

briefing on Climate and the Coasts and Arctic issues; and (5) public statements.

Dated: July 2, 2008.

**John Potts,**

*Acting, Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XI58

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the Beaufort Sea, Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of issuance of a letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notice is hereby given that NMFS has issued a letter of authorization (LOA) to BP Exploration (Alaska), Inc. (BPXA) to take marine mammals incidental to the production of offshore oil and gas at the Northstar development in the Beaufort Sea off Alaska.

**DATES:** This Authorization is effective from July 7, 2008, through July 6, 2009.

**ADDRESSES:** The LOA and supporting documentation may be obtained by writing to P. Michael Payne, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contacts listed here.

**FOR FURTHER INFORMATION CONTACT:** Candace Nachman or Ken Hollingshead (301) 713-2289, or Brad Smith (907) 271-3023.

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term "take" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals.

Authorization may be granted for periods up to 5 years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) of marine mammals for subsistence uses. In addition, NMFS must prescribe regulations setting forth the permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses. The regulations also must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of marine mammals incidental to construction and operation of the offshore oil and gas facility at Northstar were made effective on April 6, 2006 (71 FR 11314, March 7, 2006), and remain in effect until April 6, 2011. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements. The six species of marine mammals that BP may take in small numbers during construction and operation of the Northstar facility are bowhead whales, gray whales, beluga whales, ringed seals, spotted seals, and bearded seals.

#### Summary of Request

On May 27, 2008, NMFS received a request from BPXA for a renewal of an LOA issued on July 6, 2007, for the taking of small numbers of marine mammals incidental to oil production operations at Northstar, under the regulations issued on March 7, 2006 (71 FR 11314). This request (BPXA, 2008) contains information in compliance with 50 CFR 216.209, which updates information provided in BPXA's original application for takings incidental to construction and operations at Northstar. BPXA also submitted the required activity and monitoring report under the 2007-2008 LOA.

#### Summary of Activity and Monitoring Under the 2007-2008 LOA

One offshore ice road was built during the 2006-2007 ice-covered season. Helicopters made 135 round trips to Northstar during the 2006-2007 ice-covered season to transport crew and materials to and from the facility and recommended flight corridors and altitude restrictions were maintained. Hagglands tracked vehicles made 37 round trips between West Dock and Northstar Island, and the hovercraft

made 574 round trips during the 2006-2007 ice-covered season.

Drilling activities were conducted at two well sites from November 17, 2006, to May 1, 2007. No vibratory or impact pile driving activities took place during the present reporting period. The 2007 repair activities consisted of removing the concrete blocks in areas that had sustained erosion and/or block damage, installing a new layer of filter fabric, installing gravel bags of various sizes to build up and stabilize the subgrade, installing another layer of filter fabric and an overlying layer of geogrid to reduce the susceptibility of the fabric to abrasion, and installing the concrete block armor.

Each month, four to seven aerial surveys were conducted to inspect the pipeline for leaks or spills. There were 25 reportable Northstar-related spills during the 2006-2007 ice-covered season and the 2007 open-water season. Material spilled included drilling mud, corrosion inhibitor, sewage, methanol, motor oil, diesel fuel, hydraulic fluid, lube oil, and propylene glycol. Most of this material remained in contaminant and was recovered. All spilled material was contained and cleaned up. Contaminated snow, ice, and gravel were removed with various types of equipment, hand tools, and absorbents. No clean-up activity was necessary after Northstar flare events during the reporting period. On May 18, 2007, one quart of hydraulic fluid was released from a ditch witch; a portion of this fluid reached Beaufort Sea surface water. Shovels were used to scrape up the contaminated snow and ice from the spill site and sorbents were used to soak up the materials from the water surface. All the contaminated materials were recovered from the ice and water surface, thereby avoiding impact to the environment.

During the open-water period, there were 190 helicopter round trips, 347 hovercraft round trips, 40 tug and barge trips, and 137 Alaska Clean Seas Bay-class boat round trips to Northstar. There were an additional three trips by Bay-class boats in association with acoustic monitoring of the bowhead whale migration.

Seal observations in 2007 began on May 15 and were conducted almost daily through July 31. Over the standard period of May 15-July 15, a total of three seals were counted during 57 days. This was much less than the total number of observations in 2005 and 2006 over the same period. As in 2005 and 2006, no seals were observed after July 15, when some monitoring continued. Results of seal counts conducted from Northstar Island during

the reporting period did not provide evidence, or reason to suspect, that any seals were killed or injured by Northstar-related activities during 2007. No activities were conducted that could have exposed pinnipeds and whales to underwater received levels greater than 190 dB re 1  $\mu$ Pa (rms) or 180 dB re 1  $\mu$ Pa (rms), respectively.

Seven Directional Autonomous Seafloor Acoustic Recorders (DASARs) were installed in August, 2007. Five of the devices were deployed at locations 11.4–21.4 km (7.1–13.3 mi) NNE of Northstar Island and recorded low-frequency sounds continuously for approximately 36 days, until October 3. Simultaneously, near-island recordings were obtained from two DASARs placed 410–480 m (1,345–1,575 ft) from Northstar over the same period. In total, 11,780 bowhead whale calls were recorded in approximately 36 days at the four offshore DASAR locations. A total of 10,146 calls, or 282 calls/day, were detected by two of the offshore DASARs combined. The 282 calls/day figure for 2007 is less than those recorded for 2003–2004 but greater than those for 2001, 2002, 2005, and 2006. The much higher call counts in 2007 compared to the two previous years are probably related to the absence of nearshore pack ice during the 2007 season, meaning there were probably more whales closer to shore.

Based on boat traffic records, sound emissions associated with Northstar activities in 2007 were probably somewhat higher than in 2006 but lower than in 2001–2003. However, the weather was also considerably windier in 2006, which increases baseline sound levels. BPXA has no evidence that the island *per se* was producing sounds that were different in amplitude or frequency characteristics compared to previous years.

Subsistence hunters from Nuiqsut who traveled to Cross Island for the annual bowhead whale hunt did not report any negative effects from Northstar activities on their ability to conduct the hunt. In 2007, Nuiqsut whalers landed three whales. One whale was struck and lost.

#### Authorization

BPXA complied with the requirements of the 2007 LOA, and NMFS has determined that the marine mammal take resulting from the 2007 construction and operation activities is within that analyzed in and anticipated by the associated regulations. Accordingly, NMFS has issued a 1-year LOA to BPXA, authorizing the taking of small numbers of marine mammals incidental to oil production operations

at the Northstar offshore facility in state and Federal waters in the U.S. Beaufort Sea. Issuance of this LOA is based on findings described in the preamble to the final rule (71 FR 11314, March 7, 2006) and supported by information contained in BPXA's 2007 annual report that the activities described in the LOA will result in the taking of no more than small numbers of bowhead whales, beluga whales, ringed seals, and, possibly California gray whales, bearded seals, and spotted seals and that the total taking will have a negligible impact on these marine mammal stocks and would not have an unmitigable adverse impact on the availability of these species or stocks for taking for subsistence uses.

Dated: July 1, 2008.

**James H. Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XI88**

#### Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Navy Training Operations Conducted Within the Navy Cherry Point Range Complex

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of applications for a letter of authorization (LOA); request for comments and information.

**SUMMARY:** NMFS has received requests from the U.S. Navy (Navy) for an authorization for the take of marine mammals incidental to training operations conducted within the Navy Cherry Point Range Complex off the coast of North Carolina for the period beginning May 29, 2009 and ending May 28, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

**DATES:** Comments and information must be received no later than August 7, 2008.

**ADDRESSES:** Comments on the applications should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–XI88@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. Copies of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext. 137.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

With respect to military readiness activities, the MMPA defines “harassment” as:

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or

(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal