United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. Tudor Road
Anchorage, Alaska 99503-6199

IN REPLY REFER TO

AFES//MMM

DEC 05 2013

Ms. Caryn Rea
Senior Staff Biologist
ConocoPhillips Alaska, Inc.
P.O. Box 100360
Anchorage, Alaska 99510-0360

Dear Ms. Rea:

We have received your request, dated October 7, 2013, for Letters of Authorization (LOAs) for the incidental and intentional (deterrent activities) take of polar bears during activities associated with the ConocoPhillips Alaska, Inc. (Conoco) 2013-2014 Colville Delta Drillsite 5 (CD5) Construction Project in the Colville River Delta and National Petroleum Reserve-Alaska (NPR-A).

In response, and in accordance with regulations listed at 76 FR 47010, dated August 3, 2011, enclosed is LOA 13-15 authorizing Conoco to take small numbers of polar bears incidental to oil and gas exploration activities in association with the Conoco 2013-2014 CD5 Construction Project. In addition, Intentional Take Authorization LOA 13-INT-12, as authorized under sections 101 (a)(4)(A), 109(h), and 112(c) of the Marine Mammal Protection Act (MMPA), is also enclosed.

ConocoPhillips Alaska, Inc. proposes to construct a new satellite drill site expansion to the Alpine Unit located in the Colville River delta approximately four miles south west of CD2. A full description of activities can be found in the October 7, 2013, letter, *Request for Letter of Authorization: CD5 Construction Activities.*

All provisions contained within Conoco's *Polar Bear Avoidance and Interaction Plan (January 2012)* are incorporated by reference into this LOA. Conoco field camps and personnel may limit encounters of polar bears by being observant of approaching animals (i.e., the use of polar bear guards) and where practicable, by allowing the animals to pass unhindered. Conoco will also: 1) Provide copies of the polar bear observation form to all contractors operating under the LOA; 2) report any polar bear sightings, or signs of polar bears, such as tracks or excavations, to this office by phone or using the polar bear observation report; and, 3) report any possible den locations that are found during work activities immediately to our office. U.S. Fish and Wildlife Service (Service) biologists are available for consultation if questions or concerns arise during the project period at the phone numbers listed below and noted in your interaction plan.

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If a polar bear interaction escalates into a life threatening situation, section 101(c) of the MMPA allows, without specific authorization, the take (including lethal take) of a polar bear if such taking is imminently necessary for self-defense or to save the life of a person in immediate danger, and such taking is reported to the Service within 24 hours.

Polar bear conservation has benefited from monitoring programs associated with the Incidental Take Program since 1993. Monitoring serves to assess the effect of industrial activities on polar bears by evaluating trends and effects of bear encounter rates, take frequency, as well as the location and timing of encounters. Additionally, through monitoring, the Service seeks to limit disturbance to maternal polar bear den sites, both known dens and those areas that could possibly be preferred by denning polar bears. Conoco must use caution when operating near these areas during the maternal denning period (mid-November to mid-April). A polar bear den detection survey will be required in the areas of potential denning habitat where Conoco proposes to operate.

The U.S. Geological Survey has posted information regarding polar bear denning habitat on the Alaska Science Center (ASC) website. The den habitat map (ARC/INFO export file), the mapping manuscript (PDF file) and a picture of den habitat (JPG file) are available on the ASC website: *http://www.absc.usgs.gov/dataproducts.htm*. Use these resources when planning activities in potential denning areas.

If any changes develop during the project, such as activities or location, the Service must be notified prior to the planned operation. This will allow us to evaluate the activity and, if appropriate, amend the appropriate LOA(s).

The Service has completed intra-Service consultation under the Endangered Species Act of 1973, as amended (ESA), on the issuance of these LOAs and has determined that the issuance these LOAs is not likely to jeopardize the continuing existence of polar bears. No additional authorization under the ESA is required.

If you have any further questions, please contact Mr. Craig Perham or Mr. Christopher Putnam of our Marine Mammals Management Office, at (907) 786-3810 or (907) 786-3844, respectively.

Sincerely,

Deborah Pierce Williams
Chief, Marine Mammals Management

Enclosures

cc: Mr. Richard Shideler, Alaska Department of Fish and Game (email)
U.S. Fish and Wildlife Service, Fairbanks Fish and Wildlife Field Office
U.S. Fish and Wildlife Service, Office of Law Enforcement
North Slope Borough, Department of Law

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U.S. Fish and Wildlife Service

LETTER OF AUTHORIZATION
Incidental Take
(13-15)

ISSUED: December 5, 2013
EXPIRES: December 31, 2014

ConocoPhillips Alaska, Inc. (Conoco) is hereby authorized to take small numbers of polar bears (*Ursus maritimus*) incidental to activities occurring during the 2013-2014 Colville Delta Drillsite 5 (CD5) Construction Project in the Colville River Delta and National Petroleum Reserve-Alaska (NPR-A) in accordance with regulations listed at 76 FR 47010, dated August 3, 2011.

Conoco proposes to construct a new satellite drill site expansion to the Alpine Unit located in the Colville River delta approximately four miles south west of CD2. A full description of activities can be found in the October 7, 2013, letter, *Request for Letter of Authorization: CD5 Construction Activities*.

This Letter of Authorization (LOA) and the required conditions below apply to all Conoco employees, contractors and personnel performing Conoco-approved work under the scope of operations to be conducted. This authorization is subject to the following conditions.

1. Intentional take is prohibited under this LOA.

2. Conoco's *Polar Bear Avoidance and Interaction Plan (January 2012)* is approved and all provisions must be complied with unless specifically noted otherwise in this LOA.

3. A copy of this LOA and the approved interaction and avoidance plans listed above must be posted and available for all personnel and in the possession of the operators of all vessels and aircraft engaging in the activities approved under the authority of this LOA.

4. Conoco Operations Managers, or designates, must be fully aware, understand, and be capable of implementing the conditions of this LOA.

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5. At the discretion of the U.S. Fish and Wildlife service (Service), Conoco must allow the Service to place an observer on site, including any facilities, vessels, aircraft or vehicles, to monitor the impacts of the activity on marine mammals, when requested.

6. Polar bear monitoring, reporting and survey activities will be conducted in accordance with 50 CFR § 18.128 and must comply with the following monitoring, mitigation and reporting requirements:

   - Conoco must cooperate with the Service, and other designated Federal, State, or local agencies to monitor the impacts of oil and gas exploration activities on polar bears.

   - If any changes develop in the project during the period approved under this LOA, such as activities, location or methods, Conoco must notify the Service, Marine Mammals Management Office (MMM) prior to the implementation of such changes.

   - Conoco must not conduct activities that operate nor pass within one mile (1.6 kilometers) of known polar bear dens, and all observed dens must be reported to the Service, MMM within 12 hours of discovery. If occupied dens are identified within one mile of activities, work within the immediate area will cease and the Service must be contacted for guidance. The Service will evaluate these instances on a case-by-case basis to determine the appropriate action. Potential actions may range from cessation or modification of work to conducting additional monitoring. Conoco must comply with any additional measures specified.

   - A polar bear den detection survey will be required in the areas of potential denning habitat where Conoco proposes to operate prior to the full implementation of this LOA.

   - Conoco must designate a qualified individual or individuals to observe, record, and report the effects of the activity on polar bears to the Service within 24 hours of visual observation.

   - Conoco must submit an annual monitoring report to the Service, MMM as required under 50 CFR § 18.128, which will be received no later than 90 days after the expiration date of the LOA.

This Letter of Authorization is valid for the period indicated on this authorization, unless extended or terminated in writing by the U.S. Fish and Wildlife Service, Marine Mammals Management Office.

Chief, Marine Mammals Management

12/5/13
Date

United States Department of the Interior

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U.S. Fish and Wildlife Service

LETTER OF AUTHORIZATION
Intentional Take
(13-INT-12)

ISSUED: December 5, 2013
EXPIRES: December 31, 2014

ConocoPhillips Alaska, Inc. (Conoco) is hereby authorized to intentionally take by Level B non-lethal harassment, or deterrence, small numbers of polar bears (*Ursus maritimus*) associated with activities occurring during the 2013-2014 Colville Delta Drillsite 5 (CD5) Construction Project in the Colville River Delta and National Petroleum Reserve-Alaska (NPR-A) in accordance with sections 101(a)(4)(A), 109(h) and 112(c) of the Marine Mammal Protection Act of 1972 (MMPA), as amended.

Conoco proposes to construct a new satellite drill site expansion to the Alpine Unit located in the Colville River delta approximately four miles (approximately 6.5 kilometers) south west of CD2. A full description of activities can be found in the October 7, 2013, letter, *Request for Letter of Authorization: CD5 Construction Activities*.

Section 101(a)(4)(A) of the MMPA states that, "Except as provided in subparagraphs (B) and (C), the provisions of this chapter shall not apply to the use of measures:

1. By the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch.

2. By the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property.

3. By any person, to deter a marine mammal from endangering personal safety.

4. By a government employee, to deter a marine mammal from damaging public property, so long as such measures do not result in the death or serious injury of a marine mammal."

Section 112(c) allows for the transfer of Federal authority "… as may be necessary to carry out the purposes of this title (Conservation and Protection of Marine Mammals)… and on such terms

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as he deems appropriate with any Federal or State agency, public or private institution, or other person."

Section 109(h)(1) states that, "nothing in this title (Conservation and Protection of Marine Mammals)… shall prevent a Federal, State, or local government official or employee or a person designated under section 112(c) from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for:

1. The protection or welfare of the mammal.

2. The protection of the public health and welfare.

3. The non-lethal removal of nuisance animals."

The purpose of authorizing taking by Level B non-lethal harassment, or deterrence, is to maintain human and bear safety and welfare in polar bear habitat. Authorizing Level B harassment take reduces the likelihood of death or injury of polar bears. This is accomplished by the following objectives:

- Prevent bears from associating food with humans and facilities.
- "Teach" bears to avoid people.
- Allow bears to use travel routes (natural and human made) to move along the coast.
- Prevent bears from extended use of areas around facilities.

This Letter of Authorization (LOA) is subject to the following conditions:

1. This LOA is restricted to Level B non-lethal harassment or deterrent activities.

2. Conoco's *Polar Bear Avoidance and Interaction Plan (January 2012)* is approved and all provisions must be complied with unless specifically noted otherwise in this LOA. A copy of this polar bear interaction plan must be available on site for all personnel.

3. Conoco operations managers, or designates, must be fully aware, understand, and be capable of implementing the conditions of this authorization.

4. This LOA is issued specifically to Conoco who is responsible for ensuring **trained and qualified** personnel are assigned the task to harass (deter) polar bears. A list of trained personnel responsible for deterrence will be on file prior to initiation of activities with the Service Incidental Take Coordinator.

5. Conoco is solely responsible for ensuring that personnel operating under this authorization meet all Federal and State laws and regulations regarding the use and carry of firearms, should firearms be used for bear deterrence.

6. Conoco, or its designated agent, is responsible for documenting and reporting to the U.S. Fish and Wildlife Service (Service), Marine Mammals Management Office (MMM), at (907) 786-3800, all instances involving harassment activities as soon as possible and no later than 24 hours after the occurrence.

7. Harassment or deterrence techniques must not cause injury or death of a bear. Types of harassment or deterrence techniques may include, but are not limited to:

   - Bear monitors.
   - Air horns.
   - Electric fences.
   - Chemical repellents.
   - Acoustic recordings.
   - Vehicles.
   - Projectiles, such as, cracker shells, bean bags, rubber bullets, and screamers.

8. Prior to conducting a harassment activity, operators must:

   - Make a reasonable effort to reduce or eliminate attractants.
   - Secure site, notify supervisor and move personnel to safety.
   - Ensure bear has escape route(s).
   - Ensure communication with all personnel.

9. When conducting a harassment activity, operators must:

   - Keep in mind that the safety and welfare of the bear is second only to the safety and welfare of humans in a harassment or deterrence situation.
   - Chose the method that will have the least effect on the bear and increase the intensity of the method or use additional methods only if necessary.
   - Shout at the bear before using projectiles or other methods (avoidance conditioning).
   - Move bear in proper direction; continue with minimally necessary deterrents to receive desired result.

10. After a harassment event has occurred, operators must:

    - Monitor bears movement (to ensure no return).
    - Notify supervisor and personnel when it is safe to resume work.
    - Fill out report to be sent to the Service as required above (within 24 hours).

11. A final report of all encounters and harassment or deterrence events will be submitted to the Service, MMM no later than 60 days from the expiration date of this authorization.

12. Any lethal take or injury of a polar bear must be reported to the Service immediately.

This Letter of Authorization is valid for the period indicated on this authorization, unless extended or terminated in writing by U.S. Fish and Wildlife Service, Marine Mammals Management Office.

Chief, Marine Mammals Management

12/5/13
Date