



United States Department of the Interior

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

Alaska Outer Continental Shelf Region

3801 Centerpoint Drive, Suite 500

Anchorage, Alaska 99503-5823

December 22, 2021

Mr. Jim Shine
Director, Partner Relations
3800 Centerpoint Drive, Suite 1400
Anchorage, Alaska 99503

Dear Mr. Shine:

The Bureau of Safety and Environmental Enforcement (BSEE) has reviewed the Suspension of Production (SOP) request submitted by Hilcorp, LLC (Hilcorp) on September 21, 2021. The SOP request focused on two unresolved issues: obtaining approval of an Oil Spill Response Plan for the Liberty prospect, and a Petition for Review of the approved Development and Production Plan for Liberty, filed with the United States Court of Appeals for the Ninth Circuit.

Background

The Liberty Unit leases are currently held under an SOP that was granted on December 26, 2019 for a period of two years. In the current request, BSEE was asked to act pursuant to its authority under 30 CFR §250.168 *et seq.*, to grant an SOP, not to exceed five years, for the three-lease Liberty Unit (OCS leases Y-1585, Y-1650, and Y-1886) held by Hilcorp in the Beaufort Sea.

The SOP request asserts that BSEE may grant consecutive suspensions pursuant to 30 CFR 250.170(a). The request also asserts that granting of another SOP would be in the national interest, and it cites as justification BSEE regulations at 30 CFR 30 250.174(e). These two elements, national interest, and the justification for the SOP are analyzed below.

Analysis

The decision to grant or deny a suspension request that meets the threshold regulatory requirements rests squarely within BSEE's discretion. In order for BSEE to grant an SOP in this case, it must be in the national interest, and necessary to "... allow for inordinate delays encountered in obtaining required permits or consents, including administrative or judicial challenges or appeals". (30 CFR 250.174(e))

A. National Interest (30 CFR 250.174)

Section 5 of OCSLA (43 U.S.C. § 1334(a)(1)(A)) calls upon the Secretary to promulgate regulations providing for suspensions, "in the national interest, to facilitate proper

development of a lease or to allow for the construction or negotiation for use of transportation facilities." The Secretary has accordingly issued regulations pursuant to which the "national interest" is a necessary, but not sufficient, condition for obtaining a SOP. The relevant implementing regulation provides that BSEE may grant an SOP where doing so is in the national interest *and* necessary to allow the proper development of the lease for production purposes, securing transportation or sales arrangements for impending production, or avoiding premature abandonment of existing production (*see* 30CFR 250.174); in other words, after a discovery has been made and lease development is planned or underway. Based on the information provided in your October 18, 2019 request, we find that development and production are being diligently pursued in an environmentally responsible manner, and that the national interest condition is satisfied.

B. Justification for SOP (30 CFR 250.174(a))

Per applicable laws and regulations, the BSEE Regional Supervisor has the authority to grant an SOP. As stated in your request, we agree that Hilcorp has met "inordinate delays encountered in obtaining required permits or consents, including administrative or judicial challenges or appeals."

Decision

Following a detailed review of the information you have submitted, and based on the analysis presented herein, Hilcorp's request for an SOP on the Liberty Unit is hereby approved in accordance with 30 CFR 250.174(a), and Articles IX, XVI, and XVII of the Liberty Unit Agreement.

This Liberty Unit SOP is effective December 26, 2021 and will extend until such time as the OSRP is approved, with a 30-day period in which to apply for a subsequent SOP for construction, or three years, whichever is shorter. This will affect all three leases included in the Liberty Unit.

In addition, Hilcorp will be expected to comply with the Reasonable Statement of Work commitment provided in its September 21, 2021 letter, as well as the conditions attached to this approval.

BSEE reserves the right to terminate this SOP if we determine the circumstances that justified it no longer exist or that other lease conditions warrant termination (30 CFR 250.170(e)).

Closure

If you elect to appeal this decision pursuant to 30 CFR Part 290, a Notice of Appeal must be filed with this office and served on the Associate Solicitor,

Mr. Jim Shine

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Division of Mineral Resources, within 60 days of receipt of this letter (see NTL No. 2009-NI2). If you have any questions about this decision, please contact me at (907) 334-5300, or via e-mail at kyle.monkelien@bsee.gov.

Sincerely,



Kyle Monkelien
Acting Regional Director

cc: Joel Immaraj Regional Supervisor - Leasing and Plans,
Bureau of Ocean Energy Management
Carle Langley, Chief, Leasing Section, Bureau of Ocean Energy Management,
Kurt Barton, Minerals Revenue Specialist, Department of the Interior,
Office of Natural Resources Revenue
Chantal Walsh, Director - Division of Oil and Gas,
Alaska Department of Natural Resources

Conditions of Approval for the Liberty Unit SOP

1. Within 15 days after the end of each calendar quarter, Hilcorp shall provide a written quarterly report to BSEE, as follows.
 - a. The first report must detail progress made on the RSW since November 26, 2019.
 - b. The reports will describe Hilcorp's progress toward addressing upcoming milestones from the reasonable schedule of work (**RSW**).
 - c. The reports must include a recap of what was accomplished in the prior quarter.
 - d. Each report must be accompanied by written documentation, reports, or other evidence (e.g., contracts, correspondence, etc.) that clearly demonstrate that Hilcorp is meeting or has met the requirements of the work items set forth in the **RSW**. This information shall be considered evidence of diligence in pursuing the **RSW**. "Evidence of diligence" is hereby defined as ordinary course of business documents that demonstrate tangible work that has occurred as Hilcorp executes the items set forth in the **RSW**. BSEE strongly prefers such documentation and will give less weight to written or verbal assertions about work progress. BSEE recognizes, however, that not every step taken by Hilcorp may be reflected in ordinary course of business documents, and that it might be appropriate, at times, to provide written updates on progress. Such updates may be accepted by BSEE on a case by case basis, but will not be allowed as the primary means of demonstrating diligence.
 - e. BSEE will review the quarterly reports and accompanying evidence for adequacy, and we will notify Hilcorp whether the submittals are satisfactory or if additional information is required.
2. Any modifications to the RSW - either in substance or timing - must be presented to BSEE for review and approval.
3. Absent any approved modifications as referenced in Condition #2, and with the exception of events that BSEE agrees are outside of Hilcorp's control, failure to achieve the milestones in the RSW may result in termination of the **SOP**. If Hilcorp fails to achieve a milestone as defined in the **RSW**, as part of its consideration of whether termination is appropriate, BSEE will evaluate the steps Hilcorp undertook to meet the milestone and the reasons why the milestone was not achieved.
4. BSEE will evaluate future **SOP** requests pursuant to applicable laws and regulations, based on the justifications presented by Hilcorp and the circumstances presented at the time. However, future suspension decisions will be greatly influenced by the level of success Hilcorp demonstrates in following the terms of this **SOP** and executing the **RSW**.



Hilcorp Alaska, LLC

Jim Shine
Director, Partner Relations

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September 21, 2021

Kyle Monkeliën
Acting Regional Director, Alaska Region
Bureau of Safety and Environmental Enforcement
3801 Centerpoint Dr. Ste. 500
Anchorage, AK 99503

Via electronic mail

Re: Hilcorp Alaska, LLC's (Operator #3361) Request for Liberty Unit Suspension of Production Extension

Dear Mr. Monkeliën:

Pursuant to 30 CFR § 250.172(d) and (e), Hilcorp Alaska, LLC ("Hilcorp Alaska"), as operator, submits this request for an extended Suspension of Production ("SOP") for Outer Continental Shelf ("OCS") leases OCS-Y-1650, Y-1585, and Y-1886 associated with the Liberty Unit. Thank you in advance for your time and consideration of this request.

Background

On December 31, 2012, the Bureau of Safety and Environmental Enforcement ("BSEE") issued a two-year Suspension of Production ("2012 SOP") to then-operator BP Exploration (Alaska) Inc. ("BP"). As a condition of the 2012 SOP, the operator was required to submit a Development and Production Plan ("DPP") to BOEM no later than December 31, 2014.

Effective November 18, 2014, Hilcorp Alaska became owner of a fifty percent (50%) working interest in, and operator of, the Liberty Unit. The 2012 SOP was formally assigned to Hilcorp Alaska on December 30, 2014. Hilcorp Alaska filed the required DPP with BOEM on December 20, 2014. On December 31, 2014, BSEE extended the 2012 SOP stating it would "remain in effect until 30 calendar days after BOEM completes its review of and renders a decision on the DPP. The additional 30 days is to allow time for [Hilcorp Alaska] to apply for a new SOP."

On December 4, 2017, Hilcorp Alaska submitted a new SOP request to BSEE because it was apparent BOEM would not be able to complete its review of and render a decision on the DPP prior to the termination of the 2012 SOP extension period. BSEE approved the new SOP ("2017 SOP") on December 15, 2017, to "remain in effect until 90 calendar days after BOEM renders a decision on the DPP..." The 2017 SOP further required Hilcorp Alaska to "submit a new SOP request to BSEE within 30 calendar days after BOEM renders decision on the DPP." BOEM signed its final Record of Decision ("ROD") for the Liberty DPP on October 17, 2018, and issued the Notice of Availability for the Liberty EIS ROD on October 24, 2018.

On November 15, 2018, Hilcorp Alaska submitted a request for a SOP and on January 21, 2019, provided BSEE with supplemental information regarding the schedule of work outlining the steps Hilcorp would follow to progress towards field production. These steps were focused on finalizing and receiving BSEE approval on the Liberty Oil Spill Response Plan (“OSRP”). On January 23, 2019, BSEE granted Hilcorp Alaska’s SOP request for a period of 1.5 years, ending on July 15, 2020.

On December 17, 2018, a group of environmental nongovernmental organizations filed a Petition for Review with the United States Court of Appeals for the Ninth Circuit (Case No. 18-73400) challenging BOEM’s approval of the DPP and U.S. Fish and Wildlife Service’s (“USFWS”) biological opinion on the DPP. Oral arguments for this case were conducted in November 2019 and the Ninth Circuit court’s ruling was announced on December 7, 2020. The court ruling vacated BOEM’s approval of the Liberty project and remanded to the agency for further review. Additionally, the court determined the USFWS Biological Opinion needed revision.

On October 18, 2019, Hilcorp Alaska submitted a new SOP request because the BSEE Oil Spill Preparedness Division (“OSPD”) did not issue final approval of the Liberty OSRP in the timeframe outlined and expected in the proposed schedule of work. As a result, Hilcorp Alaska was not able to sanction the Liberty Project and make progress towards field development. BSEE approved the new SOP (“2019 SOP”) on December 26, 2019, to remain in effect “until such time as the OSRP is approved, with a 30-day period in which to apply for a subsequent SOP for construction, or two years, whichever is shorter.” The BSEE OSRP is a critical federal authorization, without which, the Liberty project cannot be sanctioned.

Hilcorp Alaska’s SOP Request

The current SOP, as granted on December 26, 2019, will expire on December 26, 2021. An extended SOP is necessary to allow BSEE, BOEM, and Hilcorp Alaska to appropriately address pending environmental analysis associated with the project’s overall environmental review process and to overcome delays associated with ongoing litigation. (*See* 30 CFR § 250.172(d) authorizing BSEE to grant an SOP to “carry out the requirements of NEPA or to conduct an environmental analysis; and 30 CFR § 250.172(e) to overcome the “inordinate delays encountered in obtaining required permits... including...judicial challenges or appeals.”).

It is in the National interest that the Liberty Project continue to be developed, and ultimately, begin production of our Nation’s domestic oil resources. Pursuant to 30 CFR § 250.170(a), Hilcorp Alaska submits this request for an extended SOP not to exceed 5 years for Leases OCS-Y-1650, Y-1585, and Y-1886 that would remain in effect until 90 days after BOEM completes its supplemental environmental impacts review and renders a final decision on the Liberty DPP. The requested SOP is in the National interest and consistent with the Outer Continental Shelf Lands Act (“OSCLA”) regulations at 30 CFR § 250.168-177. BSEE is explicitly authorized to grant an SOP to allow a lessee or operator time to “properly develop a lease, including time to construct and install production facilities.” 30 CFR § 250.174(a). BSEE is authorized to grant consecutive suspensions pursuant to 30 CFR § 250.170(a).

During the requested SOP period, Hilcorp Alaska will continue to provide quarterly updates to BSEE on progress made to date, permitting, agency coordination and stakeholder outreach activities. Hilcorp Alaska commits to continuing engineering processes, continuing to engage with OSPD to obtain an OSRP and committing capital to continue progressing the Liberty Project forward to development. By granting this

request for an extended SOP, BSEE will be acting in the National interest by supporting Hilcorp Alaska's expeditious and orderly development of the Liberty Unit.

If you should have any questions or concerns or require any additional information, please contact me at 907-777-8341 or jshine@hilcorp.com.

Regards,



Jim Shine
Director, Partner Relations
Hilcorp Alaska, LLC