



IN REPLY REFER TO:

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

1011 E. Tudor Road  
Anchorage, Alaska 99503-6199



AFES/MMM

FEB 09 2010

Mr. James Winegarner  
Vice President, Land & External Affairs  
Brooks Range Petroleum Corporation  
510 L Street, Suite 601  
Anchorage, Alaska 99501

Dear Mr. Winegarner:

This responds to the letter Brooks Range Petroleum Corporation (BRPC) submitted to the U.S. Fish and Wildlife Service (USFWS) dated December 23, 2009, requesting Letters of Authorization (LOA) for the incidental and intentional take of polar bears for the North Tarn Exploration Program.

The 2010 North Tarn Exploration Program would include the following major activities:

- Traveling on tundra via Rolligon or similar tundra-approved vehicle to pre-pack ice road alignment;
- Clearing snow and collecting water from approved sources of water and ice;
- Constructing approximately four miles of ice road from the existing KRU gravel roads to the North Tarn ice pad;
- Constructing the North Tarn ice drill pad;
- Drilling the North Tarn # 1 exploration well at the North Tarn Pad; and
- Possibly performing a short term production flow test(s).

Enclosed is an LOA (10-09) for the North Tarn 2010 Exploration Program that would allow BRPC to take small numbers of polar bears incidental to oil and gas industry exploration activities at the location identified in your LOA request. The proposed start date for this project is February 2010. If any changes develop in your project during the 2010 season, such as activities or location, please notify the Marine Mammals Management Office prior to the planned operation. This would allow us to evaluate the activity and, if appropriate, amend your LOA.

In addition, this letter includes a harassment authorization (INT10-11), where BRPC and its representatives are granted authorization to take polar bears by harassment (deterrence activities) for the protection of both human life and polar bears while conducting activities in polar bear habitat during the North Tarn 2010 Exploration Program. This authorization is issued specifically to BRPC employees who are responsible for ensuring that trained and qualified personnel are assigned the task of deterring polar bears. It is the responsibility of BRPC personnel to report all

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polar bear deterrence/harassment events to the USFWS Marine Mammals Management Office within 24 hours. This authorization is effective from the date of issuance to December 31, 2010. Intentional take is authorized under sections 101 (a)(4)(A), 109(h), and 112(c) of the Marine Mammal Protection Act (MMPA).

Protection measures for polar bears described in BRPC's Polar Bear Interaction Plan contain appropriate safeguards to limit human/animal interactions. The BRPC field camps and personnel can limit encounters of polar bears by being observant of approaching animals (i.e., the use of polar bear guards) and breaking off interactions, if practical, by allowing the animals to continue their travel. All terms of the BRPC Polar Bear Interaction Plan are incorporated by reference and full implementation is expected.

If a polar bear interaction escalates into a life threatening situation, Section 101(c) of the MMPA allows, without specific authorization, the take (including lethal take) of a polar bear if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the USFWS, Marine Mammal Management Office within 24 hours.

As stated in previous LOAs, historical polar bear denning activity indicates that polar bear denning habitat occurs along creek cutbanks and river bluffs. Approximately 1782 miles (2870 km) of potential polar bear denning habitat is located between the Colville River and the Canning River. Disturbance during denning could lead to abandonment of dens and possible mortality of cubs.

The USFWS seeks to limit disturbance to maternal polar bear den sites, both known dens and those areas that could possibly be preferred by denning polar bears. Use caution when operating near these areas during the maternal denning period (mid November to mid April). The U.S. Geological Survey has posted information regarding polar bear denning habitat on the Alaska Science Center (ASC) website, plus associated documents. The den habitat map (ARC/INFO export file), the mapping manuscript (PDF file) and a picture of den habitat (JPG file) are now available on the ASC website (<http://www.absc.usgs.gov/dataproducts.htm>). Please use these resources when planning activities in potential denning areas and contact us immediately if any dens are found during oil and gas activities. Furthermore, BRPC will provide copies of the polar bear observation form to all BRPC contractors operating under the LOAs. Report any polar bear sightings, or signs of polar bears, such as tracks, scat, or diggings, to USFWS by phone or using the polar bear observation form. Report any possible den locations that are found during work activities immediately to our office. Institute the one-mile buffer immediately upon discovery of a maternal den site, as required by Condition 5 of the LOA. USFWS biologists will be available for consultation if questions or concerns arise during the project period at the phone numbers listed below and noted in your interaction plan.

Furthermore, in accordance with section 7 of the Endangered Species Act of 1973, as amended (ESA), issuance of this LOA also fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described herein. In the "Programmatic Biological Opinion for Polar Bears (*Ursus maritimus*) on Beaufort Sea Incidental Take

Regulations” (June 2008; Tier 1 BO), the Service determined that the total take anticipated as a result of the issuance of the Regulations is not likely to result in jeopardy to the polar bear, in accordance with section 7 of the ESA. In order for the Tier 2 BO to be consistent with the “no jeopardy” conclusion of the Tier 1 BO and for an ESA incidental take statement (ITS) to be provided: (1) the proposed activity must provide the required information, as described in §18.124 of the Regulations; (2) the LOA must include any mitigation measures that the MMM believes appropriate for the specific activity and location, as described in §18.128 of the Regulations; and (3) the MMM must determine that the incidental take for the specific activity will be consistent with the negligible impact finding for the total take allowed under the Regulations.

Reasonable and prudent mitigation measures, as well as implementing terms and conditions were included for MMM in the Tier 1 BO and have been incorporated into the LOA process. Issuance of this ITS with the LOA completes ESA requirements for authorization of incidental take of the polar bear. Compliance with the terms and conditions of this LOA insures that the LOA holder is also in compliance with the ESA.

An additional requirement of this LOA is to provide observational data of polar bears throughout the project and a complete report of all observations at the conclusion of the project to document take. This final report will be provided to the MMM. This report meets the tracking and reporting requirements relative to the documentation of take as required by the MMPA and the ESA.

This authorization is issued in accordance with our regulations listed at 71 FR 43926, dated August 2, 2006. Please review these regulations. Should you have any further questions contact Mr. Craig Perham of our Marine Mammals Management Office at (907) 786-3800 or 786-3810.

Sincerely,



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

Enclosure

cc: Mr. Richard Shideler, ADF&G  
Fairbanks Fish and Wildlife Field Office (FWFO)  
USFWS Office of Law Enforcement (OLE)  
North Slope Borough Department of Law



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## FISH AND WILDLIFE SERVICE

1011 E. Tudor Road  
Anchorage, Alaska 99503-6199



AFES/MMM

ISSUED: February 3, 2010  
EXPIRES: December 31, 2010

### U.S. Fish and Wildlife Service

### LETTER OF AUTHORIZATION (10-09)

Brooks Range Petroleum Corporation (BRPC) is hereby authorized to take small numbers of polar bears incidental to activities occurring during the 2010 North Tarn Exploration Program. The 2010 North Tarn Exploration Program would include the following major activities:

- Traveling on tundra via Rolligon or similar tundra-approved vehicle to pre-pack ice road alignment;
- Clearing snow and collecting water from approved sources of water and ice;
- Constructing approximately four miles of ice road from the existing KRU gravel roads to the North Tarn ice pad;
- Constructing the North Tarn ice drill pad;
- Drilling the North Tarn # 1 exploration well at the North Tarn Pad; and
- Possibly performing a short term production flow test(s).

These activities are discussed in detail in the "Plan of Operations, North Tarn 2010 Exploration Program , December 2009". This authorization and the required conditions below include contractors of BRPC performing BRPC-approved work under the scope of operations to be conducted. Authorization is subject to the following conditions:

1. The BRPC polar bear interaction plan entitled "Polar Bear Interaction Plan, North Tarn 2010 Exploration Program, December 2009" is approved and all provisions must be complied with unless specifically noted otherwise in this Letter of Authorization (LOA). A copy of this polar bear interaction plan must be available on site for all personnel.
2. BRPC Operations Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.
3. Intentional take is prohibited under this authorization.

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4. This authorization is valid only for those activities identified in the request for a Letter of Authorization dated December 23, 2009.
5. Polar bear monitoring, reporting, and survey activities will be conducted in accordance with 50 CFR 18, section 18.128. The basic monitoring and reporting requirements follow:
  - BRPC must cooperate with the U.S. Fish and Wildlife Service (USFWS), and other designated Federal, State, or local agencies to monitor the impacts of oil and gas exploration activities on polar bears;
  - BRPC must not conduct activities that operate nor pass within one mile of known polar bear dens, and all observed dens must be reported to the Marine Mammals Management Office, USFWS within 12 hours of discovery. Should occupied dens be identified within one mile of activities, work within a one-mile area will cease and USFWS must be contacted for guidance. The USFWS will evaluate these instances on a case-by-case basis to determine the appropriate action. Potential actions may range from cessation or modification of work to conducting additional monitoring, and BRPC must comply with any additional measures specified.
  - BRPC must designate a qualified individual or individuals to observe, record, and report the effects of the activity on polar bears to the USFWS within 24 hours of visual observation;
  - BRPC must allow USFWS to bring an observer on the site to monitor the impacts of the activity on polar bears, at the discretion of the USFWS;
  - BRPC must submit an annual monitoring report to the Marine Mammals Management Office as required under 18 CFR 18.128(f), which will be received up to 90 days after the expiration date of the LOA.
6. Per the “Programmatic Biological Opinion for the Beaufort Sea Incidental Take Regulations for Polar Bear (June 2008)”, your request also triggers the second of the two-tiered programmatic process. In order for incidental take of polar bears to be exempted from the prohibitions of the ESA, the LOA also serves as an “Incidental Take Statement” (ITS), required under section 7 of the Endangered Species Act of 1973 (ESA). Issuance of the LOA/ITS fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described in this letter.

7. This Authorization is valid for the period indicated on this authorization, unless extended or terminated in writing by the U.S. Fish and Wildlife Service, Marine Mammals Management Office.



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Chief, Marine Mammals Management

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FEB 09 2010

Date