



MARINE MAMMAL COMMISSION

6 September 2016

Mr. Michael Rolland
Chief, Leasing Section
Bureau of Ocean Energy Management
Alaska Outer Continental Shelf Region
3801 Centerpoint Drive, Suite 500
Anchorage, Alaska 99503-5823

Dear Mr. Rolland:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Bureau of Ocean Energy Management's (BOEM) draft environmental impact statement (EIS) for Lease Sale 244 within the Cook Inlet planning area and associated notice of availability (81 Fed. Reg. 47819). The Commission commented previously on BOEM's notice of intent to prepare an EIS and request for interest concerning a proposed special-interest lease sale within the Cook Inlet planning area (see the Commission's letters dated [8 December 2014](#) and [7 May 2012](#)). In those letters, the Commission recommended that BOEM defer the proposed lease sale until such time that it could, with reasonable confidence, confirm that the lease sale was not likely to jeopardize the survival or recovery of the Cook Inlet beluga whale population. The Commission further recommended that if BOEM decided to conduct the lease sale, it be restricted to areas south of Anchor Point.

The draft EIS identified six alternatives. Alternative 1 (the proposed action) would offer for sale all 224 Outer Continental Shelf (OCS) lease blocks identified in the lease area with no additional mitigation measures. Alternative 2 would not allow for a lease sale to occur. The remaining alternatives would provide explicit or ancillary protections for marine mammals and their habitats. They are as follows—

- Alternative 3A would exclude from the lease sale portions of Outer Continental Shelf (OCS) blocks that overlap with beluga whale critical habitat.
- Alternative 3B would prohibit on-lease seismic surveys and exploratory drilling activities from occurring within OCS blocks that overlap with areas designated as beluga whale critical habitat between 1 November and 1 April, when beluga whales are most likely to be present.
- Alternative 3C would prohibit on-lease seismic surveys and exploratory drilling activities from occurring within any OCS blocks included in the lease sale between 1 November and 1 April, and would prohibit on-lease seismic surveys from occurring within OCS blocks located wholly or partially within 10 miles of major anadromous streams (which serve as potential feeding areas for beluga whales) between 1 July and 30 September.
- Alternative 4A would exclude from the lease sale portions of OCS blocks that overlap with sea otter critical habitat.

- Alternative 4B would prohibit lessees from discharging drilling fluids and cuttings and conducting seafloor disturbing activities (including anchoring and placement of bottom-founded structures) within 1,000 m of areas designated as northern sea otter critical habitat.
- Alternative 5 would prohibit lessees from conducting on-lease seismic surveys during the drift gillnetting season (approximately mid-June to mid-August).
- Alternative 6 would prohibit lessees from discharging drilling fluid and cuttings into Cook Inlet.

Lessees may request a waiver from the prohibitions imposed by Alternatives 3B, 3C, 4B, and 5 at the time of filing an exploration plan, provided that lessees propose an alternate method for protecting these areas.

The proposed lease area overlaps with designated critical habitat for endangered Cook Inlet beluga whales. There is no evidence that the beluga whale population in Cook Inlet is recovering, and the National Marine Fisheries Service (NMFS) has yet to determine the reasons for its continued lack of recovery (NMFS 2015). NMFS has identified the Cook Inlet beluga whale as a “Species in the Spotlight” due to its status as one of eight marine species most at risk of extinction in the near future. Assessing and managing the effects of human-caused noise in Cook Inlet, including noise from oil and gas-related activities, has been identified as a top priority for the conservation and recovery of Cook Inlet beluga whales (NMFS 2016). For these and other reasons outlined in previous Commission letters regarding lease sales in Cook Inlet, the Commission continues to recommend that BOEM defer the proposed lease sale (Alternative 2) as the only way to ensure that oil and gas activities would not jeopardize the survival or recovery of the Cook Inlet beluga whale population.

If BOEM decides to go forward with a lease sale in Cook Inlet, despite the potential risks to beluga whales, measures should be taken to provide the greatest safeguards for the beluga whale population. Those safeguards should include an exclusion of critical habitat areas from the lease sale and year-round restrictions on all seismic surveys and exploratory drilling operations north of Anchor Point. Although beluga whales are distributed primarily in the northern portion of the inlet (Shelden et al. 2016), opportunistic sightings indicate that beluga whales continue to inhabit lower inlet waters (south of Kalgin Island) at various times during the year (Owl Ridge Natural Resource Consultants 2014, McGuire et al. 2014). These areas warrant protective measures to ensure that beluga whales that are present are not disturbed by oil and gas exploration or longer-term development activities. Of the alternatives identified in the draft EIS, the most protective approach would be to combine the lease sale exclusions identified in Alternative 3A with the additional mitigation measures for all remaining areas identified in Alternative 3C. The exclusion of beluga whale critical habitat from the lease sale would ensure that no exploration or development activities occur in these areas in the immediate future. This would allow additional time to investigate the factors impeding beluga whale recovery. The prohibition on seismic surveys and exploratory drilling in areas and at times when beluga whales are most likely to be present would also prevent disturbance. Therefore, should BOEM choose not to adopt Alternative 2 but rather proceed with the proposed lease sale, the Commission recommends that BOEM include a combination of the lease sale exclusions of Alternative 3A with the mitigation measures for the remaining areas identified in Alternative 3C in the final EIS and lease sale.

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Protective measures for northern sea otters also have been identified in the draft EIS under Alternatives 4A and 4B. As noted in the draft EIS, northern sea otters are sensitive to disturbance from vessel activity. They are also sensitive to actions that affect the primary constituent elements of critical habitat, such as the kelp forests used by otters for resting and foraging and also prey resources within such areas. Again, a combined approach would be more protective, i.e., a combination of the lease sale exclusions of Alternative 4A with the mitigation measures for the remaining areas identified in Alternative 4B. Therefore, the Commission recommends that BOEM combine the lease sale exclusions of Alternative 4A with the mitigation measures for the remaining areas identified in Alternative 4B in the final EIS and lease sale.

The Commission further recommends the inclusion of Alternatives 5 and 6 in the final EIS and lease sale, as they would have additional benefits for beluga whales, sea otters, and other marine mammals and their habitat in Cook Inlet.

I trust these comments will be helpful. Please let me know if you have any questions.

Sincerely,



Rebecca J. Lent, Ph.D.
Executive Director

Enclosure

cc: Jon Kurland, NMFS Alaska Regional Office
Donna Wieting, NMFS Office of Protected Resources

References

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- NMFS. 2015. Draft recovery plan for the Cook Inlet beluga whale (*Delphinapterus leucas*). Available at <https://alaskafisheries.noaa.gov/sites/default/files/draft-cibrecoveryplan051515.pdf>.
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- Owl Ridge Natural Resource Consultants, Inc. 2014. Cosmopolitan State 2013 Drilling Program Marine Mammal Monitoring and Mitigation 90-day Report. Prepared for BlueCrest Alaska Operating LLC, 47 pages.
- Shelden, K.E.W., K.T. Goetz, D.J. Rugh, D.G. Calkins, B.A. Mahoney, and R.C. Hobbs. 2016. Spatio-temporal changes in beluga whale, *Delphinapterus leucas*, distribution: Results from

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aerial surveys (1977-2012), opportunistic sightings (1975-2014), and satellite tagging (1999-2003) in Cook Inlet, Alaska. *Marine Fisheries Review* 77(2):1-31.