



# Meet Alaska 2015

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It's Working, Alaska...



# ENDANGERED SPECIES ACT

Meet Alaska

**OIL & GAS:  
FUELING  
ALASKA'S  
ECONOMY**

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# ENDANGERED SPECIES ACT

- What is it?
- How does it work?
- Why should you care?
- What are we doing about it?

# “THE PITBULL OF ENVIRONMENTAL LAW”

- The stated purpose of the Endangered Species Act is to protect species and the ecosystems upon which they depend.
- Administered by two Federal Agencies: NMFS and USFWS
- The Basic Process:
  - (1) listing species as threatened or endangered
  - (2) designating critical habitat
  - (3) enforcing the prohibition on take of listed species

## STEP ONE – THE “LISTING”

Identifying species for possible designation as endangered or threatened

- A citizen may petition the FWS or NMFS
- The Services may identify species through internal studies and discussions
- Must use the “best scientific and commercial data available” (I may end up talking quite a bit about the science...brace yourselves...)

## ESA LISTING CRITERIA

1. Present or threatened destruction, modification, or curtailment of species range or habitat
2. Over-use for commercial, recreational, scientific, or educational purposes
3. Disease or predation
4. Inadequacy of existing regulatory mechanisms
5. Other natural or man-made factors affecting continued existence of species

## KEY DEFINITION – ENDANGERED SPECIES

- Any species in danger of extinction throughout all or a significant portion of its range



Ringed Seal  
(*Phoca hispida ladogensis*)

## KEY DEFINITION – THREATENED SPECIES

- Any species likely to become endangered in the foreseeable future



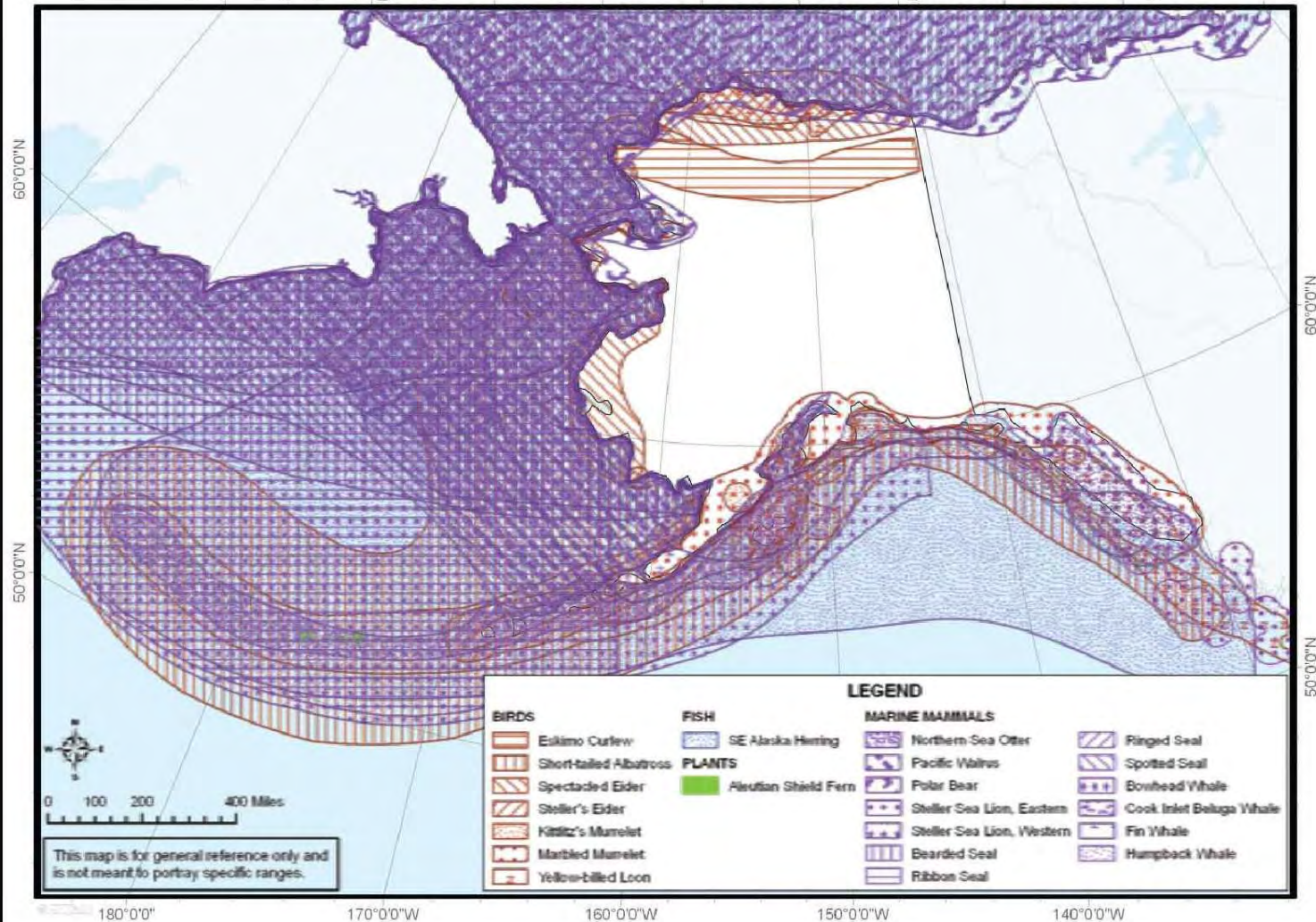
Bearded Seal  
(*Erignathus barbatus*)



# ESA LISTINGS - ALASKA

- 8 marine mammals
  - Polar bear
  - Ringed Seal
  - Bearded Seal (vacated)
  - Northern sea otter (DPS)
  - Steller sea lion (2 DPSs)
  - Bowhead whale
  - Fin whale
  - Humpback whale
  - Cook Inlet beluga whale (DPS)
- 4 birds
  - Short-tailed albatross
  - Spectacled eider
  - Steller's eider (DPS)
  - Eskimo curlew (extirpated)
- 1 terrestrial mammal
  - Canadian Lynx
- Others (uncommon)
  - Leatherback sea turtle
  - Blue whale
  - North Pacific right whale
  - Sei whale
  - Loggerhead sea turtle
  - Green sea turtle
  - Sperm whale
- Candidate species
  - Pacific walrus
  - Yellow-billed loon
- 1 plant
  - Aleutian shield fern

# Range of Listed or Candidate Species



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# KEY DEFINITION – CRITICAL HABITAT

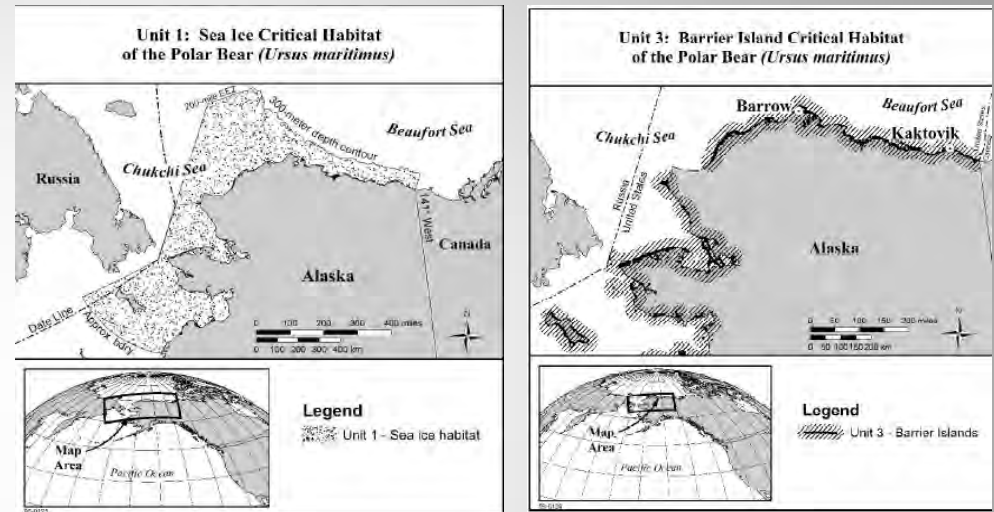
- Specific geographic areas with physical and biological features essential to the conservation of a listed species and that may require special management

# CRITICAL HABITAT

- Use best scientific data to identify areas essential to conservation of species, and that may require special management
- Economic impact analysis required; areas may be excluded from protection based upon that analysis and consideration of other relevant factors if benefits of exclusion outweigh benefits of designation
- Designation does not create a park or preserve, but does complicate activities within the habitat area

# POLAR BEAR CRITICAL HABITAT

- Dec. 7, 2010 (75 FR 76086)
- 187,000 square miles
  - Sea ice habitat
  - Terrestrial denning habitat
  - Barrier Island habitat
- Service admits [no conservation benefit](#)
  - ESA and MMPA adequately protective
  - FWS will not use to regulate GHG emissions
- Service recognized O&G activities are not a threat



# RINGED SEAL PROPOSED CRITICAL HABITAT



350,000 Square Miles

# KEY DEFINITION - TAKE

- Includes harassing, harming, injuring or killing listed species
- Harm includes significant habitat alteration which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns

# TAKINGS EXCEPTIONS

- Alaska Natives
  - for subsistence purposes
- Self Defense
  - actions to protect yourself or any human from bodily harm



# CURRENT LITIGATION

- Bearded Seal ESA Listing
- Ringed Seal ESA Listing
- Polar Bear Critical Habitat Designation

# BEARDED SEAL LISTING

- Entirely speculative
- Healthy and abundant population
- Vacated by the Alaska Federal District Court
- Currently in front of the Ninth Circuit

# RINGED SEAL LISTING

- Similar to Bearded Seal Listing
- Healthy and abundant population
- Lawsuit to be initiated by end of 2014
- If successful, would result in the proposed critical habitat designation being vacated

# POLAR BEAR CRITICAL HABITAT

- Prevailed at the Alaska District Court
- Currently on appeal in front of the Ninth Circuit
- Important precedent for future critical habitat designations

# ENDANGERED SPECIES ACT TRENDS

- Alaska will be ground zero for Climate change regulations
- The USFWS and NMFS recently announced dramatic changes in the rules governing critical habitat determinations
- If finalized, these rules would allow for the designation of any area in Alaska, even if currently unoccupied by a protected species
- Climate change-based listings, and related critical habitat designations, for currently abundant arctic species, pose new resource use challenges

## WHAT'S NEXT?

- The onus should be on science and data to drive regulatory scope and direction
- Reliable published data and analysis is essential. Actual data will demonstrate that conservatively biased assumptions are not reasonable.
- The State of Alaska can serve a critically important role in advancing science-based decision-making.