



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

May 15, 2017

John Goodwin, Sr., Chairman
Ice Seal Committee
P.O. Box 143
Kotzebue, AK 99752

Dear Mr. Goodwin:

We are writing to inform you that the Endangered Species Act (ESA) listing of bearded seals off Alaska's coast has been reinstated following a legal challenge, and thus the Beringia bearded seal is again classified as a threatened species.

On December 28, 2012, the National Marine Fisheries Service (NMFS) published a final rule listing the Beringia and Okhotsk distinct population segments (DPSs) of bearded seals as threatened under the ESA due to foreseeable future decreases in sea ice and expected population declines associated with climate change (77 FR 76740). Beringia bearded seals occur in the Beaufort, Chukchi, and Bering seas off Alaska's coast. On July 25, 2014, the U.S. District Court for the District of Alaska issued a decision vacating the listing of the Beringia DPS of bearded seals as threatened. On October 24, 2016, the U.S. Court of Appeals for the Ninth Circuit reversed the judgment of the District Court. On February 22, 2017, the Ninth Circuit denied a petition for rehearing en banc. On May 12, 2017, the District Court entered final judgment. Therefore, the listing of Beringia DPS bearded seals as a threatened species is back in effect.

NMFS's decision to list the Arctic subspecies of ringed seals as a threatened species (77 FR 76706; December 28, 2012) under the ESA was also vacated by the District Court on March 11, 2016. Therefore, at this time ringed seals off Alaska's coast are not listed as a threatened species under the ESA. An appeal of the District Court's decision is pending before the Ninth Circuit.

Federal agencies proposing to authorize, fund, or carry out actions that may affect bearded seals or other threatened or endangered species under NMFS's jurisdiction must first consult with NMFS pursuant to section 7(a)(2) of the ESA. Federal agencies may also wish to consult with NMFS regarding effects to ringed seals to have the benefit of our analysis of the consequences of proposed actions on that species in the event its listing as threatened is reinstated. If you have questions regarding section 7 consultations, please contact Alicia Bishop at 907-586-7224 or alicia.bishop@noaa.gov.

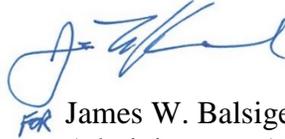
Section 10(e) of the ESA provides for subsistence harvest of listed species by Alaska Natives, so long as it is not done in a wasteful manner. At this time, there is no evidence that subsistence harvest of ice seals by Alaska Natives is negatively affecting the populations. Therefore, NMFS does not anticipate that ESA listing of ice-associated seals will lead to any regulation of subsistence hunting. Subsistence hunting could be regulated under the ESA only if the harvest is expressly found to "materially and negatively" affect the species, which is not currently the case.



If ice seal populations decline to very low levels over time, limits could be put on subsistence harvests. In such circumstances, NMFS would work under our co-management agreement with the Ice Seal Committee to find the best approach to maintain sustainable harvests of ice seals by Alaska Natives.

If you have questions regarding the listing status of bearded or ringed seals, please contact Tammy Olson at 907-271-2373 or tammy.olson@noaa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Balsiger', with a small 'FER' mark below the first letter.

James W. Balsiger, Ph.D.
Administrator, Alaska Region

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