



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

*National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668*

December 23, 2002

Hanh Gold
NEPA Coordinator
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Re: Pogo Mine T&E Species

Dear Ms. Gold:

The National Marine Fisheries Service (NMFS) has received your request for information regarding environmental laws that may be applicable to the Pogo Mine project. We have reviewed your preliminary information and offer the following comments specific to the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

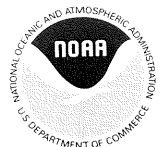
Endangered Species Act

Section 7(a)(2) of the ESA directs interagency cooperation to ensure that any action authorized, funded, or carried out by a federal agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of designated critical habitat. In Alaska, NMFS is responsible for the administration of the ESA as it applies to listed species of whales, Pacific salmon¹, and Steller sea lions.

No endangered species under NMFS jurisdiction are likely to occur in the vicinity of the project site, and critical habitat for listed species does not occur in the project vicinity. Additional information on ESA listed species is provided in Table 1, and more information is available on the internet at:

<http://www.fakr.noaa.gov/protectedresources/>

¹ Several Northwest Pacific salmon stocks grow to maturity in offshore areas of Alaska. Several of these stocks are listed as an endangered species. Please see the Summary of Salmon & Steelhead Listings at <http://www.nwr.noaa.gov/> for further information.

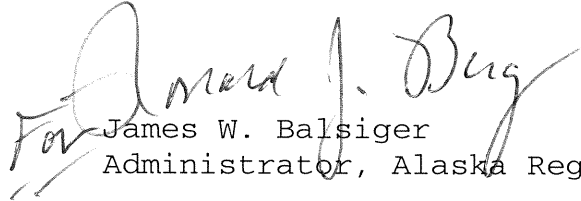


Marine Mammal Protection Act

Marine mammals that are protected under the MMPA range throughout Alaskan marine waters. However, no marine mammals are expected to occur in the vicinity of the project site.

Further consultation with NMFS under the ESA and MMPA is not required unless substantial changes in the project occur. Please contact John Olsen for further coordination regarding this project, at (907) 271-5006.

Sincerely,

A handwritten signature in cursive script, appearing to read "James W. Balsiger". The signature is written in dark ink and is positioned above the typed name and title.

James W. Balsiger
Administrator, Alaska Region

cc: ADEC, ADF&G, ADGC, USFWS, EPA - Anchorage

Table 1: The following species² and critical habitat occur in Alaska waters and have been provided protection under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*):

<u>Listed species</u>	<u>Stock</u>	<u>Latin Name</u>	<u>Status</u>
<u>Blue whale</u>		<u><i>Balaenoptera musculus</i></u>	<u>Endangered</u>
<u>Bowhead whale</u>		<u><i>Balaena mysticetus</i></u>	<u>Endangered</u>
<u>Fin whale</u>		<u><i>Balaenoptera physalus</i></u>	<u>Endangered</u>
<u>Humpback whale</u>		<u><i>Megaptera novaeangliae</i></u>	<u>Endangered</u>
<u>Right whale</u>		<u><i>Balaena (=Eubalaena) glacialis</i></u>	<u>Endangered</u>
<u>Sei whale</u>		<u><i>Balaenoptera borealis</i></u>	<u>Endangered</u>
<u>Sperm whale</u>		<u><i>Physeter macrocephalus</i></u>	<u>Endangered</u>
<u>Steller sea lion</u>	<u>Western population</u>	<u><i>Eumetopias jubatus</i></u>	<u>Endangered</u>
<u>Steller sea lion</u>	<u>Eastern population</u>	<u><i>Eumetopias jubatus</i></u>	<u>Threatened</u>
<u>Northern Sea Otter*</u>		<u><i>Enhydra lutris kenyoni</i></u>	<u>Candidate</u>
<u>Chinook salmon*</u>	<u>Puget Sound</u>	<u><i>Oncorhynchus tshawytscha</i></u>	<u>Threatened</u>
	<u>Lower Columbia River</u>		<u>Threatened</u>
	<u>Upper Columbia River Spring</u>		<u>Endangered</u>
	<u>Upper Willamette River</u>		<u>Threatened</u>
	<u>Snake River spring/summer</u>		<u>Threatened</u>
	<u>Snake River fall</u>		<u>Threatened</u>
<u>Sockeye salmon *</u>	<u>Snake River</u>	<u><i>Oncorhynchus nerka</i></u>	<u>Endangered</u>
<u>Steelhead*</u>	<u>Upper Columbia River</u>	<u><i>Onchorynchus mykiss</i></u>	<u>Endangered</u>
	<u>Middle Columbia River</u>		<u>Threatened</u>
	<u>Lower Columbia River</u>		<u>Threatened</u>
	<u>Upper Willamette River</u>		<u>Threatened</u>
	<u>Snake River Basin</u>		<u>Threatened</u>

² The Endangered Species Act of 1973, as amended, defines traditional biological species concept of the biological sciences and “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature” (16 USC 1532). NMFS uses the term *evolutionarily significant unit* as synonymous with *distinct population segment* and lists Pacific salmon accordingly. For the purposes of section 7 consultations, these are all “species.”

<u>Leatherback sea turtle</u>		<i>Dermochelys coriacea</i>	<u>Endangered</u>
<u>American Peregrine Falcon*</u>		<i>Falco peregrinus anatum</i>	<u>Delisted</u>
<u>Short-tailed Albatross*</u>		<i>Diomedea albatrus</i>	<u>Endangered</u>
<u>Aleutian Canada Goose*</u>		<i>Branta canadensis leucopareia</i>	<u>Delisted</u>
<u>Steller's Eider*</u>		<i>Polysticta stelleri</i>	<u>Threatened</u>

Designated critical habitat

<u>Species Group</u>	<u>General Reference Area</u>
<u>Whales</u>	<u>No critical habitat has been designated for the above referenced whales in Alaskan waters.</u>
<u>Steller sea lion</u>	<u>Shelikof Strait Area, Bogoslof Area, and Seguam Pass Area (50 CFR Part 226.12)</u>
<u>Pacific Salmon*</u>	<u>No critical habitat has been designated for salmon species in Alaskan waters.</u>

*The northern sea otter, American peregrine falcon, Aleutian Canada goose, short-tailed albatross, and Steller's eider are under the jurisdiction of the U.S. Fish and Wildlife Service at 907-786-3542. All salmon species are under the jurisdiction of NMFS, Northwest Regional Office, Seattle, Washington at (503) 230-5400.