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02. March 2010

To  
Ms. Kaja Brix  
Asst. Reg. Administrator  
Protected Resources Div., AK. Region  
NMFS  
Attn: Ellen Sebastian  
PO Box 21668  
Juneau, AK 99802-1668

Subject: **RIN 0648-AX50 Endangered and Threatened Species: Designation of Critical Habitat for Cook Inlet Beluga Whale; request for comment (incl. RIN 0648-XT72 Notice of Public Hearings)**

Dear Ms. Brix:

I have reviewed the proposed rules by NOAA, 50 CFR Part 226 and offer the following comments.

1) I am a 50 year resident of Alaska and have lived in coastal areas around Nome, Kotzebue and Anchorage for three quarter of that time. I have been actively involved with observations, hunting and research on Sea-mammals, including beluga whales during that time. For the past 6 years I have been actively involved in research on Cook Inlet Beluga whales in conjunction with the Knik-Arm-Bridge project as a Government employee and private research contractor.

I consider myself informed about the Marine Mammal Protection Act ( MMPA) and the Endangered Species Act (ESA) provisions, the listing of this group of beluga whales under these two Acts and the scientific and biological aspects of this species in Cook Inlet.

2) In my opinion the demand by NMFS to protect the identified areas of Cook Inlet as "critical habitat" does not have sufficient foundation, is lacking scientific data and does not include several important aspects needed to reach this conclusion.

a) From a scientific standpoint there are too many **large gaps of knowledge** of the Cook Inlet population. The population dynamics are insufficiently known, the composition of family groups and pods and their long-term interaction is not known, the seasonal use-patterns of various parts of Cook Inlet over prolonged periods is not documented, the behavioral aspects and resulting functions of adult males, nursing females, and immature animals are not fully understood . The seasonal movements and especially wintering activities are not sufficiently known, as is any evidence of complete isolation from other stocks or groups. The role of observed individuals or small groups in adjacent waters and the connection, if any, to the Yakutat group is not known.

Having recognized that sufficient details are lacking to determine in more details how the different areas within Cook Inlet inter-relate in importance to the beluga whales, NMFS has basically declared all areas which show presence of belugas "critical habitat". This is obviously not the case, as has been shown in areas which have received more detailed research, like Knik-Arm and the area around the Port of Anchorage. As a very minimum the habitat use associated with different activities, like hunting, loafing, resting, breeding, nursing etc. needs to be identified as such and different use-patterns need to be associated with the seasonal distribution in relation to specific areas and habitats. In light of the severe economic impact associated with the ESA listing and the identification of critical habitat this is of outmost importance.

We know that some areas have more importance than others from some multi-year studies which have been done, mostly in conjunction with specific projects and their NEPA process, like the Port of Anchorage expansion project and Knik Arm Bridge project. There is little doubt that areas at the mouth of the Susitna-river, Chickaloon Bay and Eagle Bay have on the basis of seasonal use-patterns a higher value than others and could be considered "critical" for portion of a season.

b) Contrary to the assertion made by NMFS, the **economic impact** of the ESA listing and determination of critical habitat on the proposed scale is enormous. It does not appear to me, that the compound and accumulative effects of this proposal have been identified and considered in the figure offered by NMFS. The economic effects range from long-term, ongoing influences, like permitting process, increased cost to the bureaucracy, expenses for monitoring, mitigation and operational adjustments, risk-assumptions and curtailment of ongoing activities, like marine-traffic, fishing and other in-water activities. These restrictions are in the tens of millions of dollars per decade.

In addition any project will feel a very drastic impact in the direct cost associated with the design, construction methodology, permit stipulation compliance, risk-assumptions and insurance costs. Any in-water work will have severe and costly restrictions to deal with. As an example, in the case of the Knik-Arm Bridge project, estimated at about 700 Million dollars construction cost, the added cost can be easily in the 50-100 Million \$ magnitude due to design changes, construction restrictions, risk-and corresponding higher financing costs.

The added restrictions will also effect the ongoing functions of Government and industry. Sewage treatment, maintenance of marine-structures, bridges, riprap, dredging and such will be noticeably effected.

It appears to me that NMFS either has not identified these costs because of lack of sufficient knowledge in non-familiar fields, or excluded some of them as too speculative. There is a wealth of information on this subject available, which will show that the costs can be extreme. Look at the Spotted Owl- proceedings and it becomes crystal clear that the magnitude presented by NMFS is completely unrealistic.

A more **professionally done re-work** by specialists in this field is necessary.

c) Through-out the ESA process the only problems considered with the Cook Inlet beluga whales have involved human activities. In order to get a more balanced view, **none-**

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**human aspects** need to be considered as well.

Cook Inlet is a complex environment from several perspectives, involving geology, marine-mechanisms and hydrology, earthquakes, climate and biological aspects of many species.

One of the most noticeable characteristics is the function of fresh-water influx from glacier-fed river-systems. This creates a heavy load of silt which alters the bathymetry in a very noticeable and consequential way. NOAA has some good data procured over several decades which shows the noticeable changes in the bottom configuration. There is no doubt that these changes have a very drastic influence on the welfare of the belugas, because they not only reflect the natural habitat changes, but effect the food-chain and configuration of preferred areas.

I have not seen any analysis how these changes effect the **carrying-capacity** of Cook Inlet for this whale-species. This is an absolute necessity to create a meaningful and realistic recovery- and management-plan. Extinction models were created on assumptions based on less data,

In addition the **pale-ontological** aspects have been completely ignored. This is a most important part of this specific situation, since the question about the genetic make-up and relationship as a separate stock is most consequential in the debate about the applicability of the ESA. There is a lot of scientific evidence which shows the special problems associated with **peripheral populations** which have been isolated over prolonged periods of time. The lack of new influx of genes into a stationary pool is one of the best known factors. Many of these populations established themselves in marginal habitats which they were not able to support them over very long periods. In addition such species may have been on the end of the evolutionary chain and the Cook Inlet belugas may follow the mammoth, mastodon and other mammals which were common in this area as late as the late Pleistocene and vanished without the influence of humans.

The ESA requires use of the best available science and Pale-ontology is a recognized and valid part of science.

d) **CONCLUSION:** In my opinion the above details are of sufficient consequence that they have to be addressed and the Proposed Rule needs to be re-worked.

The economic impact needs to be examined in its totality and done by economists and professionals who have experience on a broad scale involving all aspects and consequences on industry, Government and society.

If there are any questions, I can be reached by email or 907-346-2121.

Sincerely,

Heinrich Springer  
Private citizen