Vitron Manufacturing, Inc., Phoenix, AZ
Vitullo & Associates, Inc., Warren, MI
Vobeda Machine & Tool Company, Racine, WI
Vulcan Tool Corporation, Dayton, OH
W + D Machinery Company, Inc., Overland Park, KS
W & H Stampings & Fineblanking, Inc., Hauppauge, NY
W D & J Machine & Engineering Inc., Fullerton, CA
W E C Technologies Corporation, Amityville, NY
W G Strohwig Tool & Die, Inc., Richfield, WI
W W G, Inc., Indianapolis, IN
W. C. Kirby & Son, Inc., Noblesville, IN
W.A.C. Consulting/Coss Systems Inc., Northboro, MA
WADKO Precision, Inc., Houston, TX
Wagner Engraving Co., Kirkwood, MO
Wagner Engineering, Inc., Gilbert, AZ
Waiteco Machine, Acton, MA
Wajo Tool and Die, Inc., East Hampstead, NH
Walker Tool & Machine Company, Perrysburg, OH
Walker Corporation, Ontario, CA
Wallner Tooling/Expac, Inc., Rancho Cucamonga, CA
Waltco Engineering, Inc., Gardena, CA
Walter Waukesha, Inc., Waukesha, WI
Walter Tool & Mfg. Inc., Elgin, IL
Walz & Krenzer, Inc., Oxford, CT
Warmelin Precision Products, Hawthorne, CA
Waukesha Tool & Stamping Inc., Sussex, WI
Wayne Manufacturing, Inc., Boulder, CO
Webco Machine Products, Inc., Valley View, OH
Weco Metal Products, Ontario, NY
Wejco Instruments Inc., Houston, TX
Wemco Precision Tool, Inc., Meadville, PA
Wentworth Company, Glastonbury, CT
Werkema Machine Company, Inc., Grand Rapids, MI
Wes Products, Madison Heights, MI
West Valley Precision Inc., San Jose, CA
West Valley Milling, Inc., Chatsworth, CA
West Tool & Manufacturing, Inc., Cleveland, OH
West Pharmaceutical Services, Erie, PA
Western Tap Manufacturing Co., Inc., Buena Park, CA
Western Air Products, Tucson, AZ
Western Mass. MechTech, Inc., Ware, MA
Westfield Tool & Die, Inc., Westfield, MA
Westfield Manufacturing Corp., Westfield, IN
Westlake Tool & Die Mfg., Avon, OH
Westool Corporation, Temperance, MI
Westtool Inc., Phoenix, AZ
WGI Inc., Southwick, MA
Whatever Manufacturing, Santa Ana, CA
White Machine, Inc., North Royalton, OH
Whitehead Tool & Design, Inc., Guys Mills, PA
Wiegel Tool Works, Inc., Wood Dale, IL
Wiesen EDM, Inc., Belding, MI
Wightman Engineering Services, Inc., Santa Clara, CA
Wilco Die Tool Machine Company, Maryland Heights, MO
Wilkinson Mfg., Inc., Santa Clara, CA
Willer Tool Corporation, Jackson, WI
William Sopko & Sons Co., Inc., Cleveland, OH
Williams Machine, Inc., Lake Elsinore, CA
Williams Engineering & Manufacturing, Inc., Chatsworth, CA
Williams Tooling Inc., Dorr, MI
Windsor Tool & Die, Inc., Cleveland, OH
Wintech Industries Inc., Tempe, AZ
Winter's Grinding Service, Menomonee Falls, WI
Wire Tech E D M, Inc., Los Alamitos, CA
Wire Cut Company, Inc., Buena Park, CA
Wirecut Technologies Inc., Indianapolis, IN
WireCut E D M, Inc., Dallas, TX
Wiretec, Inc., Delmont, PA
Wisconsin Engraving Company/, Unitex, New Berlin, WI
Wisconsin Mold Builders, LLC, Waukesha, WI
Wise Machine Co., Inc., Butler, PA
Wolverine Tool Company, St. Clair Shores, MI
Wolverine Bronze Company, Roseville, MI
Wolverine Tool & Engineering, Belmont, MI
Woodruff Corporation, Torrance, CA
Wright-K Technology, Inc., Saginaw, MI
Wright Brothers Welding & Sheet Metal, Inc., Hollister, CA
Wright Industries, Inc., Gilbert, AZ
WSI Industries, Inc., Wayzata, MN
X–L Machine Company, Inc., Three Rivers, MI
XLI Corporation, Rochester, NY
Yarde Metals, Inc., Bristol, CT
Yates Tool, Inc., Medina, OH
Yoder Die Casting Corporation, Dayton, OH
Youngberg Industries, Inc., Belvidere, IL
Youngers and Sons Manufacturing, Company, Inc., Viola, KS
Youngstown Plastic Tooling & Machinery, Inc., Youngstown, OH
Z & Z Machine Products Inc., Racine, WI
Z M D Mold & Die Inc., Mentor, OH
Zip Tool & Die Co., Inc., Cleveland, OH
Zip Products Inc., Rochester, NY
Zircon Precision Products, Inc., Tempe, AZ
Zuelzke Tool & Engineering, Milwaukee, WI

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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 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 a letter of authorization (LOA) to take a small number of marine mammals incidental to the production of offshore oil and gas at the Northstar development in the Beaufort Sea off Alaska has been issued to BP Exploration (Alaska), Anchorage, AK (BPXA).

DATES: This LOA is effective from December 14, 2001, until November 30, 2002.

ADDRESSES: A copy of BPXA's application, the LOA and a list of references used in this document may be obtained by writing to the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, 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, and 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) 713-2055, 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.

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 previous LOA for the taking of marine mammals incidental to the construction of the Northstar facility expired on November 11, 2001.

Description of Activity

BPXA proposes to produce oil from the Northstar Unit offshore oil development facility. This facility is 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 ice 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, 2001b).

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 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 operations activity includes the annual construction of three ice roads. One is to be 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.

Comments and Responses

On August 17, 2001 (66 FR 43216), NMFS published a notice of receipt and a 30-day public comment period was provided on the application and proposed authorization. During the public comment period, comments were received from the Marine Mammal Commission (MMC), the North Slope Borough (NSB), the Alaska Eskimo Whaling Commission (AEWC) and BPXA.

MMPA Concerns

Comment 1: BPXA questions whether sounds generated from ice road construction and production activities at Northstar will incidentally take ringed seals by harassment during the first several months of the ice-covered period. BPXA states that the Court of Appeals for the 9th Judicial Circuit has defined ''harass'' as used in the MMPA to mean . . . ''direct and serious disruptions of normal marine mammal behavior . . ..'' (*US* v. *Hayashi*, 22 F.3d 859, 865, 9th Cir. 1994). BPXA anticipates that sounds from Northstar ice road construction and production activities will not cause direct and serious disruptions of normal seal behavior during this period.

Response: The MMPA was amended in 1994, after *Hayashi* was decided, to include a definition of harassment, which did not exist in the statute at the

time of the alleged violation in that case. The court had to determine what harassment meant in the context of how ''take'' was defined in the statute and the regulations at that time. Harassment as defined in the MMPA, as amended, includes any act of annoyance that has the potential to injure a marine mammal or cause disruption of behavioral patterns. Therefore, NMFS believes that harassment is broader than the *Hayashi* court's definition. Also, while NMFS concurs that, prior to March 1, Northstar ice-road construction will not cause a serious disruption of normal seal behavior during this time, both BPXA (through its application) and NMFS concur that ice road construction-related activities may cause limited and localized displacement of ringed seals during this time period.

Comment 2: The AEWC believes that NMFS is required to issue an authorization under section 101(a)(5)(A) of the MMPA for takings by oil spills. The AEWC believes that the narrow reading provided by NMFS in the proposed LOA authorization (66 FR 43216, August 17, 2001) equates an authorization of take by an oil spill with an authorization to spill oil.

Response: NMFS believes that the MMPA does not authorize the issuance of incidental take authorizations when the taking results from an unlawful activity. In that regard, the Clean Water Act (CWA) at 33 USC 1321(b)(3) prohibits discharge of harmful quantities into the water. 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 the CWA). This is the same approach NMFS takes with respect to incidental take authorizations under the Endangered Species Act (ESA); the incidental take must result from an otherwise lawful activity (50 CFR 402.02).

Comment 3: The AEWC states that under section 101(a)(5)(A) of the MMPA, NMFS must set an upper biological limit that it will allow for all takings that might occur incidental to a specified activity. In other words, AEWC asserts that NMFS must authorize all the takes that may occur incidental to the specified activity so long as NMFS is able to make the necessary determinations for a small take LOA (negligible impact on species; no unmitigable adverse impact on subsistence), and then issue an LOA for that maximum amount. NMFS has not done this with respect to incidental taking that might be caused by oil spill or other discharge at Northstar. (This comment was made as part of the previous comment that the LOA must include authorization for takes that occur incidental to an oil spill.)

Response: Although the LOA does not authorize takes that occur incidental to an oil spill (see response to Comment 2), the impacts of an oil spill nevertheless were considered in the analysis for the impacts of BPXA's activities on the affected species or stocks. When evaluating the impacts of an activity on marine mammals, NMFS takes into account the probability of occurrence of potential impacts and the potential severity of harm to the species or stock. If the potential impacts are significant but the probability of occurrence is low, a negligible impact determination may be appropriate. The same is true if the potential effects of a specified activity are conjectural or speculative. For a further explanation of this approach, see the Final Rule implementing the regulations governing small takes of marine mammals incidental to specified activities, 50 FR 40338, 40343 (September 29, 1989). These determinations are based on the best scientific information available as later supported or negated through required monitoring program (NMFS, 1995).

For the BPXA LOA, NMFS considered both the likelihood and the potential impacts of an oil spill and made these determinations in the preamble to the Northstar final rule (66 FR 34014; May 25, 2000), NMFS determined that while a large oil spill would potentially have more than a negligible impact on bowhead whales and other marine mammals, the likelihood of such an oil spill and the likelihood of an impact are low for the five-year period of these authorizations. This allowed NMFS to make a determination that the incidental takings would have a negligible impact on marine mammals. Because the likelihood of an oil spill and the resulting impacts on marine mammals were low, NMFS deemed that any calculation of take would be speculative.

However, NMFS recognizes that in the unlikely event that a major oil spill does occur, the impact has some potential to be more than negligible. As a result, NMFS has determined that, in the event a major oil spill occurs, NMFS will need to reassess immediately its determination in this document that the taking of marine mammals by oil and gas development activities in the Beaufort Sea is having no more than a negligible impact on marine mammals and not having an unmitigable adverse impact on subsistence uses of marine mammals. If, because the takings due to the oil spill are projected to exceed the levels used in this document to make the necessary findings, NMFS will immediately suspend the LOA issued for the oil development project causing the impact. Because the LOA suspension falls under the emergency determination for LOA suspension under these regulations, NMFS will not provide a 30-day public review period prior to suspension. However, NMFS believes the possibility of this situation occurring is remote.

Marine Mammal Concerns

Comment 4: The MMC believes that the population-level effects and the impacts on Native subsistence hunting may not be negligible in the long-term (i.e., over the expected 15-20 years of production and related activities).

Response: The issue of making a negligible impact determination was addressed in detail in the preamble to the final rule (see 66 FR 34014, May 25, 2000), especially NMFS' response to comments 20 through 23). Essentially, NMFS does not agree that it should make a negligible impact assessment over the 15-20 year lifetime of the Northstar Unit. Under the MMPA, NMFS must make a determination that the ''total of such taking during each 5-year (or less) period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence purposes . . ..'' This is what NMFS did, as detailed in the final rule. However, by reviewing its negligible impact determinations every 5 years, as mandated by Congress when it limited authorizations to no more than 5 years at a time, NMFS has the ability to reassess its determinations through new research, monitoring and reporting that is required under the current regulations.

In that regard, it is important to note that NMFS will not continue to review the findings made in the preamble to the final rule and in this document during future LOA renewals for the Northstar facility. For future LOA renewals, NMFS will follow the renewal instructions published at 50 CFR 216.209 and will not invite public comment on LOA renewals unless NMFS receives significant new information that calls into question the findings that have been made previously, or if BPXA fails to comply with the terms and conditions of its LOA.

Comment 5: The MMC notes that while the statement in ''Impacts of Noise on Marine Mammals in the Beaufort Sea'' is correct, some relevant data shows that when seal structures were reassessed in May 2000, 87 percent of the structures identified as active in

December (20 of 23) had been either abandoned or eliminated by construction activities (6 eliminated; 14 abandoned, 3 active). Three of the structures found in December were still active in May. (This compares with an abandonment rate of 4 percent in earlier studies--albeit over shorter periods of time.) However, during May an additional 18 structures, 15 of which were active, were found within the portion of the construction and monitoring area that was searched again. These data show that some individual ringed seals remained near the industrial area despite the intensive island and pipeline construction activities that occurred between December and May. It is not known whether the unexpectedly high number of structures found for the first time in May was related to local relocation of seals as a result of construction activities, or inadequate survey coverage in December, or a combination of the two.

Response: The information cited in the comment is contained in BPXA's reports for activities at Northstar during the winter and spring, 1999-2000 (Richardson and Williams, 2000; Williams *et al.* (2001). One additional possible causal relationship for the high number of structures identified by the authors is the natural creation of new structures as the 9-month ice-covered season progressed. A second year of the results of this research was provided to NMFS in September 2001, after NMFS had published the notice of proposed LOA authorization (August 17, 2001 (66 FR 43216)). A summary of relevant findings from this report is provided later in this document.

Comment 6: The AEWC questions NMFS' statement that interactions between oil and whales are unlikely in the spring due to the probable alongshore trajectory of oil spilled from Northstar. The AEWC states that no data are available to support this assertion. The AEWC references the Minerals Management Service (MMS, 2001) to support this statement noting the MMS states: ''...it is not possible to predict the location of a spill or its path, and therefore it is not possible to predict which ecological, social, or economic resources would be affected and to what extent.''

Response: During spring, bowhead whales migrate eastward in offshore leads and no bowheads are expected to occur within 75 km (46.6 mi) of Northstar. Under-ice currents are influenced by coastal storm surges and regional circulation patterns (Corp of Engineers (Corps), 1999). While water mass movement is influenced in open water by the Beaufort Sea Undercurrent, there is no indication that significant alongshore currents exist while under the ice (current measurements vary from 0.7 in/sec (1.8 cm/sec) to 3.6 in/sec (9 cm/sec)(Corps, 1999)). As a result, while NMFS has removed this statement from this document, it continues to adopt the information contained in the Corps' final Environmental Impact Statement (final EIS) (Corps, 1999), as the best scientific information available that the probability that an oil spill from Northstar would reach bowhead whales during the spring migration period is very low.

NMFS believes that the AEWC citation of the MMS' draft proposed 5-year Outer Continental Shelf (OCS) leasing plan for 2002-2007 to support its argument is not the appropriate document for this action as it is a projection for future lease sales in all U.S. OCS areas, not just the Beaufort Sea. Since the Northstar activity is covered by an final EIS prepared by the Corps for oil and gas production at Northstar, and since oil spill trajectories have been projected for that location, NMFS believes that the Corps document is the appropriate supporting documentation for this action.

Comment 7: The AEWC further states that historically, the spring leads in the area of Northstar have tended to be relatively far offshore, and the State of Alaska has imposed seasonal drilling restrictions on BPXA's Northstar operations to help address the risk of oil entering the water during spring break-up or other broken ice periods. However, satellite images from the past two winters show the formation of large ice leads, perpendicular to the shore, in the vicinity of Northstar.

Response: Thank you for this information. However, with drilling restrictions proposed by BPXA (later adopted by the State of Alaska) that drilling into oil producing areas will not take place during springtime ice break-up (and the open water period), this new information does not affect NMFS' determination that Northstar oil and gas production would not have more than a negligible impact on bowhead whales and other marine mammals, and would not have an unmitigable adverse impact on subsistence uses of marine mammals.

Comment 8: The AEWC also questions NMFS' statement that ≥bowhead feeding is uncommon along the coast near Northstar.≥ In making this statement, NMFS fails to note repeated statements by elders and subsistence whaling captains that they consider the spring and fall migratory paths of the bowhead whale (including the waters shoreward of those paths) to be important feeding habitat. This information has been provided to NMFS in the AEWC's comments on the petition to designate critical habitat for the western stock of bowhead whales and on NMFS' draft Arctic Regional Biological Opinion.

Response: It is recognized both scientifically and by Traditional Knowledge that bowhead whales feed during spring and fall migration in the Beaufort Sea. However, according to Richardson (pers. comm. October 19, 2001) bowhead whale feeding during migration appears to be opportunistic and probably can occur wherever and whenever bowheads encounter a sufficient concentration of prey in the Alaskan Beaufort Sea. Current information, according to Richardson, indicates that bowheads sometimes feed as they travel even if the prey biomass is only moderate, but linger in one area specifically to feed only if prey biomass is high at some depth in the water column. However, bowhead aerial surveys hint that the Northstar area is not a hotspot for feeding. Feeding very likely occurs there to some extent, but less so than in some other places like the waters near and east of Kaktovik, or the area east of Barrow, AK. In those areas (unlike the Northstar area) groups of bowheads are sometimes observed feeding intensively and for extended periods (several days). Aerial survey results give the impression that bowheads probably feed more in the area between Flaxman and Cross Island than they do from Cross Island westward past Northstar to Harrison Bay. However, there have been no specific studies of feeding between Cross and Flaxman islands and areas west of Camden Bay are outside BPXA's feeding study area. It should be noted for future reference that, aside from mentioning the Cross Island stomach contents in passing, and the Barrow stomach contents in detail, BPXA's feeding study report will not deal with the Northstar area or other locations west of Camden Bay (Richardson, J. pers. comm. October 19, 2001).

Mitigation Concerns

Comment 9: The MMC recommends that, if it has not already done so, NMFS should review and, if necessary recommend modifications to, the updated Oil Discharge Prevention and Contingency Plan (ODPCP) to assure that the risk of oil spills has been estimated appropriately, that the planned measures for containing and cleaning up oil spills in both the open ocean and ice-covered areas are likely to be effective, and that everything feasible will be done to minimize the impacts of

both oil and contaminant/clean-up operations on marine mammals.

Response: As noted in the preamble to the final rule (66 FR 34014; May 25, 2000), NMFS believes that it has neither the expertise to determine the adequacy of the ODPCP, nor the authority to require the ODPCP be modified by BPXA or to place these requirements on Federal or state agencies with such authority. The ODPCP has been approved by the U.S. Department of Transportation, the U.S. Coast Guard, the MMS, and the State of Alaska Department of Environmental Conservation. For its determinations of negligible impact, NMFS relied on the information, including estimates of risk from oil spills, contained in the final EIS.

Comment 10: The MMC also recommends that NMFS provide for periodic site inspections, as part of the long-term monitoring program, to ensure that the contingency plan can be implemented as and when necessary.

Response: NMFS considers the ODPCP as part of the Northstar mitigation program, not a part of BPXA's marine mammal monitoring program. NMFS does not have the expertise to judge whether or not a contingency plan can be implemented and therefore leaves that responsibility for other federal and state agency judgements. Oil spill drills are scheduled periodically and NMFS will use the other agencies' findings, as needed, to make or confirm the necessary determinations under the MMPA. However, during previous oil-spill containment exercises, it became widely recognized that oil spill cleanup activities have not been totally successful during periods of broken ice. As a result, BPXA has confirmed to NMFS that it will not drill into oil production layers during either broken ice or open water season when oil spill impacts would be more difficult to mitigate (through containment and clean-up) and would restrict drilling to the wintertime. This is discussed in detail later in this document.

Comment 11: The MMC notes that in ''Proposed Mitigation,'' it is unclear what is intended. There is no problem with conducting the baseline survey after 20 March in areas which are undisturbed prior to that time. However, the baseline survey date cannot be subsequent to the first date of any disturbance.

Response: NMFS agrees, recognizing that surveys using trained dogs to locate ringed seal lairs late in the season are considered by NMFS as a mitigation measure to prevent, to the greatest extent practicable, the death of newborn pups during that critical period of life. Accordingly, the March 20 date has been changed to March 1 because a ringed seal birth was discovered in early March, 2001 near Northstar. Discussion on this survey as a monitoring program is discussed later in this document.

Monitoring and Reporting Concerns

Comment 12: The MMC believes that the ongoing and proposed research and monitoring programs may not be sufficient to detect non-negligible effects. The MMC remains concerned that long-term effects may still occur and that some type of reliable monitoring program should be implemented.

Response: Without a more detailed explanation on the MMC's concern that the monitoring program is insufficient, NMFS cannot respond in any detail to the comment. BPXA has submitted several reports on the results to date on monitoring and has proposed a monitoring program that was available for review during this comment period. These monitoring plans have been peer-reviewed in at least two workshops (see Monitoring later in this document for detail) in the past. Also, NMFS has participated in meetings and workshops with industry, other government agencies and Native groups to address both short-term and cumulative impact monitoring.

It should be recognized that research and monitoring of Beaufort Sea marine mammals are also conducted by government agencies, or through government agency funding, that have not been addressed in recent documents. This includes, for example, MMS' aerial bowhead whale surveys, an annual population assessment survey for bowhead whales, a study on contaminant levels in bowhead whale tissue, and a bowhead whale health assessment study. These latter three studies are funded by, or through, NMFS. Information on these projects has been provided to the MMC by NMFS. Based on this multi-faceted monitoring program, NMFS has determined that the monitoring program is adequate to identify impacts on marine mammals, both singly from the project and cumulatively throughout the industry.

Comment 13: The MMC recommends that visual monitoring during the open-water season be resumed in future years if noisy activities, such as impact pipe driving, were to take place.

Response: Even though ''construction'' activities are not planned by BPXA in the near future, NMFS has added to the LOA a requirement that visual monitoring be conducted whenever activities are planned to take place that potentially would result in a sound pressure level (SPL) greater than 180 dB beyond the island perimeter.

Comment 14: The MMC believes that the use of trained dogs to locate seal structures beginning in early January is appropriate. The BPXA application states that on-ice activities will avoid located structures ''when practical.'' The MMC believes that an explanation of when such avoidance would not be practical should be provided.

Response: The primary ice roads used during Northstar oil production must be almost straight-line in order to effectively transport crews and material to Northstar Island. As a result, there is little mitigation that has been identified that would be practical and effective during the construction of these primary roads in the early part of the winter season. One of the reasons for building the ice roads early in the season is that it mitigates to the greatest extent practical interference with seals' constructing birthing lairs. However, secondary ice roads constructed later in the season are not believed to be confined to a set track and, because of the potential impact on ringed seal pups, can and should be constructed to avoid seal structures. As a result, NMFS has imposed mitigation measures in the LOA that require (1) Using trained dogs to locate seal structures on or in the vicinity of ice roads, (2) avoiding seal structures by a minimum of 150 m (492 ft) during construction of any roads other than the two primary roads, and (3) avoiding, to the greatest extent practicable, disturbance of any located seal structure after March 1.

Section 101(a)(5)(A)(ii)(I) of the MMPA provides for regulations setting for the permissible methods of taking and other means effecting the least practicable adverse impact on the affected species or stock and its habitat. As ringed seals construct several breathing holes and lairs within their territory, they do not rely on a single structure during the year. Ice roads constructed early in the year will have the potential to result in some minor harassment as ringed seals abandon certain breathing holes, if the noise is disturbing to them. NMFS believes this is preferable to avoiding all harassment of ringed seals during early-season ice road construction (how that would be accomplished has not been identified), allowing seal structures to become birthing lairs, having the newborn pup (who may be more sensitive to noise than an adult) abandon a birthing lair prior to weaning, and then succumb to the effects of the disturbance. However,

NMFS intends to have the results of recent on-ice monitoring reviewed at the next on-ice peer review workshop (tentatively scheduled for September 2002 in Seattle) to determine whether it is necessary to resume a winter-time ringed seal monitoring program for the Northstar project.

Comment 15: The MMC notes that in Monitoring During the Ice-covered Season, it is stated that ''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.'' It seems like such information is exactly the kind required for monitoring, and that the recheck in May should be mandatory, rather than ''if needed.''

Response: NMFS agrees that rechecking seal structures in the vicinity of Northstar in May is appropriate if road construction, or other significant disturbance, has taken place after March 1. The LOA has been amended to reflect this condition.

Comment 16: BPXA requested clarification on the date for delivery of the final report to NMFS. The current regulation, under which the LOA is authorized, states that the draft comprehensive report is due to NMFS on May 1 of each year. However, language in the (current) LOA states that the final draft report is due April 1 of each year. BPXA requests that the renewed LOA be consistent with the regulation and the final draft report will be due to NMFS on May 1 of each year.

Response: NMFS agrees. Under the LOA, a draft annual comprehensive report is due on May 1 of each year, as required by the regulations. This report will need to contain information from the just-completed on-ice monitoring season, and the previous year's open water monitoring period. For background information on this issue, NMFS recommends readers refer to NMFS' response to comment 44 in the preamble to the Northstar final rule (see 65 FR 34014, May 25, 2000).

Subsistence Concerns

Comment 17: The AEWC states that NMFS is compelled to provide mitigation measures for potential adverse impacts to Alaskan Eskimo subsistence hunting as part of the LOA requested by BPXA.

Response: NMFS agrees, noting that mitigation measures are described in the proposed LOA notice published in the **Federal Register** on August 17, 2001 (66 FR 43216) and in this document. This includes mitigation for both noise and potential oil spills, for reasons explained in both documents.

Comment 18: The NSB has concerns that NMFS' proposed mitigation measures for oil spills are not triggered unless the spill reaches or exceeds 1,000 barrels. This, the NSB states, is an artificial limit and there is simply no basis, logical or scientific, for this being the standard. The appropriate standard should be focused on whether or not the spill causes a reduction in the subsistence use of marine mammals. The NSB recommends NMFS adopt the definition found in the draft Good Neighbor Policy (GNP) condition B.1.

Response: The GNP is an agreement between BPXA and the NSB that outlines mitigation measures that would take place in the event that an oil spill occurred at the Northstar facility or its pipeline. On September 19, 2001, the AEWC and the Mayor, NSB, informed BPXA representatives that, if the outstanding GNP issues could be resolved to the satisfaction of the AEWC, the NSB and the Inupiat Community of the Arctic Slope would not object to the renewal of BPXA's LOA on the basis of the oil spill mitigation. This private agreement, of which NMFS is not a party, became effective on October 22, 2001.

NMFS agrees that the definition proposed in the GNP is more appropriate for determining impacts on subsistence hunting than the standard industry definition that was provided by BPXA in its application. Accordingly, this definition has been added to the LOA for Northstar and is provided later in this document.

Comment 19: The AEWC questions NMFS' statement in the proposed notice (66 FR 43216, August 17, 2001) that almost all bowhead whales travel north of Northstar during the fall migration. This assertion ignores the fact that subsistence hunters have taken bowheads in the vicinity of Northstar.

Response: The comment has been taken out of context. NMFS notes a few sentences later that ''[I]n 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.'' In fact, in most years (1979-1995), less than 2 percent of the westward migrating population are within 15 km (9.3 mi) of Northstar (BPXA, 2001). This discussion, which is concerned about impacts of noise on marine mammals, does not ignore the fact that subsistence hunters have taken bowheads in the vicinity of Northstar. This discussion is found later in the referenced proposed LOA document (and in this document) under impacts on subsistence uses.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Beaufort Sea ecosystem and its associated marine mammals can be found in several documents (Corps, 1999; MMS, 1990, 1992, 1996, 2001; NMFS, 1997).

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), Corps (1999), MMS (2001) and the BPXA application (BPXA, 1999 and 2001). The latter two documents are available upon request (see **ADDRESSES**); Ferraro *et al.* (2000) is available at the following URL: http://www.nmfs.noaa.gov/prot—res/PR2/Stock—Assessment—Program/sars.html. Please refer to these documents for specific information on 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. LOAs for the taking of these species under the MMPA has been issued by the the U.S. Fish and Wildlife Service (see 66 FR 10314, February 14, 2001).

Potential Effects on Marine Mammals

Issuance of an LOA for taking marine mammals incidental to production at Northstar has been based on findings that the determinations made in the preamble to the final rule (66 FR 34014; May 25, 2000)(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, 2001a, 2001b).

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 fixed-wing aircraft monitoring of hauled out ringed seals during intensive construction activities in early 2000 showed no significant change in seal density in the areas closest to Northstar (Moulton *et al.*, 2001a). In 2001, seal densities in areas close to and including the Northstar development were higher than in adjacent areas farther away. These results indicate that few, if any, seals were displaced far enough to be detectable by aerial surveys, and that any displacement that did occur was quite localized (Moulton *et al.*, 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 remains in the vicinity of the ice road. During the 2000/2001 season, trained dogs were used during three surveys to locate and assess the fate of seal structures in the vicinity of Northstar. During the third survey in May 2001, a total of 82 new ringed seal structures were found in the Northstar study area. Forty-five of the structures were breathing holes, 36 were lairs, and one was unidentified. All 45 breathing holes and 34 of the 36 lairs were in active use. The status of all previously located sea structures was also determined during the May 2001 survey. Of the 35 structures located in the November/December 2000 survey, 71 percent (20 breathing holes and 5 lairs) had been abandoned by May 2001. Of the 63 structures located in March 2001, 44 percent (20 breathing holes and 8 lairs) had been abandoned by May 2001. Additionally, 8 of the 81 (10 percent) identified structures first located in May were abandoned by 22 May, 2001 (2 breathing holes and 6 lairs). Preliminary results suggest a high abandonment rate for structures out to 3 km (1.9 mi) from Northstar and the associated on-ice activities. Alternatively, the continued presence of ringed seals near Northstar throughout the winter, and the creation of new structures near Northstar activities during the winter, suggest that potential negative effects to seals may be minor and highly localized (Williams *et al.* (2001b).

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 oil 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 Spills on Marine Mammals in the Beaufort Sea

For reasons stated in the application (BPXA, 1999, 2001), BPXA believes that the effects of any oil spills 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, at a distance of more than 75 km (46.6 mi) from Northstar. As a result, 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 would be 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 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 absent from the area, this should 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 km^2 (18.0 mi^2). 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 km^2) (0.62 mi/1.2 mi^2) 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 oil production 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 μPa. 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. As a result, BPXA requested that takings by mortality also be covered by the LOA. In addition, some injury or mortality of whales or seals may result in the event that an oil spill occurs. 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 all 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 negligible impact finding, the LOA does not authorize any marine mammal takes that occur incidental to an oil spill. The reason for this is that authorizations are issued only for takes that are incidental to otherwise lawful activities, and an oil spill is not a lawful activity, as indicated by the CWA. The 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 taking authorizations for oil spills, it must continue to ensure that potential takings are reduced to the lowest level possible. Therefore, the LOA requires certain mitigation measures to ensure that oil spills do not occur (see Mitigation later in this document).

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, overall effects to the species 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 addition to information provided by AEWC and the NSB in their comments on the final rule, and information provided in the Corps' final 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 is 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 a reduction in the availability of bowhead whales for subsistence uses would be possible only if a significant spill occurred just prior to or during the subsistence bowhead hunt and spread into offshore waters. 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 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 considering operating conditions in Arctic waters, and (5) other mitigation measures have been suggested by the applicant and others (and adopted by NMFS) in the event that oil did contact bowheads, NMFS determined in the preamble to the final rule for implementation of small takings of marine mammals incidental to oil production activities at Northstar (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 is a potential for significant impacts on the subsistence hunting of bowheads. These meetings resulted in identifying several mitigation measures designed to reduce the impact.

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.

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 was submitted by BPXA on August 8, 2001, to the State of Alaska Department of Environmental Conservation. Also, emergency response exercises, training and evaluation drills will occur at regular scheduled intervals.

To mitigate the potential for an oil spill to interact with bowhead whales and affect 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 beginning on 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, this mitigation will include planning and financial assistance that will cover the following oil-spill related costs: (1) 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 (IWC) 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). An oil spill in this context means any significant discharge (as discharge is defined in 33 USC 2701(7)) of liquid hydrocarbons (including crude oil and diesel fuel) into the waters of the Beaufort Sea, irrespective of cause, including Acts of God, that: (1) causes oil to be present in the water and the impacts defined in (2) to be determinable within three years of the oil spill; and (2)(a) has the significant potential to adversely affect bowhead whales or other species harvested for subsistence use; and (2)(b) is followed by a reduction in the availability of these species for subsistence use in the area(s) in which they are normally hunted.

During the ice-covered season, BPXA proposes to use trained dogs to locate seal structures in previously undisturbed areas beginning on March 1, which, although before the traditional March 20 birthing date for ringed seals, is more appropriate based on the findings in a report by Williams *et al.* (2001). With completion of this report, as required by the 2000/2001 LOA, and the concern raised in that report of the potential negative impact of this monitoring program, NMFS has determined that conducting seal structure surveys beginning January 1 will not be required this year pending a review by a peer-review group next year. If that group determines that additional monitoring is needed, NMFS will make the necessary modification to the BPXA LOA. 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 will allow barges to tie up at Northstar instead of using diesel engines to remain in place, thereby reducing underwater noise levels at Northstar.

Monitoring

A detailed description of BPXA's proposed monitoring program for implementation during the production phase at Northstar can be found in BPXA's 2001 application for an LOA incidental to oil production (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, and will be reviewed again in late spring 2002. 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 recently expired LOA, BPXA conducted 6 monitoring tasks. These were to conduct: (1) Fixed-wing, systematic, aerial surveys of seals hauled out on the ice in the 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.

During 2002, BPXA will conduct the following monitoring activities:

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 1, 2002, on-ice searches using trained dogs will be employed to locate seal structures. If ice road construction took place after March 1, 2002, a resurvey of the area surveyed previously 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 are planned for 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 μPa) 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. However, based on a recommendation from the MMC, NMFS has a requirement in the 2002 LOA that, if activities are conducted that have the potential to result in SPLs greater than 190 dB in the waters offshore of Seal Island, then an observer monitoring program will need to be instituted prior to beginning that activity to ensure that proper mitigation and monitoring requirements are carried out.

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 has affected the distribution and/or the calling behavior of the whales.

Reporting

Under the regulations, 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 recent Authorizations, this report was submitted to NMFS on September 15, 2000 (Richardson and Williams (eds.), 2000), and September 14, 2001 ((Richardson and Williams (eds.), 2001). 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 recently expired 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 recently expired LOA, a draft final technical report was required to be submitted to NMFS by April 1, 2001. 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 fully describe the methods and results of all monitoring tasks and a complete analysis of the data.

NMFS is requiring that the reporting requirements described in these paragraphs will be continued under the new LOA, except that, in conformance with the final rule on this action, the draft final technical report will be due on May 1, 2002. Endangered Species Act (ESA)

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 endangered Western Arctic bowhead whale stock. In addition, issuance of a small take authorization to BPXA under section 101(a)(5)(A) of the MMPA is a Federal action, NMFS has completed consultation with itself under section 7 of the ESA 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.

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, while there is no provision under the ESA that activities that might impact critical habitat cease while a review is underway, 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.

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), the EPA announced the availability for public review and comment, a final EIS prepared by the Corps 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 for 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 construction and oil production 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. Subsequently, this determination has been supported by monitoring conducted during Northstar construction, including ice road construction, and reported in Richardson and Williams (2001a and 2001b). As cetaceans will not be in the area during the ice-covered season, they will not be affected.

While production activities at Northstar have some potential to influence seal hunting activities by residents of Nuiqsut, NMFS believes that Northstar production-related activities will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses 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.

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, the number of potential harassment takings is estimated to be small. This is 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. In addition, no take by injury and/or death is anticipated, except possibly for a small take of ringed seals 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 has been, and continues to be the subject of consultations between BPXA and subsistence users. In that regard, on October 22, 2001, BPXA and the NSB adopted a Good Neighbor Policy that identifies measures that BPXA will implement in the event of an oil spill to mitigate impacts on subsistence harvests of marine mammals. In addition, NMFS expects BPXA and the NSB to finalize its annual Conflict Avoidance Agreement in 2002, prior to the commencement of the westward bowhead migration in the central and western Beaufort Sea.

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, NMFS has determined that the taking of marine mammals incidental to operation at the Northstar oil production facility will have no more than a negligible impact on these species. 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 (0.46 m) of continuous ice cover for one-half mile (805 m) in all directions), because there will be an oil spill response program in effect that will be as effective as possible considering operating conditions in Arctic waters, and because other mitigation measures have been identified in the event that oil does contact bowheads (see previous discussion), NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses of marine mammals.

Authorization

Accordingly, an LOA has been issued by NMFS to BPXA on this date (see DATES) authorizing the taking of bowhead, beluga, and gray whales and ringed, bearded and spotted seals, incidental to oil and gas production activities at the Northstar facility in the U.S. Beaufort Sea. Issuance of this LOA is based on findings, described in the preamble to the final rule, that the total takings by this activity 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 will

have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses. In addition, NMFS finds that, under its previous LOA, BPXA has met the requirements contained in the implementing regulations, including monitoring and reporting requirements.

This LOA remains valid until November 30, 2002, provided BPXA is in conformance with the conditions of the regulations and the LOA and the mitigation, monitoring, and reporting requirements described in this document and in the LOA are undertaken.

Dated: December 14, 2001.

David Cottingham,

Deputy Director Office of Protected Resources National Marine Fisheries Service.

[FR Doc. 01–31541 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Shrimp Advisory Panel (AP).

DATES: The AP will meet beginning at 8:30 a.m. on January 7, 2001 and will conclude by 3 p.m.

ADDRESSES: The meeting will be held at the New Orleans Airport Hilton, 901 Airline Highway, Kenner, LA; telephone: 504–469–5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, at the Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Shrimp AP will receive reports from NMFS on the status and health of shrimp stocks in the Gulf and the effects of the 2001 Cooperative Shrimp Closure with the state of Texas. The Shrimp AP may make recommendations for a cooperative closure with Texas for 2002. The Shrimp AP will also review an Options Paper for Amendment 13 to the Shrimp Fishery Management Plan (FMP) that includes alternatives to add rock shrimp to the Shrimp FMP and establishment of status criteria for shrimp stocks including maximum sustainable yields (MSY), optimum yields (OY), as well as criteria for determining if any of the shrimp stocks are undergoing overfishing or should be classified as overfished. The Options Paper may also contain alternatives for bycatch quotas.

Although other non-emergency issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 31, 2001.

Dated: December 18, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31542 Filed 12–20–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801B]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings of the Standing and Special Reef Fish Scientific and Statistical Committee (SSC) and the Reef Fish Advisory Panel (AP) from January 7 through January 11, 2002.

DATES: The Council's Reef Fish AP will convene at 9 a.m. (EST) on Monday, January 7, 2002 and conclude by 5 p.m. Wednesday, January 9, 2002. The Council will also convene a meeting of the Standing and Special Reef Fish SSC at 8:30 a.m. (EST) on Thursday, January 10, 2002 and conclude by 5 p.m. on Friday, January 11, 2002.

ADDRESSES: The meetings will be held at the Hilton Tampa Airport Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813-877-6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The AP and the SSC will review a report from the Council's Reef Fish Stock Assessment Panel (RFSAP) summarizing recent NMFS stock assessments, recommendations for allowable biological catch (ABC) and thresholds for status determination for gag, vermilion snapper, and gray triggerfish. They will also review a report from the Council's Socioeconomic Panel (SEP) summarizing the available economic and social information and implications of setting recommended ABC levels for those stocks. The SSC will comment on the scientific validity of these reports, and both the SSC and AP may make recommendations for setting total allowable catch (TAC) or other management measures for these stocks.

Although other non-emergency issues not on the agenda may come before the AP/SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP/SSC will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

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