

FINDING OF NO SIGNIFICANT IMPACT FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION FOR HILCORP ALASKA, LLC PRODUCTION DRILLING SUPPORT ACTIVITIES IN COOK INLET, ALASKA

I. Purpose of Finding of No Significant Impact (FONSI):

The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded will not have a significant effect on the human environment. 40 Code of Federal Regulations (CFR) §§ 1500.4(b), 1500.5(b), & 1501.6. To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine, as appropriate, short- and long-term effects, beneficial and adverse effects, and effects on public health and safety, as well as effects that would violate laws for the protection of the environment (40 CFR § 1501.3(d); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.3(d). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, NMFS reviewed the Environmental Assessment (EA) for the Issuance of an Incidental Harassment Authorization (IHA) to Hilcorp Alaska, LLC (Hilcorp) for the Take of Marine Mammals Incidental to Hilcorp Alaska, LLC Production Drilling Support in Cook Inlet, Alaska, which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the effects were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference in accordance with 40 CFR § 1501.6(c).

II. Approach to Analysis:

NMFS proposed action is the issuance of an IHA to Hilcorp pursuant to Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.) (MMPA) and 50 CFR Part 216. The IHA will be valid for one year and will authorize takes, by Level B harassment, of small numbers of marine mammals incidental to tugs towing, holding, and positioning a jack-up rig in Cook Inlet, Alaska. Hilcorp's action is to use up to three tug boats to tow and hold, and up to four tug boats to position a jack-up rig to support production drilling at existing platforms in middle Cook Inlet and Trading Bay, Alaska. Tug activities would include one demobilization effort of a jack-up rig (Spartan 151 or equivalent rig) from an existing platform to Rig Tenders Dock in Nikiski, one jack-up rig relocation between existing platforms, and one remobilization effort of the jack-up rig from Rig Tenders Dock in Nikiski to middle Cook Inlet. It is anticipated that tugs would be under load with the jack-up rig on 6 non-consecutive days during the 1-year authorization period.

The IHA, which would authorize take incidental to tugs towing, holding, and positioning the jack-up rig, would be valid for this time period.

Sound produced by Hilcorp's activities has the potential to result in the take, by Level B harassment, of 12 marine mammal species. Takes are expected to occur in the form Level B harassment consisting primarily of temporary modification in the behavior of individual marine mammals. Specific to Cook Inlet beluga whales, effects would be limited to Level B harassment consisting of temporary modifications in behavior such as increased swim speeds, tighter group formations, and cessation of vocalizations, but not through the loss of foraging capabilities or abandonment of habitat. Therefore, Hilcorp requested an authorization from NMFS for incidental taking pursuant to the MMPA. Authorizations for incidental takings of small numbers of marine mammals shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and, where relevant, will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, the IHA must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

NMFS' proposed action is a direct outcome of Hilcorp's request for an IHAs to authorize take of marine mammals incidental to their tug towing activities in Cook Inlet, Alaska, which includes jack-up rig tugging, holding, and positioning. Hilcorp's action may cause effects to the resources in the affected area, though there is no potential for the effects of NMFS' action to add to the effects of other projects such that the effects taken together could be significant.

NMFS' proposed action, the issuance of an IHA to Hilcorp for their tug towing activities, is not expected to meaningfully contribute to a significant impact based on the scale of the impact (authorization of take of small numbers of 12 species of marine mammal, by Level B harassment only), and the small-scale, temporary, and short-term duration of the impact. No take of marine mammals by Level A harassment or serious injury or mortality is anticipated or proposed to be authorized in the IHA.

NMFS' proposed action, the issuance of an IHA to Hilcorp, will not meaningfully contribute to significant impacts to specific resources, given the limited scope of NMFS' action and required mitigation measures, as described in the 2024 EA and this FONSI.

III. Geographic Extent and Scale of the Proposed Action:

As stated in the 2024 EA, NMFS' proposed issuance of an IHA to Hilcorp would authorize take of 12 species of marine mammal incidental to tugs towing, holding, and positioning a jack-up rig to support production drilling at existing platforms in Cook Inlet, Alaska. Hilcorp's proposed activities would take place in middle Cook Inlet and Trading Bay, Alaska, extending north from Rig Tenders Dock on the eastern side of Cook Inlet near Nikiski to an area approximately 32 kilometers (km) south of Point Possession, west to the Tyonek platform in middle Cook Inlet, south to the Dolly Varden platform in Trading Bay, and across Cook Inlet to the Rig Tenders Dock. For the purposes of this project, lower Cook Inlet refers to waters south of the East and West Forelands; middle Cook Inlet refers to waters north of the East and West Forelands and south of Threemile River on the west and Point Possession on the east; Trading Bay refers to waters from approximately the Granite Point Tank Farm on the north to the West Foreland on the south; and upper Cook Inlet refers to waters

north and east of Beluga River on the west and Point Possession on the east. A detailed map showing Hilcorp's project area is provided in the EA (Figure 1). The environmental effects analyzed in the 2024 EA would occur at a small scale.

IV. Degree of Effect:

- A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals would not violate any federal, state, or local laws for environmental protection. NMFS' compliance with environmental laws and regulations is based on NMFS' action and the nature of the applicant's activities. NMFS complied with the requirements of the MMPA in developing the IHA. NMFS Office of Protected Resources (OPR) also consulted with the NMFS Alaska Region under Section 7 of the Endangered Species Act (ESA). The Section 7 consultation concluded with a Biological Opinion that the issuance of the IHA would not be likely to jeopardize the continued existence of any listed species or destroy or adversely modify critical habitat, described further in section C, below. Hilcorp would be required to obtain any additional federal, state, and local permits necessary to carry out its project and any other associated activities.

- B. The degree to which the proposed action is expected to affect public health or safety.*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals is not likely to affect public health or safety because NMFS only authorizes the take of marine mammals associated with Hilcorp's tug towing activities, which does not involve the public or expose the public directly (e.g., chemicals, diseases) or indirectly (e.g., food sources) to hazardous or toxic materials in a way that would be linked to the quality of the environment and well-being of humans.

- C. The degree to which the proposed actions is expected to affect a sensitive biological resource, including:*

- a. Federal threatened or endangered species and critical habitat;*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals is not expected to have a significant impact on endangered or threatened species or critical habitat. Based on the conclusions of the ESA Section 7 consultation (summarized below) along with mitigation measures designed to avoid, minimize and mitigate impacts to ESA-listed species and critical habitat, NMFS expects that any impacts to ESA-listed marine mammals would be limited to behavioral harassment as a result of take, by acoustic exposure to tugs towing, holding, or positioning a jack-up rig, and would not be significant.

Hilcorp's proposed project has the potential to affect the following marine mammal species and DPSs listed as threatened or endangered under the ESA: fin whale, humpback whale (Mexico Distinct Population Segment (DPS)), beluga whale (Cook

Inlet), and Steller sea lion (Western DPS). In 2024, NMFS' Permits and Conservation Division initiated consultation with NMFS' Alaska Regional Office for the issuance of the IHA. In September 2024, NMFS' Alaska Regional Office concluded that NMFS' issuance of the IHA is not likely to jeopardize the continued existence of these endangered or threatened species and is not likely to destroy or adversely modify their critical habitat (in this case for Cook Inlet beluga whales), and issued a Biological Opinion providing conclusions specific to NMFS' actions relevant to the proposed tug activities.

NMFS also requires the implementation of mitigation to reduce potential exposure of marine mammals to sound levels likely to result in take. These are described in detail in the EA and notice of issuance of the IHA, as well in section VI of this FONSI.

The only critical habitat designation within the action area relevant to NMFS' action is for Cook Inlet beluga whales, which includes much of Cook Inlet, Alaska. Use of the critical habitat by Cook Inlet beluga whales of the critical habitat area varies temporally, specifically with a peak in beluga abundance in Knik Arm in later summer and early autumn months (i.e., August, September, and October). As described above, NMFS is requiring mitigation and monitoring measures for all project activities.

Therefore, in consideration of the factors above, while NMFS' proposed action is likely to adversely affect ESA-listed species, the potential impacts are not expected to be significant as defined under NEPA.

b. Stocks of marine mammals as defined in the Marine Mammal Protection Act;

NMFS' proposed action of issuing an IHA to Hilcorp has the potential to result in the take of small numbers of 12 species of marine mammals, by Level B harassment, as defined in the MMPA. However, NMFS expects the take to have a negligible impact on the affected species or stocks. Importantly, effects on individuals or groups of animals does not necessarily translate into an adverse effect to a stock or species, unless such effects result in reduced fitness for those individuals and, ultimately, accrue to the point that there is reduced reproduction or survival leading to effects on annual rates of recruitment or survival for the species.

In addition to considering estimates of the number of marine mammals that may be "taken" by harassment, NMFS considered other factors, such as the likely nature of any responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. NMFS also assessed the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

For this proposed action, the taking of marine mammals would be incidental to tugs towing, holding, and positioning a jack-up rig. The source of harassment would primarily be noise exposure from these activities; non-acoustic stressors could result from the physical presence of the equipment and personnel, however given there are no known pinniped haul-out sites in the vicinity of the project site, visual and other non-acoustic stressors are expected to be limited. NMFS calculated the number of estimated exposures of marine mammals to noise levels exceeding our thresholds approximating Level B harassment based on in-situ sound measurements. In general, the effects on marine mammals from and rig tugging, holding, and positioning are expected to be temporary and lower level and may include, but are not limited to, masking, stress response, and behavioral changes such as temporary avoidance of the immediate vicinity of the activity, increased travel speed and dive times, and cessation of foraging and vocalizing. The magnitude of the effect of sound on marine mammals is highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (e.g., species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors. For Hilcorp's activities, the required mitigation and monitoring measures prescribed in the IHA and described in the EA (including the implementation of pre-clearance procedures for tugging activities) will result in reduced exposure to tugging noise and help further ensure that any resulting take will not impact the fitness of any individual marine mammals or, thereby, have any adverse effect on annual rates of recruitment or survival. The numbers of anticipated takes are low relative to the estimated abundance of the affected stock (less than 2 percent for all stocks, except for Cook Inlet beluga whales whose proposed take is 5.4 percent of the stock).

Additionally, Hilcorp's proposed action is temporary and of relatively short duration (i.e., 6 days). Potential adverse effects on prey species would also be temporary and spatially limited. Furthermore, alternate areas of similar habitat value for affected marine mammals would be available allowing animals to temporarily vacate the affected areas to avoid exposure to sound.

For these reasons, impacts resulting from this activity are not expected to significantly affect the marine mammal species or stocks as defined in the MMPA. The mitigation measures required by the IHA to ensure the least practicable impact on affected marine mammals and their habitat, are described in the Mitigation Measures section of the 2024 EA and are summarized below in section VI of this FONSI.

c. *Essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals, by Level B harassment, would not adversely affect essential fish habitat as identified under the Magnuson-Stevens Fishery Conservation and Management Act. Several fish species have EFH designated in Cook Inlet. Salmonid EFH is of particular concern as it supports a known prey species of Cook Inlet beluga whales.

Hilcorp's tug towing, holding, and positioning of a jack-up rig may temporarily emit elevated noise levels into the area, on the order of hours to several days across an entire calendar year, but this is not expected to have any meaningful impacts on salmon populations. Literature does not indicate any observed abnormalities in juvenile salmonids exposed to elevated industrial noises at distances greater than a few feet. Hilcorp's activity is primarily located in the middle of the Inlet and not upriver where essential biological functions such as spawning occur. The rig towing, holding, and positioning activity would not permanently alter the substrate or other features of essential fish habitat in middle Cook Inlet. In general, any negative impacts on fish habitat are expected to be minor and temporary.

d. Bird species protected under the Migratory Bird Treaty Act;

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals, by Level B harassment, would not result in a significant adverse effect on a population of migratory bird species. The impacts of NMFS' proposed action on marine mammals would be temporary and localized in nature and would not result in substantial impacts to marine mammals or to their role in the ecosystem, including in relation to birds.

e. National marine sanctuaries or monuments;

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals would not affect a national marine sanctuary or monument, as Hilcorp proposed activity does not take place within or near either. Therefore, take authorized under the IHA, if issued, would also not occur within or near a national marine sanctuary or monument.

f. Vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals would not cause substantial damage to vulnerable marine or coastal ecosystems, as the action would be limited to the authorization of take by Level B harassment of marine mammals incidental to Hilcorp's tug towing activities. IHAs do not authorize the underlying activity (in this case, tugs towing, holding, or positioning a jack-up rig), only the take incidental to that activity. The incidental harassment of marine mammals would not have any effect on vulnerable marine or coastal ecosystems, nor any aspects of biodiversity or functioning of marine ecosystems, in a significant manner.

As described elsewhere in this document and the EA, the impact from our action is limited to impacts to marine mammals and their habitat, due to the potential increased noise levels into the marine environment during tug towing activities. The scientific literature does indicate that impacts to the marine mammal habitat, in the form of effects to marine mammal prey species, is likely. Studies have shown that some fish and invertebrate species may experience displacement or behavioral changes as a result of acoustic exposure from jack-up rig towing, holding and

positioning by tugs, such as temporary displacement or cessation in vocalization. However, any noise impact is expected to be limited to the duration of the tug activities. Thus, short-term, minor adverse effects are likely to occur but are not expected to rise to the level of significance. Furthermore, NMFS does not anticipate significant physical interactions from tugs towing, holding, and positioning a jack-up rig on the environment, and does not expect that noise from these activities would impact coastal ecosystems.

- g. *Biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals would not have a substantial impact on biodiversity or ecosystem functioning within the affected environment. NMFS expects that Hilcorp's proposed action may result in take by Level B harassment, and has proposed issuing an IHA to authorize this take. Any impacts would be temporary and localized in nature and would not result in substantial impacts to marine mammals in the area or to their role in the ecosystem. Take by Level A harassment or serious injury or mortality is not anticipated nor proposed to be authorized.

Cook Inlet beluga whales primarily use the project area for transiting, and the project area is not known to be of particular importance for feeding or reproduction. The effects of our proposed action are expected to be limited to behavioral disturbance, masking, or stress. These effects are anticipated to be short term, minor, and localized.

- D. *The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals would have no foreseeable impact on unique areas, such as historic or cultural resources, parkland, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas. NMFS expects that Hilcorp's proposed activity may result in take by Level B harassment to 12 species of marine mammals, in the form of short-term and localized changes in behavior. Such harassment is not expected to substantially impact ecologically critical areas or cultural resources, as the impacts would be to marine mammals themselves as well as being temporary and localized in nature. Take by injury Level A harassment or serious injury or mortality is not anticipated nor proposed to be authorized.

As stated in Table 1 of the 2024 EA, no known historical and cultural resources are located within Hilcorp's action area.

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals is not reasonably likely to cause impacts to resources important to traditional culture and religious tribal practice, given the short-term, temporary nature of the activity, and the negligible impact of the take on affected marine mammals. As stated in Chapter 4 of the

2024 EA, though seals are harvested for subsistence uses by several communities along Cook Inlet, Hilcorp's proposed action (and therefore, the take of seals that would be authorized through the IHA), would occur for a brief period of time outside of the primary subsistence hunting areas. As described in the EA, Cook Inlet beluga whales were historically harvested for subsistence uses but no hunt has occurred since 2005. Further, take of marine mammals by Level A harassment or serious injury or mortality is not anticipated nor proposed to be authorized in the IHA.

The effects of the issuance of this IHA is limited to those occurring to marine mammals and their habitat; and, therefore, NMFS' proposed action is not expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. Likewise, it is not expected to cause loss or destruction of significant scientific, cultural, or historical resources. The underlying tug activities would take place in middle Cook Inlet and Trading Bay and there are no such resources there; therefore, the chance of affecting such resources is so remote and unlikely as to be discountable.

- E. *The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals would have no foreseeable impact to minority or low-income communities, let alone a disproportionately high impact to those communities in comparison to the impacts on other communities. The location of the project activities (middle Cook Inlet, away from shore) is unlikely to overlap with activities conducted by the public. NMFS only authorizes the take of marine mammal species associated with tugs towing, holding, and positioning a jack-up, which does not involve the public.

- F. *The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals would not result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species. The IHA would be limited to the take of marine mammals incidental to tugs towing, holding, and positioning a jack-up rig. IHAs do not authorize the underlying activity (in this case, tugs towing, holding, and positioning a jack-up rig), only the take incidental to that activity. The incidental take of marine mammals, by Level B harassment, that would be authorized under the IHA would not contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.

- G. *The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of*

coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.]

NMFS' proposed action of issuing an IHA to Hilcorp to incidentally take marine mammals is not expected to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement. NMFS' proposed IHA would authorize incidental take by Level B harassment of 12 species of marine mammal. The take that is expected to occur and proposed for authorization is based on the best available science. This incidental take is expected to be primarily in the form of short-term and localized changes in behavior and/or temporary displacement based on numerous scientific studies, modeling informed by scientific studies, and monitoring conducted as a requirement under previous IHAs for other projects. Take by Level A harassment or serious injury or mortality is not anticipated nor proposed to be authorized.

V. Other Actions Including Connected Actions:

As described in Section 1.4 (Purpose and Need) of the 2024 EA, NMFS' proposed action and the purpose and need for that action, are a direct outcome of Hilcorp's request for an IHA in connection with its tugging activities in Cook Inlet, Alaska. The Cumulative Impacts section of the 2024 EA discusses cumulative impacts, and describes other known recent past, present, and reasonably foreseeable future actions within the vicinity of Hilcorp's action area. As described in the EA, Hilcorp's activities are short-term and rig tugging, holding, and positioning would occur over approximately 6 days. Based on the past, present, and reasonably foreseeable future actions within the project area, the incidental take associated with NMFS' issuance of the IHAs would not be expected to considerably contribute to any cumulative impacts from all other actions and activities in Cook Inlet.

VI. Mitigation and Monitoring:

The following mitigation measures are included in the IHA and under the MMPA "least practicable adverse impact" standard will help avoid significant impacts under NEPA:

- Hilcorp must ensure that vessel captains and crews, the monitoring team, and relevant Hilcorp staff are trained prior to the start of activities subject to this IHA, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work.
- Hilcorp must coordinate with local Tribes as described in its Stakeholder Engagement Plan, notify the communities of any changes in the operation, and take action to avoid or mitigate impacts to subsistence harvests.
- Hilcorp must employ Protected Species Observers (PSOs) and establish monitoring locations as described in section 5 of the IHA and the Marine Mammal Monitoring Plan (see Appendix D of Hilcorp's application). Hilcorp must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.

- Hilcorp must establish clearance zones for all marine mammal species.
 - For Cook Inlet beluga whale, Hilcorp must establish a clearance zone that extends as far as PSOs can feasibly observe.
 - For all marine mammal species other than Cook Inlet beluga whale, Hilcorp must establish a clearance zone that extends 1.5 km from the jack-up rig.
- Prior to commencing new operational activities in daylight hours, or if there is a 30-minute lapse in operational activities, two NMFS-approved PSOs must observe the clearance zones described above for 30 minutes. Transitioning from towing to positioning without shutting down is not considered commencing an operational activity.
 - If no marine mammals are observed within the relevant clearance zone during those 30 minutes, activities may commence.
 - If a non-beluga marine mammal(s) is observed within the relevant clearance zone during those 30 minutes, operations may not commence until the PSO(s) observe that one of the following conditions is met, unless the delay interferes with the safety of working conditions:
 - The non-beluga animal(s) is outside of and on a path away from the clearance zone; or
 - 30 minutes have elapsed without observing the non-beluga marine mammal.
 - If a beluga whale(s) is observed within the relevant clearance zone during those 30 minutes, operations may not commence until the beluga whale(s) is no longer detected at any range and 30 minutes have elapsed without any observations of beluga whales.
- Prior to commencing new operational activities in nighttime hours, or if there is a 30-minute lapse in operational activities in low/no-light conditions, two NMFS-approved PSOs must observe out to the greatest extent feasible while using night vision devices for 30 minutes (i.e., pre-clearance monitoring). Transitioning from towing to positioning without shutting down is not considered commencing an operational activity.
 - If no marine mammals are observed during those 30 minutes, activities may commence.
 - If a marine mammal(s) is observed during those 30 minutes, operations may not commence until the PSO(s) observe that one of the following conditions is met, unless the delay interferes with the safety of working conditions:
 - The animal(s) is outside of the observable area, or
 - 30 minutes have elapsed without observing the marine mammal.
- All monitoring must continue through 30 minutes post-completion of any operations each day, and after each stoppage of 30 minutes or greater.
- Hilcorp must conduct tug towing rig operations with a favorable tide unless human safety or equipment integrity are at risk.
- Hilcorp may only conduct tug towing rig activities at night if necessary to accommodate a favorable tide.
- For transportation of a jack-up rig to or from the Tyonek platform, in addition to the two PSOs stationed on the rig during towing, one additional PSO must be stationed on the Tyonek platform to monitor for marine mammals. The PSO must be on-watch for at least one hour before tugs are expected to arrive (scheduled to approach the Level B harassment threshold).
- If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes have been reached, is observed

approaching or within the clearance zone, tugging activities must be delayed if not already under load. Tugging activities must not resume until the commencement criteria listed above have been met.

- Hilcorp must maneuver tugs such that they maintain a consistent speed (approximately 4 knots [7 km/hr]) and avoid multiple changes of speed and direction.
- Hilcorp must maintain a distance of at least 2.4 km from the mean lower-low water line of the Sustina River Delta (Beluga River to the Little Sustina River) between April 15 and November 15.

NMFS has determined that the required mitigation measures are sufficient to achieve the least practicable adverse impact on the affected species and stocks of marine mammals and their habitat, as required by the MMPA. In addition, Hilcorp must fulfill the following monitoring and reporting requirements included in the IHAs:

- Hilcorp must station two PSOs on the tug or jack-up rig for monitoring purposes for the entirety of jack-up rig towing, holding, and positioning operations.
- PSOs must use a combination of equipment to scan the monitoring area and to verify the required monitoring distance from the project site, including, but not limited to, the naked eye, 7 by 50 binoculars, and NMFS approved Night Vision Devices (NVDs) for low light and nighttime operations.
- PSOs must be in communication with the all vessel captain via VHF radio and/or cell phones at all times and alert vessel captains to all marine mammal sightings relative to the vessel location.
- Monitoring must be conducted by qualified, NMFS-approved PSOs.
- Hilcorp must submit monthly marine mammal monitoring reports to NMFS for all months in which tug towing, holding, or positioning of the jack-up rig occurs. Reports would include a summary of marine mammal species and behavioral observations, delays, and tugging activities completed. They also must include an assessment of the amount of tugging remaining to be completed, in addition to the number of beluga whales observed within estimated harassment zones to date.
- Hilcorp must submit a draft final summary report(s) on all monitoring conducted under the IHAs within 90 calendar days of the completion of monitoring or 60 calendar days prior to the requested issuance of any subsequent IHA for a similar activity at the same location, whichever comes first. A final summary report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report. If no comments are received from NMFS within 30 calendar days of receipt of the draft report, the report shall be considered final.
- The final summary report must contain the informational elements described in the Monitoring Plan and, at minimum, must include:
 - Dates and times (begin and end) of all marine mammal monitoring;
 - Activities occurring during each daily observation period, including:
 - PSO locations during marine mammal monitoring;
 - Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
 - Upon observation of a marine mammal, the following information:

- Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;
 - Time of sighting;
 - Identification of the animal(s) (e.g., genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;
 - Distance and location of each observed marine mammal relative to the pile being driven for each sighting;
 - Estimated number of animals (min/max/best estimate);
 - Estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.);
 - Animal’s closest point of approach and estimated time spent within the harassment zone;
 - Description of any marine mammal behavioral observations (e.g., observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (e.g., no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
 - Number of marine mammals detected within the harassment zones, by species; and
 - Detailed information about implementation of any mitigation (e.g., shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.
- Hilcorp must submit, all PSO data along with the final summary report;
 - Hilcorp must report injured or dead marine mammals.

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for Hilcorp’s tug towing, holding, and positioning activities in Cook Inlet, Alaska, it is hereby determined that the issuance of an IHA for the take of marine mammals incidental to Hilcorp’s project will not significantly impact the quality of the human environment. The Environmental Assessment for the Issuance of Incidental Harassment Authorizations for the Take of Marine Mammals Incidental to Hilcorp Alaska, LLC Production Drilling Support in Cook Inlet, Alaska is hereby incorporated by reference. In addition, all potential beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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Kimberly Damon-Randall
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