



# MARINE MAMMAL COMMISSION

18 May 2017

Ms. Jolie Harrison, Chief  
Permits and Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, Maryland 20910-3226

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application from Quintillion Subsea Operations, LLC, (Quintillion) seeking an incidental harassment authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA). Quintillion is seeking authorization to take small numbers of marine mammals by harassment incidental to conducting subsea cable-laying activities in the Bering, Chukchi and Beaufort Seas, Alaska, during the 2017 open-water season. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 12 May 2017 notice (82 Fed. Reg. 22099) announcing receipt of the application and proposing to issue the authorization subject to certain conditions.

## Background

Quintillion installed a portion of a subsea fiber-optic cable network<sup>1</sup> between Nome and Oliktok Point, Alaska, in 2016. It plans to finish laying the remaining cable and repair any areas that do not meet testing requirements in 2017. Approximately 76 km of cable would be laid using a cable-laying barge or vessel. Use of a dynamic positioning system (DPS), vibro plow, and anchor-handling tug would be the main sources of sound. The proposed activities are expected to occur from 1 July to 15 November.

NMFS preliminarily has determined that the proposed activities could modify temporarily the behavior of small numbers of up to 13 species of marine mammals<sup>2</sup>, but that the total taking would have a negligible impact on the affected species or stocks. NMFS does not anticipate any take of marine mammals by death or serious injury. It believes that the potential for temporary or permanent hearing impairment will be at the least practicable level because of Quintillion's proposed mitigation measures. The mitigation, monitoring, and reporting measures include—

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<sup>1</sup> For internet services.

<sup>2</sup> The Commission noted errors in the estimation of Level B harassment takes for 6 of the 13 species. NMFS indicated that it would reduce the proposed Level B harassment takes in the final incidental harassment authorization to 304 for bowhead whales, 33 for gray whales, 181 for beluga whales, 823 for ringed seals, 283 for spotted seals, and 60 for bearded seals.

- conducting in-situ sound source and sound propagation measurements for the vibro plow and adjusting the Level B harassment zone, if necessary;
- using one trained protected species observer (including Inupiat observers) to monitor the Level B harassment zone during daylight hours from when the cable-laying vessel leaves to when the vessel returns to port at the end of the project;
- using avoidance measures and speed restrictions in proximity to whales and in poor visibility conditions;
- providing funding for a bowhead prey study;
- reporting injured and dead marine mammals to the NMFS Office of Protected Resources and the Alaska regional stranding coordinator using NMFS's phased approach and suspending activities, if appropriate; and
- submitting a final report.

### **Availability of marine mammals for subsistence**

Quintillion has developed a plan of cooperation in consultation with numerous Native Alaska communities<sup>3</sup> outlining measures that it would implement to minimize any adverse impacts on the availability of marine mammals for subsistence. That plan includes requirements for Quintillion to maintain the minimum approach distances and operational requirements outlined in the previous section, as well as (1) providing real-time vessel information via the automatic identification system and daily reports to the communities, (2) monitoring the position of its vessels in relation to subsistence activities and avoiding those activities, (3) implementing various barge and vessel transit and routing schemes, and (4) completing the proposed activities in time to have all barges and vessels transit south through the Bering Strait no later than 15 November. Quintillion also met with the Alaska Eskimo Whaling Commission, which determined that developing a conflict avoidance agreement for the proposed activities was not necessary. Based on the proposed activities and mitigation measures, NMFS has preliminarily determined that the proposed taking would not have an unmitigable adverse impact on the availability of marine mammals for subsistence use by Alaska Natives.

The Commission concurs with NMFS's preliminary findings and therefore recommends that NMFS issue the incidental harassment authorization, subject to inclusion of the proposed mitigation, monitoring, and reporting measures.

### **Rounding of take estimates**

As the Commission indicated in previous letters regarding this matter<sup>4</sup>, the method NMFS used to estimate the numbers of takes during the proposed activities, which summed fractions of takes for each species across project days, does not account for and negates the intent of NMFS's 24-hour reset policy. The issue at hand involves policy rather than mathematical accuracy. The Commission understands NMFS has developed criteria associated with rounding that it had recently planned to share with the Commission. The Commission looks forward to reviewing those criteria and resolving this matter in the near future.

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<sup>3</sup> Including Nome, Kotzebue, Point Hope, Wainwright, Barrow, and Nuiqsut.

<sup>4</sup> See the Commission's [29 November 2016 letter](#) detailing this issue.

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Please contact me if you have questions concerning the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style with a large initial 'R' and a distinct 'L'.

Rebecca J. Lent, Ph.D.,  
Executive Director