

# Webb Exploration and Production, LLC

Alaskan Operations: P.O. Box 113141  
Anchorage, Alaska 99511-3141

◆ (907) 229-8398



February 25, 2010

Kaja Brix  
Assistant Regional Director  
National Marine Fisheries Service  
Alaska Region, Protected Resources Division  
P.O. Box 21668  
Juneau, AK 99802

ATTN: Ellen Sebastian

RE: RIN 0648-XT72  
National Marine Fisheries Service Proposed Beluga Whale Critical Habitat  
Designation of 3,000 Sq. Miles in the Cook Inlet, Alaska

Dear Ms. Sebastian:

As a lifelong Alaskan, and resident of Anchorage Alaska for over 51 years, I am strongly opposed to the designation of the entire mid and upper Cook Inlet as Critical Habitat for the beluga whale. I also have serious doubts as to appropriateness of the beluga's listing as an endangered species .

My primary source of income for myself and my family is reliant on oil and gas exploration and development in the Cook Inlet. The Cook Inlet is approaching a natural gas shortage. Current producible reserves of natural gas will not meet the south central demand by 2014. Virtually all state and federal experts, as well as industry representatives, agree that there exists enough natural gas reserves in the Cook Inlet to meet future demand beyond 2040. These experts also agree that the majority of these reserves needed to meet the demand beyond 2014, lie in undeveloped fields that are either inaccessible by road and existing infrastructure, are located in deep-offshore reservoirs requiring a jack-up drilling rig and huge initial investments, or in areas closed to oil and gas exploration and development – such as the Kenai National Moose Range.

This looming shortage of natural gas and the difficulties associated in new exploration and development in the Cook Inlet is further exacerbated by unreasonable restrictions on state lands, such as the Susitna Flats State Game Refuge, the high cost / high risk nature of Alaska, the uncertain tax structure, the excessive bonding requirements, and the most onerous regulatory and environmental permitting process in the country. The excessive federal control of Alaska's resources makes the prospect of doing oil and gas business here less than inviting. The proposed designation of the entire Cook Inlet as critical habitat for the beluga whale creates an additional stigma towards future exploration and development that the residents of the Cook Inlet region and the residents of the State of Alaska simply cannot allow. We depend on the development of OUR natural resources.

The NMFS asserts that the beluga whales are endangered and thus need protection and the establishment of this outrageous critical habitat designation. This assertion is erroneous, at best. The beluga population has been increasing since subsistence harvesting of the whale ended, and the population has experienced a steady growth since then. In fact, the juvenile whales cannot even be spotted by the air because of their grey color which is identical to the silty waters of the Cook Inlet. I can personally attest to this, as I have been a pilot since the late 1980's and have flown over the Cook Inlet hundreds of times.

The NMFS blatantly tries to make the public believe that the cost involved in "additional consultation" and other related federal regulations will only cost a total of \$600,000 to the people of Alaska and the affected industries. This is absolutely absurd! In one exploration project alone, Escopeta's Kitchen Lights, this proposed designation has deterred an initial investment of \$50,000,000 away from the Cook Inlet. Should an oil and gas company desire to perform the costly proposition of drilling an offshore well in the Cook Inlet with this designation, they will have to budget millions of dollars to contributed to the "additional consultations", duplicative permits, delays, legal fees, and litigation - without any guarantee of drilling the first well.

The finding by the NMFS significantly undercounts the costs, and exaggerates the benefits, of the critical habitat designation and arbitrarily and capriciously concludes that the benefits of such designation exceed its costs. This is a fantasy contrived by an ill-informed individual or group of individuals. This finding does not pass the red-face test and the NMFS should be ashamed in even suggesting such a finding. Clearly, this action by the NMFS is backed by environmentalists who do not reside, and have probably not even visited the State of Alaska. These special interest groups continue to be well-funded and able to manipulate the federal government to Alaska's detriment. Enough is enough. We are full capable of managing our own resources, which include the beluga whales.

The State of Alaska has approximately 365 million acres of land. The federal government already controls over 222 million of those acres in parks, reserves, and other national interest lands – all of which are closed to mineral, oil and gas exploration and development. Of the remaining 143 million acres, 43 million acres are native or private lands. That only leaves the State of Alaska with about 100 million acres, much of that is mountains, glaciers and populated areas. Alaska cannot afford to have any more of its land and resources controlled by the federal government or the environmental obstructionists who have fostered this ridiculous critical habitat designation.

I agree that the Cook Inlet is habitat for the beluga whale. However, to even suggest that the entire Cook Inlet should be considered as "critical habitat" is nonsense.

The Cook Inlet provides more the half of the states population with affordable natural gas for electricity and heat for their homes. The negative impact created by this designation creates an anti-development stigma that is contrary to the national energy policy and prejudices Alaska's ability to responsibly explore and develop its natural resources for the benefit of all Alaskans.

The proposed critical habitat designation of 3,000 square miles, which encompasses the entire Cook Inlet, is excessive and cannot all be considered “critical” by any stretch of the imagination. The beluga whales have coexisted with offshore oil and gas exploration and development for over 30 years, and there is no scientific or historic evidence that indicates oil and gas activities have had an impact to the whale population or its habitat. This designation will have an unwarranted negative impact on existing and future oil and gas activities.

The NMFS determination did not consider the cumulative negative impacts of this proposed critical habitat designation on the oil and gas industry, local communities, or other industries such as fishing, tourism, water and waste utilities, mining, and transportation.

A final designation of the Cook Inlet as critical habitat will empower the environmental obstructionists in initiating frivolous litigation which will delay and even cancel the regions essential exploration and development activities. The federal government and the environmental community already have a strangle-hold on our state’s natural resources, a decision by the NMFS in finalizing such a preposterous designation will choke out the remaining oil and gas companies in the Cook Inlet and repel further investments. The people of Alaska will not allow this to happen.

If the NMFS is weary of pending lawsuits by the environment community if it does not designate the Cook Inlet as critical habit, just wait and see how many residents, class action suits, litigation from just about every sector of Alaska’s business community, every local government body, every utility, every oil and gas and mining company, and even the State of Alaska itself will occur if you continue to tread down this path.

Aside from the obvious negative impact to the oil and gas industry and its resultant effect on the local communities and their energy requirements, this proposed designation will have far-reaching negative impacts, both on their feasibility and their economics, for the following planned projects: Port of Anchorage expansions, Turnagain Arm tidal energy generation project, Mt. Spurr geothermal power plant, Chakachamna hydroelectric plant, Port MacKenzie projects, ferry service to Tyonek, North Forelands dock and industrial area aggregate mining and export, Beluga coal to liquids plant, and road and bridge projects connecting West Cook Inlet settlements and projects to Anchorage.

The proposed critical habitat designation exaggerates the benefits by: (1) failing to adequately differentiate between the benefits that accrue from the designation of the Cook Inlet beluga whale as endangered and the benefits of the designation of such whale’s critical habitat; (2) failing to account for the baseline requirements of the Endangered Species Act that, absent the designation of critical habitat, NMFS would be required to not take any action that would jeopardize the Cook Inlet beluga whale’s existence due to inadequate stocks of certain fish species; and (3) attributing benefits to the fishing industry and recreational and subsistence users from such critical habitat

designation, while ignoring legal requirements other than the Endangered Species Act for fisheries conservation and the increased consumption of fish by the resulting larger whale population.

The baseline for the critical habitat designation analysis is in the existing regulations that provide protection to the Cook Inlet beluga whales under the Endangered Species Act, as well as under other federal, state, and local laws and guidelines, without any critical habitat designation. Absent a designation of critical habitat by the NMFS, the Endangered Species Act already requires all federal agencies to consult with NMFS to ensure that any action authorized, funded, or carried out would not jeopardize the continued existence of the beluga whale. Therefore, a proposed habitat designation, especially of the entire Cook Inlet, will not provide a higher level of protection than that already established under the Endangered Species Act. The State of Alaska is fully capable of managing its resources and beluga whale populations, in coordination with the existing federal regulations. Another layer of “consultation” requirements and federal oversight will do nothing more than delay, increase costs and even cancel environmentally sound projects.

The NMFS finding proposes that the designation of critical habitat may sustain healthy stocks of Cook Inlet beluga whale prey-fish and increase the consumptive value from fishing in and adjacent to such a critical habitat. This finding also presumes an overall increase in fish stocks solely from the critical habitat designation. These presumptions ignore the baseline requirements for the NMFS and the Alaska Department of Natural Resources to maintain the reproductive capacity of such fish stocks through managing human harvesting of these stocks and the increased consumption of such fish stocks by a larger Cook Inlet whale populations, which the NMFS erroneously expects to result simply from such critical habitat designation. Preserving designated critical habitat is more likely to help maintain such prey-fish at current stock levels, not increase them, since such designation merely retains the status-quo with respect to the condition of such habitat and does not require improving such habitat.

On the other hand, to the extent to which the designation of critical habitat would increase the Cook Inlet beluga whale population above the baseline condition, the consumption of such fish stocks by such whale populations would clearly increase.

In summary, the net effect of the critical habitat designation is more likely to be a reduction in the consumptive value from fishing in and adjacent to such critical habitat, and therefore would not be a benefit to fishermen, the commercial fishing industry, or the export of Alaska seafood products.

The finding by the NMFS describes several methods for calculating the value of several forms of benefits, but does not attempt to place a quantitative value on the benefits of Cook Inlet beluga whale critical habitat designation above the benefits of the baseline protection already afforded under the Endangered Species Act. Similarly, the finding also does not attempt to develop a qualitative measurement of such value or attempt to describe how such benefits were compared with the more easily calculated, albeit underestimated, costs of such a designation.

Instead, the finding simply states, in brevity, that the anticipated benefits would outweigh the anticipated costs and a net benefit to the nation would result. No support is provided for this statement. No basis that would allow an outside disinterested expert to reach such a similar conclusion using the same information is provided in the finding.

The NMFS simply throws up its hands and says that a valuation of the benefits can't be done, yet it concludes that such benefits would exceed the expected costs. This is outrageous! A methodology such as this would not be allowed in an academic application, and should not be relied upon in such an important administrative application. The lengthy separate discussions of the costs and benefits do not overcome the vague, unscientific, illogical, arbitrary and capricious manner in which the comparison of the two was made, and in which the conclusion was reached. This is especially egregious when the NMFS undercounts the costs and exaggerates the benefits for the purposes of this biased comparison. The Port of Anchorage alone already spends millions of dollars a year as a result of the beluga whale listing as endangered, the proposed critical habitat designation and financial impact will be far greater than the NMFS conservative estimate.

The proposed analysis of the effects of this critical habitat designation should include a detailed method of comparing quantitative and qualitative valuations of costs and benefits and an explanation of how such a comparison was made using costs and benefits information to eliminate the inaccuracies described above. The resulting net cost or benefit conclusion should be supported in a manner that is repeatable by an outside disinterested expert, using the same data.

The conclusion by the NMFS that there would be a net benefit to the Nation by designating critical habitat for Cook Inlet beluga whales is extremely suspect. The NMFS determination that the Cook Inlet beluga whale as a biologically distinct species – separate from other beluga whales in Alaska, and its listing as an endangered species is even more suspect than the proposed designation of critical habitat. Any proposed critical habitat designation should include a realistic and predictable analysis of whether such a designation would result in a net cost or a net benefit. Absent such, a designation of critical habitat must be rejected, and the listing of the beluga whale as an endangered species should be revisited and examined objectively.

The overwhelming conclusion regarding the NMFS' proposed designation of 3,000 sq. miles of the Cook Inlet as critical habitat is that it is a finding that is not based on facts or repeatable scientific analysis. This proposed designation is nothing more than the attempts by the environmental community in manipulating a federal agency for their own special interests. It is in no way representative in what is best for the nation, the people of Alaska, or even the beluga whale itself. It is time for the environmentalists and special interest groups living outside Alaska to stay out of the state's business. The federal government needs to stop allowing itself to be manipulated by these groups.

In closing, I would just like to say that I have heard comments by Alaskan's in the past regarding Alaska succeeding from the United States. I have always considered such talk to be irrational. However, given the increased over-regulation of Alaska's resources, which are owned by the

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people of Alaska, I can see how this type of attitude exists. I am not sure, as a native Alaskan, how much more federal oppression of Alaska's resources the people of Alaska will stand for. Without the interference by the federal government and the environmental obstructionists, Alaska could be one of wealthiest countries in the world. I remember an instance in our own U.S. history where we were governed by those who did not share our views and values. It is my sincere hope that the federal government does not push Alaskans that far.

Please evaluate your future determinations and course of actions carefully.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B.D. Webb". The signature is written in a cursive style with a large initial "B" and "D".

Bruce D. Webb