



United States Department of the Interior
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

Alaska OCS Region
DOI Region 11
3801 Centerpoint Drive, Suite 500
Anchorage, Alaska 99503-5823

DEC 26 2019

John A. Barnes
Senior Vice President and North Slope Asset Team
Leader Hilcorp, LLC
3800 Centerpoint Drive, Suite 1400
Anchorage, Alaska 99503

Dear Mr. Barnes:

The Bureau of Safety and Environmental Enforcement (BSEE) has reviewed the Suspension of Production (SOP) request submitted by Hilcorp, LLC (Hilcorp) on October 18, 2019. Your 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 issued on January 23, 2019 for a period of two years; that SOP has remained in effect while BSEE reviews your October 18, 2019 request. In the current request, you asked BSEE to act pursuant to its authority under 30 C.F.R. § 250.168 *et seq.*, to grant a 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.

Your SOP request asserts that BSEE may grant consecutive suspensions pursuant to 30 CFR 250.170(a). Your request also asserts that granting of another SOP would be in the national interest, and it cites as justification BSEE regulations at 30 CFR 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* 30 CFR 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 a 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, 2019, 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 two years, whichever is shorter. However as addressed in our SOP approval dated January 23, 2019, there remains one Unit lease (Y-1886) with time remaining in its primary term. To bring that lease into agreement with the other two in the Liberty Unit, lease Y-1886 will continue to toll its primary term as previously approved until March 26, 2020, when it will re-join the Liberty Unit SOP.

In additional, Hilcorp will be expected to comply with the Reasonable Statement of Work commitment provided in its December 12, 2019 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, 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
Regional Supervisor, Field Operations

Enclosure

cc: Patricia LaFramboise, Regional Supervisor - Leasing and Plans
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.