

## OVERVIEW

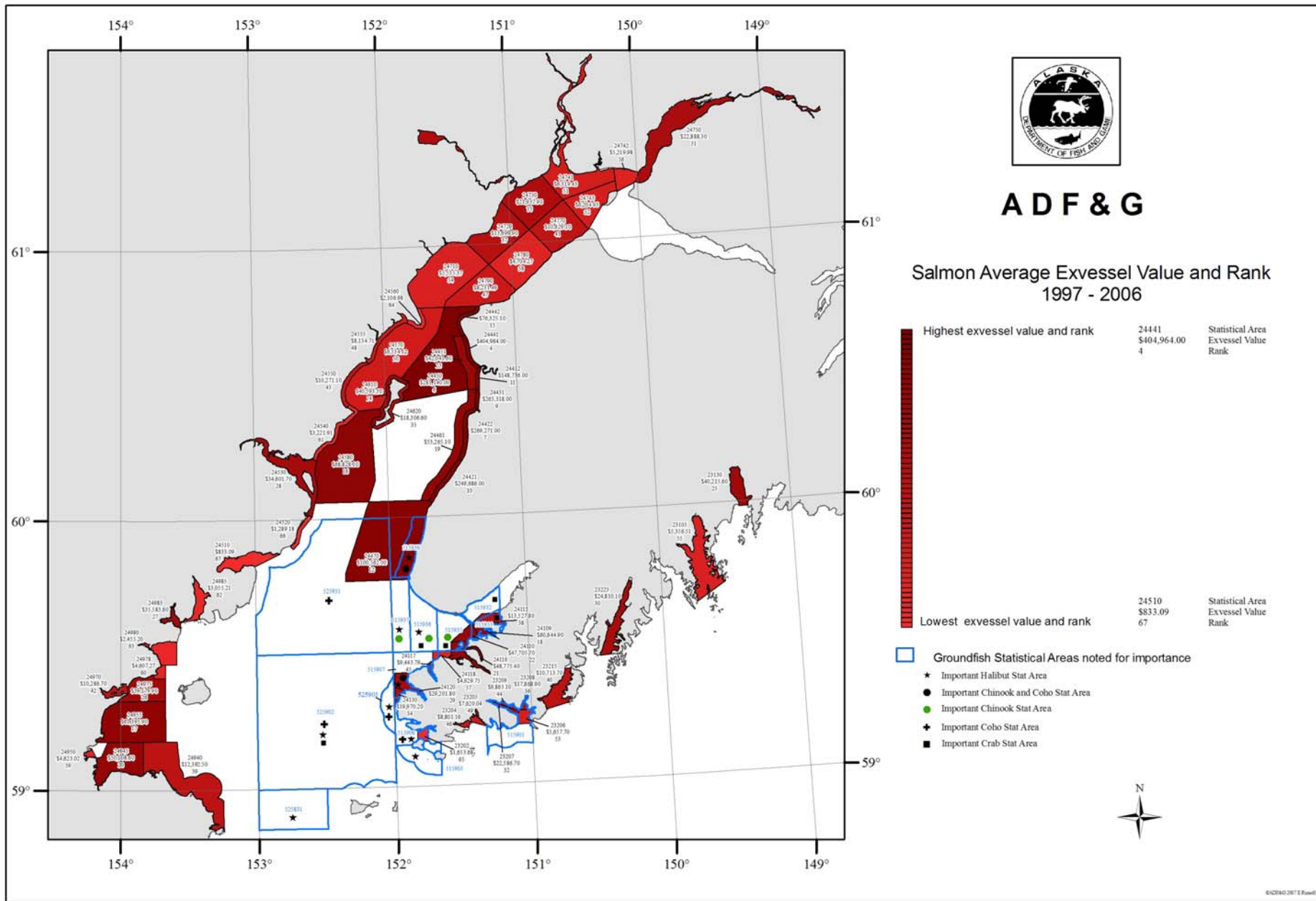
The National Marine Fisheries Service (Service) based its conclusion that “*the Cook Inlet beluga whale constitutes a distinct population segment (DPS) that is in danger of extinction throughout its range*” on the November 2006 “*status review and consideration of the factors affecting this species.*” The State of Alaska (State) comments provide information and analyses that were not considered by the Service in reaching this conclusion and demonstrate that the Service could and should have reached the significantly different conclusion that a listing as endangered under the Endangered Species Act (ESA) is unwarranted at this time. The State’s detailed comments on the proposal to list the Cook Inlet stock of beluga whales under ESA are enclosed and grouped in chapters according to the factors listed in the 2007 proposed rule (19854):

- Chapter 1: Current Population Status of the Cook Inlet Stock of Beluga Whale
- Chapter 2: Biological or Other Information Regarding Threats to the Species
- Chapter 3: Effectiveness of Ongoing and Planned Conservation Efforts by States or Local Entities
- Chapter 4: Identification of Critical Habitat or Essential Physical and Biological Features for this Species
- Chapter 5: Examples of Economic or Other Relevant Impacts of Designation of Critical Habitat.

These chapters also provide information and analyses to correct the November 2006 Status Review, which served as the basis for the Service’s proposed conclusion to list under ESA. Analysis of these factors and supporting information in the enclosed chapters results in the following conclusions:

- Both the Service’s determination in 2000 and the 2007 proposed rule refer to abundance estimates and calculations of decline and reproductive rates that were based on incorrect assumptions. Growth within the population could not reasonably be expected until the breeding age component of the population stabilized. This stabilization should not have been expected for at least 5 to 7 years after unsustainable hunting ended in 1999. Therefore, the abundance estimates and regression analysis inappropriately demonstrate a decline of 4.1 percent because the calculation starts in 1999, 5 to 7 years before reproductively mature whales make up a more normal portion of the population.
- We concur with Litzky (2001), cited in the Status Review, that a consistent recovery in the proportion of mature belugas might first be observed by 2004 and that the cumulative probability of observing recovery increases to >80 percent by 2007-2009. This prediction is reflected in the increasing counts of beluga whales in 2006 and 2007.
- The estimated risk of extinction for the most plausible models used in the Status Review was zero (0) at 50 years. The proposed rule concludes that Cook Inlet beluga whales are in danger of extinction based upon the continuing decline of the population and some statistical probability that the population is too small to be sustainable. The best available scientific and commercial data do not support this claim.

- Based on the recent Ninth Circuit Court of Appeals decision regarding Washington gray squirrel and the March 16, 2007, Department of the Interior Solicitor guidance regarding “significant portion of its range,” two separate standards must be met for a population to be considered a Distinct Population Segment. We find that the Cook Inlet stock of beluga whales does not meet these current standards and request reevaluation of the Service’s prior determination that the Cook Inlet stock of beluga whales constitutes a distinct population segment.
- The Service’s 2007 proposed rule concludes there have been no impacts to the Cook Inlet stock of beluga whales since the 2000 decision that a listing was not warranted. However, the proposed rule fails to also acknowledge the important and comprehensive regulatory measures that the state and federal agencies provide for the ongoing and future developments and activities in Cook Inlet. Instead, the rule is based on unsubstantiated speculation that developments and cumulative effects on habitat will increase beluga mortality. There are no scientific or commercial data or any other rational basis for concluding that present or future habitat conditions are slowing recovery of beluga whales or that they will result in cumulative impacts that affect its continued existence. To the contrary, today’s habitat protection standards are no less effective than past standards, and in some cases are superior, resulting in restoration of Cook Inlet habitat.
- The State requests the Service to coordinate with the State and others to finalize and cooperatively implement a conservation plan for the Cook Inlet stock of beluga whales. The Service committed in the 2000 rule to pursue such action with the State, other agencies, non-government organizations, and the public. The lack of progress during the intervening seven years needs to be immediately corrected in cooperation with the State and coordinated with other organizations to increase funding and implement important cooperative measures toward research and management of the beluga whales and their habitat. The adoption of a cooperative conservation plan would provide greater benefit for the Cook Inlet stock of beluga whales than is possible through an unwarranted listing and subsequent recovery plan.
- Extreme economic impact would occur to the residents, communities, and entire State of Alaska if Cook Inlet were determined to be critical habitat. This impact is discussed in Chapter 5. Attached is a map illustrating an example of the zones of economic importance of recreational and subsistence fisheries which are requested to be excluded from designation in the event that a determination to list is made.
- Over 15 million acres of protected land in and around Cook Inlet helps to protect whale habitat. The habitat in Cook Inlet supports healthy populations of fish on which beluga whales prey. These healthy populations of fish are evidenced by salmon returns to the river systems draining into Cook Inlet that continue to annually produce record numbers. These protected lands are comprised of State game refuges and critical habitats, special legislated management areas of the Upper Kenai and Recreational Rivers (Susitna), Chugach National Forest, Chugach State Park, and Katmai National Park and Preserve, among others. (See attached map).



State of Alaska Comments on ESA Beluga Listing  
August 3, 2007, Enclosure  
Overview, Page 4