



MARINE MAMMAL COMMISSION

8 August 2019

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's (NMFS) 9 July 2019 notice of receipt of an application from Hilcorp Alaska LLC (Hilcorp) and Eni U.S. Operating LLC (Eni) for rulemaking and a letter of authorization (LOA) to take ringed seals incidental to constructing ice roads and ice trails on Alaska's North Slope (84 Fed. Reg. 32726). The rulemaking would cover ice road and trail construction activities at the Northstar production facility (Northstar) and Spy Island drillsite during a five-year period beginning in December 2019.

Authorization to take ringed seals incidental to ice road and ice trail construction activities has been included in previous rulemakings associated with Northstar, most recently in December 2013 (78 Fed. Reg. 75488). Monitoring plans associated with those previously proposed rules¹ were subject to NMFS's independent peer review prior to the issuance of an LOA, in accordance with NMFS regulations at 50 C.F.R. 216.108(d) for activities that may affect the availability of a marine mammal species or stock for taking for subsistence purposes. However, Hilcorp and Eni's monitoring plan has not yet gone through the peer review process, and based on informal correspondence with NMFS, it does not appear that NMFS plans to have the plan peer reviewed. Given that the proposed taking of ringed seals by Hilcorp and Eni may affect their availability for taking for subsistence purposes, the Commission recommends that NMFS initiate a peer review of the proposed mitigation and monitoring plan in accordance with 50 C.F.R. 216.108(d). NMFS should ensure that the peer review is completed and used to inform the proposed mitigation and monitoring measures specified in the proposed rule before it is made available for public comment.

Please let me know if you or your staff have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Peter O. Thomas".

Peter O. Thomas, Ph.D.,
Executive Director

¹ As well as a recent proposed rule for Hilcorp's construction and operation of the Liberty drilling and production island, which also included taking of ringed seals during ice road construction activities (84 Fed. Reg. 24955).