

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

_____)	
In re:)	
)	
SHELL GULF OF MEXICO, INC)	
Frontier Discoverer Drilling Unit)	OCS Appeal Nos. OCS 10-01,
OCS Permit No. R10 OCS/PSD-AK-09-01)	10-02, 10-03, and 10-12
)	
and)	
)	
SHELL OFFSHORE, INC.,)	
Frontier Discoverer Drilling Unit)	
OCS Permit No. R10 OCS/PSD-AK-10-01)	
_____)	

MOTION TO HOLD MATTERS IN ABEYANCE

EPA Region 10 hereby moves the Environmental Appeals Board (Board) to hold these matters in abeyance pending the conclusion of President Obama’s moratorium on drilling activities on the Outer Continental Shelf (OCS). In support of this motion, EPA Region 10 states the following:

1. On March 31, 2010, the Director of the Office of Air, Waste and Toxics for the U.S. Environmental Protection Agency (EPA), Region 10 issued Outer Continental Shelf (OCS) /Prevention of Significant Deterioration (PSD) Permit No. R10OCS/PSD-AK-09-01 (the Chukchi OCS/PSD Permit) under the Clean Air Act (CAA) to Shell Gulf of Mexico, Inc. to allow exploratory oil and gas drilling operations in the Chukchi Sea.
2. On April 9, 2010, the Director of the Office of Air, Waste and Toxics for EPA Region 10 issued OCS /PSD Permit No. R10OCS/PSD-AK-10-01 (the Beaufort

OCS/PSD Permit) under the CAA to Shell Offshore Inc. to allow exploratory oil and gas drilling operations in the Beaufort Sea.

3. On May 3 and May 12, 2010, the above-referenced Petitions for Review of the Chukchi and the Beaufort OCS/PSD Permits were filed with the Board.
4. On May, 14, 2010, in response to a request from Shell Gulf of Mexico, Inc. and Shell Offshore Inc. (collectively, “Shell”) for expedited consideration of these Petitions, the Board issued a Scheduling Order providing that
 - a. Shell and Region 10 must file response briefs by June 4, 2010;
 - b. EPA Region 10 must file its Certified Index of the administrative records for both permits (with accompanying copies of relevant documents) by June 4, 2010;
 - c. Petitioners may file reply briefs by June 14, 2010; and
 - d. Setting oral argument for June 18, 2010.
5. On May 27, 2009, President Obama held a press conference in which he announced that the existing moratorium on OCS drilling activity was being extended for at least 6 months to put into place new operating standards and requirements and to conduct further review of these activities, including whether additional safety and environmental precautions may be necessary. During the press conference, the President explicitly referenced the exploratory oil and gas drilling operations that Shell is planning to undertake in the Chukchi Sea and the Beaufort Sea and stated that those activities would not go forward this year. *See Remarks by the President on the Gulf Oil Spill* (May 27, 2010), ¶15 (stating that “we will suspend the planned exploration of two locations off the coast of

- Alaska”), *available at* <http://www.whitehouse.gov/the-press-office/remarks-president-gulf-oil-spill>.
6. The U.S. Department of Interior (DOI) also provided additional information regarding the effect of the moratorium on Shell’s proposed OCS activities, stating that DOI would postpone consideration of Shell’s proposed exploration until 2011 in order to gather additional information about oil spill risks and response capabilities in the Arctic waters. *See* Press Release, U.S. Department of Interior, *Salazar Calls for New Safety Measures for Offshore Oil and Gas Operations; Orders Six Month Moratorium on Deepwater Drilling* (May 27, 2010) and accompanying Fact Sheet, *available at* <http://www.doi.gov/news/pressreleases/Salazar-Calls-for-New-Safety-Measures-for-Offshore-Oil-and-Gas-Operations-Orders-Six-Month-Moratorium-on-Deepwater-Drilling.cfm>.
 7. The direction given by the President regarding the OCS drilling moratorium, as well as the additional information provided by Secretary Salazar, is related to the present EAB matters because the Petitioners in this case are challenging CAA permits that EPA Region 10 issued to Shell for the same exploratory drilling activity that is subject to the moratorium.
 8. The moratorium on OCS drilling activities raises a number of complex issues potentially related to the status of the CAA permits at issue here. Region 10 does not know whether the general review to be conducted during the moratorium will lead to events that could affect the CAA permitting in this case – e.g., the addition of extra emergency response vessels to Shell’s proposed operations, the emissions for which EPA Region 10 would need to analyze in light of CAA permitting

requirements. Region 10 will not know whether any such events will actually come to pass until such time as the moratorium is lifted and DOI's consideration is complete.

9. Given the unknown outcome of the moratorium and related actions on Shell's exploratory oil and gas drilling operations in the Chukchi and Beaufort Seas, EPA Region 10, in consultation with EPA headquarters offices, cannot currently determine if a remand and/or withdrawal of the Shell permits will be necessary or appropriate to address the concerns that prompted the moratorium.
10. Accordingly, Region 10 asks that these matters, including the briefing deadlines and oral argument date contained in the Scheduling Order, be held in abeyance until at least fourteen (14) days after the end of the moratorium.
11. EPA Region 10 proposes that at that time, the parties shall file a joint status update with the Board informing it of:
 - a. the status of Shell's exploratory oil and gas drilling operations in the Chukchi and Beaufort Seas;
 - b. the effect, if any, of the moratorium and related activities on the Chukchi and Beaufort OCS/PSD permits and the pending Petitions for Review;
and
 - c. the suggested next steps in these matters, such as Region 10 action on the permits or continuation and scheduling of EAB briefing.

WHEREFORE, for the reasons set forward above, EPA Region 10 requests that the Board hold these matters, including the briefing deadlines and oral argument date

contained in the Scheduling Order, in abeyance until fourteen (14) days after the end of the moratorium.

Dated this 28th day of May, 2010

Respectfully submitted,

_____/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the MOTION TO HOLD MATTERS IN ABEYANCE to be served by electronic mail upon the counsel listed below.

4/28/10
Date

/s/
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