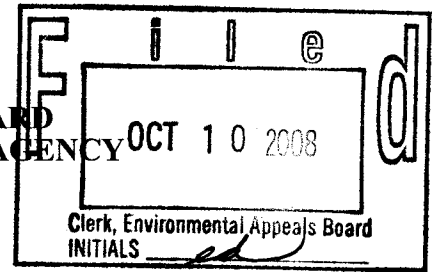


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:

Shell Offshore, Inc.
Kulluk Drilling Unit

OCS Permit No. R10OCS-AK-07-01
(Revised)

OCS Appeal Nos. 08-01, 08-02, & 08-03

**ORDER GRANTING LEAVE TO FILE AMICUS BRIEF
AND EXTENDING TIME FOR FILING RESPONSES**

By motion filed with the Board on October 7, 2008, the American Petroleum Institute ("API") seeks leave to file an amicus brief in the above-captioned matter. *See* Motion of the American Petroleum Institute for Leave to File Brief *Amicus Curiae* (Oct. 7, 2008) ("API Motion"). API has attached its proposed *amicus* brief to its motion. Brief *Amicus Curiae* of the American Petroleum Institute (Oct. 7, 2008). Upon consideration, API's Motion is granted and its amicus brief is hereby admitted to the record before the Board in this matter.

By motion filed with the Board on October 7, 2008, the Alaska Wilderness League ("AWL"), one of the petitioners in the above captioned matters,¹ seeks an extension of time from October 20, 2008, to October 28, 2008, to file a response to briefs submitted by U.S. EPA Region 10 (the "Region") and Shell Offshore Inc. ("SOI"). *See* Request for Extension of Time to File Petitioners' Responses From October 20, 2008 to October 28, 2008 (Oct. 7, 2008) ("AWL Request"). AWL

¹ Also on this petition are the Center for Biological Diversity, Natural Resources Defense Council, Northern Alaska Environmental Center, Pacific Environment, and Resisting Environmental Destruction on Indigenous Land ("REDOIL"). We refer to these petitioners collectively as "AWL."

provides the following reasons in support of this request: 1) One of the attorneys for AWL, Mr. Peter Van Tuyn, is presenting oral argument in the U.S. Court of Appeals for the D.C. Circuit on October 17, 2008, and “[i]t is not possible for [him] to prepare for and present that argument in the same time frame as the [AWL] response is due in this matter.” AWL Request at 2; 2) Another of AWL’s attorneys, Mr. Clayton Jernigan, “has left employment with Earthjustice * * * [and] is therefore not available to work on the response briefing.” *Id.*; 3) Mr. Eric Jorgensen, apparently Mr. Jernigan’s replacement as lead attorney for Earthjustice, “is not familiar with the substantial administrative record, * * * and has pre-existing commitments in the relevant time frame.” *Id.*; and 4) the extension will allow sufficient time to respond to the above-referenced amicus brief filed by API. *Id.* at 3. SOI opposes the eight-day extension on the grounds that it will add further delay and “compound the complications created by the previous extension of the [briefing] schedule.” Shell Offshore, Inc.’s Opposition to AWL, Et Al.’s Request for Extension of Time to File Petitioners’ Response From October 20, 2008 to October 28, 2008, at 2.

Upon consideration, AWL’s modest extension request is granted. Accordingly, AWL’s response to the briefs filed by SOI and the Region in this matter must now be filed no later than October 28, 2008.² Similarly, the deadline for the other petitioners, the North Slope Borough³ and

² Documents are “filed” with the Board on the date they are *received*.

³ Also on the North Slope Borough’s petition are the Inupiat Community of the Arctic Slope, and the Alaska Eskimo Whaling Commission.

Mr. Bill MacClarence⁴ to file any responses is also extended until October 28, 2008. No further extensions will be granted in this matter.

So ordered.

Dated: *October 10, 2008*

ENVIRONMENTAL APPEALS BOARD

By: *Charles J. Sheehan*
Charles J. Sheehan
Environmental Appeals Judge

⁴ By letter dated October 3, 2008, petitioner Mr. Bill MacClarence objects to consideration of API's *amicus* brief and states that "if the API amicus brief is to be considered by the EAB in these proceedings, I formally request additional time to seek comment from other American industry." Letter from Bill MacClarence, P.E., to Ms. Eurika Durr, Clerk of the Environmental Appeals Board (Oct. 3, 2008). Mr. MacClarence's open-ended request for an extension of time is denied.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Granting Leave to File Amicus Brief and Extending Time for Filing Responses in the matter of Shell Offshore, Inc., OCS Appeal Nos. 08-01, 08-02, & 08-03, were sent to the following persons in the manner indicated:

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Dated: OCT 10 2008


Annette Duncan
Secretary