

**ALASKA WILDERNESS LEAGUE – AUDUBON ALASKA –
CENTER FOR BIOLOGICAL DIVERSITY – DEFENDERS OF WILDLIFE –
EARTHJUSTICE – GREENPEACE – NATURAL RESOURCES DEFENSE COUNCIL –
NORTHERN ALASKA ENVIRONMENTAL CENTER – OCEANA – OCEAN
CONSERVANCY– PACIFIC ENVIRONMENT – REDOIL – SIERRA CLUB – THE
WILDERNESS SOCIETY –WORLD WILDLIFE FUND**

June 7, 2010

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

Re: Takes of Marine Mammals Incidental to Specified Activities; Exploration Drilling Program in the Chukchi Sea, 75 Fed. Reg. 25,730 (May 7, 2010)

Dear Mr. Payne:

We write concerning the May 7, 2010 proposed incidental harassment authorization (IHA) pursuant to the Marine Mammal Protection Act (MMPA) allowing the incidental take of twelve marine mammal species resulting from Shell Gulf of Mexico Inc.'s exploration drilling activities in the Chukchi Sea that were to begin this summer. 75 Fed. Reg. 25,730 (May 7, 2010). The original public comment period for the proposed IHA was scheduled to close today, June 7, 2010. However, on May 27, President Obama announced that the Minerals Management Service will postpone further consideration of Shell's drilling based on the need for additional information and further evaluation of Shell's plan, including information about oil spill risks and spill response capabilities.

In recognition of the changed circumstances, the National Marine Fisheries Service (NMFS) communicated to interested parties that it is no longer necessary to submit comments on the proposed IHA. Although NMFS has not announced how it will proceed, it should formally rescind the May 7 proposed IHA and require Shell to submit a new IHA application if exploration drilling in the Chukchi Sea moves forward. Future proposals should look very different as a result of the current review. Changes may include altered timing, fewer wells, additional support vessels, or a different or supplemental drillship, each of which would greatly affect the proposed IHA. Moreover, the MMPA obligates NMFS to use the best available science in determining the effects of a proposed activity, and that science may evolve in the interim.

The undersigned groups, in reliance on NMFS' assurances that the June 7 comment deadline no longer applies, instead briefly describe here some of the flaws in the May 7 proposal that NMFS must address in considering any future drilling IHAs. Additional information related to many of these points can be found in the comments submitted by the groups on the proposed

IHA for Shell's Beaufort Sea drilling on May 19, 2010, and the proposed IHA for Shell's Chukchi Sea open water surveying program on July 1, 2009.

NMFS' regulations for the Arctic preclude the issuance of an IHA if the proposed activity creates the "potential" for death or serious injury. As evidenced by the continuing BP disaster, exploratory drilling creates the very real risk of serious harm to marine mammals. That potential is always present, but it is magnified given that the causes of the blowout in the Gulf remain unknown and given the extraordinary challenge of cleaning up an oil spill in the Arctic.

Even absent a catastrophic spill, the impacts of the proposed exploration drilling on bowhead, gray, and beluga whales as well as harbor porpoise exceed the protective standards imposed by the MMPA. The proposed IHA does not adequately consider appropriate noise thresholds for potential harassment nor does it fully assess the effects of the drilling, including the effects of stress and the effects on bowhead whales migrating through the project area. These errors are compounded by the unjustified decision to exclude from analysis noise from Shell's ice management activities. The proposed IHA also fails to include sufficient mitigation to reduce impacts to the "least practicable." The proposed IHA does not adequately consider whether a 120-dB safety zone is appropriate and has not evaluated limitations that would avoid disturbing the peak of the bowhead migration.

Finally, in light of the draft programmatic Environmental Impact Statement (EIS) currently being developed, NMFS should not continue to authorize marine mammal harassment associated with oil and gas activities in the Arctic. The National Environmental Policy Act prohibits piecemeal approvals while a programmatic EIS process is ongoing, except under strictly prescribed circumstances not found here. More data about the marine ecosystem are needed to evaluate the potential impacts from industrial activities, and NMFS has repeatedly warned in the past that the lack of information for the Chukchi Sea inhibits its ability to meet MMPA obligations.

We look forward to further discussing appropriate protections for Arctic marine mammals and their ocean habitat.

Respectfully,

Michael Mayer
Project Attorney
Earthjustice

Faith Gemmill
Executive Director
REDOIL

Layla Hughes
Sr. Program officer for Arctic Oil Gas and Shipping Policy
World Wildlife Fund

Jim Ayers
Vice President
Oceana

Nicole Whittington-Evans
Acting Alaska Regional Director
The Wilderness Society

Kristen Miller
Government Affairs Director
Alaska Wilderness League

Charles M. Clusen
Director, Alaska Project
Natural Resources Defense Council

Melanie Duchin
Alaska Campaigner
Greenpeace

Eric Myers
Policy Director
Audubon Alaska

Andrew Hartsig
Staff Attorney, Arctic/North Pacific
Ocean Conservancy

Dan Ritzman
Alaska Program Director
Sierra Club

Rebecca Noblin
Alaska Director
Center for Biological Diversity

Sierra Weaver
Staff Attorney
Defenders of Wildlife

Pamela A. Miller
Arctic Program Director
Northern Alaska Environmental Center

Carole A. Holley
Alaska Program Co-Director
Pacific Environment

From [Madeline Almodovar <madeline_mar@yahoo.com>](mailto:madeline_mar@yahoo.com)
Sent Friday, May 7, 2010 4:36 pm
To ["pr1.0648-xw14@noaa.gov" <PR1.0648-XW14@noaa.gov>](mailto:pr1.0648-xw14@noaa.gov)
Subject This should not be authorized

I would like to say that if there is a possibility that the marine mammals in the area will be harmed, this operation should not be authorized. Also, if the ecosystem would be altered, then other species should be considered as well in the study.

I recommend a study on the effects of drilling in that area on climate change before authorizing this. We could live without that petroleum but we cannot live without a balanced ecosystem.

Thanks for your attention.

Madeline

From	Douglas Pohl <douglaspohl@gmail.com>
Sent	Monday, May 17, 2010 12:29 am
To	PR1.0648-XW14@noaa.gov
Subject	REPLY IN OPPOSITION TO RIN 0648–XW14 TAKING OF MARINE MAMMALS BY SHELL IN 2010

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric
Administration
RIN 0648–XW14
Takes of Marine Mammals Incidental to
Specified Activities; Taking Marine
Mammals Incidental to an Exploration
Drilling Program in the Chukchi Sea, AK.

Sirs,

I am in opposition to allowing the requested permit to authorize the taking (killing) per table 4 of up to 84 large marine mammals during 111 days of operation in Arctic Alaska waters.

Because:

1. Shell will be operating large steel vessels which are not at risk of damage or attack by the listed marine mammals.
2. Intentional killing of these large marine mammals will not further the intent of protection to Shell vessels or personnel. Allowing the marine mammals to swim or move by the Shell vessel without harassment will produce a better result for Shell and the marine mammal.
3. Shell staff et al are not skilled or trained in proper killing of large marine mammals - this can result in excessive distress, suffering and misery. Failure to properly and quickly kill could present additional issues and dangers which Shell is most likely not prepared to deal with such as remote beaching, remote staff shortage, endangering staff to bear stalking etc.
4. Arctic marine mammals are currently under extra stress from climate change, habitat loss, food changes which to the untrained Shell staff may appear as endangering behavior. Killing the mammal is not a good solution to uneducated interpretation of mammal behavior.
5. Marine mammals are not aggressive or characterized by or tending toward unprovoked offensives toward humans or ships. There is no reason to kill the mammal when you can change course and avoid contact.
6. Is Shell a U.S. Citizen or Corporation entitled to the taking of up to 84 marine mammals? Are any of these mammals endangered and should be protected.

Should there be a circumstance to kill a mammal I believe a scientist should be retained by and at Shell expense to be an advisor to Shell before advising the killing of a mammal.

With todays video technology it would be a simple matter to document the indident for study and training purposes.

Thank you,
Douglas Pohl

From [jean_public <usacitizen1@live.com>](mailto:jean_public<usacitizen1@live.com>)
Sent Friday, May 7, 2010 2:57 pm
To PR1.0648-XW14@noaa.gov , Candace.Nachman@noaa.gov ,
americanvoices@mail.house.gov , comments@whitehouse.gov
Cc info@defenders.org , information@sierraclub.org ,
bluewater@bluewaternetnetwork.org , info@oceana.org , contact@harpseals.org
Subject PUBLIC comment ON FEDERAL REGISTER

KILLING MARINE LIFE BY THESE OUT OF CONTROL OIL DRILLERS SEEMS TO BE THE ORDER OF THE DAY. THEY TAKE NO CARE AND TAKE THE CHEAP WAY OUT AND THE GULF OIL CATASTROPHE PROVES THAT. OUR FEDERAL AGENCIES TAKE THE WORDS OF THESE LIARS AND ALLOW THEM TO DESTROY AMERICA. IT IS TIME WE HAVE PEOPLE WORKING IN AGENCIES LIKE THIS ONE THAT WILL TAKE THE TIME TO TRULY REGULATE, INSTEAD OF JUST BEING PUPPETS WHOSE STRINGS ARE PULLED BY BIG OIL. SHUT DOWN THIS DRILLING UNTIL WE GET REGULATORY SPECIFICATIONS IN PLACE THAT PROTECT US. THE COST IS IMMATERIAL BECAUSE WE KNOW THE COST OF HAVING AMERICA DESTROYED IS FAR MORE AND THAT THESE OIL PROFITEERS WALK AWAY FROM THEIR DESTRUCTION. EXXON HASNT PAID FOR VALDEZ YET AND THAT IS ALMOST 30 YEARS LATER. SHELL HAS THOUSANDS OF OIL SPILLS EVERY YEAR AND THAT SHOWS FAILURE ON THEIR PART TO LIVE UP TO WHAT THEY WRITE.

THIS KILLING OF WHALES, AND EVERY OTHER CREATURE KNOWN TO LIVE IN THE CHUCKCHI AREA IS IN NO WAY "INCIDENTAL". IT IS MAJOR., THESE DRILLINGS DO IN FACT AFFECT SUBSISTENCE USERS, ALTHOUGH THE PROFITEERS TELL LIES THAT THEY WONT. MANY LETTERS FROM LOCALS HAVE ALREADY COME IN AGAINST THIS PLAN AND IT IS CLEAR THE OIL SCUM PUT IN THIS AGENCY BY THE BUSH/CHENEY SCUM PRESIDENCY SHOULD BE CLEARED OUT OF THIS AGENCY. THE VOTERS VOTED OUT BUSH CHENEY AND RECOGNIZED THEM FOR THE SCUM THEY ARE. I SEE NO REASON WHY THE GUYS THEY PLACED IN AGENCIES LIKE THIS ARE STILL WORKING THERE. THEY SHOULD BE GONE. OBAMA HAS BEEN NEGLIGENT IN NOT CLEARING OUT THESE DESTROYERS OF AMERICA FOR OIL PROFITS.

THIS COUNTRY CANNOT TRUST THE MANAGEMENT AT NOAA. THIS COUNTRY CANNOT TRUST THAT THE MANAGEMENT OF NOAA IS WORKING FOR ALL OF US SINCE WE SEE THE GULF OIL SPILL ALL OVER THE GULF OF MEXICO. THE AMERICAN PUBLIC DOES NOT TRUT OIL COMPANIES EITHER. EVERY SINGLE STATEMENT THEY MAKE TO YOU SHOULD BE CHECKED OUT AND VERIFIED. SHELL SHOULD NVER HAVE GOTTEN THIS FAR WITH THIS INADEQUATE PLAN AND IT SHOULD CERTAINLY BE SHUT DOWN BEFORE WE HAVE THE NEXT

CATASTROPHE. IT TAKES 100 YEARS TO CLEAN UP A SITE IN ALASKA. THAT SHOULD BE FOREMOST IN ALL OF OUR MINDS. OUR FEDERAL AGENCIES WHICH WERE CREATED TO REGULATE INSTEAD ACT AS PIMPS FOR BIG OIL. I ASK THE INSPECTOR GENERAL TO COME IN AND INVESTIGATE WHAT CORRUPTION HAS GONE ON HERE. CERTAINLY MMS HAS BEEN SHOWN TO BE A TOTALLY CORRUPT AGENCY. IT IS TIME TO INVESTIGATE NOAA. FOR THIS AGENCY TO CALL ITSELF "OFFICE OF 'PROTECTED' RESOURCES WITH THE DECLINING MARINE LIFE LEFT THERE SHOWS THE LIES OF OUR FEDERAL AGENCIES THEMSELVES. SHUT DOWN ALL DRILLING UNTIL AMERICA GOES BACK OVER WHAT THESE POLLUTERS ARE UP TO NEXT.

JEAN PUBLIC 8 WINTERBERRY COURT WHITEHOUSE STATION NJ 08889