



# United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE  
1011 East Tudor Road  
Anchorage, Alaska 99503



In Reply Refer to:  
FWS/IR11/AFES/MMM

Mr. Matthew Rexford  
President, Kaktovik Iñupiat Corporation  
P.O. Box 73  
Kaktovik, Alaska 99747

Dear Mr. Rexford:

I am writing to inform you that the U.S. Fish and Wildlife Service (Service) does not intend to take any further action with respect to your pending request for an Incidental Harassment Authorization (IHA) for the Marsh Creek East 3D Seismic Program because it is no longer possible to conduct the specified activities in the manner described in the request.

The Kaktovik Iñupiat Corporation (KIC) submitted its revised request on October 28, 2020. The Service published a Proposed IHA in the *Federal Register* and commenced the required 30-day public comment period on December 8, 2020. Over six million public comments concerning the Proposed IHA and associated Draft Environmental Assessment were submitted by the January 7, 2021, deadline. The Service took extraordinary measures to review and consider all public comments on an expedited basis. These efforts included hiring a contractor to process and sort the comments, assembling a team of approximately 40 Service staff members to review unique comments, and working nights, weekends, and holidays to ensure that all substantive comments were appropriately addressed. However, the Service was unable to review and consider all public comments and make appropriate refinements to the IHA and supporting analyses prior to a key milestone identified in KIC's request.

KIC's specified activity is predicated on the completion of three AIR den detection surveys of the entire project area by no later than February 13, 2021. These three AIR surveys, along with the establishment of exclusion zones around detected dens, are key mitigation measures that contributed to the Service's preliminary findings, as expressed in the Proposed IHA, that KIC's specified activity would comply with the applicable standards set forth in the Marine Mammal Protection Act (16 U.S.C. § 1371(a)(5)(D)). The integration of the February 13, 2021 deadline into KIC's revised request reflected a recognition that AIR surveys conducted after that date would entail an increased potential for adverse impacts to denning polar bears, including potential injury or mortality.

On February 17, 2021, KIC confirmed for the Service that it did not conduct the three AIR surveys by the February 13, 2021 deadline. It is therefore impossible for KIC to conduct the specified activities as described in the revised request. As such, the revised request is no longer actionable, and the Service does not intend to issue or deny the requested authorization.

Mr. Matthew Rexford

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I want to thank you for working closely with Dr. Patrick Lemons and our marine mammal team in processing your request for the IHA. Should you have additional questions please contact Dr. Lemons, Chief Marine Mammals Management, via email at [patrick\\_lemons@fws.gov](mailto:patrick_lemons@fws.gov).

Sincerely,

Regional Director