



# MARINE MAMMAL COMMISSION

8 December 2014

Mr. Michael Rolland  
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) 23 October 2014 notice of intent to prepare an environmental impact statement (EIS) for Lease Sale 244 within the Cook Inlet planning area (79 Fed. Reg. 63437). The Commission commented previously on BOEM's request for interest concerning a proposed special-interest lease sale within the Cook Inlet planning area (see enclosed letter of 7 May 2012). Those comments 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 the southernmost portions of the Cook Inlet planning area.

Despite comments from the Commission and several others<sup>1</sup> opposing the lease sale, the BOEM Alaska Outer Continental Shelf Region initially identified the entire Cook Inlet planning area as available for leasing (18 May 2012). In August 2013, BOEM changed its recommendation to a targeted lease sale reducing the area identified for the sale to a more compact area in the northern portion of the planning area<sup>2</sup>. This reduced area still runs counter to the Commission's recommendation that the lease sale be restricted to the southernmost portions of the Inlet. Instead the area identified for the lease sale includes areas with the highest potential to affect adversely the endangered Cook Inlet beluga whale. The reduced area was subsequently modified to exclude portions of northern sea otter critical habitat that extend into federal waters—a modification which the Commission supports—but BOEM did not exclude the portions of Cook Inlet beluga whale critical habitat that also extend into federal waters. No rationale was provided in BOEM's Area Identification to explain the inconsistency in protection of critical habitat for these two populations which are both listed under the Endangered Species Act.

Expansion of oil and gas activity into federal waters of Cook Inlet has the potential to affect adversely several species of marine mammals and their habitats. Of particular concern are the potential impacts on endangered Cook Inlet beluga whales. The National Marine Fisheries Service (NMFS) listed the Cook Inlet beluga whale population as endangered in October 2008 (73 Fed. Reg. 62919) and designated critical habitat for this population in April 2011 (76 Fed. Reg. 20180). The

<sup>1</sup> <http://www.regulations.gov/#!docketDetail;D=BOEM-2012-0017>

<sup>2</sup> [http://www.boem.gov/uploadedFiles/BOEM/About\\_BOEM/BOEM\\_Regions/Alaska\\_Region/Leasing\\_and\\_Plans/Leasing/Lease\\_Sales/Sale\\_244\\_-\\_Cook\\_Inlet/Sale\\_244\\_Area\\_ID.pdf](http://www.boem.gov/uploadedFiles/BOEM/About_BOEM/BOEM_Regions/Alaska_Region/Leasing_and_Plans/Leasing/Lease_Sales/Sale_244_-_Cook_Inlet/Sale_244_Area_ID.pdf)

most recent abundance estimate is 312 whales (coefficient of variation=0.13), based on aerial surveys conducted in June 2012, and the ten-year trend in abundance (2002-2012) is an average annual decline of 0.6 percent per year (Hobbs et al. 2012).

The Commission is concerned that BOEM's area identification for lease sale 244 includes a portion of the whales' "Area 2" critical habitat, which NMFS has determined provides foraging and overwintering habitat for beluga whales (76 Fed. Reg. 20180). Oil and gas activities resulting from the lease sale have the potential to have adverse effects on Cook Inlet beluga whales or to modify critical habitat by affecting one or more of the following primary constituent elements that NMFS has deemed essential to their conservation (as referenced at 76 Fed. Reg. 20214):

- (1) intertidal and subtidal waters of Cook Inlet less than 30 feet deep and within 5 miles of high and medium flow anadromous fish streams
- (2) primary prey species consisting of four species of Pacific salmon (chinook, sockeye, chum, and coho), Pacific eulachon, Pacific cod, walleye pollock, saffron cod, and yellowfin sole
- (3) waters free of toxins or other agents of a type and amount harmful to Cook Inlet beluga whales
- (4) unrestricted passage within or between the critical habitat areas
- (5) waters with in-water noise below resulting in the abandonment of critical habitat areas by Cook Inlet beluga whales.

Historical records indicate that beluga whales used to be found throughout Cook Inlet (Laidre et al. 2000). However, since the mid 1990's their range has contracted to the upper portion of the inlet, north of East and West Foreland (Rugh et al. 2010). Nevertheless, there have been beluga whale sightings in recent years in the mid-inlet, in close proximity (50-60 km) to the Cook Inlet lease sale area. In May 2012, NMFS aerial survey observers spotted seven beluga whales southeast of West Foreland moving toward Trading Bay (Hobbs et al. 2012, Shelden et al. 2013). Photo-identification surveys conducted in 2011-2013 encountered seven groups ranging in size from four to ten whales, including calves, in the Kenai River Delta, with whales observed feeding on salmon in the Delta on at least one occasion. Industry-conducted monitoring of oil and gas activities at the Cosmopolitan drilling site (near Anchor Point) detected one beluga whale in August 2013 (Owl Ridge Natural Resource Consultants 2014). Two other incidental sightings of beluga whales in the lower inlet were of a single animal in February 2013 in the Kenai River and a group south of Ninilchik in March 2013 (McGuire et al. 2014).

The extension of the northern portion of the proposed lease sale area into beluga whale critical habitat and the close proximity of recent sightings to the proposed lease sale area warrant the inclusion of measures in the lease sale EIS that would provide sufficient protections for Cook Inlet beluga whales, and a thorough analysis of alternatives which would either defer the lease sale or limit it to areas south of Anchor Point. That analysis should consider the impact that expanded oil and gas activities would have on a declining population, taking into account that the population is already being affected adversely by other factors related to human activities throughout its range, including vessel traffic, coastal development, construction, toxic contaminants, sound disturbance, military operations, competition with fisheries for prey, habitat modification, waste discharges, and urban runoff. As noted in previous letters, oil and gas exploration and development were among the many activities NMFS identified as possibly contributing to the population's observed decline (NMFS

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2008). Oil and gas activities in and near the whale's habitat have the potential to displace them and such displacement, when combined with and added to the repeated or chronic exposure to other human activities, may have long-term impacts on the population's productivity and persistence.

In light of the continued decline of the Cook Inlet beluga whale population and the potential for expanded oil and gas activities to contribute to that decline through additional disturbance and through loss of critical habitat, the Commission recommends that BOEM include in its EIS for Lease Sale 244 in the Cook Inlet planning area a thorough analysis of alternatives that would 1) defer the lease sale, and 2) restrict the lease sale to areas south of Anchor Point.

I trust these comments will be helpful to BOEM in meeting its responsibilities under the Outer Continental Shelf Lands Act and the National Environmental Policy Act. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive, flowing style.

Rebecca J. Lent, Ph.D.  
Executive Director

Enclosure

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

## References

- Hobbs, R. C., C. L. Sims, and K. E. W. Shelden. 2012. Estimated abundance of belugas in Cook Inlet, Alaska, from aerial surveys conducted in June 2012. NMFS National Marine Mammal Laboratory, Seattle, Washington, unpublished report. 7 pages.
- Laidre, K.L., K.E.W. Shelden, D.J. Rugh, and B.A. Mahoney. 2000. Beluga, *Delphinapterus leucas*, distribution and survey effort in the Gulf of Alaska. *Marine Fisheries Review* 62(3):27-36.
- McGuire, T., A. Stephens, and L. Bisson. 2014. Photo-identification of Cook Inlet beluga whales in the waters of the Kenai Peninsula Borough, Alaska. Final Report of Field Activities and Belugas Identified 2011-2013. Report prepared by LGL Alaska Research Associates, Inc., Anchorage, Alaska, for the Kenai Peninsula Borough. 178 pages.
- NMFS. 2008. Conservation Plan for the Cook Inlet beluga whale (*Delphinapterus leucas*). NMFS, Juneau, Alaska. 122 pages.
- 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. 49 pages.
- Rugh, D.J., K.E.W. Shelden, and R.C. Hobbs. 2010. Range contraction in a beluga whale population. *Endangered Species Research* 12:69-75.
- Shelden, K.E.W., D.J. Rugh, K.T. Goetz, C.L. Sims, L. Vate Brattström, J.A. Mocklin, B.A. Mahoney, B.K. Smith, and R.C. Hobbs. 2013. Aerial surveys of beluga whales, *Delphinapterus*

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*leucas*, in Cook Inlet, Alaska, June 2005 to 2012. U.S. Department of Commerce, NOAA  
Technical Memorandum NMFS-AFSC-263. 122 pages.



# MARINE MAMMAL COMMISSION

7 May 2012

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

RE: Comments on Proposed Cook Inlet Special Interest Lease Sale 244

Dear Mr. King:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Bureau of Ocean Energy Management's 27 March 2012 notice announcing its request for interest for a proposed special-interest lease sale within the Cook Inlet planning area (77 Fed. Reg. 18260). The Commission provides the following recommendations and rationale.

## RECOMMENDATIONS

In light of the continued decline of the Cook Inlet beluga whale population, the Marine Mammal Commission recommends that the Bureau of Ocean Energy Management defer the proposed lease sale until such time that the Bureau can, with reasonable confidence, confirm that the proposed activities are not likely to jeopardize the survival or recovery of the Cook Inlet beluga whale population. If, despite the uncertain risk to the population, the Bureau decides to conduct the lease sale, then the Marine Mammal Commission recommends that the Bureau of Ocean Energy Management restrict the lease sale to the southernmost portions of the Cook Inlet planning area.

## RATIONALE

The National Marine Fisheries Service listed the Cook Inlet beluga whale population as endangered under the Endangered Species Act in October 2008 (73 Fed. Reg. 62919) and designated it as depleted under the Marine Mammal Protection Act in 2000. Stock assessment reports indicate a continuing decline of this population. The most recent abundance estimate was 284 animals (coefficient of variation=0.16), based on aerial surveys conducted in June 2011 (Hobbs et al. 2011). The population declined precipitously during the 1990s, primarily due to overharvesting, and it was expected to rebound after subsistence hunting was brought under control in 1999. Since then, subsistence hunters reportedly have taken only five whales, but the population has not grown as expected. In fact, it declined at an average rate of 1.1 percent per year between 2000 and 2011 (Hobbs et al. 2011). Furthermore, in 2008, National Marine Fisheries Service scientists estimated an 80 percent probability of further population decline (Hobbs and Sheldon 2008). Information regarding this population's ecology, life history, and reproductive potential is limited and factors adversely affecting the population and its habitat have yet to be identified. However, oil and gas activities were among the factors identified by the National Marine Fisheries Service as possibly

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contributing to the population's observed decline (National Marine Fisheries Service 2008). The population's viability is clearly at risk and it is essential to use extreme caution when considering any additional sources of potential disturbance.

Expansion of oil and gas activity in Cook Inlet could further threaten the beluga whale population and adversely affect its important habitat areas. The Bureau is more likely to find oil and gas reserves in the northern portion of the outer continental shelf Cook Inlet planning area (Minerals Management Service 2006), but beluga whales use adjacent coastal areas in the fall and winter, particularly for feeding. Because these areas are important to conservation of the population, the National Marine Fisheries Service included them in its designation of critical habitat for beluga whales in 2011 (76 Fed. Reg. 20180). Oil and gas exploration and development in beluga whale habitat have the potential to displace animals. Such displacement, combined with repeated or chronic exposure to drilling sounds, vessel activity, and other types of noise from oil and gas development, could have long-term impacts on the population's productivity and persistence.

The effects of oil and gas development may be exacerbated by other risk factors, including vessel traffic, coastal development, construction, toxic contaminants, noise disturbance, military operations, competition with fisheries for prey, habitat modification, waste discharges, and urban runoff. The National Marine Fisheries Service (2003) concluded that "a significant part of the habitat for this species has been modified by municipal, industrial, and recreational activities in Cook Inlet." Furthermore, considerable oil and gas activity is either ongoing or planned in upper Cook Inlet. Any additional exploration or development of oil and gas resources in Cook Inlet must consider the potential cumulative impacts of all human activities on the beluga whale population.

In light of the continued decline of the Cook Inlet beluga whale population, additional oil and gas development, when added to the existing baseline, poses potentially significant risks to the population. To avoid those risks, the Marine Mammal Commission recommends that the Bureau of Ocean Energy Management defer the proposed lease sale until such time that the Bureau can, with reasonable confidence, confirm that the proposed activities are not likely to jeopardize the survival or recovery of the Cook Inlet beluga whale population. If, despite the uncertain risk to the population, the Bureau decides to conduct the lease sale, then the Marine Mammal Commission recommends that the Bureau of Ocean Energy Management restrict the lease sale to the southernmost portions of the Cook Inlet planning area.

Please contact me if you have any questions concerning these recommendations and rationale.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Timothy J. Ragen, Ph.D.  
Executive Director

cc: Jon Kurland, National Marine Fisheries Service

## References

- Hobbs, R.C., and K.E.W. Shelden. 2008. Supplemental status review and extinction assessment of Cook Inlet belugas (*Delphinapterus leucas*). Alaska Fisheries Science Center Processed Report 2008-08. Alaska Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115, 76 pages.
- Hobbs, R.C., C.L. Sims, and K.E.W. Shelden. 2011. Estimated abundance of belugas in Cook Inlet, Alaska, from aerial surveys conducted in June 2011. National Marine Fisheries Service, National Marine Mammal Laboratory, Seattle, WA, unpublished report, 7 pages.
- Mineral Management Service. 2006. 2006 Oil and gas assessment: Cook Inlet Planning Area (Alaska) – Province Summary.
- National Marine Fisheries Service. 2003. Subsistence harvest management of Cook Inlet beluga whales. Final Environmental Impact Statement. National Marine Fisheries Service, Anchorage, AK, 179 pages.
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