

Comments of the
TRANSPORTATION INSTITUTE

to the

**National Oceanographic and
Atmospheric Administration:
National Marine Fisheries Service**
concerning

**Docket # 090224232-91321-03
RIN 0648-AX50**

**Endangered and Threatened Species:
Designation of Critical Habitat for Cook
Inlet Beluga Whale**

Submitted by

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On behalf of the Transportation Institute and our member companies, I wish to submit comments concerning the proposed critical habitat designation for Cook Inlet beluga whales. The Transportation Institute is a non-profit organization dedicated to maritime research, education, and promotion. The Institute member companies participate in all phases of the nation's deep-sea, foreign, and domestic shipping trades. All are of U.S. Registry—manned by American citizen-mariners, operating under the world's highest safety standards, and proudly flying the American flag. Several of these operators would be impacted by the critical habitat designation being considered by the National Oceanic and Atmospheric Administration.

Several of our member companies have participated in the economic analysis submitted by the Resource Development Council of Alaska (RDC). Horizon Lines and Totem Ocean Trailer Express are member companies of the Institute and have submitted their own comments to the record identifying commercial and operational concerns the designation may pose. We fully support their submission to the docket, as well as the views expressed by the RDC.

The Endangered Species Act (ESA) Section 4(b)(2) provides that “the Secretary shall designate critical habitat...on the basis of the best scientific data available and after taking into consideration the economic impact, impact to national security, and any other relevant impact of specifying any particular area as critical habitat.” Accordingly, the potential impact of the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration's (NOAA), designation of beluga whale critical habitat and remediation thereof will have a significant and direct impact on the economic and defense interests of Alaska and our nation. We request that NMFS exclude the Port of Anchorage and the vessel traffic lane through Cook Inlet to the port from being impacted by this rulemaking.

Despite up to five transits a week through Cook Inlet and in every season, our members' ocean-going vessels have never had a single whale strike. They have maintained an unblemished record of safety and risk avoidance while managing the difficult transit through Cook Inlet and its challenging tidal action. Given their nearly fifty years of experience and dynamic improvements in technology, we have every reason to believe this admired safety record will continue. Furthermore, both Horizon and TOTE do not discharge ballast water in Cook Inlet and threaten these waters with the potential introduction of invasive species to create further imbalance to the beluga's marine environment.

The Port of Anchorage serves 80 percent of Alaska's population and 90 percent of the consumer goods of Alaska. The port is the major gateway for Alaska's water-borne commerce and a vital element of the regional economy. In terms of economic impact, the port generates more than \$750 million each year. Much of this economic activity is related to the predictable and frequent service provided by the ocean-going vessels of Horizon Lines and TOTE. Maintaining their reliable schedules is critical to the just-in-time logistics service supporting South-central Alaska, the rail-belt Interior Alaska, and the critical energy sector of the North Slope. Having regular and dependable service

through the population and transit hub of Anchorage affords Alaskan firms the ability to eliminate the need to warehouse most goods through distribution centers. Most containers and trailers are handled as intermodal cargo and proceed directly to their retail destinations from the ships. This saves Alaskans an estimated \$70.2 million in annual warehouse and distribution costs. Moreover, the quality and freshness of goods, despite a 3-4 day ocean-going journey, is maintained. Thankfully, the days of brown lettuce and powdered milk are a distant memory for Alaskans served through the Port of Anchorage.

Undoubtedly, the threat of losing schedule integrity is of paramount importance for our vessel operators and the impact it would have on Alaska's citizens cannot be underestimated. It is conceivable for the critical habitat designation to require operational changes that will at best hamper, if not create uncompromising circumstances and unanticipated consequences causing insurmountable delays. The rigor of managing the tides (Turnagain Arm sees the largest tidal range in the United States, with a mean of 30 feet (9.2 m), and the fourth highest in the world, while tidal fluctuations in the main body of Cook Inlet regularly reach 25 feet (7.6 m) and exhibit currents in excess of 5 knots (9.3 km/h) at full tidal flow), weather, silt, and ice in Cook Inlet while meeting scheduled arrival and departure times must not be further complicated. This is especially so since numerous studies conducted over many years show a distinct lack of any scientific evidence that human activity of any kind (beyond subsistence harvesting) has had any impact on the beluga whale population.

During the public hearing process of this rulemaking it was suggested that commercial vessel operators could (perhaps seasonally) use the Alaskan ports of Whittier or Seward as an alternative to transiting through Cook Inlet to Anchorage. This is not a feasible alternative. The Port of Whittier has geographical limitations that do not provide sufficient uplands to accommodate the storage needs of the commercial carriers. Furthermore, the town is shut-in and access is provided by a rail/highway tunnel. The limited height, width, and cargo restrictions (size and type of flammable materials, often carried as cargo, are severely limiting) and limited open hours of the tunnel create operational hurdles that would be insurmountable for some of the cargo typically carried by Alaskan vessels. Many pieces of construction and project equipment, like loaders, pavers, power plant project cargo, and storage tanks would not be allowed in the tunnel. The Port of Seward poses similar uplands limitations for the container/trailer space needed by our carriers. Moreover, the cruise tourism and small boat traffic would create additional operational hazards and conflicts. In both cases the imposition of an additional 500+ trailer trucks on difficult and limited road infrastructure capacity poses a safety risk that no public agency should engender. Further, if the economics of this alternative were plausible it would have been sought long ago in order to avoid the longer route to Anchorage.

Aside from these economic impact concerns, Congress sought to assure an ESA designation did not endanger the defense requirements of our nation. It has been noted that the Port of Anchorage is one of only 19 Strategic Seaports—and the only one not in the Continental United States—as designated by the Military Surface Deployment and Distribution Command (SDDC). This selection is based upon Anchorage playing a critical role in the deployment of U.S. Armed Forces, including units based at Fort Richardson and other military installations in Alaska. An engineering analysis of the POA determined that its strategic value was based on its crucial “highway, water and rail

access, cargo staging area and berthing capacity." According to Brig. Gen. Mark Scheid, SDDC's Deputy Commanding General/Director of Operations, units like the 172nd Stryker Brigade Combat Team, at Fort Wainwright, and an Airborne Brigade Combat Team, at Fort Richardson, require the ability to deploy by sea, as do units that may train in Alaska.

Furthermore, TOTE officials attest to the critical nature of their waterborne cargo service to Anchorage. TOTE's annual estimated load factor attributed to military-related supplies and equipment is a full 12 percent of their business.

A more subtle aspect of the defense-related role of the deep-sea vessels serving the Cook Inlet, including the U.S.-flag tankers serving Nikiski, is our military relies on a reserve pool of professional mariners to crew the vessels maintained by the federal Maritime Administration in the Ready Reserve Force which are broken out in times of conflict or crises. Among these are the skilled seafarers who work aboard Horizon Line and TOTE cargo ships and Seabulk tankers. Former Chairman of the Joint Chiefs of Staff, General Colin Powell stated in 1992 that, "I have come to appreciate first-hand why our merchant marine has long been called the nation's fourth arm of defense... The American seafarer provides an essential service to the well-being of the nation, as was demonstrated so clearly during operations Desert Shield and Desert Storm." In fact, civilian mariners are currently serving aboard MARAD managed vessels and on private U.S.-flag vessels contracted to support our government in defense and humanitarian efforts in Afghanistan and Haiti.

The military also relies on the vessels and logistical support of our private-sector merchant marine. Ironically, one of the first commercial vessels to be chartered to the military to supply our troops with vehicles and cargo during Operation Enduring Freedom/Iraqi Freedom was none other than a TOTE roll-on/roll-off (Ro-Ro) ship taken off the Anchorage run. The special design of the vessel enables most any vehicle to be driven aboard, making it an exceptional vessel for charter to the military. It can sail at a top speed of 24 knots and has a shallow draft --to reach ports that other vessels would find too dangerous.

It should be abundantly clear that the use of commercial U.S.-flag vessels having great military utility, along with their civilian officers and crew, are of significant importance to our military planners, logistics experts, and transporters in the event of a national emergency or global conflict. They rely on us, particularly when our allies are not willing or able to help. Threatening the viability of these firms and the crucial seagoing and logistical jobs they support is not in the nation's interest.

I trust I have shared, in brief, some of the economic and defense impact concerns the ESA requires your agency to carefully consider when designating critical habitat. The economy of Alaska and the nation is in a precarious state and will suffer if unwarranted impositions are placed on the vessels serving South-central Alaska. Our organization and members respectfully request the Port of Anchorage and transit lanes within Cook Inlet be excluded from the beluga whale critical habitat designation. In so doing the agency will uphold the Endangered Species Act's discretionary allowance to exclude any area from critical habitat if the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat. Given the lack of clarity and evidence that commercial vessels are a threat to the Cook Inlet beluga whales, the agency should not endanger the vessel routing and operations Alaskans have become dependent

upon to deliver the goods through exceptional just-in-time logistics service. Furthermore, we urge the NMFS to be steadfast in allowing the regular and frequent occurrence for proper dredging of the Cook Inlet transit lanes and Port of Anchorage area, critical in removing the significant silt build-up threatening a commercial vessel's passage to and from Anchorage, to remain unfettered.

Last, the regulatory notice requests submissions for peer reviewers for proposed critical habitat designations. Accordingly, we wish to suggest Jason Brune, Executive Director of the Resource Development Council to be considered for this role as he has the biological science and commercial business expertise to make sound judgments on this subject matter.

Thank you for providing this opportunity to comment and for your consideration of our concerns.