



U.S. Department of the Interior
Bureau of Land Management

Decision Record

ADDENDUM

Peregrine Exploration Program
Environmental Assessment: DOI-BLM-AK-R000-2022-0004-EA

Emerald House, LLC.

FF097644/AA093747

Prepared by

**U.S. Department of the Interior
Bureau of Land Management
Arctic District Office
Fairbanks, Alaska**

Decision Record Addendum

Introduction

On December 20, 2021, the Bureau of Land Management (BLM) completed the Peregrine Exploration Program Environmental Analysis (DOI-BLM-AK-R000-2022-0004-EA) to evaluate the effects of access to and exploratory drilling and testing of one additional well (Merlin 2) within the Emerald House lease block on BLM lands in the National Petroleum Reserve in Alaska (NPR-A). The project includes prepacking, construction and maintenance of 89 miles of snow road, construction and maintenance of six 6-acre ice pads, two support camps, water withdrawal from 29 lakes (19 on BLM lands and 10 on State of Alaska lands), fuel storage, and summer inspections and cleanup activities. The project is the continuation of the five-year Emerald House Peregrine Exploration Program that started in winter 2020/2021, and which initially targeted the drilling of two other wells on the lease block (Merlin 1 and Harrier 1) with the intent that other wells might subsequently be proposed based on the results of initial drilling.

In accordance with 40 CFR 1501.11 and 43 CFR 46.140, the analysis for the Environmental Assessment (EA) is tiered off the 2020 NPR-A Integrated Activity Plan Environmental Impact Statement (2020 NPR-A IAP EIS) and associated Record of Decision (ROD), which are incorporated in their entirety by reference in accordance with 40 CFR 1501.12 and 43 CFR 46.135. The conditions, reasonably foreseeable development, and environmental effects including cumulative impacts described in the 2020 NPR-A IAP EIS are still valid.

The BLM signed a Finding of No New Significant Impacts (FONNSI) and Decision Record for project on December 20, 2021. In consideration of subsequent comments received from environmental organizations (see Public Involvement section below), BLM undertook a review of its compliance with various environmental laws and related requirements and ultimately reaffirmed the adequacy of its prior Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service, reaffirmed a determination relating to compliance with Lease Notice 4 of the 2020 NPR-A IAP ROD pertaining to compliance with the Marine Mammal Protection Act, and made the EA, FONNSI, and Decision Record available for a 14-day public comment period ending February 4, 2022. After giving due consideration to the additional public comments received on the EA, BLM signed an Addendum to the FONNSI on February 7, 2022, reaffirming the findings in the original FONNSI.

This Decision Record Addendum has been prepared to readdress the findings of the December 20, 2021 Decision Record for the Proposed Action in light of BLM's reaffirmation of the adequacy of the Endangered Species Act Section 7 consultation, reaffirmation of compliance with Lease Notice 4, public comments received on the EA, and reaffirmation of BLM's findings in the FONNSI. In doing so, this Decision Record Addendum reaffirms the December 20, 2021 Decision Record.

Major Laws Pertinent to Decision

Major laws pertinent to the decision to accept the EA include the National Environmental Policy Act (NEPA), the Endangered Species Act, the Marine Mammal Protection Act, National Historic Preservation Act, the Sustainable Fisheries Act, the Alaska National Interest Lands Conservation Act, and the Naval Petroleum Reserves Production Act of 1976.

The 2020 NPR-A IAP EIS and associated ROD were completed to fulfill the BLM's responsibility to manage lands in the NPR-A under the authority of the Naval Petroleum Reserves Production Act of 1976, Federal Land Policy and Management Act of 1976, NEPA, and the Alaska National Interest Lands Conservation Act.

Selected Alternative

The Proposed Action, as presented to the BLM and described in the EA, remains the selected alternative. The Proposed Action meets the purpose and need of the EA. The No Action Alternative was not selected because it will not meet the requirements of the Department of the Interior and Related Agencies' Fiscal Year 1981 Appropriations Act amending the Naval Petroleum Reserves Production Act of 1976 and directing the Secretary to undertake "an expeditious program of competitive leasing of oil and gas" in the Petroleum Reserve and the contractual exploration rights for Emerald House to conduct exploratory drilling and testing on their federal oil and gas lease.

Finding of No New Significant Impacts (FONNSI)

Based on review of the EA and supporting documents to which the EA is tiered, a Finding of No New Significant Impacts (FONNSI) was determined and reaffirmed for the Proposed Action. The Addended FONNSI determined that the Proposed Action will not have any new significant effects on the quality of the human environment, individually or cumulatively with other actions in the general area beyond what have been previously described and analyzed in the 2020 NPR-A IAP EIS. See Addended FONNSI for more information.

Public Involvement

Public notification of the 2021/2022 Emerald House Peregrine proposed project and EA development was announced on November 24, 2021, on the BLM NEPA Register website (<https://eplanning.blm.gov/eplanning-ui/home>) (DOI-BLM-AK-R000-2022-0004-EA).

The BLM consulted with the Native Village of Nuiqsut (NVN) on the Peregrine Exploration Program in November 2020. Additionally, BLM scheduled a meeting with NVN on November 16, 2021, that was canceled by NVN. Prior to the meeting, BLM shared a map displaying all ice/snow roads planned for the winter 2021/2022 season, including Emerald House's snow roads. In December 2021, the BLM again attempted to schedule a meeting with NVN but was unsuccessful.

The BLM also reported the Peregrine Exploration Program to the North Slope Borough Federal Subsistence Regional Advisory Council during the November 5, 2020, February 9, 2021, and November 4, 2021 meetings. In addition, the project was discussed with the NPR-A Working Group on October 26, 2021 and December 14, 2021.

On September 17, 2021, prior to Emerald House submitting a Plan of Operations for its 2021/2022 proposed operations, the BLM received a letter signed by a group of 14 environmental organizations regarding the five-year Peregrine Exploration Program that began in early 2021. The letter requested the BLM re-examine the Exploration Program and outlined several concerns including threats to the climate, caribou, and subsistence users. The letter also identified the need for additional NEPA before future activities in the Exploration Program area were authorized. The BLM considered the comments from the September 17, 2021 letter during the development of the Emerald House Peregrine Exploration Program EA.

The BLM also received a consolidated letter from a group of 13 environmental organizations on November 30, 2021, outlining concerns regarding the climate and greenhouse gas emissions and the NEPA process. The BLM took into consideration comments from the November 30, 2021 letter during development of the EA.

On December 21, 2021, BLM received a letter signed by a group of 8 environmental organizations, who had been included on the September 17, 2021 letter, regarding the Peregrine Exploration Program. On December 22, 2021, BLM received a letter from the Center for Biological Diversity providing notice of its intent to sue BLM over alleged violations of the Endangered Species Act related to the Exploration Program. The BLM also received a letter on January 7, 2022, signed by a group of 9 environmental organizations (the same organizations included on the September 17, 2021 letter) expressing concerns regarding the adequacy of the Emerald House Peregrine Exploration Program EA.

In response to public interest with the project, the BLM opened a 14-day public comment period on the EA, FONNSI, and Decision Record from January 21 through February 4, 2022. BLM determined that 14 days was an appropriate period to allow additional public comment on the EA because it analyzed only relatively minor modifications to Emerald House's original Peregrine Exploration Program (i.e., access to and exploratory drilling and testing of one additional well - Merlin 2 - within the existing Program area), and because in November and December 2020 BLM had provided two public comment opportunities during development of its EA that analyzed the original Exploration Program (DOI-BLM-AK-R000-2021-0003-EA).

During the public comment period, 25 unique public comment submissions were received from environmental organizations and members of the general public. Additionally, a form comment submission was received from Friends of the Earth, containing 24,455 member signatures. Comments received included the type of NEPA used (EA vs EIS), tiering to the 2020 NPR-A IAP EIS and ROD, range of alternatives, NEPA analysis, public participation, Endangered Species Act consultation, Marine Mammal Protection Act Incidental Take Authorization and impacts to polar bear, Tribal Consultation, tundra travel, wastewater, and threats to the climate, subsistence users and resources, caribou, fish and water, vegetation, and human health (See Public Comment Response Document).

The BLM closely considered all substantive comments received during the public comment period and determined that no new substantive and relevant information was provided that had not already been considered. The BLM determined that no changes to the Emerald House Peregrine Exploration EA were warranted based on the additional comments received during the public comment period (See Public Comment Response Document).

Decision

We have determined that the Proposed Action, with required design features and protections, will not have any new significant impacts on the human environment (see Addended FONNSI) and that the proposed project is in conformance with the approved 2020 NPR-A IAP and Naval Petroleum Reserves Production Act of 1976.

The decision will meet the contractual exploration rights for Emerald House to conduct exploratory drilling and testing on their federal oil and gas lease.

The selected action includes:

- Prepacking, construction, and maintenance of approximately 73 miles of conventional snow road and 16 miles of armored snow road (winter 2021/2022).
- Prepacking, construction, and maintenance of six 6-acre ice pads (one for the well site and five support pads) (winter 2021/2022).
- Withdraw of up to 13 million gallons of water from 29 lakes (19 on BLM lands) for construction and maintenance of snow roads, ice pads, drilling and testing, and camp operations.
- Operation of two 60-person temporary camps.
- Fuel and chemical storage.
- Drilling and testing of one oil and gas exploration well (Merlin 2).
- Summer inspections and cleanup activities (July 2022).
- One time Exception (2021/2022 winter season) from the 2020 NPR-A IAP ROP B-2 to allow withdrawal of up to 30 percent of calculated water volume deeper than 5 feet from 4 lakes (P6, P8, P22, and Dog Bone Lake).
- Following all required stipulations and required operating procedures described in Appendix A and Section 2.4 of the EA.

The Alaska National Interest Lands Conservation Act Section 810 analysis found that there would be no reasonably foreseeable or significant decrease in the *abundance* of harvestable resources (caribou and furbearers) and no reasonably foreseeable or significant limitations on harvester *access* (for caribou and furbearers) from the Proposed Action. Although there are relatively stable subsistence harvest rates and the area has historically low winter use for subsistence activities, the direct and indirect impacts of the Proposed Action along with the cumulative effects of other activities (primarily energy development) in the region could alter the *distribution and availability* of harvestable resources (primarily furbearers) but would not significantly restrict subsistence uses beyond what has been described and analyzed in the 2020 NPR-A IAP EIS.

Informal consultation between BLM and the U.S. Fish and Wildlife Service (USFWS) concluded November 4, 2020, covering a 5-year period (2020-2025) for the Emerald House Peregrine Exploration Program. At that time the USFWS concurred with the BLM's determination that the proposed project would "*not likely to adversely affect*" spectacled and Steller's eiders or polar bears, and polar bear critical habitat. On January 11, 2022, the BLM requested the USFWS reaffirm the not likely to adversely affect determination for spectacled and Steller's eiders and polar bears, and a no effect determination for polar bear critical habitat for the Exploration Program. On January 21, 2022, the USFWS confirmed that the 2020 concurrence with BLM's determination remains valid and concurred that the Exploration Program is not likely to adversely affect spectacled and Steller's eiders or polar bears. The USFWS anticipates that impacts to denning polar bears from the project would be discountable. The USFS also determined that based on BLM's determination that the proposed project would have "no effect" on designated critical habitat, the obligations of section 7(a)(2) have been met.

During discussions between the USFWS and Emerald House in September 2021, the USFWS described very low polar bear densities (and even lower likelihood of denning) within the Peregrine Exploration Project Area, and they believed the likelihood of take of polar bear during the 2021/2022 project activities would be very low. Emerald House also agreed to adopt and implement several mitigation measures provided by the USFWS to further reduce the likelihood of impacts to polar bear. On January 7, 2022, the USFWS Marine Mammals Management Office stated that while this year's activities include several minor changes in the exploration program described in 2021, none of the changes would discernibly increase the risk of take of polar bears. Given the substantial distance of project activities from the coastline or any other area of routine polar bear use, as well as Emerald House's compliance with the USFWS recommended mitigation measures, the USFWS Marine Mammals Management Office continues to expect a very low probability of encountering, much less taking, any polar bears and determined that requiring Emerald House to obtain a Marine Mammal Protection Act incidental take authorization prior to conducting its Exploration Program is not warranted.

Given the time of year for the majority of the proposed activity (i.e., winter), environmental protection measures provided by the NPR-A IAP ROPs, project specific ROPs, and requirements by other regulatory agencies, effects on Essential Fish Habitat (EFH) are unlikely. The Proposed Action will have "*no adverse effect*" on essential fish habitats and no further EFH consultation is required. The deviation from ROP B-2 for lakes P6, P8, P22, and Dog Bone Lake will still meet the intent and objective of ROP B-2 to maintain the natural hydrologic regimes and protect fish species (Section 3.4 of the EA).

There will be no anticipated impacts to cultural or paleontological resources by the Proposed Action and the Proposed Action will not be expected to result in any adverse effects to Historic Properties.

Environmental protections provided by project specific ROPs described in the EA (Section 2.4), 2013 lease stipulations, and the appropriate ROPs from the 2020 NPR-A IAP ROD found in Appendix A of the EA and FONNSI will be included in all authorizations for this project.

The decision to allow the Proposed Action is not expected to result in any undue or unnecessary environmental degradation of public lands. All practicable alternatives and measures to reduce or eliminate impacts to wetlands and floodplains in the project area have been taken and the Proposed Action is in compliance with Executive Orders 11990 and 11988. The action, as proposed, is not in conflict with other resources in the area and is in conformance with current policy of the BLM Arctic District Office.

The onetime Exception (2021/2022 winter season) from IAP ROP B-2 allowing water withdrawal of up to 30 percent of calculated water volume deeper than 5 feet from 4 lakes (P6, P8, P22, and Dog Bone Lake) with unknown fish species, is approved. Emerald House will be required to collect information on fish species in these four lakes before future water withdrawal from these lakes would be authorized.

Based on review of public comments, the reaffirmed Endangered Species Act Section 7 consultation, reaffirmed Marine Mammal Protection Act determination, the Emerald House Peregrine Exploration Program Environmental Analysis (DOI-BLM-AK-R000-2022-0004-EA), and the addended FONNSI, the Decision to implement the activities as described in the Proposed Action (Section 2.1 of the EA) and the amended Right-of-Way issued to Emerald House on December 22, 2021, remains unchanged.

Based on review of public comments, the reaffirmed Endangered Species Act Section 7 consultation, Marine Mammal Protection Act determination, Emerald House Peregrine Exploration Program Environmental Analysis (DOI-BLM-AK-R000-2022-0004-EA), and addended FONNSI, it is our decision to reaffirm implementation of the activities as described in the Proposed Action (Section 2.1 of the EA), including the issuance of an Application for Permit to Drill to Emerald House for the Merlin 2 well.

The Proposed Action with the protections described therein will not have any new significant impacts on the human environment and neither an Environmental Impact Statement nor a supplement to the existing EA is necessary or required and will not be prepared.

Appeal Provisions

This decision shall take effect immediately upon the date it is signed by the authorized officer(s) and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay (43 CFR 2801.10(b)).

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals in accordance with 43 CFR Part 4 and DOI Form 1842-1. The notice of appeal must be filed in the Bureau of Land Management Arctic District Office, 222 University Avenue, Fairbanks, Alaska 99709 or by e-mail to blm_ak_appeals@blm.gov within 30 days from receipt of this decision. Include the following in the subject line: "Notice of Appeal: Arctic District Office."

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards: (1) The relative harm to the parties if the stay is granted or denied, (2) The likelihood of the appellant's success on the merits, (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and (4) Whether the public interest favors granting the stay. If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer. A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, U.S. Department of the Interior, 4230 University Drive Suite 300, Anchorage, AK 99508, not later than 15 days after filing the document with the authorized officer and/or IBLA.

/s/ Nichelle Jones
Nichelle Jones
Arctic District Manager

Date: February 7, 2022

/s/ Robert Brumbaugh
Robert Brumbaugh acting for Wayne M. Svejnoha
Branch Chief Energy and Minerals

Date: February 7, 2022