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
4 (a) ESTABLISHMENT OF SOUTHERN SEA OTTER
5 MILITARY READINESS AREA.—Chapter 631 of title 10,
6 United States Code, is amended by adding at the end the
7 following new section:
8
9 “§ 7235. Southern Sea Otter Military Readiness Area:
10 establishment and effect on military
11 readiness activities
12 “(a) ESTABLISHMENT.—The Secretary of Defense
13 shall establish an area to be known as ‘Southern Sea Otter
14 Military Readiness Area’ for national defense purposes.
15 The area shall be defined as the area that includes Naval
16 Base Ventura County, San Nicolas Island, and Begg Rock
17 and the adjacent and surrounding waters within the fol-
18 lowing coordinates:
19
20 “N. Latitude/W. Longitude
21 “33°27.8′/119°34.3′
22 “33°20.5′/119°15.5′
23
“(b) Activities Within the Southern Sea Otter Military Readiness Area.—


“(3) Treatment as species proposed to be listed.—For purposes of any military readiness ac-
tivity, any southern sea otter while within the Southern Sea Otter Military Readiness Area shall be treated for the purposes of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) as a member of a species that is proposed to be listed as an endangered species or a threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

“(c) REMOVAL.—Nothing in this section or any other Federal law shall be construed to require that any southern sea otter located within the Southern Sea Otter Military Readiness Area be removed from the Area.

“(d) REVISION OR TERMINATION OF EXCEPTIONS.—The Secretary of the Interior may revise or terminate the application of subsection (b) if the Secretary, in consultation with the Secretary of the Navy, determines that military activities occurring in the Southern Sea Otter Military Readiness Area are impeding the southern sea otter conservation or the return of southern sea otters to optimum sustainable population levels.

“(e) MONITORING.—

“(1) IN GENERAL.—The Secretary of the Navy shall conduct monitoring and research within the Southern Sea Otter Military Readiness Area to determine the effects of military readiness activities on
the growth or decline of the sea otter population and
on the near-shore eco-system. Monitoring and re-
search parameters and methods shall be determined
in consultation with the United States Fish and
Wildlife Service.

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

“(f) DEFINITIONS.—In this section:

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

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

The term ‘optimum sustainable population’ means, with respect to any population stock, the number of animals that will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

“(4) SOUTHERN SEA OTTER.—The term ‘southern sea otter’ means any member of the subspecies Enhydra lutris nereis.

“(5) TAKE.—The term ‘take’—

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

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

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

“7235. Southern Sea Otter Military Readiness Area: establishment and effect on military readiness activities.”.
(c) CONFORMING AMENDMENT.—Section 1 of Public Law 99–625 (16 U.S.C. 1536 note) is repealed.