

# Listing for Inlet belugas whales prompts state to sue

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State officials concerned about the economic impact of a federal endangered listing for Cook Inlet beluga whales said Jan. 14 that they will sue to have the decision withdrawn.

Federal scientists, using mitochondrial DNA analysis, have documented that the white whales, which swim offshore of Anchorage, are the most genetically distinct of the beluga whale stocks in Alaska and Canada, and that they are in danger of extinction.

The significance of NOAA's action is that any federal agency that funds, authorizes or carries out new projects or activities that may affect the whales in the area must first consult with NOAA's Fisheries Service to determine the potential effects on the whales.

The resulting impact could hit the ongoing expansion at the Port of Anchorage, oil and gas and related development projects, among others.

Gov. Sarah Palin contends that the state has worked cooperatively with

the federal government to protect and conserve beluga whales in Cook Inlet.

"This listing decision didn't take those efforts into account as required by law," Palin said in a written statement.

The state has sent a notice of intent to sue to the federal Department of Commerce and the National Marine Fisheries Service.

Palin contends that federal officials have failed to properly document or support their determination that the belugas comprise a distinct population segment.

The state also contends that the decline of the Cook Inlet belugas within the past decade led the state to petition the National Marine Fisheries Service to list the whales as depleted under the Marine Mammal Protection Act, which resulted in harvest restrictions beginning in 2000. Since then the population has stabilized and shows signs of recovery, the governor said.

Environmental groups, including the Center for Biological Diversity and Cook Inletkeeper, said they were

disappointed, but hardly surprised by the state's action.

Brendan Cummings, oceans program director for the Center for Biological Diversity, located in Joshua Tree, Calif., said he doubts Palin can find any independent or federal agency scientist who believes that the Cook Inlet belugas are not endangered and don't warrant protection under the federal Endangered Species Act.

Cummings said that Palin, who opposed similar protection for polar bears, has shown a general hostility toward the Endangered Species Act. Beluga whales in Cook Inlet are subject to all manner of development, some of which is negatively impacting the whales, he said.

Bob Shavelson, executive director of Cook Inletkeeper, described the pending lawsuit as "frivolous," and said it appeared that Palin is getting bad advice.

"There is certainly no science to support this," said Shavelson. "The ESA has a long, demonstrated history showing that responsible development and endangered species can co-exist. The Palin administration

should respect the science and the rule of law, not throw public tax dollars at a frivolous lawsuit.”

In announcing the NOAA decision in October, James Balsiger, NOAA acting assistant administrator for NOAA’s Fisheries Service, said recovery efforts over the past decade had failed to help the Cook Inlet belugas recover.

In 2000, NOAA declared that the Cook Inlet beluga population was depleted under the Marine Mammal Protection Act. The agency responded to a petition submitted by the Center for Biological Diversity on April 20, 2006, by proposing on April 20, 2007, that Cook Inlet beluga whales be listed as endangered under the Endangered Species Act. The act required a final determination by Oct. 20.