



United States Department of the Interior



MINERALS MANAGEMENT SERVICE
Alaska Outer Continental Shelf Region
3801 Centerpoint Drive, Suite 500
Anchorage, Alaska 99503-5823

JUL 23 2009

Mr. Bruce St. Pierre, Jr.
ConocoPhillips Alaska Inc.
Exploration Department
700 G Street
Anchorage, Alaska 99501-3439

Dear Mr. St. Pierre:

The Minerals Management Service (MMS) has reviewed your *Notice to Conduct Biological Studies and Ancillary Actions in the Chukchi Sea* (dated: June 24, 2009). We have evaluated this notice and determined that the proposed ancillary activity complies with the performance standards listed in 30 CFR 250.202 (a), (b), (d) and (e); and ConocoPhillips Alaska Inc. (CPIA) may proceed in accordance with 30 CFR 250.209.

The MMS considers CPIA's 2009 Chukchi Summer Program Subsistence Plan of Cooperation with Chukchi Coastal Villages to be an integral part of the proposed activities. The monitoring and mitigation measures specified in the document are required aspects of the activities being authorized by the MMS. Mitigation and monitoring requirements in U.S. Fish and Wildlife Service (FWS) authorizations under the Marine Mammal Protection Act (MMPA) would have precedence over these requirements.

Attached are is additional mitigation provided by the FWS by memorandum dated July 14, 2009, regarding deployment and retrieval of scientific instrumentation in the Ledyard Bay Critical Habitat Unit. ConocoPhillips must follow and comply with this mitigation. The MMS requests that CPIA provide the MMS a copy of the final 2009 Chukchi Summer Program Subsistence Plan of Cooperation with Chukchi Coastal Villages Community and the 2009 MMPA authorization from FWS.

Please be further advised that on April 17, 2009, the U.S. Court of Appeals for the District of Columbia Circuit issued a ruling in *Center for Biological Diversity v. Department of the Interior*, Nos. 07-1247, 07-143, vacating and remanding the 2007-2012 OCS Oil and Gas Leasing Program. The decision requires that the Secretary reconsider the decisions in that program after performing a more thorough analysis of environmental sensitivity.

On May 11, 2009, the Department of the Interior filed a petition for rehearing and/or clarification of the court's order. The impacts of the April 17 ruling on the MMS operations and program planning, including any activities ancillary to leases issued under the 2007-2012 Program, are being reviewed at this time.

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Thus, this authorization is subject to and could be affected by further proceedings in that case and the Secretary's review and reconsideration of the program on remand. Enclosed is the Memorandum on Passive Acoustic Monitoring.

Sincerely,

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Jeffrey Walker
Regional Supervisor
Field Operations

Enclosure

cc: Johnny Akin, NSB Planning Department
Tom Oklesik, NWAB
Tim Jennings, USFWS
Enoch Oktollik, Mayor, City of Wainwright



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U.S. FISH AND WILDLIFE SERVICE

Fairbanks Fish and Wildlife Field Office

101 12th Avenue, Room 110

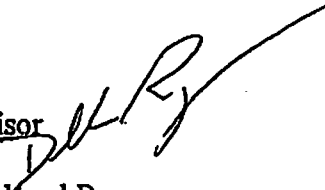
Fairbanks, Alaska 99701

July 14, 2009



Memorandum

To: Mr. John Goll, Regional Director, MMS – Alaska OCS Region

From: Deborah Rocque, Fairbanks Fish and Wildlife Field Office Supervisor 

Subject: Passive Acoustic Monitoring by ConocoPhillips Alaska, Inc. in Ledyard Bay Critical Habitat Unit.

The Service has reviewed MMS's request for a section 7 consultation pursuant to the Endangered Species Act of 1973, as amended (ESA) on the proposed deployment of passive acoustic listening devices (Autonomous Multichannel Acoustic Recorders – AMARs) in the Ledyard Bay Critical Habitat Unit (LBCHU). The AMARs form part of a marine mammal monitoring and mitigation program required by the National Marine Fisheries Service to monitor seismic survey activities being conducted by ConocoPhillips, Inc. in the Chukchi Sea. An almost identical monitoring program was conducted in 2007 and 2008.

A number of these passive acoustic listening devices will be deployed along a series of transect lines in the Chukchi Sea. One of these transects bisects the LBCHU, an area designated to protect molting spectacled eiders (*Somateria fischeri*), a species listed as threatened under the ESA. As in previous years, the transect line bisecting LBCHU is located north of the concentrations of eiders observed during two years of aerial surveys (Service data).

Initial equipment deployment of the AMARs is scheduled for July 26 to August 1 with retrieval planned between October 10 and 15. A single vessel would be used for these activities, and ConocoPhillips Inc. estimates that actual time in the LBCHU for deployment and retrieval would be < 24 hours each.

The vessel will enter the LBCHU from an offshore location and sail perpendicular to the coast, following the shortest possible route to reach the AMAR locations. Travel out of the LBCHU will follow the line of AMAR deployment. If the vessel encounters a flock of eiders along its proposed path, it will divert its route around the flock to avoid disturbing birds. The location, estimated size, and species composition of each eider concentration observed in the LBCHU will be reported by ConocoPhillips Inc. to MMS and the Service at the end of each operation.

While the deployment and retrieval of the AMARs may disturb molting eiders, the Service concludes that adverse effects are unlikely as only a single vessel will be used, and it will only be present in the LBCHU for a short period of time. Further, to avoid impacts to listed eiders the vessel will use the shortest routes possible to access sites, unless spectacled eiders are observed when it will change course to avoid the birds. As significant adverse effects are not anticipated, further consultation regarding listed eiders is not required.

Mr. John Goll
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The LBCHU and Chukchi Sea are within the range of polar bears (*Ursus maritimus*), a species listed as threatened under the ESA. As the polar bear is a marine mammal ConocoPhillips Inc., requested a letter of authorization (LOA) under the Chukchi Sea Incidental Take Regulations (ITRs) for seismic survey activities (including the activities discussed here) pursuant to sections 101(a)(4)(A), 109(h), and 112(c) of the Marine Mammal Protection Act (MMPA). The Chukchi Sea ITRs have been reviewed pursuant to section 7 of the ESA, and issuance of an LOA completes section 7 consultation obligations for these activities with regard to polar bears.

If you require additional information or have questions please contact Sarah Conn, Endangered Species Biologist, at (907) 456-0499.