



Press Release
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ATTORNEY GENERAL'S OFFICE

State Files Suit Challenging Cook Inlet Beluga ESA Listing *Administration Continues to Implement Five-Part Strategy*

Anchorage, Alaska – The State of Alaska today filed suit against the federal government to challenge the listing of Cook Inlet beluga whales as endangered under the Endangered Species Act (ESA).

"It is with a sense of frustration, but also with our resolve to uphold the interests of Alaska, that we're filing suit to hold the National Marine Fisheries Service (NMFS) accountable to its own rules and regulations," said Attorney General Dan Sullivan. "We presented a strong case during the public review process that there is no need to list this species as endangered because of the stabilization of the beluga population and the protection measures already in place. However, despite the validity of the concerns we raised, our comments were discounted or ignored in the federal decision-making process. At a time when we are seeing an increasing use and abuse of the ESA, it is imperative that federal agencies abide by the letter of the law in making ESA designations."

Sullivan said the Department of Law took significant time to review substantial information about how the endangered listing was reached, and reviewed and analyzed the legal requirements for listing the whales under the ESA. "We believe that the agency didn't adequately consider listing the whales as threatened, rather than endangered, rejecting an alternative designation that could have dramatically reduced impacts on our economy."

The Parnell administration also has submitted comments expressing concern about the proposed designation of critical habitat for Cook Inlet belugas, which threatens to stifle economic activity at the Port of Anchorage and potentially even affect national security.

"We have been working with interested stakeholders to make sure that federal regulators understand how potentially crippling the proposed critical habitat designation would be to our economy," Sullivan said. "It is our hope to work cooperatively with the NMFS towards this end. When the final rule is issued, we will take a hard look and carefully weigh our options."

"We support the use of the Endangered Species Act to protect species that are at immediate risk of extinction," said Doug Vincent-Lang, the state's endangered species coordinator. "For example, we supported the listing of the North Pacific right

whale, a stock whose numbers clearly demonstrate an immediate risk of extinction, and the associated designation of critical habitat. However, we do not believe that the listing of the beluga whale as endangered is warranted at this time. We simply do not accept that the projected risk of extinction for this stock, which NMFS estimates to be less than 1 percent over the next 50 years, warrants an endangered listing."

"The ESA is a well-intentioned and useful law," Sullivan said. "However, in recent years it has been subject to abuse, and we believe that federal agencies do not always fulfill all of the law's requirements. Federal actions taken under the ESA can have significant negative consequences for Alaska's economy, so we've developed a five-part strategy to minimize those consequences."

Sullivan summarized the strategy as follows:

1. Taking action to avoid unwarranted listings by performing ongoing research and monitoring of wildlife populations, reaching pre-listing agreements when possible, and challenging the legal basis for listing decisions when appropriate.
2. Engaging federal officials through programs that provide for a deeper exchange of information. Such cooperation is needed because Alaska state officials are often better informed and have more scientific data about Alaska species than the federal officials who make the final ESA determinations.
3. If a listing does occur, working to shape the critical habitat designation and the recovery plan to minimize adverse impacts to Alaska's economy.
4. Seeking to down-list and de-list species when the data shows that they are no longer in danger of extinction and they have met their recovery objectives.
5. Continuing efforts to raise public awareness about the ESA and to develop alliances with other states to influence ESA policy so it cannot be used as a tool to shut down natural resource development and economic opportunity.

"Thanks to the Legislature's approving \$1 million in funding specifically for ESA-related work, we are making progress in implementing this strategy," Sullivan said. "We will continue working to ensure that the ESA does not stifle the development of our natural resources, impede our traffic and commerce, or threaten the economic future of our citizens."

The state's complaint, filed in the U.S. District Court for the District of Columbia, can be found here:

<http://www.law.alaska.gov/pdf/press/060410-complaint.pdf>

The state's ESA strategy can be found here:

http://www.law.alaska.gov/pdf/press/060410-ESA_Strategy.pdf

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