



*"The mission of the Council is to represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet."*

<b>Members</b>	April 30, 2019
<b>Tourism Group</b>	Jolie Harrison Chief, Permits and Conservation Division Office of Protected Resources National Marine Fisheries Service 1315 East-West Highway Silver Spring, MD 20910-3225. <i>Submitted via:</i> <a href="https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0026">https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0026</a>
<b>Alaska Native Group</b>	
<b>Environmental Group</b>	SUBJECT: Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Oil and Gas Activities in Cook Inlet, Alaska (Docket No. 190214112-9112-01)
<b>Recreational Group</b>	Dear Ms. Harrison:
<b>Aquaculture Associations</b>	Cook Inlet Regional Citizens Advisory Council (CIRCAC) is a nonprofit organization founded under the Oil Pollution Act of 1990 to give citizens a greater voice in crude oil transportation and production. CIRCAC consists of 13 members from Cook Inlet-area communities; Alaska Native groups; and commercial fishing and aquaculture, tourism, recreational, and environmental interest groups that have a significant stake in the environment and resources at risk from oil production and transportation in the region.
<b>Commercial Fishing Group</b>	
<b>City of Kodiak</b>	We have reviewed the Federal Register docket related to proposed marine mammal takes incidental to a wide range of oil and gas activities proposed by Hilcorp, Alaska to take place in Cook Inlet from 2019-2022 and are submitting the following comments:
<b>City of Kenai</b>	
<b>City of Seldovia</b>	1. The Federal Register notice cites 3D seismic surveys for April – June 2019 in the Outer Continental Shelf area. The comment period, 1 April to 1 May 2019, began after the date operations were slated to begin, which calls into question the extent to which submitted comments would be fully considered. On the other hand, we understand that the applicants (Hilcorp Alaska) now plans to conduct this activity in the fall of 2019. However, it is unclear when that will be and it is confusing that the document titled " <i>Marine Mammal Monitoring and Mitigation Plan</i> " submitted by Hilcorp Alaska and Harvest Alaska lists 3-D seismic work occurring during a 45- to 60-day from April through October while the "up-for-review" NMFS proposed rule published in the Federal Register on April 1, 2019, limits the 3-D seismic activities to April – June 2019 (in Table 1) or May-June 2019 (in the text). Please clarify when the activity will take place and whether there will be another, revised analysis of potential impacts from 3D seismic testing for later in the year. For fall 2019 surveys, will the activities be out of compliance with the BOEM's lease stipulations.
<b>City of Homer</b>	
<b>Kodiak Island Borough</b>	
<b>Kenai Peninsula Borough</b>	
<b>Municipality of Anchorage</b>	

2. The scope of the proposed activities is quite large – spatially, temporally, and by proposed activities. Hilcorp is requesting five-year rule and authorization to take multiple species of marine mammals that would occur by Level A and Level B harassment incidental to a variety of sources including: 30 days of 2D seismic survey; 45-60 days of 3D seismic survey; geohazard surveys in the OCS (30 days), middle Cook Inlet subsea well area (14 days), and Trading Bay (30 days); exploratory wells in the OCS (40-60 days per well, 2-4 wells annually for three years) and Trading Bay (120-150 days); Iniskin Peninsula exploration and development – including creation of an almost quarter-mile long causeway (180 days annually for two years); platform and pipeline maintenance (180 days annually for five years); middle Cook Inlet well abandonment (90 days); and Drift River terminal decommissioning (120 days). NMFS has confirmed in the Federal Register that the rule and Letters of Authorization (LOAs) will be valid for five years from date of issuance and would authorize the takes of marine mammals, by Level A and Level B harassment, incidental to the proposed oil and gas activities. Much of the work is difficult to evaluate in the context of other activities given the long date-ranges proposed and the “to-be-determined” locations and dates of activities (*e.g.* exploration drilling). In addition, the “*Marine Mammal Mitigation and Monitoring Plan*” provided through the Federal Register as a supporting document encompasses dates only through March 2020. It is unreasonable to expect that an LOA of this scope can be effectively evaluated in the absence of clear data.
3. There is a striking lack of information provided on certain activities described in the provided documents (*e.g.* proposed rule, LOA, Monitoring and Mitigation plan associated with LOAs). For example, the creation of an almost quarter mile long causeway inside of Chinitna Bay is discussed in just over one paragraph. There is no discussion on potential impacts to deposition or erosion of intertidal habitat that hosts prey species that can make-up a significant portion of a beluga whale’s winter or early spring diet (*e.g.* crangonid shrimp, polychaetes)<sup>1</sup>. The pile-driving activities are proposed to take place in fall or early winter, which overlaps the timeframe when beluga have been documented to use Chinitna Bay<sup>2</sup> (Hobbs et al. 2005).
4. Conclusions regarding take are based on limited data. The Federal Register notice acknowledges many limits on data from marine mammal surveys and attempts to account for these limitations. It also acknowledges issues such as citing previous research that documented an increase of dead zooplankton near

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<sup>1</sup> Quakenbush, L//. T., R. S. Suydam, A. L. Bryan, L. F. Lowry, K. J. Frost, and B. A. Mahoney. 2015. Diet of beluga whales (*Delphinapterus leucas*) in Alaska from stomach contents, March–November. *Marine Fisheries Review* 77(1):70-84.

<sup>2</sup> Hobbs, R.C., K.L. Laidre, D.J. Vos, B.A. Mahoney, and M. Eagleton. 2005. Movements and area use of belugas, *Delphinapterus leucas*, in a subarctic Alaskan estuary. *Arctic* 58(4):331-340.

seismic airgun activity out to the 1.2 km studied<sup>3</sup>. This is important for both protected species that consume plankton (all larval krill were dead within the affected area) and the fish species that are prey for others. Though there are uncertainties regarding the methods used for the zooplankton study, a discussion indicating the potential extent of this impact should be included – especially in the context of baleen whale species listed under the MMPA. It is also not clear how this may apply to larval fish and out-migrating fingerling fish, resident fish that are important prey of beluga whales (*e.g.* starry flounders), eulachon staging in the spring downstream of lower Inlet rivers, or benthic invertebrates (potentially important late fall, winter, and early spring beluga prey) in the proposed nearshore 2-D seismic survey area.

5. CIRCAC supports the proposed mitigation and monitoring activities, including:
- Monitoring of the ensonified areas through shore-, vessels-, and aerial-based observations for detecting the presence of marine mammals before activities commence and for clearing Exclusion Zones;
  - Power down and speed/course alteration procedures under certain circumstances to minimize injury of marine mammals;
  - Ramp-up procedures to allow marine mammals to leave the area prior to beginning the survey or other activities at full power; and
  - Ceasing noise producing activities within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between April 15 and October 15.

However, passive acoustic monitoring (PAM) should be required in addition to the visual monitoring program, which is not effective during periods of poor visibility or at night. As NMFS has acknowledged in other seismic LOA proposed rules, acoustical monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. With 3D seismic surveys taking place in late summer or early fall, the “twilight to dusk” window is roughly 12 hours, ensuring that the mitigations and monitoring proposed in the petition can be implemented only 50% of the time. The petition describes prior Cook Inlet PAM efforts to detect beluga whales as having “low detection” and that “based on the low number of detections and the resulting cost of the PAM operators, equipment, and vessels, the use of a real-time PAM system as a mitigation tool is not included in this Petition.” The studies referenced were all conducted in upper Cook Inlet and/or nearshore areas, and their difficulties deploying equipment and detecting whales were related to ambient noise and extreme currents. Below the Cook Inlet Forelands,

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<sup>3</sup> Robert D. McCauley, Ryan D. Day, Kerrie M. Swadling, Quinn P. Fitzgibbon, Reg A. Watson, Jayson M. Semmens. 2017. Widely used marine seismic survey air gun operations negatively impact zooplankton. *Nature Ecology & Evolution*, 1 (7): 0195.

ambient noise due to production platforms and suspended sediments would be significantly less. Also, offshore deployments would not have the same noise interference from waves breaking on the shoreline (though storm waves would likely be greater). When comparing tidal range, tidal currents, net circulation, and other oceanographic factors, Lower Cook Inlet's physical environment is more similar to Shelikof Strait than it is to areas north of the Forelands. Thus, it seems realistic to have expectations that PAM for MMPA species are implemented during lower Cook Inlet seismic surveys in a similar manner to what is expected in the Shelikof Strait region, where a robust PAM program is planned for a high energy marine seismic research survey in 2019<sup>4</sup>.

6. Aside from acoustics-related impacts, there is no monitoring associated with potential impacts to resident invertebrate and fish that can be important seasonally as prey for beluga whales. These should include possible localized impacts from discharge of drill muds and cuttings to benthic habitat during exploration drilling, as well as construction activities in Chinitna Bay. Contaminant monitoring is important for all activities to detect and mitigate impacts to protected species. CIRCAC recommends sampling to determine potential impacts to benthic habitat and community assemblages and contaminant loads in sediments due to causeway construction activities, as well as from vessel and non-vessel activities in Chinitna Bay.

Thank you for your consideration of these comments. CIRCAC looks forward to providing additional comments as opportunities arise. If you have any questions, please do not hesitate to contact me at (907) 283-7222.

Sincerely,



FOR

Michael Munger  
Executive Director

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<sup>4</sup>FR Doc. 2019-06886 Filed 4-8-19; Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey in the Gulf of Alaska