

February 18, 2004

## **Supplement to the Cook Inlet Areawide Oil and Gas Lease Sale Best Interest Finding**

### **Beluga Whales**

The Cook Inlet beluga whale stock is listed as depleted under the Marine Mammal Protection Act and efforts to facilitate recovery of the stock are ongoing, including cooperative management of subsistence harvests with the National Marine Fisheries Service (NMFS) and the Cook Inlet Marine Mammal Council. Beluga whales declined precipitously from an original population of approximately 1,300 animals to fewer than 313 by June of 2002. NMFS has continued to research these animals, and recent satellite tagging efforts indicate that the Cook Inlet beluga whales reside in the Inlet year round. While summer distribution is often concentrated near-shore or within estuarine areas of fish producing waters entering the Inlet, winter distribution is in more open water. Many tagged whales occurred in mid-Inlet waters south of the Forelands during the winter.

NMFS has segregated the lease sale tracts into three categories:

- Category One consists of all tracts in Upper Cook Inlet that have the highest observed use by beluga whales, including near-shore areas along the west and north shoreline, Knik Arm and Turnagain Arm. NMFS recommends that oil and gas exploration and development (permanent or temporary) should not occur in these tracts, unless it occurs on upland portions.
- Category Two consists of all other near-shore tracts which have also been identified as concentration areas during summer periods. NMFS recommends that no offshore permanent surface entry or structures occur, and that all temporary offshore activities and structures (e.g. exploration drilling) occur only between November 1 and April 1 of each year.
- Category Three consists of all other tracts. NMFS did not have any recommendations for these tracts.

### **Steller's eiders**

ADF&G listed the Alaska breeding population of Steller's eider as a Species of Special Concern in 1993. In 1997, the USFWS also listed the Alaska breeding population of Steller's eider as threatened under the Endangered Species Act (ESA). The U.S. Fish and Wildlife Service (USFWS) and the Alaska Department of Fish and Game (ADF&G) conducted aerial surveys from 2000 – 2003, and provided new information on the distribution of Steller's eider within the lease sale area. The observations confirmed the presence of Steller's eider along the east side of Cook Inlet from Clam Gulch to the

Homer Spit, although it is not known if these birds are from the Alaska breeding population.

**New Mitigation Measures**

- 32. No offshore facilities will be allowed, both temporary and permanent, within the following tracts: 320 thru 334, 391 thru 409, 462, 464 thru 475, 485, 486, 493, 494, 497, 498, 522, 524 thru 537, 540, 541, 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.
- 33. No permanent offshore structures will be allowed, and temporary structures will be allowed only between November 1 and April 1 of each year, within the following tracts: 126, 127, 129 thru 132, 161, 162, 175, 177, 211, 218, 257, 301, 302, 373, 376, 377, and 384.

**New Lessee Advisory**

- 9. Endangered and Threatened Species: The Lessee is advised that the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.) protects the following endangered or threatened species and candidate species for listing that may occur in the lease sale area:

<u>Common Name</u>	<u>ESA Status</u>
a. Fin whale	Endangered
b. Sei whale	Endangered
c. Steller sea lion (western stock)	Endangered
d. Beluga whale (Cook Inlet stock)	Candidate
e. Steller's eider (Alaska breeding population)	Threatened

The National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) is the agency responsible for management of marine mammals with the exception of sea otters, polar bears and Pacific walrus that, in addition to migratory birds, are managed by the U.S. Fish and Wildlife Service (USFWS).

NMFS and the USFWS have requested that the Lessee be further advised that:

- Offshore seismic operations may result in the taking<sup>1</sup> of marine mammals. Such taking is prohibited by the Federal Marine Mammal Protection Act (MMPA), unless otherwise authorized. The incidental

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<sup>1</sup> Under the MMPA take means: harass, hunt, capture, collect, or kill attempt to harass, hunt, capture, or kill any marine mammal.

taking of marine mammals may be authorized under the MMPA, and each operator should discuss this matter with NMFS well in advance of any geophysical survey activity.

- The USFWS has determined that oil and gas exploration and development activities within three miles of the eastern shore of Cook Inlet, from Clam Gulch to the southern bounds of the lease sale area, is likely to adversely affect (take<sup>2</sup>) Steller's eiders. Each operator is advised to consult with the USFWS well in advance of any activities in this area.

NMFS, USFWS, and ADF&G will continue annual monitoring efforts to further delineate the presence and distribution of species administered under the ESA and MMPA. The Lessee is advised to annually acquire updated information from these agencies.

In addition, the DO&G Director, in consultation with OHMP, may restrict or modify lease related activities if scientific evidence documents the presence of Steller's eider from the Alaska breeding population in the lease area and it is determined that oil and gas exploration and development will impact them or their over-wintering habitat in the near-shore waters of Cook Inlet.

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<sup>2</sup> Under the ESA take means: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. "Harm" is further defined by USFWS to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering. "Harass" is further defined by USFWS as intentional or negligent actions that create the likelihood of injury to listed species to such extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering.