



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

December 18, 2002

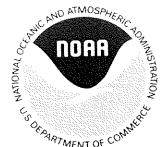
John Goll  
Regional Director,  
Alaska OCS Region  
Minerals Management Service  
949 East 36th Avenue, Room 308  
Anchorage, Alaska 99508-4302

Dear Mr. Goll:

The National Marine Fisheries Service (NMFS) has received your November 20, 2002 request for a programmatic Essential Fish Habitat (EFH) consultation on activities associated with leasing and exploration from proposed Lease Sales 191 and 199, as well as exploration associated with all other existing leases in the Cook Inlet Planning Area. The request states that in accordance with the procedures outlined in the March 12, 2002 EFH finding between our agencies, MMS intends to use the Draft Environmental Impact Statement (DEIS) for Oil and Gas Lease Sales 191 and 199 for the Cook Inlet Planning Area of the Alaska Outer Continental Shelf (OCS) to fulfill the consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. MMS has also requested that this document serve as the EFH Assessment for the proposed programmatic consultation.

We intend to submit comments on the DEIS under separate cover. Our staff will also coordinate with MMS regarding our concerns under the Marine Mammal Protection Act and the Endangered Species Act.

Programmatic consultations is a mechanism for implementing the EFH consultation requirements efficiently and effectively by including in one consultation many individual actions that may adversely affect EFH. Section 600.920(j) of the EFH regulations describes programmatic consultation as appropriate if sufficient information is available at a programmatic level to develop EFH conservation recommendations that will address all reasonably foreseeable adverse impacts to EFH. A programmatic consultation results in a letter from NMFS to the Federal agency containing programmatic EFH conservation recommendations, as well as identification of any adverse impacts that could not be addressed by the programmatic EFH



conservation recommendations. Any adverse effect that cannot be addressed through programmatic EFH conservation recommendations will have to be addressed through individual consultation (preferably by using existing procedures) or a General Concurrence<sup>1</sup>.

The NMFS document containing the EFH conservation recommendations should briefly summarize the EFH Assessment, and may contain the entire EFH Assessment as an attachment. This document may contain other attachments such as a General Concurrence or a finding, if they were developed as a result of the programmatic consultation. The document containing NMFS EFH conservation recommendations for a programmatic consultation should contain: a description of the program; a description of the EFH affected by program activities; a description of the adverse effects on EFH; programmatic EFH conservation recommendations; how the EFH conservation recommendations will address adverse effects; any additional consultation required of the agency, e.g. individual consultation for certain projects; and a concluding section or statement that clarifies that the programmatic consultation satisfies the Magnuson-Stevens Act consultation requirement. The action agency must respond to the EFH conservation recommendations within 30 days as required under the Magnuson-Stevens Act.

The description of the program, affected EFH, and adverse effects on EFH should be addressed by the action agency's programmatic EFH Assessment. The EFH assessment in the DEIS contains the information required under 50 CFR 600.920 (e)(3); however, the sections containing this information have not been identified as the EFH Assessment as required under 50 CFR 600.920 (f)(ii) and are scattered throughout the DEIS. This makes it difficult for NMFS staff to complete the documentation for the programmatic consultation. NMFS requests an opportunity to discuss options for consolidating this information into one document, as well as the possibility of developing a General Concurrence for some of the activities that will occur as a result of the lease sales. Additionally,

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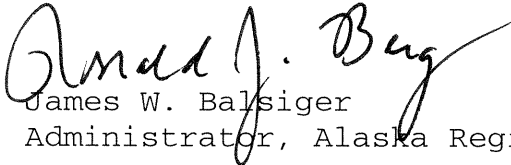
<sup>1</sup> General Concurrences should be used for categories of Federal actions that are similar in nature and similar in their impact on EFH, and that will not cause greater than minimal impacts on EFH, either individually or cumulatively.

consulting on certain activities individually, rather than programmatically, may be more appropriate, due to the areal extent and the vast environmental and geographic differences covered by these lease sales.

Also, pursuant to 50 CFR 600.920 (a)(1), EFH consultation is not required for actions that were completed prior to the approval of EFH designations by the Secretary, e.g., issued permits. Consultation is required for renewals, reviews, or substantial revisions of actions if the renewal, review or revision may adversely affect EFH. NMFS, therefore, would not consult on any existing lease sale in the Cook Inlet Planning area. NMFS may, however, need to consult on any upcoming actions that MMS determines would have an adverse effect on EFH.

NMFS looks forward to discussing this further with MMS and coming to mutual agreement on the appropriate method to fulfill the EFH consultation requirements of the Magnuson-Stevens Act. Please contact Ms. Jeanne L. Hanson of my staff at (907) 271-3029 to arrange a meeting.

Sincerely,

*For*   
James W. Balsiger  
Administrator, Alaska Region

cc: Corps, USFWS, USEPA, ADEC, ADFG, ADGC - Anchorage  
Cook Inlet Marine Mammal Council