**

While the MMPA did an admirable job of recovering the population of California sea lions to levels that today are the highest ever recorded, it is past time for the politicians in Washington to amend the act and move from ‘protection’ to wise management. The MMPA has no provision to deal with ‘recovered’ populations, and in that situation it is more restrictive than the Endangered Species Act (ESA). At least the ESA allows for the delisting of animals, once they have been recovered. The MMPA must at least be brought up to the ESA levels. Even members of the environmental community can’t pass the ‘red face test’ when it comes to addressing this failure of the MMPA.

While I don’t expect action in 2008, this being an election year, I would hope that everyone with an interest in the health of our west coast ocean environment will support changes to the MMPA in 2009. At the very least, we need a ‘high priority’ focus on forcing the federal government to immediately get involved in the development of effective non-lethal deterrent devices. I think Dr. Doyle Hanan, a marine mammal expert with the California Department of Fish & Game for many years, said it best when he concluded a report on the “Economic Impacts Associated with the Expanding California Sea Lion Populations” with the following statement:

*“Effective deterrent devices and techniques could prevent pinnipeds from interfering in commercial fishing and charterboat operations, as well as keeping them away from aquaculture facilities, live-bait, hatchery and fish farming operations, anchored boats and docks, and other private structures. However, current MMPA legislation has required NMFS to focus its marine mammal research on stock assessment because they are necessary for the management of the incidental taking of marine mammals during commercial fishing operations. Consequently, this has forced NMFS to relegate research on the effects of expanding pinniped populations on coastal ecosystems and pinniped deterrence to a priority*

*at which funds are not readily available.”* (Hanan 2004)

Congress successfully addressed controversial fisheries management issues when it reauthorized the Magnuson-Stevens Fisheries Conservation and Management Act, and it is now time to take the MMPA tiger by the tail and similarly whip it into shape.

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