



BILLING CODE: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG218

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of the Liberty Drilling and Production Island, Beaufort Sea, Alaska

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from Hilcorp Alaska, LLC (Hilcorp) for authorization to take small numbers of marine mammals incidental to the construction and operation of the Liberty Drilling and Production Island (LDPI) in Foggy Island Bay, Beaufort Sea, Alaska, over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Hilcorp's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on Hilcorp's application and request.

DATES: Comments and information must be received no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries

Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Daly@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/node/23111> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of the Hilcorp's application may be obtained online at <https://www.fisheries.noaa.gov/node/23111>. In case of problems accessing these documents, please call the contact listed above.

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 (as delegated to NMFS) 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 incidental take 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 (where relevant), and if 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.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

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).

Summary of Request

On April 26, 2018, NMFS received an adequate and complete application from Hilcorp requesting authorization for take of marine mammals incidental to construction, drilling, and production activities related to the construction and operation of the LDPI in Foggy Island Bay, Alaska. The requested regulations and LOA would be valid for five years from November 1, 2019 through October 31, 2024. Hilcorp plans to conduct necessary work, including impact and vibratory pile driving, ice road construction, drilling, and production to construct, install, and

operate the LDPI. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater sound and human presence, thereby resulting in incidental take, by Level A and Level B harassment of cetaceans and pinnipeds, and potentially mortality of pinnipeds (from ice road construction) in Foggy Island Bay. Therefore, Hilcorp requests authorization to incidentally take marine mammals.

Specified Activities

Hilcorp is proposing to develop the Liberty Oil Field reservoir, located on the Outer Continental Shelf in Foggy Island Bay, Beaufort Sea, Alaska. Total recovery over an estimated field life of 15 to 20 years is predicted to be in the range of 80 to 150 million stock tank barrels of oil. To extract the oil, Hilcorp is proposing to construct a 9.3 acre artificial island (the LDPI) in 19 feet (5.8 meters) of water in Foggy Island Bay, approximately 5 miles (8 kilometers) north of the Kadleroshilik River and install supporting infrastructure (*e.g.*, ice roads, pipeline). Ice roads would be constructed annually and begin November 2019 (execute year 1). Island construction, which requires impact and vibratory pile driving, is proposed to take place in 2020 (or execute year 2 of the project). Pile driving would primarily occur during ice-covered season; however, up to two weeks of pile driving may occur during the open-water season. Pipeline installation is anticipated to occur in 2021 (or execute year three of the project). Drilling is proposed to occur from 2021 through 2024 (or execute years three through five). These activities have the potential to harass bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), bearded seals (*Erignathus barbatus*), and spotted seals (*Phoca largha*). Ice road construction may also result in the mortality of ringed seals.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning Hilcorp's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Hilcorp, if appropriate.

Dated: May 4, 2018.

Donna S. Wieting,

Director,

Office of Protected Resources,

National Marine Fisheries Service.

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