



IN REPLY REFER TO:

## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

1011 E. Tudor Road  
Anchorage, Alaska 99503-6199



**JAN 15 2009**

AFES/MMM

Mr. James Winegarner  
Vice President, Land & External Affairs  
Brooks Range Petroleum Corporation  
501 L Street, Suite 601  
Anchorage, Alaska 99501

Dear Mr. Winegarner:

This responds to your request dated, October 9, 2008, to the U.S. Fish and Wildlife Service (Service) for Letters of Authorization (LOA) for the incidental take of polar bears on the North Slope of Alaska in association with the 2009 Brooks Range Petroleum Corporation (BRPC) Exploration Program. Enclosed are LOAs (09-9, 09-10, and 09-11) for BRPC's Exploration Program – East Shore, West Shore, and Ultrastar, respectively. These will allow BRPC to take small numbers of polar bears incidental to oil and gas industry exploration activities at the above locations identified in your LOA requests. The proposed start date for these projects is January 2009.

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. Use caution when operating near these areas during the maternal denning period (mid November to mid April). The U.S. Geological Survey has posted information regarding polar bear denning habitat on the Alaska Science Center (ASC) website, plus associated documents. 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>). These resources are for planning activities in potential denning areas.

Historical polar bear denning activity reveals that polar bear denning habitat occurs along creek cutbanks and river bluffs. Approximately 1782 miles (2870 km) of potential polar bear denning habitat is located between the Colville River and the Canning River. Disturbance during denning could lead to abandonment of dens and possible mortality to cubs. 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.

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The Service believes that protection measures for polar bears described in BRPC's Polar Bear Interaction Plans contain appropriate safeguards to limit human/animal interactions. BRPC field camps and personnel can 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. BRPC will provide copies of the polar bear observation form to all BRPC contractors operating under the LOA. All terms of the BRPC Polar Bear Interaction Plan are incorporated by reference and full implementation is expected. Additionally, report any polar bear sightings, or signs of polar bears, such as tracks, scat, or diggings, to this office by phone or using the polar bear observation form. Report any possible den locations that are found during work activities immediately to our office. 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.

As a precondition to the exploratory program, on December 8 and December 11, 2008, FLIR (Forward Looking Infrared) survey flights were conducted in the exploratory program sites (the mouth of the Kuparuk River) to identify any potential polar bear dens within the project areas. The FLIR survey investigated den habitat within a 1-mile of the mouth of the Kuparuk River and the supporting coastline. This survey was a cooperative effort between the BRPC and the Service. No polar bear dens were identified during these surveys within the defined program area.

Furthermore, in accordance with section 7 of the Endangered Species Act of 1973, as amended (ESA), issuance of this LOA also fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described herein. In the "Programmatic Biological Opinion for Polar Bears (*Ursus maritimus*) on Beaufort Sea Incidental Take Regulations" (June 2008; Tier 1 BO), the Service determined that the total take anticipated as a result of the issuance of the Regulations is not likely to result in jeopardy to the polar bear, in accordance with section 7 of the ESA. In order for the Tier 2 BO to be consistent with the "no jeopardy" conclusion of the Tier 1 BO and for an ESA incidental take statement (ITS) to be provided: (1) the proposed activity must provide the required information, as described in §18.124 of the Regulations, (2) the LOA must include any mitigation measures that the Service believes appropriate for the specific activity and location, as described in §18.128 of the Regulations, and (3) the Service must determine that the incidental take for the specific activity will be consistent with the negligible impact finding for the total take allowed under the Regulations.

Reasonable and prudent mitigation measures, as well as implementing terms and conditions were included for Service in the Tier 1 BO and have been incorporated into the LOA process. Issuance of this ITS with the LOA completes ESA requirements for authorization of incidental take of the polar bear. Compliance with the terms and conditions of this LOA insures that the LOA holder is also in compliance with the ESA.

An additional requirement of this LOA is for BRPC to provide observational data of polar bears throughout the project and a complete report of all observations at the conclusion of the project

Mr. James Winegarner

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to document take. This final report will be provided to the Service. This report meets the tracking and reporting requirements relative to the documentation of take as required by the Marine Mammal Protection Act (MMPA) and the ESA.

This authorization is issued in accordance with our regulations listed at 71 FR 43926, dated August 2, 2006. Please review these regulations. Should you have any further questions contact Mr. Craig Perham of our Marine Mammals Management Office, at (907) 786-3800 or 786-3810.

Sincerely,



Rosa Meehan, Ph.D.  
Chief, Marine Mammals Management

Enclosure

cc: Mr. Dave Trudgen, OASIS  
Mr. Richard Shideler, ADF&G  
Fairbanks Fish and Wildlife Field Office (FWFO)  
USFWS Office of Law Enforcement (OLE)  
North Slope Borough Department of Law



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1011 E. Tudor Road  
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AFES/MMM

ISSUED: January 15, 2009  
EXPIRES: November 30, 2009

### LETTER OF AUTHORIZATION (09-09)

Brooks Range Petroleum Corporation (BRPC) is hereby authorized to take small numbers of polar bears incidental to activities occurring during the East Shore Exploration Program. This includes, but is not limited to, all activities associated with the work at the exploratory drill site and travel corridors. The East Shore Exploration Program includes the construction of two exploration drill pads to support up to four exploration wells and the mobilization, drilling, and demobilization of one drilling rig to support exploration activities. These activities are discussed in detail in the, "Plan of Operations East Shore Exploration Program (LO/NS 007-027 & 08-002, October 2008 Amendment).

This authorization and the required conditions below include contractors of BRPC performing BRPC-approved work under the scope of operations to be conducted. Authorization is subject to the following conditions:

1. The BRPC, Polar Bear Interaction Plan, 2008 East Shore Exploration Program, October 2008, is approved and all provisions must be complied with unless specifically noted otherwise in this Letter of Authorization. A copy of this polar bear interaction plan must be available on site for all personnel.
2. BRPC Operations Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.
3. Intentional take is prohibited under this authorization.
4. This authorization is valid only for those activities identified in the request for a Letter of Authorization dated October 9, 2008.
5. Polar bear monitoring, reporting, and survey activities will be conducted in accordance with 50 CFR 18, section 18.128. The basic monitoring and reporting requirements follow:

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- BRPC 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;
  - BRPC must not conduct activities that operate nor pass within 1 mile of known polar bear dens, and all observed dens must be reported to the Marine Mammals Management Office, Fish and Wildlife Service within 12 hours of discovery. Should occupied dens be identified within one mile of activities, work within a one-mile 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, and BRPC must comply with any additional measures specified.
  - BRPC 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;
  - BRPC must allow the Fish and Wildlife Service to allow an observer on the site to monitor the impacts of the activity on polar bears, at the discretion of the Fish and Wildlife Service;
  - BRPC must submit an annual monitoring report to the Marine Mammals Management Office as required under 18 CFR 18.128(f), which will be received up to 90 days after the expiration date of the LOA.
6. Per the “Programmatic Biological Opinion for the Beaufort Sea Incidental Take Regulations for Polar Bear (June 2008)”, your request also triggers the second of the two-tiered programmatic process. In order for incidental take of the polar bear to be exempted from the prohibitions of the ESA, the LOA also serves as an “Incidental Take Statement” (ITS), required under section 7 of the Endangered Species Act of 1973 (ESA). Issuance of the LOA/ITS fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described in this letter.
7. This authorization expires May 31, 2009.

  
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Chief, Marine Mammals Management

11/15/09  
Date



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ISSUED: January 15, 2009  
EXPIRES: November 30, 2009

### LETTER OF AUTHORIZATION (09-10)

Brooks Range Petroleum Corporation (BRPC) is hereby authorized to take small numbers of polar bears incidental to activities occurring during the West Shore Exploration Program. This includes, but is not limited to, all activities associated with the work at the exploratory drill site and travel corridors. The West Shore Exploration Program includes the construction of one exploration drill pad to support one or more exploration wells and the mobilization, drilling, and demobilization of one drilling rig to support exploration activities. These activities are discussed in detail in the, "Plan of Operations West Shore Exploration Program, October 2008.

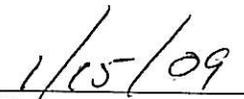
This authorization and the required conditions below include contractors of BRPC performing BRPC-approved work under the scope of operations to be conducted. Authorization is subject to the following conditions:

1. The BRPC, Polar Bear Interaction Plan, 2008 West Shore Exploration Program, October 2008, is approved and all provisions must be complied with unless specifically noted otherwise in this Letter of Authorization. A copy of this polar bear interaction plan must be available on site for all personnel.
2. BRPC Operations Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.
3. Intentional take is prohibited under this authorization.
4. This authorization is valid only for those activities identified in the request for a Letter of Authorization dated October 9, 2008.
5. Polar bear monitoring, reporting, and survey activities will be conducted in accordance with 50 CFR 18, section 18.128. The basic monitoring and reporting requirements follow:

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- BRPC 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;
  - BRPC must not conduct activities that operate nor pass within 1 mile of known polar bear dens, and all observed dens must be reported to the Marine Mammals Management Office, Fish and Wildlife Service within 12 hours of discovery. Should occupied dens be identified within one mile of activities, work within a one-mile area will cease and 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, and BRPC must comply with any additional measures specified.
  - BRPC 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;
  - BRPC must allow the Fish and Wildlife Service to allow an observer on the site to monitor the impacts of the activity on polar bears, at the discretion of the Fish and Wildlife Service;
  - BRPC must submit an annual monitoring report to the Marine Mammals Management Office as required under 18 CFR 18.128(f), which will be received up to 90 days after the expiration date of the LOA.
6. Per the "Programmatic Biological Opinion for the Beaufort Sea Incidental Take Regulations for Polar Bear (June 2008)", your request also triggers the second of the two-tiered programmatic process. In order for incidental take of the polar bear to be exempted from the prohibitions of the ESA, the LOA also serves as an "Incidental Take Statement" (ITS), required under section 7 of the Endangered Species Act of 1973 (ESA). Issuance of the LOA/ITS fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described in this letter.
7. This authorization expires May 31, 2009.

  
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Chief, Marine Mammals Management

  
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ISSUED: January 15, 2009  
EXPIRES: November 30, 2009

### LETTER OF AUTHORIZATION (09-11)

Brooks Range Petroleum Corporation (BRPC) is hereby authorized to take small numbers of polar bears incidental to activities occurring during the Ultrastar Exploration Program. This includes, but is not limited to, all activities associated with the work at the exploratory drill site and travel corridors. The Ultrastar Exploration Program includes the construction of one exploration drill pad to support one or more exploration wells and the mobilization, drilling, and demobilization of one drilling rig to support exploration activities. These activities are discussed in detail in the, "Plan of Operations, Ultrastar Exploration Program (LO/NS 007-028, October 2008 Amendment).

This authorization and the required conditions below include contractors of BRPC performing BRPC-approved work under the scope of operations to be conducted. Authorization is subject to the following conditions:

1. The BRPC, Polar Bear Interaction Plan, 2008 Ultrastar Exploration Program, October 2008, is approved and all provisions must be complied with unless specifically noted otherwise in this Letter of Authorization. A copy of this polar bear interaction plan must be available on site for all personnel.
2. BRPC Operations Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.
3. Intentional take is prohibited under this authorization.
4. This authorization is valid only for those activities identified in the request for a Letter of Authorization dated October 9, 2008.
5. Polar bear monitoring, reporting, and survey activities will be conducted in accordance with 50 CFR 18, section 18.128. The basic monitoring and reporting requirements follow:

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- BRPC 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;
  - BRPC must not conduct activities that operate nor pass within 1 mile of known polar bear dens, and all observed dens must be reported to the Marine Mammals Management Office, Fish and Wildlife Service within 12 hours of discovery. Should occupied dens be identified within one mile of activities, work within a one-mile area will cease and 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, and BRPC must comply with any additional measures specified.
  - BRPC 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;
  - BRPC must allow the Fish and Wildlife Service to allow an observer on the site to monitor the impacts of the activity on polar bears, at the discretion of the Fish and Wildlife Service;
  - BRPC must submit an annual monitoring report to the Marine Mammals Management Office as required under 18 CFR 18.128(f), which will be received up to 90 days after the expiration date of the LOA.
6. Per the “Programmatic Biological Opinion for the Beaufort Sea Incidental Take Regulations for Polar Bear (June 2008)”, your request also triggers the second of the two-tiered programmatic process. In order for incidental take of the polar bear to be exempted from the prohibitions of the ESA, the LOA also serves as an “Incidental Take Statement” (ITS), required under section 7 of the Endangered Species Act of 1973 (ESA). Issuance of the LOA/ITS fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described in this letter.
7. This authorization expires May 31, 2009.

  
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Chief, Marine Mammals Management

  
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Date