

(4) Any areas that are essential to the conservation of *A. eggersiana* and *S. conocarpum* and why;

(5) Land use designations and current or planned activities in *A. eggersiana* and *S. conocarpum* habitats and their possible impacts on proposed critical habitat;

(6) Conservation programs and plans that protect *A. eggersiana* and *S. conocarpum* and their habitat; and,

(7) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

In addition, we request data and information on “specific areas outside the geographical area occupied by the species” that are “essential for the conservation of the species.”

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. We will also post all hardcopy submissions on <http://www.regulations.gov>. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so.

Information and supporting documentation that we received and used in preparing this finding, will be available for you to review at <http://www.regulations.gov>, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

#### Background

Section 4(b)(3)(B) of the Act requires that, for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be

warranted, we make a finding within 12 months of the date of the receipt of the petition. In this finding, we determine whether the petitioned action is: (a) not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. We must publish these 12-month findings in the **Federal Register**.

#### Previous Federal Action

On November 21, 1996, we received a petition from the U.S. Virgin Islands Department of Planning and Natural Resources (DPNR) requesting that we list *Agave eggersiana* and *Solanum conocarpum* as endangered. On November 16, 1998, we published in the **Federal Register** (63 FR 63659) our finding that the petition to list *A. eggersiana* and *S. conocarpum* presented substantial information indicating that the requested action may be warranted and initiated a status review on these two plants. On September 1, 2004, the Center for Biological Diversity filed a lawsuit against the Department of the Interior and the Service alleging that the Service failed to publish a 12-month finding (*Center for Biological Diversity v. Norton*, Civil Action No. 1:04-CV-2553 CAP). In a Stipulated Settlement Agreement resolving that case, signed April 27, 2005, we agreed to submit our 12-month finding to the **Federal Register** by February 28, 2006.

On March 7, 2006, we published our 12-month finding (71 FR 11367) that listing of *A. eggersiana* and *S. conocarpum* was not warranted. We arrived at this finding because we did not have sufficient information to determine the true status of either *A. eggersiana* or *S. conocarpum* in the wild. Further, we could not determine if either species met the definition of threatened or endangered due to one or more of the five listing factors because we did not have sufficient evidence of which threats, if any, were affecting these species. On September 9, 2008, the Center for Biological Diversity filed a complaint challenging our 12-month finding (*Center for Biological Diversity v. Hamilton, Case No. 1:08-cv-02830-CAP*). In a settlement agreement approved by the Court on August 21, 2009, the Service agreed to submit to the **Federal Register** a new 12-month finding for *A. eggersiana* by September 17, 2010, and a new 12-month finding for *S. conocarpum* by February 15, 2011.

This notice initiates a new status review for *A. eggersiana* and *S. conocarpum*; we are soliciting new information on the status of and potential threats to both species that

will enable us to complete a review of the status of each species and the subsequent 12-month findings. We will base our new findings on a review of the best scientific and commercial information available, including all such information received as a result of this notice. For more information on the biology, habitat, and range of either species, please refer to our previous 90-day finding published in the **Federal Register** on November 16, 1998 (63 FR 63659), and our previous 12-month finding published in the **Federal Register** on March 7, 2006 (71 FR 11367).

#### Author

The primary author of this notice is the staff of the Caribbean Ecological Services Office, Boquerón, Puerto Rico.

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 6, 2010

**Daniel M. Ashe,**

*Acting Director, U.S. Fish and Wildlife Service*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 226

[Docket No. 09022432-91321-03]

RIN 0648-XT72

#### Endangered and Threatened Species; Notice of Public Hearings on Proposed Critical Habitat Designation for the Cook Inlet Beluga Whales

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public hearings.

**SUMMARY:** On December 2, 2009, NMFS published a proposal to designate critical habitat for the endangered Cook Inlet beluga whale as required by the Endangered Species Act of 1973 (ESA), as amended. As part of that proposal, NMFS announced a public comment period to end on February 1, 2010, which was extended to March 3, 2010. NMFS has received requests for public hearings on this issue. In response, NMFS is announcing that hearings will be held at four locations in Alaska to provide additional opportunities and formats to receive public input.

**DATES:** Written comments must be received by March 3, 2010.

**ADDRESSES:** Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648–XT72", by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>

- Mail: P.O. Box 21668, Juneau, AK 99802

- Fax: 907–586–7557

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

No comments will be posted for public viewing until after the comment period has closed. All comments received are part of the public record and will be generally posted to <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Mandy Migura, NMFS, 222 West 7th Avenue, Box 43, Anchorage, AK 99517, (907) 271–5006; Kaja Brix, NMFS, (907) 586–7235; or Marta Nammack, (301) 713–1401.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(a)(3) of the ESA requires NMFS to designate critical habitat for

threatened and endangered species. NMFS published an advanced notice of proposed rulemaking and a request for information on April 14, 2009 (74 FR 17131). On December 2, 2009, NMFS published a proposed rule to designate critical habitat for the endangered Cook Inlet beluga whale (74 FR 63080). On January 12, 2010, NMFS extended the public comment period to March 3, 2010 (75 FR 1852).

**Public Hearings**

Joint Commerce-Interior ESA implementing regulations state that the Secretary of Commerce shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). In past ESA rulemakings, NMFS has conducted traditional public hearings, consisting of recorded oral testimony from interested individuals. This format, although providing a means of public input, does not provide opportunities for dialogue and information exchange. NMFS believes that the traditional public hearing format can be improved upon by also including a brief presentation on what may be considered topics of interest.

The preferred means for providing public comment to the official record is via written testimony prepared in advance of the meeting, which may also be presented orally. Blank "comment sheets" will be provided at the meetings for those without prepared written comments, and opportunity will also be provided for additional oral testimony. There is no need to register for these hearings.

In scheduling these public hearings, NMFS has anticipated that many affected stakeholders and members of the public may prefer to discuss the proposed critical habitat designation directly with staff during the public comment period. These public meetings

are not the only opportunity for the public to provide input on this proposal. The public and stakeholders are encouraged to continue to comment and provide input to NMFS on the proposal (via correspondence, e-mail, and the Internet; see **ADDRESSES**, above) up until the scheduled close of the comment period on March 3, 2010.

**Hearing Dates & Locations**

Public hearings will be held in Anchorage, Wasilla, Soldotna, and Homer, Alaska. The specific dates and locations of these meetings are listed below:

(1) Soldotna: February 3, 2010, between 6 p.m. and 9 p.m. at the Kenai Peninsula Borough Assembly Chambers, George A. Navarre Kenai Peninsula Borough Administration Building, 144 N. Binkley Street, Soldotna, AK.

(2) Homer: February 4, 2010, between 6 p.m. and 9 p.m. at the Alaska Islands & Ocean Visitor Center, 95 Sterling Highway #1, Homer, AK.

(3) Wasilla: February 11 between 6 p.m. and 9 p.m. at the Best Western, Lake Lucille Inn, Iditarod Room, 1300 West Lake Lucille Drive, Wasilla, AK.

(4) Anchorage: February 12 between 6 p.m. and 9 p.m. in the Loussac Public Library, Wilda Marston Room, 3600 Denali Street, Anchorage, AK.

**References**

The proposed rule, economic analysis, maps, status reviews, and other materials relating to the proposed critical habitat designation can be found on the NMFS Alaska Region website [www.alaskafisheries.noaa.gov/](http://www.alaskafisheries.noaa.gov/).

**Authority:** 16 U.S.C. 1533

Dated: January 13, 2010.

**James H. Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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