

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: June 7, 2006.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. E6-9205 Filed 6-12-06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 051806G]

Marine Mammals and Endangered Species; National Marine Fisheries Service File No. 31-1741; U.S. Fish and Wildlife Service File No. MA081663

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA); U.S. Fish and Wildlife Service (FWS), Interior.

ACTION: Notice; receipt of application for amendment.

SUMMARY: Notice is hereby given that the Wildlife Conservation Society (WCS), 2300 Southern Blvd., Bronx, NY 10460 (Dr. Howard C. Rosenbaum, Principal Investigator) has requested an amendment to scientific research Permit No. 31-1741/MA081663.

DATES: Written or telefaxed comments must be received on or before July 13, 2006.

ADDRESSES: The application request and related documents are available for review upon written request or by appointment in the following office(s):

U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203; phone (800) 358-2104; fax (703) 358-2281; and

Permits, Conservation and Education Division, Office of Protected Resources,

NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 427-2521.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (703) 358-2281, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is managementauthority@fws.gov; include in the subject line of the e-mail comment the following document identifier: File No. 31-1741/MA081663.

FOR FURTHER INFORMATION CONTACT: Monica Farris, Division of Management Authority, US Fish and Wildlife Service, (703) 358-2104.

SUPPLEMENTARY INFORMATION: The subject permit amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR parts 18).

The WCS Conservation Genetics Program, a collaboration between WCS and the American Museum of Natural History, maintains one of the largest collections of marine mammal tissues and specimens in the world. WCS wishes to amend their current permit to obtain, import and export/re-export specimens and materials from polar bears (*Ursus maritimus*), including shed hair, feces, and DNA and tissue samples from the wild, tissue banks, and collaborators. Such tissues would be obtained by co-investigators or other named individuals and institutions working under their own permits. Export of specimens or tissues, irrespective of their source, would be made on temporary loan basis only to bona fide institutions for the sole purpose of exhibit or scientific research. The permit would be amended for the remainder of the 5-year period of the currently authorized permit.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically

excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, FWS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 7, 2006.

Charlie R. Chandler,

*Chief, Branch of Permits, Division of
Management Authority, U.S. Fish and
Wildlife Service.*

Dated: June 7, 2006.

P. Michael Payne,

*Chief, Permits, Conservation and Education
Division, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. E6-9208 Filed 6-12-06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050406A]

Small Takes of Marine Mammals Incidental to Specified Activities; Movement of Barges through the Beaufort Sea between West Dock and Cape Simpson or Point Lonely, Alaska

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

ACTION: Notice of receipt of application and proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request to authorize FEX L.P. (FEX), a subsidiary of Talisman Energy, Inc. to take small numbers of marine mammals by harassment incidental to conducting a barging operation within the U.S. Beaufort Sea. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize FEX to incidentally take, by harassment, small numbers of bowhead whales, beluga whales, ringed seals, bearded seals, and spotted seals in the above mentioned area between approximately July 1 and November 30, 2006.

DATES: Comments and information must be received no later than July 13, 2006.

ADDRESSES: Comments on the application 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, or by telephoning the

contact listed here. The mailbox address for providing e-mail comments is PR1.050406A@noaa.gov. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here and is also available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at this address.

FOR FURTHER INFORMATION CONTACT:

Shane Guan, Office of Protected Resources, NMFS, (301) 713-2289, ext 137, or Brad Smith, Alaska Region, NMFS, (907) 271-3023.

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 to allow, upon 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 and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will have 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 that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings 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."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential

to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On April 5, 2006, NMFS received an application from ASRC Energy Services, Lynx Enterprises, Inc. (AES Lynx) on behalf of FEX for the taking of several species of marine mammals incidental to the movement of two tugs towing barges in the U.S. Beaufort Sea. Marine barges would be transporting drilling rig(s), consumables, fuel, essential construction equipment and supplies from the West Dock Causeway to Cape Simpson or Point Lonely. Equipment would be staged and stored in preparation for the upcoming winter on-shore oil and gas drilling and testing season. Barges proposed for the marine lift from the West Dock Causeway include but are not limited to: Crowley Marine *Kavik River* and the *Sag River* (1,100 horsepower each) tugs, and *Bowhead Stryker* or *Garrett* (two engines x 220 horsepower each) barges or comparable class vessels. Additional barges and support vessels may be utilized as available and needed. Barges would be moving at a speed at about 5 - 6 knots. From West Dock Causeway, it would take approximately 17.5 hours one way for a barge to reach Point Lonely and 22 hours to Cape Simpson. FEX plans to start barging activities in the early summer of 2006, would make every effort to avoid periods of bowhead whale fall westward migration and subsistence activities, and would complete the barging by September 1, 2006. Ice, weather conditions, and other possible operational considerations may affect the timing of the barge activity, resulting in some activities taking place beyond the scheduled target dates. If necessary, a late season barging effort may be required after September 1, 2006. FEX has entered a Conflict Avoidance Agreement (CAA) with the Alaska Eskimo Whaling Commission (AEWC) to obtain approvals from AEWC if barging activities occur during the September 1 - October 15 subsistence whaling period. Operations to support winter on-shore drilling operations may

include a winter trail on landfast sea ice. FEX has determined that this operation will not result in incidental takes of marine mammals.

Description of Marine Mammals Affected by the Activity

The Beaufort Sea supports many marine mammals under NMFS jurisdiction, including Western Arctic bowhead whales (*Balaena mysticetus*), Beaufort Sea stock of beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), bearded seals (*Erignathus barbatus*) and spotted seals (*Phoca largha*). Only the bowhead whale is listed as endangered under the Endangered Species Act (ESA) and designated as "depleted" under the MMPA. The Western Arctic stock of bowhead whales has the largest population size among all 5 stocks of this species (Angliss and Lodge, 2004). A brief description of the distribution, movement patterns, and current status of these species can be found in the FEX application. More detailed descriptions can be found in NMFS Stock Assessment Reports (SARs). Please refer to those documents for more information on these species. The SARs can be downloaded electronically from: <http://www.nmfs.noaa.gov/pr/sars/species.htm>. The FEX application is also available on-line (see **ADDRESSES**).

Potential Effects of Tug/Barge Operations and Associated Activities on Marine Mammals

Level B harassment of marine mammals may result from the noise generated by the operation of towing vessels during barge movement. The physical presence of the tugs and barges could also lead to disturbance of marine mammals by visual or other cues. The potential for collisions between vessels and whales will be essentially zero due to the slow tow speed (5 - 6 knots) and visual monitoring by on-board marine mammal observers.

Marine mammal species with the highest likelihood of being harassed during the tug and barge movements are: beluga whales, ringed seals, and bearded seals.

Bowhead whales are not expected to be encountered in more than very small numbers during the planned period of time for the tug/barge movement because the most of them will be on their summer feeding grounds in the eastern Beaufort Sea and Amundsen Gulf of the Canadian waters (Fraker and Bockstoce, 1980; Sheldon and Rugh, 1995). A few transitory whales may be encountered during the transits. Beluga whales occur in the Beaufort Sea during the summer, but are expected to be

found near the pack ice edge north of the proposed movement route. Depending on seasonal ice conditions, it is possible that belugas may be encountered during the transits.

Based on past surveys, ringed seals should represent the vast majority of marine mammals encountered during the transits. Ringed seals are expected to be present all along the tug/barge transit routes. There is the possibility that bearded and spotted seals would also be taken by Level B harassment during transit. Spotted seals may be present in the West Dock/Prudhoe Bay area, but it is likely that they may be closer to shore and, therefore, are not expected to be harassed during transit phase.

Numbers of Marine Mammals Expected to Be Taken

The number of marine mammals that may be taken as a result of the tug/barging operation is unpredictable. Operations are scheduled to occur prior to the westward migration and associated subsistence bowhead whale hunts to purposely avoid any take of this species. Noise disturbance from vessels might qualify as harassment to marine mammals, but previous surveys have indicated little behavioral reaction from these animals to slow-moving vessels.

Effects on Subsistence Needs

Residents of the village of Barrow are the primary subsistence users in the activity area. The subsistence harvest during winter and spring is primarily ringed seals, but during the open-water period both ringed and bearded seals are taken. Barrow hunters may hunt year round; however in more recent years most of the harvest has been in the summer during open water instead of the more difficult hunting of seals at holes and lairs (McLaren 1958, Nelson 1969). The Barrow fall bowhead whaling grounds, in some years, includes the Cape Simpson and Point Lonely areas (e.g. the 1990 season, when a large aggregation of feeding bowheads were pursued by Barrow hunters).

The most important area for Nuiqsut hunters is off the Colville River Delta in Harrison Bay, between Fish Creek and Pingok Island (149° 40' W). Seal hunting occurs in this area by snow machine before spring break-up and by boat during summer. Subsistence patterns are reflected in harvest data collected in 1992 where Nuiqsut hunters harvested 22 of 24 ringed seals and all 16 bearded seals during the open water season from July to October (Fuller and George, 1997). Harvest data for 1994 and 1995 show 17 of 23 ringed seals were taken from June to August, while there was no

record of bearded seals being harvested during these years (Brower and Opie, 1997).

Due to the transient and temporary nature of the barge operation, impacts upon these seals are not expected to have an unmitigable adverse impact on subsistence uses of ringed and bearded seals because: (1) Transient operations would temporarily displace relatively few seals; (2) displaced seals would likely move only a short distance and remain in the area for potential harvest by native hunters; (3) studies at the Northstar development found no evidence of the development activities affecting the availability of seals for subsistence hunters; however, the Northstar vicinity is outside the areas used by subsistence hunters (Williams and Moulton, 2001); (4) the area where barge operations would be conducted is small compared to the large Beaufort Sea subsistence hunting area associated with the extremely wide distribution of ringed seals; and (5) the barging, as scheduled, will be completed prior to beginning of the fall westward migration of bowhead whales and the associated subsistence activities by the local whalers.

In order to further minimize any effect of barge operations on the availability of seals for subsistence, the tug boat owners/operators will follow U.S. Coast Guard rules and regulations near coastal water, therefore avoiding hunters and the locations of any seals being hunted in the activity area, whenever possible.

While no impact is anticipated on the availability of marine mammal species and stocks for subsistence uses, FEX has entered a CAA with the AEWG for any of the barging activities that may occur during the subsistence whaling period from September 1 - October 15. The FEX's activities will comply with the CAA prior to the autumn bowhead hunt by the residents of Kaktovik (Barter Island), Nuiqsut (Cross Island) and Barrow Native villages. Ice, bad weather conditions, and other possible operational considerations may affect the timing of the barge activity and may require that some activities take place beyond the scheduled target dates.

Mitigation and Monitoring

FEX proposes to mitigate any potential negative impacts from its barging operation by conforming with the CAA with native whalers and operations as per the Plan of Operations. Other mitigation measures include use of native subsistence advisor/marine mammal observers trained by qualified marine biologists and communications with subsistence whaling activities so as to avoid deflection or other disturbances

to migrating mammals and subsistence hunting activities.

During all tug/barging operations, FEX will have on-board marine mammal monitors throughout the transit. As part of its application, FEX proposes to conduct a visual monitoring program for assessing impacts to marine mammals during the barge transits. FEX proposes to initiate a comprehensive training program for all potential marine mammal observers that includes learning the identification and behavior of all local species known to use the areas where FEX will be operating. This training would be conducted by professional marine biologists and experienced Native observers participating in the monitoring program. The observer protocol would be to scan the area around vessels with binoculars of sufficient power. Range finding equipment will be supplied to observers in order to better estimate distances. Observers would collect data on the presence, distribution, and behavior of marine mammals relative to FEX activities as well as climatic conditions at the time of marine mammal sightings. Observations would be made on a nearly 24-hour basis.

Reporting

All monitoring data collected would be reported to NMFS on a weekly basis. FEX must provide a final report on 2006 activities to NMFS within 90 days of the completion of the activity. This report will provide dates and locations of all barge movements and other operational activities, weather conditions, dates and locations of any activities related to monitoring the effects on marine mammals, and the methods, results, and interpretation of all monitoring activities, including numbers of each species observed, location (distance) of animals relative to the barges, direction of movement of all individuals, and description of any observed changes or modifications in behavior.

ESA Consultation

The effects of oil and gas exploration activities in the U.S. Beaufort Sea on listed species, which includes barging transportation activity, were analyzed as part of a consultation on oil and gas leasing and exploration activities in the Beaufort Sea, Alaska, and authorization of incidental takes under the MMPA. A biological opinion on these activities was issued on May 25, 2001. The only species listed under the ESA that might be affected during these activities are bowhead whales. The effects of this proposed IHA on bowhead whales will be compared with the analysis contained in the 2001 biological

opinion. NMFS will determine whether the effects of the proposed activity are consistent with the findings of that biological opinion, and, accordingly, NMFS will decide whether an Incidental Take Statement under section 7 of the ESA will be issued prior to making a final determination of issuing the IHA.

National Environmental Policy Act (NEPA)

On February 5, 1999 (64 FR 5789), the Environmental Protection Agency (EPA) noted the availability of a Final Environmental Impact Statement (Final EIS) prepared by the U.S. Army Corps of Engineers under NEPA on Beaufort Sea oil and gas development at Northstar. NMFS was a cooperating agency on the preparation of the Draft and Final EISs, and subsequently, on May 18, 2000, adopted the Corps' Final EIS as its own document. That Final EIS described impacts to marine mammals from Northstar construction activities, which included vessel traffic similar to the currently proposed action by FEX. Because the barging activity discussed in the Final EIS is not substantially different from the proposed action by FEX, and because no significant new scientific information or analyses have been developed in the past several years significant enough to warrant new NEPA documentation, no additional NEPA analysis is required.

Preliminary Conclusions

NMFS has preliminarily determined that the short-term impact of conducting a barging operation between West Dock, Prudhoe Bay and either Cape Simpson or Point Lonely, in the U.S. Beaufort and associated activities will result, at worst, in a temporary modification in behavior by certain species of whales and pinnipeds. While behavioral modifications may be made by these species to avoid the resultant noise or visual cues from the barging operation, this behavioral change is expected to have a negligible impact on the survival and recruitment of marine mammal stocks.

While the number of potential incidental harassment takes will depend on the year-to-year distribution and abundance of marine mammals in the area of operations, due to the distribution and abundance of marine mammals during the projected period of activity and the location of the proposed activity, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and there is no potential for temporary or permanent hearing impairment as a result of the

activities. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the barge transit route.

The principal measures undertaken to ensure that the barging operation will not have an adverse impact on subsistence activities are a CAA between FEX, the AEW and the Whaling Captains Association; a Plan of Cooperation; and an operation schedule that avoids barging operations during the traditional bowhead whaling season as much as possible.

Proposed Authorization

NMFS proposes to issue an IHA for the harassment of marine mammals incidental to FEX conducting a barging operation from West Dock Causeway, Prudhoe Bay Alaska, through the U.S. Beaufort Sea to either Cape Simpson or Point Lonely. This proposed IHA is contingent upon incorporation of the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of bowhead whales, beluga whales, ringed seals, bearded seals and spotted seals; would have no more than a negligible impact on these marine mammal stocks; and would not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed IHA and the application for regulations request (see **ADDRESSES**).

Dated: June 8, 2006.

James H. Lecky,

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

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BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060706E]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene one public meeting of the Ad Hoc Shrimp Effort Working Group (SEWG).

DATES: The SEWG meeting will convene at 9 a.m. on Wednesday June 28, 2006 and conclude no later than 3 p.m. on Thursday, June 29, 2006.

ADDRESSES: The meeting will be held at the National Marine Fisheries Service Galveston Laboratory, Building 216, 4700 Avenue U, Galveston, TX; telephone: (409) 766-3500.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Assane Diagne, Economist, telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene meetings of the Ad Hoc Shrimp Effort Working Group (SEWG) to begin evaluating shrimp effort in the Exclusive Economic Zone (EEZ) of the Gulf of Mexico. The working group, appointed by the Council during its March 2006, regular meeting, is charged with providing the Council with alternatives for determining the appropriate level of effort in the shrimp fishery in the EEZ. The group also will discuss the level of effort necessary to achieve optimum yield in the shrimp fishery and what level of effort would derive the maximum benefits of that fishery. The SEWG includes fishery biologists, economists and others knowledgeable about shrimp effort in the Gulf of Mexico.

Although other non-emergency issues not on the agenda may come before the SEWG for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the SEWG will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling (813) 348-1630.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at