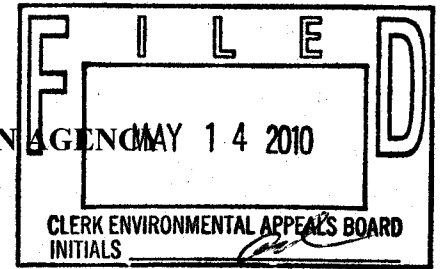


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re: _____)
)
Shell Gulf of Mexico, Inc.)
Shell Offshore, Inc.)
Frontier Discovery Drilling Unit)
)
OCS Permit No. R10OCS/PSD-AK-09-01)
OCS Permit No. R10OCS/PSD-AK-2010-01)
_____)

OCS Appeal Nos. 10-01 through 10-03 & 10-12

**ORDER CONSOLIDATING PETITIONS FOR REVIEW AND SETTING BRIEFING
SCHEDULE**

Region 10 ("Region") of the U.S. Environmental Protection Agency ("EPA") issued an Outer Continental Shelf Prevention of Significant Deterioration Permit to Construct, Permit Number R10OCS/PSD-AK-09-01 ("Chukchi Permit"), to Shell Gulf of Mexico, Inc. ("SGOMI"), on March 31, 2010. Three groups filed petitions for review of the Chukchi Permit with the Environmental Appeals Board ("Board"): 1) Center for Biological Diversity ("CBD");¹ 2) EARTHJUSTICE, on behalf of several conservation groups ("EJ Petitioners"),² and; 3) Alaska Eskimo Whaling Commission and Inupiat Community of the Arctic Slope ("AEWC").³ The

¹ CBD's Petition for Review is designated as OCS Appeal No. 10-01. *See* Petition for Review (Apr. 30, 2010) ("CBD Petition").

² The Petition for Review filed by EJ Petitioners is designated as OCS Appeal No. 10-02. *See* Petition for Review (May 3, 2010) ("EJ Petition"). The EJ Petitioners include Natural Resource Defense Council, Native Village of Point Hope, Resisting Environmental Destruction of Indigenous Lands ("REDOIL"), Alaska Wilderness League, Audubon Alaska, Center for Biological Diversity, Northern Alaska Environmental Center, Ocean Conservancy, Oceana, Pacific Environment, and Sierra Club.

³ AEWC's Petition for Review is designated as OCS Appeal No. 10-03. *See* Petition for Review (May 3, 2010) ("AEWC Chukchi Petition").

Region issued a second Outer Continental Shelf Prevention of Significant Deterioration Permit to Construct, Permit Number R10OCS/PSD-AK-2010-01 ("Beaufort Permit") to Shell Offshore, Inc. ("SOI") on April 9, 2010. The same three petitioners, CBD, EJ Petitioners, and AEWC, also petitioned for review of the Beaufort Permit.⁴ Among other things, the two permits authorize air emissions from a drill ship that will attach to the sea floor off the North Slope of Alaska for the purpose of oil exploration. Outer Continental Shelf ("OCS") permits are governed by 40 C.F.R. part 55 and the procedural rules set forth in 40 C.F.R. part 124. *See* 40 C.F.R. § 55.6(a)(3).

SGOMI and SOI (collectively "Shell") filed a motion requesting consolidated review and expedited consideration of the Petitions, and Petitioners filed responses indicating no objection to consolidation of the Petitions, but objecting to a briefing schedule that would preclude the opportunity to reply to Shell's arguments. The Board hereby consolidates review of these Petitions for administrative convenience.

In addition, the Board held a scheduling conference with the participants in these appeals on Thursday, May 13, 2010, for the purpose of establishing a briefing schedule and addressing related matters. Based on the foregoing, the Board hereby establishes the following briefing schedule in these appeals:

- 1) On or before June 4, 2010, Shell and the Region shall file with the Clerk of the Board and serve on all participants their briefs responding to the CBD, EJ, and AEWC Petitions for Review of the OCS Permits. In addition, on or before

⁴ CBD and EJ Petitioners requested review of the Chukchi and Beaufort Permits simultaneously, each in a single petition for review. AEWC first filed the AEWC Chukchi Petition on May 3, 2010, and then followed with a Petition for Review of the Beaufort Permit, designated as OCS Appeal No. 10-12. *See* Petition for Review (May 12, 2010).

June 4, 2010, the Region shall file with the Clerk of the Board and serve on all participants a CD containing a Certified Index of the administrative records for both permits as well as relevant portions of the administrative records.

- 2) Petitioners may file replies to the Region's and Shell's response briefs on or before June 14, 2010. Any replies shall be limited to issues raised in the Region's or Shell's briefs and shall not introduce new issues or arguments not presented in the Petitioners' respective Petitions.
- 3) Oral argument will be held on Friday, June 18, 2010 at 1:00 pm Eastern Daylight Savings Time, in the Board's Administrative Courtroom, U.S. Environmental Protection Agency, EPA East Building, Room 1152, 1201 Constitution Avenue NW, Washington, D.C. 20005. The parties shall notify the Clerk of the Board in writing by Tuesday, June 15, 2010, of the names of counsel who will present argument. Anyone wishing to participate in the oral argument via the Board's video-conferencing equipment located in the Administrative Courtroom will be given an opportunity to do so.

So ordered.

Dated:

May 14, 2010

ENVIRONMENTAL APPEALS BOARD

By: _____

Anna L. Wolgast
Anna L. Wolgast
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Consolidating Petitions for Review and Setting Briefing Schedule, in the matter of Shell Gulf of Mexico, Inc., and Shell Offshore, Inc., OCS Appeal Nos. 10-01, 10-02 & 10-03, were sent to the following persons in the manner indicated:

By Facsimile and First Class U.S. Mail:

Duane A. Siler
Susan M. Mathiascheck
Sarah C. Bordelon
Crowell & Moring LLP
1001 Pennsylvania Ave. NW
Washington, DC 20004
Telephone: 202-624-2500
Facsimile: 202-628-5116
dsiler@crowell.com
smathiascheck@crowell.com
sbordelon@crowell.com

Tanya Sanerib
Christopher Winter
Crag Law Center
917 SW Oak Street, Suite 417
Portland, OR 97205
Telephone: (503) 525-2722
Facsimile: (503) 296-5454
tanya@crag.org
chris@crag.org

Vera P. Pardee
Kevin Bundy
Center for Biological Diversity
351 California Street, Suite 600
San Francisco, CA 94104
Telephone: (415) 436-9682 ext. 317 (VP)
Telephone: (415) 436-9682 ext. 313 (KB)
Facsimile: (415) 436-9683
vpardee@biologicaldiversity.org
kbundy@biologicaldiversity.org

David R. Hobstetter
Erik Grafe
EARTHJUSTICE
441 W. 5th Ave., Suite 301
Anchorage, AK 99501
Telephone: (907) 277-2500
Facsimile: (907) 277-1390
egrafe@earthjustice.org
akoffice@earthjustice.org

Brendan Cummings
Center for Biological Diversity
PO Box 549
Joshua Tree, CA 92252
Telephone: (760) 366-2232
Facsimile: (760) 366-2669
bcummings@biologicaldiversity.org

Eric P. Jorgenson
EARTHJUSTICE
325 Fourth Street
Juneau, AK 99801
Telephone: (907) 586-2751
Facsimile: (907) 463-5891
ejorgenson@earthjustice.org

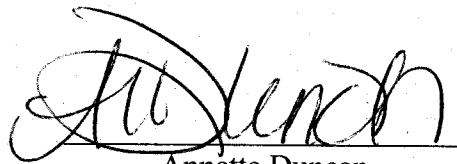
By Facsimile and EPA Pouch Mail:

Julie Vergeront
Juliane R.B. Matthews
Office of Regional Counsel
U.S. EPA, Region 10
1200 Sixth Avenue, SO-155
Seattle, WA 98101
Telephone: (206) 500-1169
Facsimile: (206) 553-0163
vergeront.julie@epa.gov
matthews.juliane@epa.gov

By Facsimile and EPA Interoffice Mail:

Kristi M. Smith
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW (2344A)
Washington, DC 20460
Telephone: (202) 564-3064
Facsimile: (202) 501-0644
smith.kristi@epa.gov

Dated: **MAY 14 2010**



Annette Duncan
Secretary