



IN REPLY REFER TO:

## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

1011 E. Tudor Road  
Anchorage, Alaska 99503-6199



AFES/MMM

**AUG 6 2009**

Mr. Bruce St. Pierre  
Senior Environmental Coordinator  
ConocoPhillips Alaska  
P.O. Box 100360  
Anchorage, Alaska 99510-0360

Dear Mr. St. Pierre:

This responds to your June 26, 2009, request for Letter of Authorization (LOA) from the U.S. Fish and Wildlife Service (Service) for the incidental take of polar bears and Pacific walrus. ConocoPhillips (CPAI) proposes to conduct site clearance and environmental studies in the Chukchi Sea during the open-water season of 2009 near the Klondike and Burger prospects. The proposed start date for this project is late-July, 2009. The 2009 CPAI Chukchi Sea Marine Site Clearance Activity and Environmental Studies Program is a continuation of the 2008 program and contains two components: 1) a site clearance survey to determine water depths, identify and map hazards to drilling, and detail seafloor morphology; and 2) an environmental studies program as part of an integrated Arctic sampling program designed for information sharing among all stakeholders in the Arctic Seas. These studies will focus on acoustics, physical oceanography, biological oceanography, seabird ecology, and marine mammal ecology.

Enclosed is an LOA (09-02-CS) that would allow CPAI to take small numbers of polar bears and Pacific walrus incidental to the Chukchi Sea Marine Site Clearance Activity and Environmental Studies Program during the open-water period of 2009. If any changes develop in your project during this season, such as activities or location, the Marine Mammals Management Office (MMM) must be notified prior to the planned operation. This will allow us to evaluate the activity and, if appropriate, amend the LOA.

Polar bear and walrus 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 and walrus by evaluating trends and effects of bear and walrus encounter rates, take frequency, as well as the location and timing of encounters. The Service biologists are available for consultation if questions or concerns arise regarding polar bears and walrus during the project period at the phone numbers listed below and noted in your interaction plan.

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

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Programmatic Biological Opinion for the activities described herein. In the "Programmatic Biological Opinion for Polar Bears (*Ursus maritimus*) on Chukchi 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 Incidental Take Regulations (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 issued, the following need to occur: (1) the proposed activity must provide the required information, as described in the §18.124 of the Regulations, (2) the LOA includes any mitigation measures that the Marine Mammal Management Office (MMM) believes appropriate for the specific activity and location, as described in §18.128 of the Regulations, and (3) the MMM 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.

A reasonable and prudent measure and implementing terms and conditions were included for the MMM 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 ensures that the LOA holder is also in compliance with the ESA.

This authorization is issued in accordance with our regulations listed at 73 FR 33212, dated June 11, 2008. Should you have any questions contact Mr. Craig Perham, at (907) 786-3800 or 786-3810.

Sincerely,



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

Enclosures

cc: Ms. Caryn Rea, CPAI  
Fairbanks Fish and Wildlife Field Office (FFWFO)  
USFWS Office of Law Enforcement (OLE)



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Anchorage, Alaska 99503-6199



AFES/MMM

ISSUED: August 4, 2009  
EXPIRES: November 30, 2009

### LETTER OF AUTHORIZATION (09-02-CS)

ConocoPhillips Alaska, Inc. (CPAI) is hereby authorized to take small numbers of polar bears and Pacific walrus incidental to activities occurring during their 2009 Chukchi Sea, Open-water, Marine Site Clearance Activity and Environmental Studies Program. This project is scheduled for the period of late July 2009 through November 2009. A detailed description of the authorized activities can be found in the, "Application for a Letter of Authorization for Site Clearance Activity and Environmental Studies in the Chukchi Sea by ConocoPhillips, Alaska," dated June 26, 2009.

The 2009 CPAI Chukchi Sea Marine Site Clearance Activity and Environmental Studies Program is a continuation of the 2008 program and contains two components: 1) a site clearance survey to determine water depths, identify and map hazards to drilling, and detail seafloor morphology, including shallow coring on CPAI's leases to determine soil qualities; and 2) an environmental studies program as part of an integrated Arctic sampling program designed for information sharing among all stakeholders in the Arctic Seas. These studies will focus on acoustics, physical oceanography, biological oceanography, seabird ecology, and marine mammal ecology.

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

1. CPAI Operations Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.
2. This Authorization is valid only for activities (including support vessels) associated with CPAI's 2009 Site Clearance Activity and Environmental Studies, as specified in CPAI's June 26, 2009 application.

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3. Intentional take is prohibited under this authorization.
4. CPAI must cooperate with the U.S. Fish and Wildlife Service (Service), and other designated Federal, State, or local agencies to monitor the impacts of oil and gas exploration activities on Pacific walrus and polar bears.
5. If any changes develop in your project during the 2009 open-water season, such as activities or location, notify the Marine Mammals Management Office prior to the planned operation.
6. The following documents are hereby approved and all provisions unless specifically noted are incorporated into this authorization by reference:
  - (a) *ConocoPhillips Polar Bear Avoidance and Interaction Plan, February 2008*. A copy of the polar bear interaction plan must be available on site for all personnel.
  - (b) *2009 Chukchi Summer Program Subsistence Plan of Cooperation, Chukchi coastal Villages ConocoPhillips, April 2009 (Draft)*.
7. The species authorized for takings, by Level B Harassment only, are: Pacific walrus (*Odobenus rosmarus divergens*), and polar bear (*Ursus maritimus*). The taking of any walrus or polar bear in a manner prohibited under this authorization must be reported within 24 hours of the taking to the Service Incidental Take Coordinator in Anchorage Alaska (907-786-3800), or their designee, as specified in condition 10(d).
8. The holder of this Authorization is required to cooperate with the Service and any other Federal, state or local agency monitoring the impacts of the activity on walruses and polar bears.
9. At the discretion of the Service, the operator will allow the Service to place an observer on site (vessels and aircraft) to monitor the impacts of the activity on Pacific walruses and polar bears.
10. Prohibitions:
  - (a) The taking, by incidental Level B harassment only, is limited to the species listed under condition 4 above. The taking by Level A harassment, serious injury, or death of these species is prohibited and may result in the modification, suspension or revocation of this Authorization.
  - (b) The taking of any walrus or polar bear whenever the required marine mammal mitigation and monitoring measures (conditions 11 and 12) have not been fully implemented as required by this Authorization, is prohibited.
11. Polar bear and walrus monitoring and mitigation must be conducted in accordance with 50 CFR Section 18.118, where CPAI must comply with the following monitoring, mitigation, and reporting requirements:

The holder of this Authorization is required to:

- (i) Avoid concentrations or groups of walruses and polar bears hauled out onto land or ice by all vessels under the management of CPAI. Operators of support vessels should, at all time, conduct their activities at the maximum distance possible from known or observed concentrations of animals. Under no circumstances, other than an emergency, should vessels operate within 800 meters ( $\frac{1}{2}$  mile) of walruses or polar bears observed on land or ice.
- (ii) Take every precaution to avoid harassment of walruses or polar bears in water when a vessel is operated near these animals. Maintain an 800 meter ( $\frac{1}{2}$  mile) distance, when practicable. Vessels must reduce speed when walruses or polar bears are observed in water and vessels capable of steering around these animals must do so. Vessels may not be operated in such a way as to separate members of a group of walruses or polar bears from other members of the group. Vessels should avoid multiple changes in direction and speed when walruses or polar bears are present.
- (iii) Operate in full compliance with the terms identified in the approved document identified in Condition 6.
- (iv) Restriction of walrus or polar bear movements, by any means, in sea or on land, is prohibited.

## 12. Monitoring.

### *Vessel Monitoring:*

For each walrus or polar bear sighting, either an MMO or designated crew member will either record the following:

(A) Species, group size, age/size/sex categories (if determinable), behavioral activity, heading (if consistent), bearing and distance from vessel, siting cue, and apparent reaction of animals seen near the vessel.

(B) Time, location, heading, speed, and activity of the vessel, along with sea state, visibility, cloud cover, and sun glare at any time a walrus or polar bear is sighted.

(C) The identification of all vessels that are visible within 5 km of the vessel whenever a marine mammal is sighted, and the time observed, bearing, distance, heading, speed and activity of the other vessel(s).

## 13. Reporting:

(a) *Weekly summary of walrus and polar bear sightings.*

The operator must tabulate and report all walrus and polar bear sightings recorded by the MMOs from project vessels to the Service on a weekly basis. For each walrus or polar bear sighting include:

- (i) a unique sighting identification number;
- (ii) species, group size, age/size/sex categories, and substrate (on ice, in water, both);
- (iii) date, time and location;
- (iv) environmental conditions including: water depth (meters), sea state (Beaufort scale), visibility 1 (#km), visibility 2 (light/dark), visibility 3 (glare: none, little, moderate, severe), ice condition 1 (estimated % ice cover in vicinity of sighting), ice condition 2

- (estimated distance (km) to pack ice);
- (v) estimated range (meters) at first sighting, estimated range (meters) at closest approach;
- (vi) the behavior of animals sighted (if determinable);
- (vii) whether animals appeared to react to the presence of the ship (yes, no), if yes, describe the reaction of the animal(s);
- (viii) vessel activity at time of sighting including: vessel name; vessel speed (knots); vessel activity code; action taken by operator in response to sighting; and,
- (ix) any MMO comments or notes

*(b) Notification of incident report.*

The operator must report any incidental lethal take or injury of a polar bear or walrus.

*(c) Post season monitoring report.*

A draft report will be submitted to the Service within 90 days after the end of the survey program in the Chukchi Sea. The report will describe in detail:

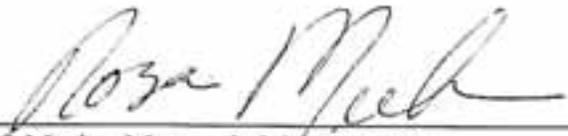
- (i) the operations that were conducted;
- (ii) the methods, results, and interpretation pertaining to all monitoring tasks;
- (iii) the results of the 2009 shipboard marine mammal monitoring;
- (iv) marine mammal sightings (species, numbers, dates, times and locations; age/size/gender, environmental correlates, activities, associated survey activities);
- (vii) estimates of the amount and nature of potential take (exposure) of walrus and polar bears (by species) by harassment or in other ways to industry sounds;
- (viii) an analysis of the effects of survey operations (e.g., on sighting rates, sighting distances, behaviors, movement patterns of walrus and polar bears);
- (ix) provide an analysis of factors influencing detectability of walrus and polar bears; and,
- (x) provide summaries on communications with hunters and potential effects on subsistence uses.

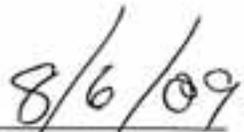
The draft report will be subject to review and comment by the Service. Any recommendations made by the Service must be addressed in the final report prior to acceptance by the Service. The draft report will be considered the final report for this activity under this Authorization if the Service has not provided comments and recommendations within 90 days of receipt of the draft report.

14. Activities related to the monitoring described in this Authorization do not require a separate scientific research permit issued under section 104 of the Marine Mammal Protection Act.

15. A copy of this Authorization and the Service-approved Polar Bear Interaction Plan must be in the possession of the operator of all vessels and aircraft engaging in the activity operating under the authority of this Letter of Authorization.

16. Per the "Programmatic Biological Opinion for the Chukchi 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.

  
\_\_\_\_\_  
Chief, Marine Mammals Management

  
\_\_\_\_\_  
Date

