

**AMENDMENT TO H.R. 4435, AS REPORTED
OFFERED BY MS. BROWNLEY OF CALIFORNIA**

At the end of subtitle B of title III, add the following new section:

1 **SEC. 3 ___. SOUTHERN SEA OTTER MILITARY READINESS**
2 **AREA.**

3 (a) ESTABLISHMENT OF SOUTHERN SEA OTTER
4 MILITARY READINESS AREA.—Chapter 631 of title 10,
5 United States Code, is amended by adding at the end the
6 following new section:

7 **“§ 7235. Southern Sea Otter Military Readiness Area:**
8 **establishment and effect on military**
9 **readiness activities**

10 “(a) ESTABLISHMENT.—The Secretary of Defense
11 shall establish an area to be known as ‘Southern Sea Otter
12 Military Readiness Area’ for national defense purposes.
13 The area shall be defined as the area that includes Naval
14 Base Ventura County, San Nicolas Island, and Begg Rock
15 and the adjacent and surrounding waters within the fol-
16 lowing coordinates:

17 “N. Latitude/W. Longitude

18 “33°27.8′/119°34.3′

19 “33°20.5′/119°15.5′

1 “33°13.5’/119°11.8’

2 “33°06.5’/119°15.3’

3 “33°02.8’/119°26.8’

4 “33°08.8’/119°46.3’

5 “33°17.2’/119°56.9’

6 “33°30.9’/119°54.2’.

7 “(b) ACTIVITIES WITHIN THE SOUTHERN SEA
8 OTTER MILITARY READINESS AREA.—

9 “(1) INCIDENTAL TAKINGS UNDER ENDAN-
10 GERED SPECIES ACT OF 1973.—Sections 4 and 9 of
11 the Endangered Species Act of 1973 (16 U.S.C.
12 1533, 1538) shall not apply with respect to the inci-
13 dental taking of any southern sea otter in the South-
14 ern Sea Otter Military Readiness Area in the course
15 of conducting a military readiness activity.

16 “(2) INCIDENTAL TAKINGS UNDER MARINE
17 MAMMAL PROTECTION ACT OF 1972.—Sections 101
18 and 102 of the Marine Mammal Protection Act of
19 1972 (16 U.S.C. 1371, 1372) shall not apply with
20 respect to the incidental taking of any southern sea
21 otter in the Southern Sea Otter Military Readiness
22 Area in the course of conducting a military readiness
23 activity.

24 “(3) TREATMENT AS SPECIES PROPOSED TO BE
25 LISTED.—For purposes of any military readiness ac-

1 tivity, any southern sea otter while within the South-
2 ern Sea Otter Military Readiness Area shall be
3 treated for the purposes of section 7 of the Endan-
4 gered Species Act of 1973 (16 U.S.C. 1536) as a
5 member of a species that is proposed to be listed as
6 an endangered species or a threatened species under
7 section 4 of the Endangered Species Act of 1973 (16
8 U.S.C. 1533).

9 “(c) REMOVAL.—Nothing in this section or any other
10 Federal law shall be construed to require that any south-
11 ern sea otter located within the Southern Sea Otter Mili-
12 tary Readiness Area be removed from the Area.

13 “(d) REVISION OR TERMINATION OF EXCEPTIONS.—
14 The Secretary of the Interior may revise or terminate the
15 application of subsection (b) if the Secretary, in consulta-
16 tion with the Secretary of the Navy, determines that mili-
17 tary activities occurring in the Southern Sea Otter Mili-
18 tary Readiness Area are impeding the southern sea otter
19 conservation or the return of southern sea otters to opti-
20 mum sustainable population levels.

21 “(e) MONITORING.—

22 “(1) IN GENERAL.—The Secretary of the Navy
23 shall conduct monitoring and research within the
24 Southern Sea Otter Military Readiness Area to de-
25 termine the effects of military readiness activities on

1 the growth or decline of the sea otter population and
2 on the near-shore eco-system. Monitoring and re-
3 search parameters and methods shall be determined
4 in consultation with the United States Fish and
5 Wildlife Service.

6 “(2) REPORTS.—Not later than 24 months
7 after the date of the enactment of this section and
8 every three years thereafter, the Secretary of the
9 Navy shall report to Congress and the public on
10 monitoring undertaken pursuant to paragraph (1).

11 “(f) DEFINITIONS.—In this section:

12 “(1) INCIDENTAL TAKING.—The term ‘inci-
13 dental taking’ means any take of a southern sea
14 otter that is incidental to, and not the purpose of,
15 the carrying out of an otherwise lawful activity.

16 “(2) MILITARY READINESS ACTIVITY.—The
17 term ‘military readiness activity’ has the meaning
18 given that term in section 315(f) of the Bob Stump
19 National Defense Authorization Act for Fiscal Year
20 2003 (Public Law 107–314; 16 U.S.C. 703 note),
21 and includes all training and operations of the
22 Armed Forces that relate to combat and the ade-
23 quate and realistic testing of military equipment, ve-
24 hicles, weapons, and sensors for proper operation
25 and suitability for combat use.

1 “(3) OPTIMUM SUSTAINABLE POPULATION.—

2 The term ‘optimum sustainable population’ means,
3 with respect to any population stock, the number of
4 animals that will result in the maximum productivity
5 of the population or the species, keeping in mind the
6 carrying capacity of the habitat and the health of
7 the ecosystem of which they form a constituent ele-
8 ment.

9 “(4) SOUTHERN SEA OTTER.—The term ‘south-
10 ern sea otter’ means any member of the subspecies
11 *Enhydra lutris nereis*.

12 “(5) TAKE.—The term ‘take’—

13 “(A) when used in reference to activities
14 subject to regulation by the Endangered Species
15 Act of 1973 (16 U.S.C. 1531–1544) shall have
16 the meaning given such term in that Act; and

17 “(B) when used in reference to activities
18 subject to regulation by the Marine Mammal
19 Protection Act of 1972 (16 U.S.C. 1361–
20 1423h), shall have the meaning given such term
21 in that Act.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of such chapter is amended by adding
24 at the end the following:

 “7235. Southern Sea Otter Military Readiness Area: establishment and effect
 on military readiness activities.”.

- 1 (c) CONFORMING AMENDMENT.—Section 1 of Public
- 2 Law 99–625 (16 U.S.C. 1536 note) is repealed.

