

February 4, 2008

**Supplement to the Cook Inlet Areawide 1999 Oil and Gas Lease Sale  
Final Finding of the Director**

On September 13, 2007, the Alaska Department of Natural Resources (ADNR), Division of Oil and Gas (DO&G) issued a Call for New Information regarding its proposal to offer all available state acreage in the Cook Inlet Areawide 2008 Oil and Gas Lease Sale, tentatively scheduled for May 21, 2008. In response to the call, DO&G received five comments. DO&G received comments from ADNR, Division of Parks and Outdoor Recreation, Office of History and Archaeology; the Matanuska-Susitna Borough, Planning and Land Use Planning Department, Planning Division; United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service; ADNR, Office of Habitat Management & Permitting; and the United States Department of the Interior, Fish and Wildlife Service.

**ADNR, Division of Parks and Outdoor Recreation, Office of History and Archaeology:** The division asks that once a final lease sale boundary has been delineated (either on or offshore), that DO&G forward that and other relative information to SHPO (State Historic Preservation Officer) for review under Section 41.35.070 of the Alaska Historic Preservation Act.

- Mitigation Measure 16 in the *Cook Inlet Areawide 1999 Oil and Gas Lease Sale Final Finding of the Director Volume 1* titled “Prehistoric, Historic, and Archeological Sites” addresses this request.

**Matanuska-Susitna Borough, Planning and Land Use Planning Department, Planning Division:** The borough says that it needs more specific locations for the lease sale before it can comment on new information regarding cultural resource sites that may be impacted. The borough further requests copies of any cultural resource surveys required by the State Historic Preservation Officer.

- Mitigation Measure 16 in the *Cook Inlet Areawide 1999 Oil and Gas Lease Sale Final Finding of the Director Volume 1* titled “Prehistoric, Historic, and Archeological Sites” addresses this request.
- At the request of the borough, a new lessee advisory addressing the borough code permit requirements will be added to the best interest finding.

**Cook Inlet Areawide 2008 Oil and Gas Lease Sale new lessee advisory:**

10. Matanuska-Susitna Borough Code: The lessee is advised that all development in the Point MacKenzie Port Special Use District must comply with Matanuska-Susitna Borough Code Chapter 17.23: Point MacKenzie Port Special Use District. In addition, the lessee is advised that any exploration work on borough-owned tidelands or uplands in the area will require a land use permit from the borough’s land management division.

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**United States Department of Commerce, National Oceanic and Atmospheric**

**Administration, National Marine Fisheries Service (NMFS):** NMFS says that the Cook Inlet beluga whale exists as a genetically-distinct stock whose range appears restricted to Cook Inlet and adjacent waters in the Gulf of Alaska. The Cook Inlet beluga whale is listed as a depleted stock under the Marine Mammal Protection Act. In April 2007, NMFS proposed to list the Cook Inlet beluga whale populations as endangered under the Endangered Species Act. NMFS expects a final decision in April 2008.

NMFS recommends that DO&G continue to condition the sale to avoid any harmful effects to Cook Inlet beluga whales. NMFS has developed specific recommendations relative to oil and gas leasing, exploration, development, and production premised on whale habitat type and usage. NMFS has characterized the relative value of these habitats to Cook Inlet beluga whales as depicted in Figure 1 (attached). Habitat is designated as Type 1, 2, or 3. The following table summarizes the new information on whale habitat type and usage provided by NMFS.

Habitat Type	Time of Use	Habitat Use	NMFS Proposed Restriction
Type 1 (High value/high sensitivity.)	<b>Spring through fall.</b>	Intensive; important for foraging and nursery.	No permanent or temporary oil and gas exploration or development unless it occurs above the Mean Higher High Water datum.
Type 2 (High value.)	<b>Fall and winter.</b>	High fall and winter; less concentrated spring and summer except areas where whales have been commonly found. <sup>1</sup>	Oil and gas-related activities assessed on a case-by-case basis except that no permanent surface entry or structures allowed in water where whales have been commonly found. In those areas, activities are restricted to temporary and then only between November 1 and April 1 of each year.
Type 3 (Remaining range of whales within Cook Inlet.)	Not defined.	Dispersed.	Oil and gas-related activities assessed on a case-by-case basis.

**Cook Inlet Areawide 2008 Oil and Gas Lease Sale changes to existing mitigation measures:**

<sup>1</sup> In its comments, NMFS gave three examples of where Cook Inlet beluga whales are or have been commonly found in Type 2 habitat areas: the mouth of the Kenai River, Kachemak Bay, and Tuxedni Bay. The mouth of the Kenai River was already covered by Mitigation Measure 33 in the 2004 supplement, Kachemak Bay is not within the lease sale area, and two tracts in Tuxedni Bay have been added to Mitigation Measure 33 as subject to no permanent surface entry or structures and temporary activities and structures allowed only seasonally.

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- Accordingly, Mitigation Measures 32 and 33 from the February 18, 2004, *Supplement to the Cook Inlet Areawide Oil and Gas Lease Sale Best Interest Finding* will be modified to include the additional areas and a new mitigation measure, Mitigation Measure 34, has been added to apply to Type 3 habitat areas. The 13 tracts in **bold** have been added to Mitigation Measure 32. Mitigation Measure 32 has also been reworded for clarity.
32. No permanent or temporary oil and gas exploration or development may occur within High Value/High Sensitivity (Type 1) habitat areas, unless it occurs on upland areas (above Mean Higher Water datum). Type 1 habitat areas include the following tracts: 320 thru 334, 391 thru 409, **410**, 462, 464 thru 475, **476 thru 481, 483, 484**, 485, 486, 493, 494, 497, 498, 522, 524 thru 537, **538, 539**, 540, 541, **542, 543**, 544, 547 thru 552, 559, 575 thru 577, 579, 581, 582, 585, 586, 590, 593, 594, 598, 616 thru 618, 620 thru 623, 627, 655 thru 658, and 662.
- The requirement that the Director will assess oil and gas-related activities within Type 2 habitat area on a case-by case basis has been added to Mitigation Measure 33. The new language is shown in **bold**. The two tracts in **bold** have been added to Mitigation Measure 33 as Type 2 habitat areas where Cook Inlet beluga whales are or have been commonly found in the summer; the remainder of Type 2 habitat areas includes areas with less concentrated spring and summer whale use and high fall and winter use. Mitigation Measure 33 has also been reworded for clarity.
33. **The Director will assess oil and gas-related activities within all High Value (Type 2) habitat areas on a case-by-case basis.** No permanent surface entry or structures are allowed, and temporary activities and structures, for example exploration drilling, will only be allowed between November 1 and April 1 of each year, unless it occurs on upland areas, within the following tracts: **021, 022**, 126, 127, 129 thru 132, 161, 162, 175, 177, 211, 218, 257, 301, 302, 373, 376, 377, and 384.

### Cook Inlet Areawide 2008 Oil and Gas Lease Sale new mitigation measure:

- The following new mitigation measure will be added to apply to Type 3 habitat areas.
34. The Director will assess oil and gas-related activities within Type 3 habitat areas on a case-by-case basis.

### Cook Inlet Areawide 2008 Oil and Gas Lease Sale new lessee advisories:

- A lessee advisory will be added to the best interest finding regarding the potential listing of the Cook Inlet beluga whale as an endangered species. At the request of NMFS, four new lessee advisories addressing the Marine Mammal Protection Act, the Magnuson-Stevens Fishery Conservation and Management Act, exploration, and oil spill response and capabilities, will also be added.

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11. Endangered Species Act: The lessee is advised that the Cook Inlet beluga whale is listed as a depleted stock under the Marine Mammal Protection Act. In April 2007, NMFS proposed to list the whale population as endangered under the Endangered Species Act. NMFS expects a final decision in April 2008. The lessee is advised to review the Federal Register to monitor the listing status, and any ramifications therefrom.
12. Marine Mammal Protection Act: The lessee is advised that off-shore activity (particularly seismic geophysical survey) may result in the taking of beluga whales and other marine mammals. Such taking is prohibited by the federal Marine Mammal Protection Act (MMPA) unless otherwise authorized. The incidental taking of marine mammals may be authorized under the MMPA, and each operator should be advised to discuss this matter with NMFS well in advance of any geophysical survey activity.
13. The Magnuson-Stevens Fishery Conservation and Management Act: The lessee is advised that the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) requires identification of Essential Fish Habitat (EFH) for all species management under a federal Fisheries Management Plan. Subsequent exploration and or development activities associated with this lease sale may be subject to consultation under EFH. EFH information, consultation, guidance, and species life history information are available on NMFS website at <http://www.fakr.noaa.gov/habitat>.
14. Exploration: The lessee is advised that the description of the techniques used to drill and conduct seismic operations should be thorough and assess potential effects of fish and their spawning substrate, migratory corridors, and over-wintering areas.
15. Oil Spill Response and Capabilities: The lessee is advised that the response technologies and geographic response strategies have been prepared for Cook Inlet by state and federal planning teams in which NMFS has participated. However, the application of these plans in fast-moving Cook Inlet waters, especially during ice-laden times, could prove difficult. Further, mechanical recovery in estuaries, anadromous streams, and adjacent continuous wetlands can potentially disrupt these habitats and degrade water quality conditions. Thus, recovery and containment plans will need to address habitat effects within the site and areas where tidal currents may deposit or entrain spilled product. These assessments are needed prior to development.

### **ADNR, Office of Habitat Management & Permitting (OHMP):**

OHMP reviewed fish and wildlife information available since the *Supplement to the Cook Inlet Areawide Oil and Gas Lease Sale Best Interest Finding* issued February 21, 2007. It noted that the *Atlas and Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes* has been revised and updated; GIS fish distribution data is available at [http://www.sf.adfg.state.ak.us/SARR/FishDistrib/FDD\\_gisdata.cfm](http://www.sf.adfg.state.ak.us/SARR/FishDistrib/FDD_gisdata.cfm); revised Southcentral region

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stream listings are available at [http://www.sf.adfg.state.ak.us/SARR/FishDistrib/FDD\\_catalogs.cfm](http://www.sf.adfg.state.ak.us/SARR/FishDistrib/FDD_catalogs.cfm); and baseline environmental studies, which provide new information regarding the marine and freshwater fish and wildlife resources, occurred in the Chuitna River area of Cook Inlet in 2006 and 2007.

- That information will be reviewed by the division in its 2009 *Cook Inlet Areawide Oil and Gas Lease Sale Best Interest Finding*, which is currently being drafted.

Through OHMP, the Alaska Department of Fish and Game (ADF&G) submitted comments, which provides new information on Cook Inlet beluga whales that it said should be considered before the 2008 sale. Although ADF&G opposed the proposed listing of the Cook Inlet beluga whale as an endangered species under the Endangered Species Act, it is concerned with the low population estimates. ADF&G requests that DO&G coordinate closely with NMFS and ADF&G in determining whether oil and gas leasing within important beluga whale habitat areas may be offered in the future.

- Revised Mitigation Measures 32 and 33 and new Mitigation Measure 34 above address this request.

### **United States Department of the Interior Fish and Wildlife Service (USFWS):**

The USFWS Anchorage field office coordinated with its Migratory Birds office, Marine Mammals office, and Endangered Species staff; these service programs had no new information to offer for the proposed Cook Inlet 2008 Oil and Gas Lease Sale. However, the USFWS is aware of recent fisheries studies associated with some of the ongoing upper Cook Inlet development projects to which it provided links.

- That information will be reviewed by the division in its 2009 *Cook Inlet Areawide Oil and Gas Lease Sale Best Interest Finding*, which is currently being drafted.