

STATE OF ALASKA

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

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Ms. Kaja Brix
Assistant Regional Administrator
Protected Resources Division, Alaska Region
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

RIN 0648-AX50

Dear Ms. Brix:

On behalf of the Citizens' Advisory Commission on Federal Areas, thank you for providing the briefing and answering questions at our February 20, 2010 meeting in Juneau on the proposal to designate critical habitat for the Cook Inlet Beluga whales. We found the briefing and subsequent discussion helpful in better understanding the process for designating critical habitat under the Endangered Species Act (ESA). We offer the following comments on the proposal.

While the Commission fully appreciates that Section 4(b)(2) of the ESA requires the National Marine Fisheries Service (NMFS) to designate critical habitat for threatened or endangered species, we recommend that no designation for the Cook Inlet beluga whale population be made at this time. There appears to be insufficient information and data available to delineate critical habitat for this beluga population.

The *Conservation Plan for the Cook Inlet Beluga Whale* was released in October 2008. That plan contains extensive discussion of beluga habitat and habitat types within Cook Inlet, but makes no conclusion regarding which portions or types would be classified as critical.

In publishing the October 22, 2008 final rule listing the Cook Inlet beluga population as endangered under the ESA, the NMFS made the following statements:

“At this time, we lack the data and information necessary to identify and describe PCEs [Primary Constituent Elements] of the habitat of the Cook Inlet beluga whale, as well as

the economic consequences of designating critical habitat..... We find designation of critical habitat to be “not determinable” at this time.” (FR 73 62929)

Notably lacking in the supplementary information accompanying the current proposed rule published December 2, 2009 (74 FR 63080) is any additional information not previously available or included in either the 2008 final rule or the 2008 Conservation Plan. It is unclear how the NMFS has determined that the previously insufficient information is now adequate to support this proposed designation of critical habitat. If the NMFS has acquired additional information, other than the economic impact analysis contained in the Section 4(b)(2) Regulatory Impact Review, this should have been provided to the public as part of this proposal. Absent any new information, we suggest that designation of critical habitat remains “not determinable” for the Cook Inlet beluga population.

On January 28, 2010, the NMFS published a notice that it would be preparing a recovery plan for the Cook Inlet beluga population (75 FR 4528). This recovery plan is required under Section 4(f) of the ESA. Concurrent with the preparation of the required recovery plan, we recommend that the NMFS continue gathering additional data on habitat, predation, salmon stocks and harvests, pollution sources and other primary constituent elements to better define critical habitat for belugas within Cook Inlet.

The waters and resources of Cook Inlet, along with the surrounding land areas are currently managed under a host of state and federal statutes and regulatory guidelines. While this is the most heavily populated and developed region of the state, environmental safeguards are adequate to protect the habitat and primary constituent elements necessary for the conservation of the beluga whale, even without the immediate designation of critical habitat.

Given the significant adverse economic impacts which could result from designation of critical habitat, it is essential that any designation be based only on the most complete and reliable information possible. We urge the NMFS to continue its work to gather that information before making a final determination of critical habitat for the Cook Inlet beluga whale population.

We appreciate the opportunity to comment. Again, thank you for taking the time to meet with the Commission. Please contact our office if you have any questions.

Sincerely,



Stan Leaphart
Executive Director

Cc: Gov. Sean Parnell
Comm. Denby Lloyd – ADF&G
Comm. Tom Irwin- DNR