

NSB threatens suit over testing

By PAUL JENKINS

Associated Press

North Slope Borough officials and the Alaska Eskimo Whaling Commission (AEWC) are threatening legal action to revoke permits allowing seismic exploration in the Beaufort Sea during the fall migration of the Bowhead whale.

Borough Mayor Jacob Adams said state and federal oil and gas exploration permits were issued without consultation with North Slope Officials or the AEWC. He wants the exploration halted.

A state official called the uproar a "tempest in a teapot," while a federal attorney said his agency overlooked its responsibilities.

The State Department of Natural Resources issued a permit to Energy Analysts Exploration 48 Inc. for an area offshore of Kaktovik; a whaling village 75

miles from the Canadian border.

Offshore tracts in the area are scheduled for State Oil and Gas lease sales next year.

The U.S. Geological Survey on August 24 issued eight permits for an area farther offshore. Those permits are valid until Freezeup if the testing does not affect the endangered whales.

Glenn Harrison, State Division of Minerals and Energy Management Director, said the uproar is a "Tempest In A Teapot" and that Alaska will restrict testing when Whales come near the seismic boats.

"But some of the Native Leaders are not willing to compromise at all and want to keep the seismic boats out of the entire North Slope; which is not a reasonable approach at all, in my opinion," he said.

Natural Resources Commissioner John Katz talked with Adams last week about the per-

mits and was expected to decide this week on any action.

Borough Attorney Conrad Bagne said the borough and whaling commission may go to court if Katz fails to act.

"If the state does not do something, we'll have no alternative but to force cancellation of the permits through the courts," he said.

He said the federal permits also may be cancelled.

Adams said the U.S.G.S. issued the federal permits without consulting North Slope officials, although the consultations are required under an agreement hammered out in March between the National Oceanic and Atmospheric Administration (NOAA) and the Whaling Commission.

NOAA Attorney Michael Stanley said the agency's National Marine Fisheries Service

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overlooked its duties under the agreement.

A clause in the agreement requires discussions on matters concerning Bowhead Whale Management "which either party believes are suitable for such consultations," he said.

"I think it's clear now that the AEWG considers this a matter for consultation," he said. "I think we would concur."

He said the National Marine

Fisheries Service, operating under the Endangered Species Act, recommended a ban on seismic activity in the Beaufort Sea from August through October to protect the Whales.

"But the U.S.G.S. asked for a re-examination of that, which ultimately resulted in an amendment of that recommendation," Stanley said. The change allowed monitored seismic exploration into September and possibly beyond.

"We had never understood that out Biological opinion or our

responsibilities under Section 7 (of the Endangered Species Act) were the kind of thing subject to consultation," he said.

"I think in retrospect, we now see it was a matter suitable for discussion."

The NOAA Personnel involved earlier this year in the Whale Management negotiations with the Whaling Commission were not the same people involved in the approval of the U.S.G.S. request for exploration permits, Stanley said.

"They did not realize there was

another obligation," he said.

Irv Palmer, a Deputy Conservation Manager for the U.S.G.S., said his agency is not responsible for dealing with the Borough or the Whaling Commission. But he said it sent copies of the actions leading to the permits to the North Slope Borough a week after the permits were issued.

The Federal permits allow use of "Airguns" which produce an audible sound underwater for exploration of subsurface terrain.

"If you were standing on the beach, and it was a mile or so offshore, you could probably hear it," said Jerry Shearer, a U.S.G.S. official.

Palmer said seismic exploration "has been going on every year. But testing during the migration "would add significantly to knowledge of its effects on whales."

He said as part of a Bureau of Land Management study; an aircraft with two scientists aboard

will daily be in the Federal Seismic exploration areas to monitor the Airgun's effect.

"In addition, when the aircraft is not over a boat, and a whale is spotted, seismic operators have the responsibility to shut down until the whale has left the area," he said.

Jerry Imm, Environmental Field Coordinator for the BLM, said most whale-noise studies have been undertaken in the Canadian Waters of the Beaufort Sea where drilling and exploration is more prevalent.

He said the BLM and a Canadian firm are actively "trying to determine effect of oil and gas activity on those whales.

"What we've been doing in American waters is aerial observation of whale migration," he said.

The BLM now, in a \$75,000 to \$80,000 study, is providing the plane and trained observers to watch the whale's reactions to the airguns in American waters, he said.