United States Department of the Interior

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

IN REPLY REFER TO:

AFES/MMM

SEP 11 2013

Ms. Susan Childs
Shell Exploration and Production Company
3601 C Street, Suite 1314
Anchorage, Alaska 99503

Dear Ms. Childs:

We have received your request dated August 13, 2013, for a variance to Letter of Authorization (LOA) 13-CS-02 to conduct activities in the Hanna Shoal Walrus Use Area (HSWUA) associated with the Shell Exploration and Production (Shell) 2013 Chukchi Sea Open Water Marine Survey Program. Stipulation 9 in LOA 13-CS-02 states that "Shell may not transit through or conduct operations in the Hanna Shoal Walrus Use Area (HSWUA) between July 1 and September 30[1]." In response, this document provides a variance and amended monitoring and mitigation stipulations to LOA 13-CS-02 for authorization to operate within the HSWUA.

During a meeting on August 30, 2013, Shell agreed to provide the U.S. Fish & Wildlife Service (Service) approximately one week notice prior to conducting activity in any area within the outer boundary of the HSWUA. On September 3, 2013, the Service received email communication that Shell was prepared to enter into the HSWUA as early as September 11, 2013, depending on actual conditions in the proposed work areas. As of the date of this letter, the Service is not able to provide more specific information on Pacific Walrus locations than what Shell currently has available. As the Service develops new information on walrus locations we will communicate it to Shell.

Based on the most recent information the Service has on Pacific walrus distributions and densities in the Chukchi Sea, the Service anticipates that Shell may encounter large numbers of walruses along the proposed area of operations within the HSWUA. If Shell proceeds with the proposed operations within the HSWUA, because, as noted below, strict compliance with the stipulations of this LOA and the mitigation measures at 50 CFR §18.118 are required, you may not be able to conduct some of your planned operations in the proposed area within the HSWUA.

[1] The HSWUA is described in 78 FR 35364 (June 12, 2013) and based on, Jay, C.V., A.S. Fischbach, and A.A. Kochnev. 2012. Walrus areas of use in the Chukchi Sea during sparse sea ice cover. Marine Ecology Progress Series Vol. 468: 1–13, 2012) (GIS files available at, https://www.erma.unh.edu/arctic/erma.htm).

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Authorization to operate within the HSWUA is contingent upon strict compliance with 50 CFR §18.118 and all stipulations described LOA 13-CS-02. Specifically, the Service places emphasis upon the following stipulations found in LOA 13-CS-02:

- 10(A)(i), At all times, vessels must maintain the maximum distance possible from concentrations of walruses or polar bears. Under no circumstances, other than an emergency, should any vessel approach within an 805-meter (m) (0.5-mile [mi]) radius of walruses or polar bears observed on ice. Under no circumstances, other than an emergency, should any vessel approach within 1,610 m (1 mi) of groups of walruses observed on land or within an 805-m (0.5-mi) radius of polar bears observed on land;

- 10(A)(ii), Vessel operators must take every precaution to avoid harassment of concentrations of feeding walruses when a vessel is operating near these animals. Vessels should reduce speed and maintain a minimum 805-m (0.5-mi) operational exclusion zone around groups of 12 or more walruses encountered in the water. Vessels may not be operated in such a way as to separate members of a group of walruses from other members of the group. When weather conditions require, such as when visibility drops, vessels should adjust speed accordingly to avoid the likelihood of injury to walruses;

- 10(A)(iv), Under no circumstances, other than an emergency, should fixed wing aircraft operate at an altitude lower than 457 m (1,500 feet [ft]) within 805 m (0.5 mi) of walrus groups observed on ice, or within 1,610 m (1 mi) of walrus groups observed on land. Under no circumstances, other than an emergency, should rotary winged aircraft (helicopters) operate at an altitude lower than 914 m (3,000 ft) within 1,610 m (1 mi) of walrus groups observed on land. Under no circumstances, other than an emergency, should aircraft operate at an altitude lower than 457 m (1,500 ft) within 805 m (0.5 mi) of polar bears observed on ice or land. Helicopters may not hover or circle above such areas or within 805 m (0.5 mi) of such areas. When weather conditions do not allow a 457-m (1,500-ft) flying altitude, such as during severe storms or when cloud cover is low, aircraft may be operated below the required altitudes stipulated above. However, when aircraft are operated at altitudes below 457 m (1,500 ft) because of weather conditions, the operator must avoid areas of known walrus and polar bear concentrations and should take precautions to avoid flying directly over or within 805 m (0.5 mi) of these areas;

- 10(B)(v), Adaptive response for walrus aggregations. Whenever an aggregation of 12 or more walruses are detected within an acoustically verified 160 dB re 1 μPa disturbance zone ahead of or perpendicular to the seismic vessel track, the holder of this LOA must;
  (a) Immediately power down or shutdown the seismic airgun array and/or other acoustic sources to ensure sound pressure levels at the shortest distance to the aggregation do not exceed 160–dB re 1 μPa;
  (b) Not proceed with powering up the seismic airgun array until it can be established that there are no walrus aggregations within the 160 dB zone based upon ship course, direction, and distance from last sighting. If shutdown was required, the ramp-up procedures must be followed when restarting, and;

- 10(D)(iv), Notification of incident report. Reports should include all information specified under the species observation report, as well as a full written description of the encounter and actions taken by the operator. The operator must report to the Service within 24 hours;
  (a) Any incidental lethal take or injury of a polar bear or walrus;
  (b) Observations of walruses or polar bears within prescribed mitigation monitoring zones.

The following additional mitigation and monitoring stipulations are amended to LOA 13-CS-02 during Shell activities within the HSWUA in accordance with 50 CFR §18.118(a)(4)(v):

- Shell must increase observation for Pacific walruses to include a 360° observation radius around all vessels and report on the behavior of observable walruses within that radius with particular attention to behavior before, during and after a vessel moves past observed walruses;

- Shell must notify the Service within 24 hours if walruses are observed within ½ mile (805 meters) of a vessel;

- Shell must notify the Service within 24 hours if 500 or more walruses are observed within 1,770 meters (5,801 feet) within a 24 hour period (each 24 hour period beginning at midnight of a calendar day) of a vessel; and

- If Shell is not able to implement a mitigation measure the Service must be notified immediately (or as soon as possible) for each incident.

Failure to comply with the stipulations in LOA 13-CS-02 and this letter may result in, but may not be limited to, additional monitoring and mitigation measures, a Notice of Violation from the Service, revocation of authorization to operate within the HSWUA and/or revocation of incidental take authorization for Pacific walruses.

The Service acknowledges the limited information available to determine Pacific walrus locations, distributions and densities in the Chukchi Sea. If Shell is able to provide additional information regarding Pacific walrus locations in addition to the vessel based observations the Service is always ready to continue to work cooperatively while meeting our conservation mission. One such area of potential cooperation that may benefit Shell is the use of aerial surveys for Pacific walruses in the areas Shell proposes to operate. If Shell is interested in discussing the potential for cooperative aerial surveys for Pacific walruses, or other mutually beneficial cooperation, the Service is eager to participate. The Service may be able to modify monitoring and mitigation measures based on any additional information we receive regarding the location, density and distribution of Pacific walruses in the Chukchi Sea and the HSWUA specifically.

The additional monitoring and mitigation requirements to LOA13-CS-02 contained within this letter are effective through October 31, 2013 unless further modified by the Service.

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,

Acting Chief, Marine Mammals Management

Enclosure

cc: 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