



TRUSTEES FOR ALASKA

SUSTAIN | PROTECT | REPRESENT

Alaska's non-profit public interest environmental law firm

December 2011 Legal Brief

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Table of Contents

- [Support Trustees for Alaska](#)
- [Trustees for Alaska Welcomes Winter Externs](#)
- [Good News for Belugas](#)
- [Featured Client: Castle Mountain Coalition](#)

Cook Inlet Beluga Whales Remain on the Endangered Species List

With the New Year approaching, we (and the Cook Inlet beluga whales) have one more thing to celebrate.



On Nov. 21, 2011, the Federal District Court in Washington, D.C. rejected the State of Alaska's lawsuit against the National Marine Fisheries Service (NMFS), which sought to throw out NMFS's decision to list the Cook Inlet beluga whale as an endangered species under the Endangered Species Act (ESA). On behalf of the Alaska Center for the Environment, the Center for Biological Diversity, Cook Inletkeeper, Defenders of Wildlife, the Natural Resources Defense Council, and the North Gulf Oceanic Society, Trustees for Alaska intervened in the lawsuit to defend the beluga listing. The court found that the listing was based on the best available science and that the State had failed to make any showing otherwise.

This is a momentous victory in the decade-long efforts Trustees for Alaska, and the conservation groups we represent, have waged to protect this species.

Trustees for Alaska initially filed a petition to list the population as endangered under the ESA in 1999. The population had declined 50% between 1994 and 1998. Subsistence harvest of belugas at unsustainable levels during this time was identified as the major cause for this population decline. The listing petition was denied, however, based on recovery efforts that focused on managing subsistence harvest. But years after reducing subsistence harvest, the species failed to recover. The population still hovers in the 300s; a 70% reduction from NMFS's estimated population of approximately 1,300 whales in the early 1990s. Because the population had not recovered as NMFS predicted, in April 2006, Trustees for Alaska filed a new ESA listing petition. Recognizing that management of subsistence harvest alone was not leading to recovery, NMFS listed the whales as endangered.

There are a number of threats to the Cook Inlet beluga whale population, including oil and gas development, primary-treated sewage wastewater from Anchorage, proposed absurd projects like the bridge to nowhere, also known as the Knik Arm Bridge, and the \$300 million -- opps! \$1 billion -- Port of Anchorage expansion, and a proposed coal mine with a transfer facility along the shores of western Cook Inlet in an area frequented by belugas (the river just to the north of this proposed mine is named the Beluga River for a reason).

Unfortunately, the State of Alaska jeopardized the long path towards recovery for this imperiled whale population by challenging its listing as endangered. Why would the State

Dear Friend,

Trustees for Alaska works strategically to address some of the most important environmental issues affecting Alaska. We represent a wide range of clients from native villages, community and citizen groups, local and national conservation groups, statewide coalitions, hunting and fishing groups, as well as individual Alaskans. Please read on to learn more about our current work and to [Donate Now](#).

Sincerely,

Trish Rolfe
Executive Director

Support Trustees for Alaska

Trustees for Alaska is the only Alaska-based non-profit public interest law firm providing legal counsel to protect and sustain Alaska's natural environment. We provide legal counsel to diverse constituencies on the major environmental policy issues facing Alaska.

Our work is far from over -- and relies on donations from foundations and individuals who care about protecting Alaska's special places. Support us today! Your contribution of \$50, \$75 or \$100 is an investment in Alaska's future.

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Trustees for Alaska Welcomes Winter Externs

Carl Andeer

An avid hockey fan, and recently turned dog lover, Carl is currently finishing his last year at Vermont Law School. This fall at Trustees for Alaska, Carl has focused his work on coal mining and clean water issues. Nearly every day, Carl gets to enjoy a scenic coastal bike ride to work -- one he'll be sure to miss. Carl has greatly enjoyed and appreciates his time here at Trustees for Alaska but will always regret missing out on the once in a lifetime opportunity to be an extra in the recently filmed movie "Frozen Ground" here in Anchorage.

Shufan Sung

Shufan, a University of California Los Angeles student, just became a new member of the California Bar and Young Lawyers Association. During the three months at Trustees for Alaska, she worked diversely on greenhouse gas legislation proposals, oil and gas exploration and coal mining issues. She enjoyed the beautiful landscape witnessing the changing seasons from summer, fall to early winter. One of her fondest memories was the amazing night she encountered the colorful Aurora in the Arctic Circle! As an animal lover, she hopes human beings will use the intelligence and share this tiny blue planet respectfully with other creatures. In the future, it is her plan to observe the Kodiak bears and come back to Alaska one day!

Kirby Spangler, president of the Castle Mountain Coalition, and his family outside their home in the Matanuska Valley.



of Alaska want the Cook Inlet beluga whale listing rescinded? Gov. Parnell has waged his own battle against the addition of Alaskan species to the list of endangered and threatened species. He has stated:

*It's easier to prevent a problem than to correct it. To this end we're manning the watchtower and looking for risks of unwarranted attempts to bring a species under the ESA regulatory umbrella.**

And to wage this war, the Governor told a group of developers:

*I proposed and the Legislature increased the Department of Law's budget for ESA matters by \$1 million, buying us more firepower on these critical issues.***

Despite the clear science that the Cook Inlet beluga is likely to go extinct if nothing is done, the State of Alaska brought a weak case that was summarily rejected by the district court.

Trustees for Alaska has fought to protect this species for over ten years and will continue to fight for its survival. This victory could not be accomplished without your support. The belugas thank you for your support -- 2012 is sure to be a great year.

by Brian Litmans, Senior Staff Attorney

For more information about the beluga whales and Trustees for Alaska's work on this issue, please [click here](#).

** ESA Strategy/Resource Development Speech, RDC Luncheon, by Gov. Sean Parnell, Oct. 15, 2010, available by [clicking here](#).*

*** Id.*

Featured Client: Castle Mountain Coalition



Anchorage. CMC formed in 2006 when a group of local residents banded together to oppose industrial-scale coal development near Chickaloon, a small town in the Matanuska Valley. These residents moved to the Valley because of its unparalleled natural beauty, open space, quiet communities, excellent farming and subsistence opportunities, clean air and water, and outstanding recreational aspects. Additionally, the Valley's strong local economy and nearby job opportunities, makes the area an excellent place to make a living and raise a family. CMC counts biologists, farmers, guides, business owners, and physicians among its ranks.

To maintain this outstanding quality of life, CMC strives to protect both the Valley's ecological integrity and economic sustainability, which go hand-in-hand. As a small, local organization fighting to protect a small portion of Alaska, CMC remains cognizant of global trends and challenges, including extinction, climate change, and economic downturns. By focusing on maintaining the best quality of life possible for all inhabitants of the Matanuska Valley, CMC

hopes to do its part to protect Alaska's environment for current and future generations and envisions itself as a longstanding advocate of sustainable communities and economies.

While CMC successfully stopped the coal development proposal that led to the organization's formation, coal mining continues to threaten the Valley's extraordinary quality of life. Usibelli Mining Company has been taking steps to begin production at the Wishbone Hill Mine, located in the heart of the Matanuska Valley. Ranger Alaska, the permit holder for the Jonesville Mine, adjacent to Wishbone Hill, recently renewed its mining permits and mining could occur at any time. The Mental Health Lands Authority recently announced the lease sale of over 11,000 acres of coal surrounding Chickaloon. Trustees for Alaska is proud to assist CMC in its efforts to oppose these developments and to achieve CMC's vision for the future of the Matanuska Valley: that it remain a place where clear air and water sustains local farms, subsistence foods, and families; moose continue to browse the willow, aspen, and birch; salmon still return from the ocean to spawn; and humans continue to appreciate the Valley's overwhelming beauty and natural resources.

To read more about the Castle Mountain Coalition visit their website at www.castlemountaincoalition.org.

by Katie Strong, Staff Attorney