

Alaska Legislature
Representative Charisse Millett

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District 30
Co-chair, House Special Committee on Energy

March 3, 2010

Kaja Brix
Assistant Regional Administrator
Protected Resources, Alaska Region
NMFS
Attn: Ellen Sebastian

[RE: RIN 0648-AX50]

Mrs. Brix,

On Monday, March 1, 2010 the Alaska House of Representatives passed House Joint Resolution 40. It states the legislature's opposition to declaring 3,000 square miles of Cook Inlet as critical habitat for beluga whales.

I sponsored this resolution because it is important for the National Marine Fisheries Service to know where the Alaska Legislature stands on this important issue. Please includes this letter, the copy of the resolution and the news release as written testimony on this issue.

Respectfully,

A handwritten signature in black ink that reads "Charisse Millett". The signature is stylized with a large, looped "C" and a cursive "Millett".

Rep. Charisse Millett

CS FOR HOUSE JOINT RESOLUTION NO. 40(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 2/26/10

Referred: Rules

Sponsor(s): REPRESENTATIVES MILLETT, Neuman, Lynn, Johnson, Keller, Gatto, Olson , Stoltze, Johansen

A RESOLUTION

1 **Opposing the proposed designation by the National Marine Fisheries Service of 3,000**
2 **square miles of upper Cook Inlet, the mid-inlet, all of the inlet's western shores, and**
3 **Kachemak Bay as critical habitat for beluga whales.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **WHEREAS** the Endangered Species Act requires economic effects to be taken into
6 account for critical habitat designations, and areas may be excluded from critical habitat if it
7 is determined that the benefit of such exclusion outweighs the benefit of specifying such areas
8 as critical habitat; and

9 **WHEREAS** the National Marine Fisheries Service has proposed declaring 3,000
10 square miles of upper Cook Inlet, the mid-inlet, all of the inlet's western shores, and
11 Kachemak Bay as critical habitat for beluga whales; and

12 **WHEREAS** scientists in the National Marine Fisheries Service have concluded that
13 the sole reason for the population decline was the unsustainable subsistence harvest in the
14 1990s; and

15 **WHEREAS** a cooperative harvest management plan was put into place in 2000; and

1 **WHEREAS** scientists predicted signs of recovery of the beluga whale population
2 would take five to seven years after a cooperative harvest management plan was instituted;
3 and

4 **WHEREAS**, in 2005, the population of beluga whales was 278, and, in 2009, the
5 population was 321, a four percent increase a year; and

6 **WHEREAS** the State of Alaska has given notice of its intent to sue challenging the
7 Cook Inlet beluga whale Endangered Species Act listing; and

8 **WHEREAS** there is no evidence that human activity has harmed the beluga whale's
9 environment, migration, or ecology; and

10 **WHEREAS** the National Marine Fisheries Service has stated that the additional
11 regulatory oversight will cost only an additional \$600,000 over the next decade; and

12 **WHEREAS** the cost estimate does not factor in the extra costs that existing and future
13 operations may have to pay to meet unnecessary new regulatory burdens; and

14 **WHEREAS** a critical habitat designation in Cook Inlet may hurt community and
15 economic development; and

16 **WHEREAS** permitting and construction projects may suffer costly delays, and
17 economic development could be curtailed; and

18 **WHEREAS** the proposed Knik Arm Bridge, Port Mackenzie, tourism, and vessel
19 traffic may be negatively affected; and

20 **WHEREAS** infrastructure development in Cook Inlet for resource development and
21 energy projects could be threatened by critical habitat designations; and

22 **WHEREAS** the Port of Anchorage serves 85 percent of the population of the state
23 and receives 90 percent of the goods coming into the state, and the port has already fully
24 addressed the conservation needs of the Cook Inlet beluga whales relating to the whales'
25 activity, based on the best scientific information available, working with the National Marine
26 Fisheries Service and other experts; and

27 **WHEREAS** military deployments from the Port of Anchorage, military flight
28 patterns, and military operations could be negatively affected or limited with no benefit to
29 beluga whales; and

30 **WHEREAS** environmental lawsuits may add significant delays and millions of
31 dollars to the cost of economic development projects in the Cook Inlet area; and

1 **WHEREAS** decades of safe and environmentally responsible oil and gas production,
2 vessel transportation, community development, commercial, sport, and subsistence fishing,
3 and other economic activity in Cook Inlet have taken place without harming Cook Inlet
4 beluga whales; and

5 **WHEREAS** future oil and gas exploration, development, and production could be
6 gravely affected by critical habitat designations; and

7 **WHEREAS** southcentral Alaska energy needs have been met predominantly through
8 responsible oil and gas production in Cook Inlet for nearly 50 years while beluga whale
9 populations thrived; and

10 **WHEREAS** there is no evidence that commercial or sport fishing is harming the
11 beluga whale population; and

12 **WHEREAS** the commercial and sport fishing industries will be gravely threatened by
13 a critical habitat designation because the beluga whale's primary food source is fish; and

14 **WHEREAS** lost development opportunities because of critical habitat designations
15 could ultimately lead to lost revenue to the State of Alaska and to local governments; and

16 **WHEREAS** all three members of Alaska's congressional delegation and Governor
17 Sean Parnell are opposed to the critical habitat designation; and

18 **WHEREAS** designation of such broad areas of municipal, commercial, and industrial
19 interest, without any known or identifiable link between these activities and the conservation
20 status of the Cook Inlet beluga whale is contrary to the public interest; and

21 **WHEREAS** the conservation benefits, which are entirely uncertain and speculative,
22 are outweighed by the costs and impediments posed by designation of critical habitat in this
23 instance in most, if not all, of the proposed designation area;

24 **BE IT RESOLVED** that the Alaska State Legislature opposes the proposed
25 designation by the National Marine Fisheries Service of 3,000 square miles of upper Cook
26 Inlet, the mid-inlet, all of the inlet's western shores, and Kachemak Bay as critical habitat for
27 beluga whales; and be it

28 **FURTHER RESOLVED** that the State of Alaska requests a more robust economic
29 analysis be completed by the National Marine Fisheries Service before finalizing any critical
30 habitat designation.

31 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of

1 the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and
2 President of the U.S. Senate; the Honorable Nancy Pelosi, Speaker of the U.S. House of
3 Representatives; the Honorable Gary F. Locke, United States Secretary of Commerce; Dr.
4 Jane Lubchenko, Under Secretary of Commerce for Oceans and Atmosphere, United States
5 Department of Commerce; Kaja Brix, Director, Protected Resources Division, Alaska Region,
6 National Marine Fisheries Service, National Oceanic and Atmospheric Administration; the
7 Honorable Dan Sullivan, Mayor of the Municipality of Anchorage; the Honorable John C.
8 Combs, Mayor of the City of Palmer; the Honorable Verne E. Rupright, Mayor of the City of
9 Wasilla; the Honorable Talis Colberg, Mayor of the Matanuska Susitna Borough; the
10 Honorable James C. Hornaday, Mayor of the City of Homer; the Honorable Pat Porter, Mayor
11 of the City of Kenai; the Honorable Peter A. Micciche, Mayor of the City of Soldotna; the
12 Honorable Dave Carey, Mayor of the Kenai Peninsula Borough; and the Honorable Lisa
13 Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young,
14 U.S. Representative, members of the Alaska delegation in Congress.



PRESS RELEASE

FOR IMMEDIATE RELEASE

HJR 40 PASSES HOUSE, ADVANCES TO SENATE
Resolution opposes designation of critical habitat for beluga whales

Monday, March 1, 2010, Juneau, Alaska – The Alaska State House today passed House Joint Resolution 40, which opposes the National Marine Fisheries Service's designation of a critical habitat for beluga whales.

HJR 40 sponsor Rep. Charisse Millett, R-Anchorage, put the resolution in motion in order to protect the economy of the entire Cook Inlet region from what she says is an unnecessary critical habitat designation for beluga whales. Population numbers rebounded after a cooperative harvest management plan was instituted, with the beluga population going from 278 in 2005 to 321 in 2009, a total increase of four percent per year.

The Endangered Species Act requires economic effects to be taken into account for critical habitat designations. Areas may be excluded from critical habitat if it is determined that the benefit of such exclusion outweighs the benefit to the region. While the National Marine Fisheries Service considers the designation as a way to protect wildlife in the region, the move could cripple economic development in the region, affecting all of Alaska. "All activities in and around Cook Inlet from the Port of Anchorage, to military operations, to sport and commercial fishing could be slapped with new restrictions if a critical habitat designation is issued," Millett said.

The National Marine Fisheries Service has stated that the additional regulatory oversight for the proposed critical habitat would cost an additional \$600,000 over the next decade, not even considering the extra costs that existing and future operations will have to pay to meet the restrictions unfurled by the proposal. "The conservation benefits, which are entirely uncertain and speculative," Millett said, "are outweighed by the costs and impediments posed by designation of critical habitat in this instance in most, if not all, of the proposed designation area."

HJR 40 now advances to the Alaska State Senate for consideration. The House-passed resolution will accompany legislators visiting Energy Council in Washington, D.C., this week.

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To contact Rep. Millett's office, please call 907-465-3879.