



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

October 2, 2005

Robert Rau
U.S. Environmental Protection Agency
NPDES Permits Unit
1200 Sixth Avenue
OWW-130
Seattle, WA 99802

RE: NPDES permit for the
Kenai Pipeline Company
Permit No. AK-00105-8

Dear: Mr. Rau:

Thank you for your letter requesting information on the presence of threatened or endangered species and Essential Fish Habitat (EFH). The Environmental Protection Agency (EPA) plans to re-issue a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of treated ballast and petroleum contact water into Cook Inlet at Port Nikiski. The National Marine Fisheries Service (NMFS) offers the following information under the Endangered Species Act (ESA), and the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Threatened and Endangered Species

Section 7(a)(2) of the ESA directs federal interagency cooperation “to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species” or result in the destruction or adverse modification of critical habitat. NMFS is responsible for the administration of the ESA as it applies to listed cetaceans, pinnipeds and Pacific salmon in Alaska.

The following species are listed under the ESA and are found in this Subarea:

- Steller sea lion (*Eumetopias jubatus*) – Western DPSEndangered
- Fin Whale (*Balaenoptera physalus*)..... Endangered
- Humpback Whale (*Megaptera novaeangliae*).....Endangered

Additionally, several ESA-listed stocks of Pacific salmon may occur within these waters. These include the following Evolutionarily Significant Units: Snake River fall Chinook, Snake River spring/summer Chinook, Puget Sound Chinook, Upper Columbia River spring Chinook, Lower Columbia River spring Chinook, Upper Columbia River steelhead, Upper Willamette River steelhead, Middle Columbia River steelhead, Lower Columbia River steelhead, and Snake



River basin steelhead. We have no information on the specific occurrence of listed salmonids within Cook Inlet, however tag recoveries from the Gulf of Alaska indicate these species/ESU's may occur here.

Of these listed species, we would expect only Steller sea lions to occur in the immediate area of the treatment facility or receiving waters near Port Nikiski. Additionally, please be aware that Cook Inlet beluga whales occur in these waters. This population of beluga whales is listed as depleted under the Marine Mammal Protection Act, and a Species of Concern within NMFS; indicating concern for its conservation. NMFS has recently released a draft Conservation Plan for these whales, and is proposing to initiate a status review this fall to determine the need for ESA listing. We recommend you consider the effects of this discharge on the Cook Inlet beluga whale in your evaluations. Additional information regarding the ESA is available on our website at <http://www.fakr.noaa.gov/protectedresources/default.htm>.

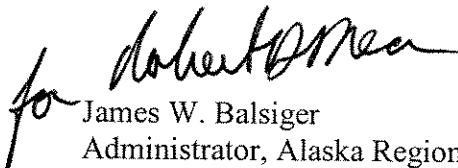
Essential Fish Habitat

Under Section 305(b)(2) of the Magnuson-Stevens Act, federal agencies are required to consult with the Secretary of Commerce on any action that may adversely affect EFH. The trigger for EFH consultation is a federal action agency's determination that an action may adversely affect EFH. We offer the following information to assist you in making your determination.

EFH has been designated in waters for anadromous fish, specifically salmon, and certain life stages of marine fish under NMFS' jurisdiction. Five fishery management plans (FMPs) exist for fisheries in Alaska. They cover groundfish in the Gulf of Alaska, groundfish in the Bering Sea and Aleutian Islands, crab in the Bering Sea and Aleutian Islands, and salmon and scallops Statewide. Those relating to Cook Inlet include the Gulf of Alaska groundfish and Statewide salmon and scallop management plans. Please visit our web site at <http://www.fakr.noaa.gov/habitat/> for additional EFH information regarding your project area.

We hope this information is useful in fulfilling your requirements under the ESA and the Magnuson-Stevens Act. We look forward to reviewing the new draft permits. Please direct any questions regarding endangered species to Mr. Brad Smith at (907) 271-3023, and questions regarding EFH to Ms. Jeanne Hanson at 271-3029.

Sincerely,


James W. Balsiger
Administrator, Alaska Region

cc: OHMP, OPMP – Anchorage
Records