

determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The time, date, and place of the hearing will be announced after the Department has conducted its verification of the questionnaire responses. However, any party that wants to participate in a hearing *must* submit a written request within the time period specified above.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, ten copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary. The date for submission of the case briefs will be scheduled when the Department announces the date of the hearing. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Ten copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than seven days from the date of filing of the case

briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above. Please note that an interested party may still submit case and/or rebuttal briefs even though the party is not going to participate in the hearing.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: August 9, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01-20674 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Comment Period for the Draft Environment Impact Statement and Draft Management Plan for the Proposed San Francisco Bay National Estuarine Research Reserve in California

AGENCY: The Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Public hearing notice; extension of public comment period.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, of the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will extend the public comment period for the purpose of receiving comments on the Draft Environmental Impact Statement and Draft Management Plan (DEIS/DMP) prepared on the proposed designation of the San Francisco Bay National Estuarine Research Reserve in California. The DEIS/DMP addresses research, monitoring, education and resource protection needs for the proposed reserve.

DATES: The comment period for the DEIS/DMP which published on June 29, 2001 (66 FR 34618) will be extended to August 31, 2001. All written comments received by this deadline will be considered in the preparation of the FEIS.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie McGilvray (301) 713-3155 extension 158, Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East-West Highway, N/ORM5, Silver Spring, MD 20910. Copies of the Draft Environmental Impact Statement/Draft Management Plan are available upon request to the Estuarine Reserves Division.

(Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management Research Reserves))

Gary C. Matlock,

Acting Director for the National Centers for Coastal Ocean Science.

[FR Doc. 01-20690 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071901A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the Beaufort Sea

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

ACTION: Notice of receipt of application and proposed issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that BP Exploration (Alaska), Inc. Anchorage, AK (BPXA) has requested a renewal of its letter of authorization (LOA) to take a small number of marine mammals incidental to operation of an offshore oil and gas facility at the Northstar development in the Beaufort Sea off Alaska.

DATES: Comments and information must be received no later than September 17, 2001. Comments will not be accepted if submitted via e-mail or the Internet.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application, and a list of references used in this document may be obtained by writing to this address or by telephoning one of

the contacts listed here. Other reports referenced in this document are available for review, by appointment during regular business hours, at the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, Western Alaska Field Office, NMFS, 701 C Street, Anchorage, AK 99513, and the National Marine Mammal Laboratory, NMFS, Bldg 4, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713-2322, ext. 128, or Brad Smith (907) 271-5006.

SUPPLEMENTARY INFORMATION: Section 101 (a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on 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 by NMFS and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of the species or stock(s) of marine mammals for subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of marine mammals incidental to construction and operation of the offshore oil and gas facility at Northstar in the Beaufort Sea were published and made effective on May 25, 2000 (65 FR 34014), and remain in effect until May 25, 2005. For a detailed background on the issuance of this 5-year set of regulations, please refer to that document.

Summary of Request

On May 15, 2001, NMFS received a request from BPXA for a renewal of an LOA issued on September 28, 2000 (65 FR 58265) for the taking of marine mammals incidental to production operations of the offshore oil and gas facility at Northstar in state and Federal waters, under section 101 (a)(5)(A) of the MMPA. This request contained information in compliance with 50 CFR 216.209 which updated information provided in BPXA's original application

for takings incidental to construction and operations at Northstar. The current LOA for the taking of marine mammals incidental to the construction of the Northstar facility expires on November 11, 2001.

Description of Activity

BPXA proposes to produce oil from the Northstar Unit offshore oil development facility. This facility will be the first in the Beaufort Sea that uses a subsea pipeline to transport oil to shore and then into the Trans-Alaska Pipeline System. The Northstar Unit is located on Seal Island between 2 and 8 miles (mi)(3.2 and 12.9 kilometers (km)) offshore from Pt. Storkersen, AK. This unit is adjacent to the Prudhoe Bay industrial complex and is approximately 54 mi (87 km) northeast of Nuiqsut, a Native Alaskan community.

The Northstar island and pipelines were constructed during the winter of 1999 and early 2000. Construction of ice-roads began in November 1999, and was completed in March, 2000. Construction activity included the construction of several ice roads, one from West Dock and Pt. McIntyre to the Northstar gravel mine, one from the Kuparuk River delta mine site to Seal Island, and one along the pipeline route to Seal Island. The gravel-haul road had a parallel alternate road to transport service equipment, construction materials and alternate gravel hauling when maintenance or repair of the main ice road was required. Gravel hauling to the island extended from February to April, 2000. The pipelines were installed through a trench in the ice from March through May, 2000, and buried to a depth of 6 to 8 ft (1.8 to 2.4 m) below the sea floor. Construction work and installation of facilities on the island continued during the spring ice break-up and open water season of 2000. Sheet pile installation at Northstar island began on March 7, 2000, and continued through May 29, 2000 via vibratory and impact pile-driving techniques. Additional work included capping the sheet pile retaining wall and installing the well-conductor pipes, foundation blocks, concrete slope protection, utility and permanent living quarter modules, and the drilling rig with its module. Monitoring of marine mammal impacts was conducted during this construction period and reported in Richardson and Williams (2000, 2001a).

The operational (oil production) phase at the Northstar facility during both the ice-covered and open-water seasons will include two diesel generators (designated emergency generators), three gas-turbine generators

for the power plant operating at 50-percent duty cycle (i.e., up to two will be operating at any one time), two high pressure gas-turbine compressors, one low-pressure flare, and two high-pressure flares. All flares will be located on the 215-ft (66 m) flare tower. There is no seismic survey work involved with this activity or being proposed for authorization under this LOA.

Drilling began in December, 2000 and is expected to continue for about 3 years. The operational phase of Northstar is considered to begin with the first oil, likely in October or November, 2001. Production will commence while drilling is continuing. Drilling will continue until 23 development wells (15 production, 7 gas injection) are drilled. After drilling is completed, only production-related site activities will occur.

In order to support operations at Northstar, the proposed operations activity includes the annual construction of three ice roads, one built parallel to the coast from West Dock and Pt. McIntyre to the location of the pipeline shore crossing. A second road will be constructed along the pipeline route from the shore crossing to Northstar Island. A third road from Pt. McIntyre directly to Northstar is also anticipated. Ice road construction will begin sometime during the period from late-November through January, depending on ice conditions. Ice roads are expected to be completed and ready for traffic by mid-February. Ice roads will be used to resupply needed equipment, parts, foodstuffs, and products, and for hauling wastes back to existing facilities. For a description of planned ice-road activities, please refer to BPXA's 2001 application.

During the summer, barge trips will be required between West Dock or Endicott and the island for resupply. Year-round helicopter access to Northstar is planned for movement of personnel, foodstuffs and emergency movement of supplies and equipment. Helicopters will fly at an altitude of at least 1,000 ft (305 m), except for takeoffs, landings, and safe-flight operations.

Marine Mammals

The Beaufort/Chukchi seas support a diverse assemblage of marine mammals, including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Phoca largha*) and bearded seals (*Erignathus barbatus*). Descriptions of the biology and distribution of these species can be found in Ferraro *et al.* (2000), U.S. Army

Corps of Engineers (Corps, 1999), Minerals Management Service (MMS, 2001) and the BPXA application (BPXA, 1999 and 2001). The latter two documents are available upon request (see **ADDRESSES**). Please refer to these documents for specific information on the marine mammal species.

In addition to the species mentioned in this paragraph, Pacific walrus (*Odobenus rosmarus*) and polar bears (*Ursus maritimus*) also have the potential to be taken. Appropriate application for taking these species under the MMPA has been submitted to the U.S. Fish and Wildlife Service by BPXA.

Potential Effects on Marine Mammals

Issuance of an LOA for taking marine mammals incidental to production at Northstar will be based on findings that the determinations made in the preamble to the final rule (that the total takings by Northstar construction and operations will result in only small numbers of marine mammals being taken, have no more than a negligible impact on marine mammal stocks in the Beaufort Sea, and not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses) remain valid. For that reason, the following discussion of impacts is provided. Additional supporting information on noise, and oil impacts on marine mammals and on impacts to subsistence needs can be found in BPXA, 1999, 2001. Additional information on noise impact assessments can be found in Richardson and Williams (eds.)(2000a, 2000b, 2001).

Impacts of Noise on Marine Mammals in the Beaufort Sea

Sounds and non-acoustic stimuli will be generated during oil production operations by generators, drilling, production machinery, gas flaring, camp operations and vessel and helicopter operations. The sounds generated from production operations and associated transportation activities will be detectable underwater and/or in air some distance away from the area of the activity, depending upon the nature of the sound source, ambient noise conditions, and the sensitivity of the receptor. At times, some of these sounds are likely to be strong enough to cause an avoidance or other behavioral disturbance reaction by small numbers of marine mammals or to cause masking of signals important to marine mammals. The type and significance of behavioral reaction is likely to depend on the species and season, and the behavior of the animal at the time of

reception of the stimulus, as well as the distance and level of the sound relative to ambient conditions.

Responses of seals to acoustic disturbance are highly variable, with the most conspicuous changes in behavior occurring when seals are hauled out on ice or land when exposed to human activities. Seals in open water do not appear to react as strongly. Activities planned for the ice-covered seasons during the production phase of Northstar are expected to cause no more than limited and localized displacement of ringed seals. Results of monitoring during intensive construction activities during the ice-covered season in early 2000 showed no change in seal density in the areas closest to Northstar (Moulton *et al.*, 2001). Seals were still occupying holes and lairs well inside the zone where disturbance effects had been predicted (Williams *et al.*, 2001a, 2001b).

In winter and spring, ice road construction and travel activities will displace some small numbers of ringed seals along the ice road corridors. The noise and general human activity may displace female seals away from activity areas and could negatively affect the female and young, if the female remained in the vicinity of the ice road. In addition to displacement by harassment, BPXA believes there is a small possibility of injury or mortality to a very small number of seal pups during ice road construction and transportation activities. However, planned timing of road construction (before pups are born) will minimize the probability of occurrence.

During the open-water season, all six species of whales and seals could potentially be exposed to noise from vessels, the island and from other stimuli associated with the planned operations. Vessel traffic is known to cause avoidance reactions by whales at certain times (Richardson *et al.*, 1995). Helicopter operations, and possibly other production-related activities, may also lead to disturbance of small numbers of seals or whales. In addition to disturbance, some limited masking of whale calls or other low-frequency sounds potentially relevant to bowhead whales could occur (Richardson *et al.*, 1995; BPXA, 2001).

During the late summer and autumn, almost all whales are found north of the barrier islands, and north of Northstar. In the case of belugas, most individuals follow a far-offshore migration corridor at or beyond the edge of the continental shelf. In the case of bowheads, almost all individuals travel west north of Northstar. A few individuals travel west within a few kilometers north of

Northstar, but most are 10 km (6.2 mi) or more farther offshore. Gray whales are rare in the Northstar area.

In the open-water period, the principal activities on Northstar Island will be drilling and production activities, and associated helicopter and vessel traffic. Underwater sounds from drilling and routine production activities on the islands are not expected to be detectable more than about 5–10 km (3.1–6.2 mi) offshore of Northstar Island. However, when tugs or self-propelled barges are in use, underwater sounds could be faintly detectable as much as 28 km (17.4 mi) offshore of Northstar (Blackwell and Greene, 2001). Avoidance reactions by bowhead, gray and beluga whales will be limited to substantially less than that distance. Cetaceans usually do not show overt avoidance reactions unless received levels of industrial noise are well above natural background noise level (Richardson *et al.*, 1995). Also, average noise levels from Northstar are expected to be lower during production activities in 2002 and beyond than they were during construction operations in 2000 (BPXA, 2001). Little disturbance or displacement of whales by vessel traffic is expected.

Impacts of Oil on Marine Mammals in the Beaufort Sea

For reasons stated in the application (BPXA, 1999, 2001), BPXA believes that the effects of oil on seals and whales in the open waters of the Beaufort Sea are likely to be negligible, but there could be effects on whales in areas where both oil and the whales are at least partially confined in leads or at the ice edge. In the spring, bowhead and beluga whales migrate through offshore leads in the ice. However, given the probable alongshore trajectory of oil spilled from Northstar, in relation to the whale migration route through offshore waters, interactions between oil and whales are unlikely in the spring. In the summer, bowheads are normally found in Canadian waters, and beluga whales are found far offshore. As a result, at this time of the year, these species would be unaffected should a spill occur. However, oil that persists in the Beaufort Sea into the fall or winter and is not contained and/or removed may impact bowhead whales.

In the fall, the migration route of bowheads can be close to shore. If bowheads were moving through leads in the pack ice, or were concentrated in nearshore waters, or if the oil migrated seaward of the barrier islands, some bowhead whales might not be able to avoid oil slicks and could be subject to prolonged contamination. However,

because the autumn migration of bowhead whales past Northstar extends over several weeks and because most of the whales travel along routes well north of Northstar, according to BPXA (1999), only a small minority of the whales are likely to intercept patches of spilled oil. The Corps (Corps, 1999) states that considering the limited number of days each year that bowhead whales would be migrating through the area, the low probability that a spill would occur, and the very low probability that oil would move into the migration corridor of the bowheads, it is very unlikely that bowhead whales would be contacted by oil. The effects of oil on these whales have been described in several documents (BPXA, 1999; Corps, 1999; Loughlin *et al.*, 1994; and MMS, 2001).

Ringed seals exposed to oil during the winter or early spring could die if exposed to heavy doses of oil for prolonged periods of time. Prolonged exposure could occur if fuel or crude oil was spilled in or reached nearshore waters, was spilled in a lead used by seals, or was spilled under the ice when seals have limited mobility. Individual seals residing in these habitats may not be able to avoid prolonged contamination and some would die. Studies in Prince William Sound indicated a long-term decline of 36 percent in numbers of molting harbor seals located on those haulouts affected by oil from the EXXON VALDEZ spill. In addition, newborn seal pups, if contacted by oil, will likely die from oiling through loss of insulation and resulting hypothermia (BPXA, 1999). Because the number of ringed and bearded seals in the central Beaufort Sea represents a relatively small portion of their total populations, and even large oil spills are not expected to extend over large areas, relatively few ringed and bearded seals would be impacted, and impacts on regional population size would be expected to be minor.

In addition to oil contacting marine mammals, oil spill cleanup activities could increase disturbance effects on either whales or seals, causing temporary disruption and possible displacement effects (MMS, 1996; BPXA, 1999). In the event of a large spill contacting and extensively oiling coastal habitats, the presence of response staff, equipment, and many low-flying aircraft involved in the cleanup will (depending on the time of the spill and cleanup), potentially displace seals and other marine mammals. However, the potential effects on bowhead and beluga whales are expected to be less than those on seals. The whales tend to occur well offshore where cleanup activities

(during the open water season) are unlikely to be concentrated (BPXA, 1999). Also, because bowheads are transient and during the majority of the year, absence from the area would lessen the likelihood of impact by cleanup activities.

Estimated Level of Incidental Take

BPXA (2001) estimates that, during the ice-covered period, 53 (maximum 139) ringed seals and 1 (maximum 5) bearded seals potentially may be incidentally harassed annually during oil production activities. BPXA estimated these takings by harassment during the ice-covered season by assuming that seals within 3.7 km (2.3 mi) of Seal Island, and within 0.644 km (0.4 mi) of ice roads will be "taken" annually. This constitutes a total area of 46.73 km² (18.0 mi²). These anticipated levels of potential take are estimated based on observed densities of seals during recent (1997–2000) aerial surveys in the Northstar area during spring (Miller *et al.*, 1998; Link *et al.*, 1999; Moulton *et al.*, 2000, 2001) plus correction factors for seals missed by aerial surveyors. NMFS however, concurs with BPXA (1999, 2001) that these "take" estimates could result in an overestimate of the actual numbers of seals "taken," if all seals within these disturbance distances do not move from the area. It should be noted that NMFS does not consider an animal to be "taken" if it simply hears a noise, but does not make a biologically significant response to avoid that noise.

For the ice break-up period, BPXA assumes that seals within 1 km (3.11 km²) (0.62 mi/1.2 mi²) of Northstar Island might be affected by activities on the island. Based on aerial surveys conducted in 2000 of hauled-out seals, applying correction factors for seals present on the ice but not seen and for seals not hauled out, and assuming a complete turnover of seals on a weekly basis, BPXA estimates that the total number of ringed seals harassed during the 6 week break-up period will be 25 animals.

During the open-water season, BPXA (2001) estimates that 17 (maximum 27) ringed seals, 5 spotted seals, 1–5 bearded seals, 215 (maximum 774) bowhead whales, up to 5 gray whales, and 15 (maximum 91) beluga whales may be incidentally harassed annually due to operations at Northstar. BPXA assumes that seals and beluga whales within 1 km (0.6 mi) radius of Northstar Island will be harassed incidental to construction and other activities on the island. Assumed "take" radii for bowhead whales are based on the distance at which the received level of

production-related noise from the island would diminish below 115 dB re 1 micro-Pa. This distance has been conservatively estimated at 4 km (2.5 mi), due mostly to noise from tugs and self-propelled barges.

Although the potential impacts to the several marine mammal species occurring in these areas is expected to be limited to harassment, a small number of ringed seals may incur lethal and serious injury. Most effects, however, are expected to be limited to temporary changes in behavior or displacement from a relatively small area near the Northstar site and will involve only small numbers of animals relative to the size of the populations. However, the inadvertent and unavoidable take by injury or mortality of small numbers of ringed seal pups may occur during ice clearing for construction of ice roads. In addition, some injury or mortality of whales or seals may result in the event that an oil spill occurs. As a result, BPXA requested that, because a small number of marine mammals might be injured or killed, that takings by mortality also be covered by the LOA. However, because of the unpredictable occurrence, nature, seasonal timing, duration, and size of an oil spill occurring, a specific prediction cannot be made of the estimated number of takes by an oil spill. According to BPXA, in the unlikely event of a major oil spill at Northstar or from the associated subsea pipeline, numbers of marine mammals killed or injured are expected to be small and the effects on the populations negligible. While NMFS agrees that a major oil spill is unlikely, and believes that it is even less likely that spilled oil will intercept numbers of marine mammals, NMFS cannot necessarily conclude that the effects on marine mammal populations will be negligible. Depending upon magnitude of the spill, its location and seasonality, an oil spill could have the potential to affect ringed and bearded seals, and/or bowhead and beluga whales. Because of the large population size of ringed seals and bearded seals and the small number of animals in the immediate vicinity of the Northstar facility, and because spilled oil is unlikely to disperse widely and, therefore, affect large numbers of seals, NMFS has determined that the effect on ringed and bearded seals will be negligible, even in the unlikely event that a major oil spill occurred.

Bowhead and beluga whales, however, while potentially less likely to come into contact with spilled oil because of their more prevalent offshore distribution, and potentially less seriously affected when in oiled waters provided their passage is not blocked,

may be affected more seriously, if impacted, because of their smaller population sizes. However, based upon the Corps' analysis that there is less than a 10-percent chance of a major oil spill occurring during the 20–30 year lifespan of Northstar, and because NMFS believes that the potential for a major oil spill occurring and intercepting these species would be significantly less than 10 percent (approaching 1 percent), NMFS can make a determination that the taking of these two species incidental to operation at the Northstar oil production facility will have no more than a negligible impact on them.

However, regardless of the proposed negligible impact finding, because the Clean Water Act (CWA), at 33 USC 1321 (b)(3), prohibits discharge in harmful quantities into the water and regulations at 40 CFR 110.3 define harmful quantities as violating water quality standards or causing a sheen (i.e., oil spills are considered a violation of CWA), an authorization to take marine mammals, under section 101 (a)(5)(A) of the MMPA, incidental to an oil spill cannot be issued. Even though NMFS cannot issue incidental takings for oil spills, it must continue to ensure that potential takings are reduced to the lowest level possible and therefore, provides for mitigation to ensure that oil spills do not occur.

Impacts on Habitat

Invertebrates and fish, the nutritional basis for those whales and seals found in the Beaufort Sea, may be affected by operations at the Northstar project. Fish may react to noise from Northstar with reactions being quite variable and dependent upon species, life history stage, behavior, and the sound characteristics of the water.

Invertebrates are not known to be affected by noise. Fish may have been displaced when the island was constructed. These local, short-term effects however, are unlikely to have an impact on marine mammal feeding.

In the event of a large oil spill, fish and zooplankton in open offshore waters are unlikely to be seriously affected. Fish and zooplankton in shallow nearshore waters could sustain heavy mortality if an oil spill were to remain within an area for several days or longer. These affected nearshore areas may then be unavailable for use as feeding habitat for seals and whales. However, because these seals and whales are mobile, and bowhead feeding is uncommon along the coast near Northstar, effects would be minor during the open water season. In winter, effects of an oil spill on ringed seal food

supply and habitat would be locally significant in the shallow nearshore waters in the immediate vicinity of the spill and oil slick. However, effects overall would be negligible.

Impacts on Subsistence Uses

This section contains a summary on the potential impacts from operational activities on subsistence needs for marine mammals. A more detailed description can be found in BPXA's applications (BPXA, 1999, 2001). This information, in conjunction with information provided by the Alaska Eskimo Whaling Commission (AEWC) and North Slope Borough (NSB) in their comments on the final rule, and information provided in the Corps' final Environmental Impact Statement (EIS) for Northstar, is believed by NMFS to be the best information available to date on the potential effects on the availability of marine mammals for subsistence uses in the Beaufort Sea area.

Noise Impacts on Subsistence Harvests

The disturbance and potential displacement of bowhead whales and other marine mammals by sounds from vessel traffic and production activities are one of the principle concerns related to subsistence use of the area. The harvest of marine mammals is central to the culture and subsistence economies of the coastal North Slope communities. In particular, if elevated noise levels are displacing migrating bowhead whales farther offshore, this could make the harvest of these whales more difficult and dangerous for hunters. The harvest could also be affected if bowheads become more skittish when exposed to vessel or loud noise (BPXA, 1999, 2001).

Underwater sounds from drilling and production operations on the artificial gravel island are not very strong, and are not expected to travel more than about 10 km (6.2 mi) from the source. BPXA states that even those bowheads traveling along the southern edge of the migration corridor are not expected to be able to hear sounds from Northstar until the whales are well west of the main hunting area for Nuiqsut.

Nuiqsut is the community closest to the area of the proposed activity, and it harvests bowhead whales only during the fall whaling season. In recent years, Nuiqsut whalers typically have taken zero to four whales each season (BPXA, 1999). Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 20 m (65 ft). Cross Island, the principle field camp location for Nuiqsut whalers, is located approximately 28.2 km (17.5 mi) east of the Northstar area.

Whalers from the village of Kaktovik search for whales east, north, and west of their village. Kaktovik is located approximately 200 km (124.3 mi) east of Northstar. The westernmost reported harvest location was about 21 km (13 mi) west of Kaktovik, near 70°10' N. 144°W. (Kaleak, 1996). That site is approximately 180 km (112 mi) east of Northstar.

Whalers from the village of Barrow search for bowhead whales much further from the Northstar area, greater than 250 km (>175 mi) to the west.

While the effects on migrating bowheads from noise created by Northstar production are not expected to extend into the area where Nuiqsut hunters usually search for bowheads and, therefore, are not expected to affect the accessibility of bowhead whales to hunters, it is recognized that it is difficult to determine the maximum distance at which reactions occur (Moore and Clark, 1992). As a result, in order to avoid any unmitigable adverse impact on subsistence needs and to reduce potential interference with the hunt, the timing of various activities at Northstar as well as barge and aircraft traffic in the Cross Island area will be addressed in a Conflict Avoidance Agreement between BPXA and the AEWC on behalf of its bowhead whale subsistence hunters. Information on impacts on subsistence seal hunting can be found in the final rule document (65 FR 34014, May 25, 2000).

Oil Spill Impacts on Subsistence Harvests

Oil spills have the potential to affect the hunt for bowhead whales. As a result, the potential for oil spills from Northstar are of significant concern to the residents of the NSB. While oil spills from production drilling or pipelines, could occur at any time of the year, NMFS believes that only if a significant spill occurred just prior to or during the subsistence bowhead hunt and spread into offshore waters would a reduction in the availability of bowhead whales for subsistence uses be possible. While unlikely, oil spills could extend into the bowhead hunting area under certain wind and current conditions. BPXA (1999, 2001) states that even in the event of a major spill, it is unlikely that more than a small number of those bowheads encountered by hunters would be contaminated by oil. However, disturbance associated with reconnaissance and cleanup activities could affect bowhead whales and, thus, accessibility of bowheads to hunters. As a result, in the unlikely event that a major oil spill occurred during the relatively short fall bowhead

whaling season, it is possible that bowhead whale hunting could be significantly affected. Moreover, even with no more than a negligible impact on those marine mammals that would be subject to subsistence hunting, individuals and communities as a whole, may perceive that the whale or seal meat or products are tainted or somehow unfit to eat or use. This could further impact subsistence hunting of these animals. However, NMFS believes that because (1) the probability of a large oil spill is less than 10 percent over the 20-30 years of Northstar operations, (2) bowhead whales in the vicinity of Northstar are hunted only in the months of September and October, limiting exposure time, (3) only under certain wind and sea conditions would it be likely that oil would reach the bowhead subsistence hunting area, (4) there will be an oil spill response program in effect that will be as effective as possible in Arctic waters, and (5) other mitigation measures have been suggested in the event that oil did contact bowheads, NMFS determined at the final rule stage (66 FR 34014, May 25, 2000) that the construction and operation at Northstar is unlikely to result in an unmitigable adverse impact on subsistence uses of marine mammals during the period of effectiveness of the regulations. During the period between that rulemaking and this document, NMFS has participated in several meetings with BPXA, the AEWC and the NSB, in recognition that, although unlikely, if an oil spill were to occur and reach the bowhead migration corridor, there was a potential for significant impacts on the subsistence hunting of bowheads. These meetings resulted in identifying several mitigation measures designed to reduce the impact.

Proposed Mitigation

To minimize the likelihood that impacts will occur to the species and stocks of marine mammals and to the subsistence use of marine mammals, all activities at Northstar will be conducted in accordance with all federal, state and local regulations. BPXA will coordinate all activities with relevant federal and state agencies.

In addition to design for safety and leak prevention (including not having any valves, flanges, or fittings in the subsea section to reduce the potential for equipment failure), the pipeline (which was installed in 2000), includes the following measures to mitigate impacts on the marine environment: (1) utilize the best available technology leak detection system to monitor for any potential leaks, (2) conduct, at a

minimum, weekly helicopter aerial surveillance of the offshore (and onshore) pipeline corridor; and (3) conduct ice-road surveillance of the pipeline, including checking for hydrocarbons under the ice by drilling ice holes.

Although the likelihood of an oil spill occurring at Northstar is unlikely, an oil spill contingency plan has been developed and was submitted to the Alaska Department of Environmental Conservation, the U.S. Department of Transportation, U.S. Coast Guard, and the MMS for review and approval in March, 1999. An updated plan will be resubmitted by BPXA in August, 2001. Also, emergency response exercises, training and evaluation drills will occur at regular scheduled intervals.

During the ice-covered season, BPXA proposes to use trained dogs to locate seal structures in previously undisturbed areas after the traditional birthing date for ringed seals of March 20. However, NMFS has a condition in current LOAs requiring the use of trained dogs after January 1st. NMFS has established this date based on a concern over the impacts on timing for seal structures for becoming birthing lairs. As a result, NMFS invites reviewers to provide scientific information on the costs and benefits of requiring mitigation from January 1 rather than from March 20.

During the open-water season, a minimum flight altitude of 1,000 ft (304.8 m) will be maintained by all aircraft unless limited by weather conditions or emergencies, and except during takeoff and landing. Helicopter flights will primarily be conducted during ice breakup or freeze-up and will occur in a specified corridor from Northstar Island to the mainland. In addition, all non-essential boat, barge and air traffic will be scheduled to avoid periods when bowhead whales are migrating through the area. Essential traffic will be closely coordinated with the NSB and the AEWC to avoid disrupting subsistence hunting. In addition, BPXA this year has installed a dock for barges at Northstar. This action, which will allow barges to tie up at Northstar instead of using diesel engines to remain in place, and thus, will reduce underwater noise levels at Northstar.

To mitigate the potential for an oil spill interacting with bowhead whales and affecting both the species and the subsistence harvest by the NSB villagers, BPXA has confirmed to NMFS that they will not drill new wells or sidetracks from existing wells into oil-bearing strata during the defined period of broken ice or open water conditions which is defined as a period from June

13, 2002, and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions.

In addition, to ensure that there will not be an unmitigable adverse impact on the subsistence uses of marine mammals, principally bowhead whales, from an oil spill (an oil spill in this context means a 1,000-barrel or greater crude oil spill into the water at Northstar, occurring within 6 months of the fall whale hunt, as confirmed by the U.S. Coast Guard), this mitigation will include planning and financial assistance that will cover the following oil-spill related costs: (a) annual transportation to alternative bowhead whale hunting areas for whaling crews, (b) annual alternate subsistence food supplies to replace subsistence food otherwise provided by a whale, (c) annual counseling and cultural assistance for NSB residents and AEWC members to handle the disruptions to their lives and culture caused by the oil spill, and (d) annual assistance to the NSB and the AEWC to restore the International Whaling Commission quota for bowhead whales in the event that an oil spill at Northstar results in a reduction or loss of the IWC quota (BPXA Good Neighbor Policy, March 14, 2001).

Monitoring

A detailed description of BPXA's proposed monitoring program for implementation during the production phase at Northstar can be found in the revised BPXA application (BPXA, 2001). The open-water season portion of BPXA's monitoring plan was reviewed by scientists and others attending the annual open-water peer-review workshop held in Seattle on June 6, 2001. Peer review on the on-ice portion of the application was conducted on October 14-15, 1999 and October, 2000. A summary of marine mammal monitoring that will be conducted during Northstar production this year is provided here; greater detail can be found in BPXA's application (BPXA, 2001).

Under the current LOA, BPXA conducted 6 monitoring tasks. These were to conduct: (1) Fixed-wing, systematic, aerial surveys of seals hauled out on the ice in spring, 2001; (2) on-ice searches, during winter 2000/2001, for ringed seal breathing holes and lairs near Northstar and, if needed, follow-up surveys; (3) measurements of underwater and in air sounds produced by any construction, drilling, and operations to document sounds and vibrations from Northstar construction, (4) island-based visual monitoring for marine mammals during the open water

season, and (5) acoustic monitoring of bowhead vocalizations during migration. Task 3, a late-winter helicopter survey to assess abandonment rates of seal holes, was not conducted in the spring, 2000, as such a survey had been attempted in spring, 1999, with limited success. The results of this monitoring program are contained in Richardson and Williams (2001a and 2001b) and were summarized previously in this document.

Monitoring During the Ice-covered Season

During late May/early June, 2002, BPXA plans to conduct systematic aerial surveys, using fixed-wing aircraft, of seals hauled out on the ice. This survey will be consistent with BPXA surveys of this type conducted from 1997 through 2001 (see Richardson and Williams, 2001a, 2001b), and will be the last in the planned series. The initial surveys (1997–1998) were to provide data on baseline distribution and density prior to construction of offshore production facilities. The subsequent surveys (1999–2002) provide comparative data during and after construction at Northstar. BPXA will also make measurements of underwater and in-air sounds, as well as ice vibration, produced by any construction, drilling, and operational activities occurring in 2002, whose sounds have not been previously measured.

If construction activities occur in previously undisturbed areas after March 19, 2002, on-ice searches using trained dogs will be employed to locate seal structures. If needed, a recheck of these structures will be conducted in May, 2002 to assess the proportion of structures abandoned relative to distance between the disturbance and the structure.

Monitoring During the Open-Water Season

During the open-water period of 2002, monitoring activities will include acoustic measurements of sounds produced by operational activities and acoustical monitoring of bowhead whales. No visual monitoring of marine mammals will be undertaken in 2002 or in subsequent years for Northstar operations. This task was undertaken in prior years primarily to ensure that no seals or whales would be exposed to potentially injurious levels of sounds from impact pipe driving, or other loud noise sources during construction. However, even during pipe driving, impulse sound levels in the water near the island did not exceed 155 dB (re 1 micro-Pa) and levels did not approach

the established 180 dB (whales) and 190 dB (seals) sound level criteria. As BPXA does not plan to conduct impact pipe driving, or other noisy activities in 2002 and beyond, there is no need to continue an observer monitoring program from Northstar.

BPXA plans to use an acoustic localization technique in 2002 to document the occurrence and locations of calling bowhead whales in the southern part of the migration corridor. This work will be a continuation of work conducted in 2000 (Greene et al., 2001) and planned for 2001 under the current LOA. The primary objective is to document the occurrence of calling bowhead whales in the southern part of the migration corridor near Northstar and to determine whether their distances from the island vary in direct relation to the sound levels emanating from the island. This will provide information on whether Northstar affected the distribution and/or the calling behavior of the whales. For a detailed description of the work being proposed, please refer to BPXA's application.

Reporting

Under its current LOA, BPXA is required to provide two 90-day reports annually to NMFS. The first report is due 90 days after either the ice roads are no longer usable or spring aerial surveys are completed, whichever is later. Under the current LOA, this report was submitted to NMFS on September 15, 2000 (Richardson and Williams (eds.), 2000). The second 90-day report is required to be forwarded to NMFS 90 days after the formation of ice in the central Alaskan Beaufort Sea prevents water access to Northstar. Under the current LOA, this report was submitted to NMFS on January 31, 2001 (Richardson and Williams (eds.), 2001a). These reports included the dates and locations of construction activities, details of marine mammal sightings, estimates of the amount and nature of marine mammal takes, and any apparent effects on accessibility of marine mammals to subsistence hunters.

Under the current LOA, a draft final technical report must be submitted to NMFS by April 1 of each year. This report was submitted to NMFS on that date (Richardson and Williams (eds.), 2001b). The draft final report was subject to peer review in Seattle, WA on June 6, 2001. The final technical report will be and will fully describe the methods and results of all monitoring tasks and a complete analysis of the data. NMFS proposes that the reporting requirements described in these

paragraphs will be continued under the new LOA.

Endangered Species Act (ESA)

On May 22, 2001 (66 FR 28141), NMFS announced receipt of a petition from the Center for Biological Diversity and the Marine Biodiversity Protection Center to designate critical habitat for the Western Arctic stock of bowhead whales under the ESA. NMFS is currently reviewing this petition to determine whether designation of critical habitat is warranted. However, there is no provision under the ESA that activities that might impact critical habitat cease while a review is underway. However, federally-permitted oil and gas exploration activities require consultation under section 7 of the ESA if endangered or threatened species are likely to be affected.

On March 4, 1999, NMFS concluded consultation with the Corps on permitting the construction and operation at the Northstar site. The finding of that consultation was that construction and operation at Northstar is not likely to jeopardize the continued existence of the bowhead whale stock. Because issuance of a small take authorization to BPXA under section 101 (a)(5) of the MMPA is a Federal action, NMFS has completed section 7 consultation on this action. The finding of this consultation was that the issuance of the small take authorization was unlikely to adversely affect the bowhead whale.

National Environmental Policy Act (NEPA)

On June 12, 1998 (63 FR 32207), the Environmental Protection Agency (EPA) noted the availability for public review and comment a draft EIS prepared by the Corps under NEPA on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until August 31, 1998 (63 FR 43699, August 14, 1998). On February 5, 1999 (64 FR 5789), EPA noted the availability for public review and comment, a final EIS prepared by the Corps under NEPA on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until March 8, 1999. Based upon a review of the final EIS, the comments received on the draft EIS and final EIS, and the comments received during the rulemaking, NMFS adopted the Corps' final EIS as its own as provided in the Council on Environmental Quality regulations (40 CFR 1501.6) and has determined that it is not necessary to prepare supplemental NEPA documentation.

Determinations

On May 25, 2000 (65 FR 34014), NMFS determined that the impact of production operations at the Northstar project in the U.S. Beaufort Sea will result in no more than a temporary modification in behavior by certain species of cetaceans and pinnipeds. During the ice-covered season, pinnipeds close to the island may be subject to incidental harassment due to the localized displacement from construction of ice roads, from transportation activities on those roads, and from production activities at Northstar. As cetaceans will not be in the area during the ice-covered season, they will not be affected.

During the open-water season, the principal operations-related noise activities will be helicopter traffic, vessel traffic, and other general oil production activities on Seal Island. Sounds from production-related activities on the island are not expected to be detectable more than about 5-10 km (3.1-6.2 mi) offshore of the island. Disturbance to bowhead or beluga whales by on-island activities will be limited to an area substantially less than that distance. Helicopter traffic will be limited to nearshore areas between the mainland and the island and is unlikely to approach or disturb whales. Barge traffic will be located mainly inshore of the whales and will involve vessels moving slowly, in a straight line, and at constant speed. Little disturbance or displacement of whales by vessel traffic is expected. While behavioral modifications may be made by these species to avoid the resultant noise, this behavioral change is expected to have no more than a negligible impact on the animals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of operations, because the activity is in shallow waters inshore of the main migration corridor for bowhead whales and far inshore of the main migration corridor for belugas, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, except possibly for a small take by mortality incidental to ice-road construction. No rookeries, areas of concentrated mating or feeding, or other areas of special significance for marine mammals occur within or near the planned area of Northstar operations.

Because bowhead whales are east of Seal Island area in the Canadian Beaufort Sea until late August/early

September, activities at Northstar are not expected to impact subsistence hunting of bowhead whales prior to that date. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs is the subject of consultations between BPXA and subsistence users.

Also, while production activities at Northstar have some potential to influence seal hunting activities by residents of Nuiqsut, because (1) the peak sealing season is during the winter months, (2) the main summer sealing is off the Colville Delta, and (3) the zone of influence from Northstar on beluga and seals is fairly small, NMFS believes that Northstar production-related activities will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

NMFS has determined that the potential for an offshore oil spill occurring is low (less than 10 percent over 20–30 years (Corps, 1999)) and the potential for that oil intercepting whales or seals is even lower (about 1.2 percent (Corps, 1999)). Because of this low potential and because of the seasonality of bowheads, and recognizing that NMFS cannot authorize the incidental taking for oil spills, NMFS has determined that the taking of marine mammals incidental to construction and operation at the Northstar oil production facility will have no more than a negligible impact on them. In addition, because BPXA has certified to NMFS that it will not drill into oil-bearing strata during periods of open water or broken ice (the time period between June 13 and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions), because there will be an oil spill response program in effect that will be as effective as possible in Arctic waters, and because other mitigation measures have been proposed by BPXA in the event that oil did contact bowheads, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses of marine mammals.

Information Sought

NMFS requests interested persons to submit comments, and information, concerning this request for an LOA (see ADDRESSES). However, in the preamble to the final rule (65 FR 34014, May 25, 2000), NMFS clarified that because it had made the determinations required under section 101 (a)(5)(A) of the MMPA when it published the final rule, that, in order to expedite the LOA renewal process, NMFS would open the annual LOA review process to the

following issues only: (1) New scientific data or information (including Traditional Knowledge) that indicates that the determinations made in the final rule document (and therefore in this document) are in need of reconsideration, (2) comments on the Plan of Cooperation, and (3) comments on the proposed monitoring plan. Provided the written comments are specific to the issues under consideration in this document, NMFS will give full consideration to all comments submitted when making its determination on reissuance of an LOA. Comments on issues not relevant to the potential impact on marine mammals inhabiting the Beaufort Sea or to the subsistence use of marine mammals in this area will not be considered by NMFS when making its final determination on this matter.

Dated: August 10, 2001.

Wanda L. Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081001D]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory bodies will hold public meetings.

DATES: The Council and its advisory bodies will meet September 9-14, 2001. The Council meeting will begin on Tuesday, September 11, at 10:30 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 10 a.m. until 10:30 a.m. on Tuesday, September 11 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings and hearing will be held at the DoubleTree Hotel Columbia River, 1401 N Hayden Island Drive, Portland, OR 97217; telephone: 503–283–2111. Council address: Pacific Fishery Management Council, 7700 NE