

RECORD OF DECISION
COOK INLET BELUGA WHALE SUBSISTENCE HARVEST
FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

National Oceanic Atmospheric Administration
National Marine Fisheries Service
Silver Spring, Maryland

This Record of Decision (ROD) documents the decision by the National Marine Fisheries Service (NMFS) to select Alternative 2 Option B, identified as the preferred alternative in the Cook Inlet Beluga Whale Subsistence Harvest Final Supplemental Environmental Impact Statement (FSEIS). Harvest levels would be set every five years, based on an assessment of the most recent Cook Inlet beluga population status, including the 5-year average abundance estimate and a 10-year measure of the population growth rate. Subsistence harvest levels would follow a Harvest Table when the 5-year average beluga population is more than 350 whales. Harvest levels would be evaluated every five years and would increase in proportion to the average abundance level and population growth rate. Alternative 2 Option B includes rules to decrease authorized harvests to compensate for unusual mortality events.

The purpose of this action is to promote the recovery of this depleted beluga whale stock, while allowing for a limited subsistence harvest by Alaska Natives when consistent with achieving the recovery goal of the Marine Mammal Protection Act of 1972, as amended (MMPA). Following a significant decline in Cook Inlet beluga whale abundance estimates between 1994 and 1998, the Federal Government took a number of actions to prevent further declines in the abundance of these whales. In accordance with Public Laws 106-31 (1999) and 106-553 (2000), the annual subsistence harvest of Cook Inlet beluga whales is allowed only under cooperative management agreements between NMFS and affected Alaska Native organizations (ANO). In the same years, NMFS published proposed and final rules designating the stock as depleted under the MMPA.

Following the designation of the Cook Inlet beluga stock as depleted under the MMPA, NMFS proposed regulations to limit the subsistence harvest and use of Cook Inlet beluga whales. The proposed rule's objective was to allow the Cook Inlet beluga stock to recover to its Optimum Sustainable Population (OSP) level, while providing for traditional use of Cook Inlet belugas by Alaska Natives to support their cultural, spiritual, social, economic, and nutritional needs. Sections 101(b) and 103(d) of the MMPA require that proposed regulations be adopted using formal rulemaking procedures, which in turn require that opportunity be provided for a formal hearing. In December 2000, NMFS Alaska Region convened a formal administrative hearing on the proposed harvest regulations before an Administrative Law Judge in Anchorage, Alaska involving seven interested parties.

As a result of that hearing, Judge McKenna forwarded to NMFS' Alaska Region his recommended decision on the Cook Inlet beluga interim (2001-2004) subsistence harvest. This decision was based on the discussions at the December 2000 formal hearing, the administrative record, and written records submitted to the judge.

NMFS announced the availability of the judge's decision (67 FR 30646; May 7, 2002) and provided a 20-day comment period on the decision. No comments were received. Based on the administrative hearing and the recommended decision by Judge McKenna, NMFS published final regulations to limit the Cook Inlet beluga whale harvest for the years 2001 through 2004 (69 FR 17973, April 6, 2004). All parties to the administrative hearing agreed that NMFS would submit a final Cook Inlet beluga harvest plan for 2005 and subsequent years to Judge McKenna, no later than March 15, 2004.

That administrative hearing process culminated in 2005 with the Administrative Law Judge's recommended decision on a long-term plan for managing the subsistence harvests of Cook Inlet belugas by Alaska Natives. The action is needed to allow Alaska Natives to continue subsistence harvests that support traditional, cultural, and nutritional needs without preventing or unreasonably delaying the recovery of this depleted beluga stock. The proposed harvest plan constituted a major federal action subject to National Environmental Policy Act (NEPA) requirements. In 2003 and 2004, respectively, a Final Environmental Impact Statement (EIS) and Final Interim Regulations Governing the Taking of Cook Inlet Beluga Whale by Alaska Natives for Subsistence Purposes were completed to address prior beluga whale harvests. This FSEIS supplements the earlier EIS by addressing proposed regulations that would manage all Cook Inlet beluga harvests until the need for harvest management and regulation is removed.

In 2005, the Administrative Law Judge's Recommended Decision would have allowed for an interim harvest of eight whales between 2004 and 2009 with the harvest schedule (outlined below) being implemented in 2010. However, the population has continued to decline since 1999, with the 2003-2007 mean abundance level estimated to be 336 beluga whales. This continued decline demonstrates that the population is at an elevated risk of extirpation, and NMFS proposed to list Cook Inlet beluga whales as an endangered species in accordance with the Endangered Species Act. Thus, to reflect the changing status of the Cook Inlet beluga whale population since the 2004 hearing on this rule, NMFS developed Alternative 2 Option B.

Under Alternative 2 Option B, the Harvest Table would be put into effect immediately. Beginning in 2008, co-management agreements will be developed for 5-year intervals, in which harvest levels will be derived from abundance estimates averaged during the previous 5-year interval and from the population growth rate. There are no harvests from 2008 to 2012 because the 5-year average abundance is less than 350 whales. The main rationale for Option B is that the current 5-year average abundance is below 350 belugas, with a decline at 2.7 percent per year since 1999. Therefore, in keeping with the intent of establishing a zero harvest policy when the population falls below 350 belugas, NMFS believes it prudent to implement the Harvest Table immediately as described in Alternative 2 Option B; which is consistent with NMFS's long-term management strategy to allow the Cook Inlet beluga stock to recover to OSP and still provide for a traditional harvest. This strategy allows for an increase in the harvest level as the stock increases.

Alternative 2 Option B harvest schedule is as follows:

- I. NMFS will calculate the average stock abundance during the previous 5-year period.
- II. NMFS will calculate the likely distribution of growth rate from the previous 10 years.

- III. Using the abundance and growth figures obtained through Steps I and II, NMFS will calculate the probabilities that the growth rate within the population would be a) less than one percent, b) less than two percent, or c) greater than three percent. NMFS will then follow the decision tree below to select the proper category and harvest level outlined in the Harvest Table.
- a. Is the average stock abundance during the previous 5-year period less than 350 beluga whales?
If yes, the Harvest Table provides that the harvest is zero during the next 5-year period.
If no, go to b.
 - b. Is the current year 2035 or later, and is there more than a 20 percent probability the growth rate is less than one percent?
If yes, the harvest is zero during the next 5-year period.
If no, go to c.
 - c. Is the current year between 2020 and 2034, and is there more than a 20 percent probability the growth rate is less than one percent?
If yes, the harvest is set at three strikes during the next 5-year period.
If no, go to d.
 - d. Is the current year 2015 or later, and is there more than a 25 percent probability the growth rate is less than two percent?
If yes, go to the Harvest Table using the “Low” growth rate column.
If no, go to e.
 - e. Is the current year before 2015 and is there more than a 75 percent probability the growth rate is less than two percent?
If yes, go to the Harvest Table using the “Low” growth rate column.
If no, go to f.
 - f. Is there more than a 25 percent probability the growth rate is more than three percent?
If yes, go to the Harvest Table using the “High” growth rate column.
If no, go to the Harvest Table using the “Intermediate” growth rate column.

Harvest Table

5-year population averages	“High” growth rate	“Intermediate” growth rate	“Low” growth rate	Expected Mortality Limit
Less than 350	0	0	0	-
350-399	3 strikes in 5 years	2 strikes in 5 years	0	21
400-449	7 strikes in 5 years	5 strikes in 5 years	0	24
450-499	11 strikes in 5 years	7 strikes in 5 years	0	27
500-524	15 strikes in 5 years	10 strikes in 5 years	1 strike in 5 years	30
525-549	16 strikes in 5 years	11 strikes in 5 years	1 strike in 5 years	32
550-574	18 strikes in 5 years	12 strikes in 5 years	2 strikes in 5 years	33
575-599	20 strikes in 5 years	13 strikes in 5 years	3 strikes in 5 years	35
600-624	22 strikes in 5 years	15 strikes in 5 years	3 strikes in 5 years	36
625-649	24 strikes in 5 years	16 strikes in 5 years	4 strikes in 5 years	38
650-699	26 strikes in 5 years	17 strikes in 5 years	5 strikes in 5 years	39
700-779	30 strikes in 5 years	20 strikes in 5 years	6 strikes in 5 years	42
780 +	Consult with co-managers to expand harvest levels while allowing for the population to grow			

- IV. At the beginning of each 5-year period, an Expected Mortality Limit is determined from the Harvest Table using the 5-year average abundance. During each calendar year, the number of beluga carcasses NMFS documents each year will be the mortality number for that year. If at the end of each calendar year this number exceeds the Expected Mortality Limit, then an unusual mortality event, as defined for these purposes, has occurred. The Estimated Excess Mortalities will be calculated as twice the number of reported dead whales above the Expected Mortality Limit. The harvest will then be adjusted as follows:
- a. The harvest level for the remaining years of the current 5-year period will be recalculated by reducing the 5-year average abundance from the previous 5-year period by the Estimated Excess Mortalities. The revised abundance estimate would then be used in the Harvest Table for the remaining years and the harvest level adjusted accordingly.
 - b. For the subsequent 5-year period, for the purpose of calculating the 5-year average, the Estimated Excess Mortalities would be subtracted from the abundance estimates of the years before and including the year of the excess mortality event so that the average would reflect the loss to the population. This average then would be used in the Harvest Table to set the harvest level.

A 'strike' is defined as hitting a whale with a harpoon, lance, bullet or other object while 'landing' means bringing a whale or any parts thereof onto land in the course of a whaling hunt.

The purpose and need of this action is twofold: to recover the Cook Inlet beluga stock and to fulfill the Federal Government's trust responsibility to recognize Alaska Native traditional cultural and nutritional needs for subsistence harvest.

The FSEIS provides decision makers and the public with an evaluation of the environmental, social, and economic effects of the subsistence harvest and alternatives to that harvest till the Cook Inlet beluga population has recovered. The FSEIS evaluated the direct, indirect, and cumulative effects of different harvest levels and contribution of past, present, and reasonably foreseeable future activities on the Cook Inlet belugas and the people dependent upon them. The FSEIS serves as the central planning document for the Alaska Region for activities related to management of the Cook Inlet beluga subsistence harvest. The FSEIS and this ROD address the requirements of the National Environmental Policy Act (NEPA).

ALTERNATIVES CONSIDERED

The following is a brief summary of the four alternatives considered in detail in the FSEIS. Further detailed description of the alternatives can be found in Chapter 2 of the Draft Supplemental Environmental Impact Statement (DSEIS).

Alternative 1 (No Action): Under this alternative, no further harvest would occur until the population recovered to OSP. NMFS would neither implement harvest regulations nor enter into a co-management agreement with ANOs, as required by Pub. L. 106-31 for the subsistence harvest of Cook Inlet beluga whales.

Alternative 2 Option A and Option B: Harvest limits would be established every five years under a co-management agreement based on an assessment of the most recent Cook Inlet beluga population status, including the 5-year average abundance estimate and a 10-year measure of the population growth rate. Subsistence harvest levels would be based on a Harvest Table that allows harvest when the 5-year average beluga population is greater than 350 whales, increasing the harvests in proportion to the average abundance level and population growth rate. Both options under Alternative 2 also include rules to decrease authorized harvests to compensate for unusual mortality events, should they occur in the future. Option A, based on the recommended decision of the Administrative Law Judge, would put the Harvest Table into effect in 2010; a proscribed strike allowance would be set for one beluga whale in 2008 and two belugas in 2009. Option B would put the Harvest Table into effect immediately. Unless the recent 5-year average abundance (2003 to 2007) is more than 350 whales, there would be no harvest from 2008 to 2012. All other provisions of the Administrative Law Judge's decision would be implemented as recommended. NMFS believes that implementation of the Judge's decision as modified under Option B is consistent with NMFS' long-term strategy to allow the Cook Inlet beluga whales to recover to OSP and still provide for a traditional harvest. This strategy allows the harvest limit to increase as the stock increases in abundance.

Alternative 3 Conservation Priority with Progressive Harvest Level as Recovery is Demonstrated: Employs the same 5-year co-management and harvest assessment process as described for Alternative 2 Option B to establish federal regulations for the Cook Inlet beluga whale subsistence harvest. Alternative 3 includes a Harvest Table that is in effect immediately (2008) that rigorously limits the harvest when the 5-year averages for the beluga population are between 350 and 500 whales, giving highest priority to conservation concerns at smaller population levels. Subsistence hunting is only allowed after the population reaches 500 animals or if an intermediate or high growth rate was demonstrated. Alternative 3 includes the same rules as Alternative 2 to decrease authorized harvests to compensate for unusual mortality events.

Alternative 4 Tyonek II Plan: Follows the same 5-year co-management and harvest assessment process as described for Alternative 2 Option A to establish federal regulations for the Cook Inlet beluga whale subsistence harvest. Alternative 4 promotes a greater opportunity for the traditional harvest of Cook Inlet beluga whales while allowing for the stock's recovery at a slower rate. However, Alternative 4, with a harvest floor at 250 whales, would authorize harvests when the population was between 250 and 350 whales if the growth rate was intermediate or high. As under Alternative 2, no harvests would be authorized if the growth rate was low at abundance levels below 350.

ALTERNATIVES CONSIDERED AND ELIMINATED FROM DETAILED STUDY

During development of the alternatives for analysis in the FSEIS, NMFS considered several other possible alternatives, but after careful review decided that none of these alternatives were viable and eliminated each from further analysis. An alternative considered but not carried forward was to allocate the Cook Inlet beluga harvests based on Potential Biological Removal (PBR), where an increasing fraction of the population is allowed to be harvested as the population increases. This approach follows the same guidelines in estimating the PBR levels used to evaluate fisheries interactions with marine mammals. Although this approach was

considered, it was not sophisticated enough; instead, it was used as a starting point for the development of Alternatives 2, 3, and 4.

Another alternative considered but not carried forward was to allocate a harvest between NMFS and affected ANOs through the co-management process only (Pub. L. 105-31). This would allow NMFS to coordinate directly with Alaska Natives on the Cook Inlet beluga harvest; however, the Marine Mammal Protection Act (MMPA) process for establishing harvest regulation on a depleted stock would not be followed. This approach did not meet the needs of Alaska Natives through a deliberative process for determining beluga harvest levels; nor did it meet the needs of the public through a public process and comment period.

An alternative to allocate a fixed percentage of belugas to be harvested based on the recruitment rate was considered and not carried forward. Under this alternative NMFS would promulgate regulations to set an annual harvest at one half the estimated maximum growth rate (e.g., if the growth rate is estimated at four percent per year, the harvest would be two percent per year of the population). Depending on the method used to estimate the annual growth rate, this alternative could have a major adverse impact on the Cook Inlet beluga recovery if the population growth rate is four percent or lower, although it would not allow harvest if the population was declining. This harvest level could cause the Cook Inlet beluga stock to remain at or near its present low population size for a long period of time. Because the method for estimating the maximum growth rate was not specified, this method was not fully defined and the impact on recovery could not be fully evaluated.

Another alternative was to allocate a harvest not to exceed two strikes annually, until the stock recovered to a population of no less than 780 whales (maximum net productivity level for a stock with carrying capacity of 1,300 whales). This alternative allows a beluga harvest of two whales without consideration of population abundance or growth rate. This would not allow the harvest level to adjust downward with low populations, nor would it increase harvest level when the population increases.

Such alternatives were considered and rejected because they did not meet the purpose and need of the proposed action, which includes allowing for the Cook Inlet beluga stock to recover, while meeting the documented cultural and nutritional needs for Cook Inlet beluga by Alaska Natives. While the No Action Alternative does not meet the Alaska Native needs, NMFS has included it in accordance with NEPA.

THE ENVIRONMENTALLY PREFERABLE ALTERNATIVE

Section 101 of NEPA requires that an agency identify the environmentally preferable alternative when preparing the ROD for an EIS. The Council on Environmental Quality has advised that such an alternative is to be based only on the physical and biological impacts of the action. In this FSEIS, Alternative 1 (No Action) would not allow the subsistence harvest of Cook Inlet beluga, and no belugas would be taken. Therefore, Alternative 1 is identified as the environmentally preferable alternative based on impacts to Cook Inlet belugas (See *FSEIS Chapter 4 Environmental Consequences* for a full analysis of predicted impacts of this alternative on the complete human environment).

NMFS DECISION AND FACTORS CONSIDERED IN THIS DECISION

The Decision

The decision is to select the harvest management plan consistent with NMFS' long-term management strategy to allow the Cook Inlet beluga stock to recover to OSP and still provide for a traditional harvest. NMFS hereby selects Alternative 2 Option B in the FSEIS as its choice for management of this resource. The rationale for this decision is discussed below. The rationale is fully supported by the analysis documented in the FSEIS.

Rationale for the Decision

NMFS decision to select Alternative 2 Option B in the FSEIS, and thereby authorize a beluga harvest in Cook Inlet when the 5-year abundance average is more than 350 whales and enter into co-management agreements with affected ANOs, was reached after a comprehensive review of the relevant environmental, economic, and social consequences of the alternatives. Taking into account the MMPA and Pub. L. 106-31, and other applicable federal laws, it was determined that Alternative 2 Option B best balances the environmental consequences while achieving the agency's national policy requirements, goals, and objectives. Specifically,

- Alternative 2 Option B would provide for the continued subsistence for Alaska Natives residing in and around Cook Inlet. This activity is important to satisfying both the nutritional and cultural needs of Alaska Natives.
- The harvest level authorized by Alternative 2 Option B will allow the population to recover, since harvest is only allowed when the 5-year abundance average is more than 350 belugas.

Public Comments

NMFS summarized and responded to the public comments received on the DSEIS in the Comment Analysis Report, which is Appendix B in the FSEIS. The DSEIS was released for public review on December 28, 2007 and the public review period ended March 4, 2008. Where appropriate, NMFS also made changes to the FSEIS in response to public comments on the DSEIS and these changes are noted in the Comment Analysis Report.

NMFS selected Alternative 2 Option B after careful review of the record as a whole, including public comments on the DSEIS issued in December 2007. A total of 60 submissions were received from 63 people on the DSEIS, including 40 letters submitted by the residents of the Native Village of Tyonek. Most commenters indicated support for Alternative 2, Option B, the Preferred Alternative (78 percent). Six people (11 percent) preferred Alternative 1, no harvest. No comments were received on Alternative 2, Option A, which followed the Administrative Law Judge's decision, or on Alternative 3, the Progressive Harvest alternative. The FSEIS was released on June 20, 2008, and the wait period ended on July 21, 2007.

Only one comment was received on the FSEIS. Summaries of comments and responses to them appear below.

Comment 1: The Final SEIS failed to take a "hard look" at the cumulative effects of existing projects, developments, and anthropogenic disturbances that will occur in the planning area.

Response: Harvest levels under Alternative 2, Option B would not jeopardize the Cook Inlet beluga population. Under the declining population scenario, the harvest model indicates there would be a percent probability that the population would decline further from its current abundance level under Alternative 2, Option B. This probability is essentially the same with the no harvest alternative (77.5 percent). Therefore, the magnitude of mortality effects due to authorized subsistence hunting would be negligible. These results imply that the population is likely to decline anyway, for reasons other than current or future subsistence harvests.

Comment 2: Beluga whales feed almost exclusively on fat-rich eulachon and salmon.

Following these prey species keeps the whales in Cook Inlet and thus constantly exposes them to water pollution and man-made toxins.

Response: Belugas stay in Cook Inlet and, therefore, probably have a greater chance of being exposed to man-made toxins and water pollution than beluga populations that do not frequent such urbanized or industrialized locations as represented by the Inlet. The Final SEIS provides detail on human-induced factors, including pollution that may be influencing the health of Cook Inlet beluga whales. Although the impacts of the past and present actions are presently unknown, there has been very little research directed at whether or not any of these factors are important to the health of individual whales or the population in general. The Status Review (Hobbs et. al. 2006) identified research needs to examine these potential factors on the premise one or more may account for the difference between the expected growth rate of the population and what has been observed over the past nine years since subsistence harvest was controlled.

Comment 3: Native hunters have been willing to reduce harvest levels to assist in the recovery of the belugas and have expressed their willingness to continue to do so. Native hunters have voluntarily agreed to stand down from the hunt.

Response: We agree and acknowledge that Native hunters actively participated in the administrative hearing process and agreed to harvest levels that would conserve the beluga population. Native hunters voluntarily stood down from their beluga hunt in 1999 and agreed to conservation conditions that prevented a hunt in 2004. Native Village of Tyonek also agreed to stand down from a hunt in 2007.

Comment 4: NMFS is taking an action that will result in the demise of the beluga and will cause major hardship to subsistence whaling families, in direct violation of E.O. 12898.

Response: The proposed action would not violate E.O. 12898. The proposed action would carefully manage subsistence harvests so that Cook Inlet beluga whales and the subsistence culture that relies on these whales may both endure. At current beluga population levels, NMFS will likely find it necessary to restrict harvests completely, until such time that the population is again healthy enough to support subsistence harvests without detriment to the stock's ability to sustain itself. Nevertheless, the goal remains to promote the biological health of the stock and the cultural well being of constituents who rely on subsistence harvests for traditional, nutritional and cultural purposes.

Comment 5: The Final SEIS, by failing to prevent actual causes of harm to the beluga in Cook Inlet, violates the Endangered Species Act.

Response: The proposed action is intended to carefully manage subsistence harvests so that Cook Inlet beluga whales would recover, thus it is not in violation of the Endangered Species Act. At current beluga population levels, subsistence harvest would be restricted until such time that the population is again healthy enough to support subsistence harvests without detriment to the stock's ability to sustain itself. Nevertheless, the goal remains to promote the biological health of the stock and the cultural well being of constituents who rely on subsistence harvests for traditional, cultural and nutritional purposes.

Comment 6: More money should be put into protecting the environment and non-compliance with regulations should be penalized. NMFS should require all energy companies and municipalities in the Cook Inlet area to collaborate in developing a systematic and rational development process, and the infrastructure supporting it. Such collaboration will avoid unnecessarily destructive and duplicative disturbances to the beluga whale as well as multiple values in the Inlet that will be impaired absent such a process.

Response: NMFS agrees that additional funding could be used to protect the environment and monitor actions for non-compliance. NMFS also agrees that collaborating with others on Cook Inlet development would benefit the beluga population.

Comment 7: The Final SEIS focuses solely on Alaska Native hunting as the cause for the decline in the whale population and ignores other possible contributing factors. Hunting was stopped or curtailed but the whales have not recovered. Native hunters and beluga whales have coexisted for thousands of years and therefore cannot be the sole cause for the decline in the whale population.

Response: While NMFS acknowledges that the increased subsistence harvest of whales in the mid-to-late 1990s contributed to a sharp decline in the population, the Final SEIS describes known and possible factors influencing the population of Cook Inlet beluga whales, including those other than subsistence harvest. In addition, the Final SEIS evaluates these possible factors to determine whether they are causing cumulative effects on the population.

Comment 8: Other impacts that may have contributed to the decline of the whale population have not been adequately addressed in the Final SEIS. These impacts include, but are not limited to oil and gas development, municipal wastewater, toxic pollution of Cook Inlet, noise from jet aircraft, Navy sonar, seismic testing, vessel strikes and parasites. The Final SEIS is legally deficient by failing to analyze the contributions of industrial and municipal development in Cook Inlet to the decline of the whale population.

Response: The Final SEIS provides a detailed overview of human induced and natural factors that could cause this stock to continue to decline. In addition, the Final SEIS evaluates direct, indirect, and cumulative effects, and reasonably foreseeable future actions that are proposed in Cook Inlet that may influence the population.

Comment 9: The Final SEIS fails to adequately address cumulative impacts to the Cook Inlet watershed and water quality. It does not show how the preferred alternative would comply with the Clean Water Act section 313. The Final SEIS violates the Clean Water Act. NMFS must take an integrated watershed approach in analyzing the impacts of the alternatives, including mandatory quantifiable standards for Cook Inlet and limitations on toxic discharges into the Inlet.

Response: As required by NEPA, a cumulative effects analysis was conducted as part of this NEPA review in the Final SEIS. NEPA also requires that we evaluate compliance with all applicable federal and state statutes, including the Clean Water Act in this case. The harvest alternatives and the proposed harvest regime under Alternative 2, Option B (preferred alternative) do not violate the Clean Water Act.

Comment 10: The Final SEIS's preferred alternative violates the MMPA, NEPA, ESA and Executive Order 12898 (Environmental Justice) and related laws due to the impacts it will have on the beluga whale and subsistence hunting.

Response: NMFS' preferred alternative does not violate the MMPA, NEPA, ESA or E.O. 12898. Section 101(b) of the MMPA contains an exemption from the take prohibition, which allows Alaska Natives to harvest marine mammals for subsistence use and for purposes of traditional Native handicrafts. Sections 101(b) and 103(d) of the MMPA require that regulations prescribed to limit Alaska Native harvests be made only when the stock in question is designated as depleted pursuant to the MMPA and following an agency administrative hearing on the record. The subsistence harvest plan would constitute a major federal action subject to National Environmental Policy Act (NEPA) requirements. In 2003 and 2004, respectively, a Final Environmental Impact Statement (EIS) (68 FR 55604, September 26, 2003) and Final Interim Regulations Governing the Taking of Cook Inlet Beluga Whale by Alaska Natives for Subsistence Purposes (69 FR 17973, April 6, 2004) were completed to address prior beluga whale harvests. This Final SEIS supplements the earlier EIS by addressing proposed regulations that would manage all Cook Inlet beluga subsistence harvests until the need for harvest management and regulation is removed. In keeping with E.O. 12898, NMFS has sought to prevent disproportionately high adverse effects on Alaska Natives who partake in subsistence harvests of Cook Inlet beluga whales. We have continually communicated and consulted with Alaska Native organizations, beluga hunters, and tribal government representatives, throughout the development of this SEIS. This began in 1999 with the scoping process for the initial EIS on subsistence harvests of Cook Inlet beluga whales and continued through the Administrative Law process that ultimately led to the development of the proposed action analyzed in this Final SEIS.

Comment 11: Natives have a right to continue their culture and restrictions should not be placed on our traditional practices. Subsistence hunting of beluga and other species is critical to the survival of Native Alaskan culture. It is a way of life for the villages around Cook Inlet.

Response: NMFS agrees that Alaska Natives have a right to continue their subsistence harvest of Cook Inlet belugas, so long as the stock can sustain the harvests. However, at present it is necessary to promote the recovery of this depleted stock. The preferred Alternative 2, Option B allows a limited beluga harvest when the population is low, but the harvest increases with an increasing population to meet the needs of Alaska Natives.

MITIGATION MEASURES AND MONITORING

NMFS and affected ANOs will enter into co-management agreements every fifth year when the Cook Inlet beluga population has a 5-year prior abundance average more than 350 whales. Since 2000, co-management agreements for the Cook Inlet beluga harvest have been in place annually, except 2004 and 2007, with Cook Inlet Marine Mammal Council (CIMMC). The purpose of these agreements are to protect the Cook Inlet beluga population and Alaska Native culture, to

promote scientific investigation of this population, to mitigate any adverse impacts on the beluga, and to effectuate the other purposes of the MMPA and Pub. L. 105-31 as these acts relate to the aboriginal subsistence harvests for whales.

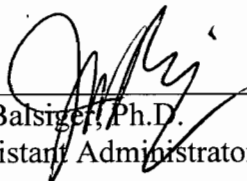
NMFS and CIMMC co-management agreements have described a structure of relationships between the authorities and activities for NMFS and CIMMC. The co-management agreements promote the recovery of the Cook Inlet beluga stock while at the same time, provide an opportunity for a limited harvest of the Cook Inlet beluga, and the agreements promote scientific research on the Cook Inlet beluga stock and its habitat. To reduce struck and loss, co-management agreements for Cook Inlet belugas include harvest practices that require: 1) only whaling boats and captains authorized under a permit issued by CIMMC may participate in the harvest allocated under this agreement; requiring the presence of an elder or experience hunter; 2) necessary equipment to successfully land struck belugas; 3) hunting shall occur after July 1 of each year; 4) hunting efforts must be reported to NOAA Enforcement 24 hours prior to the initiation of that day's hunt; 5) prohibitions on hunting maternally dependent calves or beluga accompanied by a maternally dependent calf; 6) belugas must be struck with harpoon and float prior to shooting; 7) meat and edible products must be used exclusively for consumption and not be sold or offered for sale; 8) whaling captains report time and location of harvest to NOAA; 9) hunters comply with co-management agreement and CIMMC permits; and 10) unauthorized strikes by CIMMC members shall count against the strikes allocated to CIMMC.

CONCLUSIONS

Through the FSEIS and as documented in this ROD, NMFS considered the objectives of the proposed action and analyzed a reasonable range of alternatives that adequately addressed the objectives of the proposed action. Furthermore, NMFS has analyzed the associated environmental consequences and impacts of the alternatives, and identified mitigation measures to address, to the extent practicable, those consequences and impacts. NMFS has also considered public and agency comments received during the DSEIS review period. Consequently, NMFS concludes that the Alternative 2 Option B decision is based on the discussions at the August 2004 formal hearing, the administrative record, and written records submitted to the judge; and provides reasonable, practicable means to avoid, minimize, and compensate for environmental harm from the action.

CONTACT PERSON

Further information concerning this ROD may be obtained by contacting Steven K. Davis or Barbara A. Mahoney, NOAA/NMFS Alaska Region, 222 West 7th Avenue, Anchorage, Alaska, 99513, (907) 271-5006.

Signed:  _____
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Date: 9.26.08