

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

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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	)	
_____	)	

**EPA REGION 10 PARTIALLY UNOPPOSED MOTION FOR EXTENSION OF  
TIME**

EPA Region 10 hereby moves the Environmental Appeals Board (Board) for a short extension of time for filing of response briefs and other filings in the above matter in light of the Board’s recent Order. In support of this motion, EPA Region 10 states the following:

1. On June 2, 2010, the Board issued an Order denying a request by U.S. Environmental Protection Agency (EPA) Region 10 to hold the briefing schedule in abeyance in this case, upholding the original briefing schedule, and requesting additional filing regarding two pending motions in this case – EPA Region 10’s Motion to Hold Matters in Abeyance and Petitioners’ Joint Motion to Vacate and Remand the Permits.

2. Combined, the Board's original May, 14, 2010 Scheduling Order and the Board's June 2, 2010 Order provide that:
  - a. Shell and Region 10 must file response briefs on the merits of the pending Petitions by June 4, 2010;
  - b. EPA Region 10 must file its Certified Index of the administrative records (with accompanying copies of relevant documents) by June 4, 2010;
  - c. EPA Region 10 must file a response to Petitioners' Joint Motion to Vacate and Remand and a response to Shell's opposition to EPA Region 10's Motion to Hold in Abeyance by June 8, 2010 (the June 2 order also allowed other parties to file responses or replies to pending motions by this date as well);
  - d. Petitioners may file reply briefs on the merits of the pending Petitions by June 14, 2010; and
  - e. The Board will hold oral argument on the pending Motions on June 18, 2010.
  
3. In light of the effort that staff and management at EPA Region 10 and EPA Headquarters have had to expend on the pending Motion to Hold Matters in Abeyance and other actions related to the announcement by President Obama that formed the basis for that Motion, EPA Region 10 needs a short extension of time in order to finalize the Region's response brief and allow for appropriate review of that brief by EPA management in light of the President's announcement and other related actions by the Administration.

4. In addition, given that the issues raised in the pending Motion to Vacate and Remand and Shell's opposition to EPA Region 10's Motion to Hold in Abeyance will require coordination between multiple offices with EPA Region 10 and EPA Headquarters, a short extension of time is also necessary to file the additional motions briefing required of EPA Region 10 in the Board's June 2 Order.
5. EPA Region 10 has conferred with the other parties in this matter regarding a change to the schedule in light of the exiting schedule provided for in the Orders of the Board, Region 10's need for a short extension of time, and other considerations and constraints.<sup>1</sup> As a result of those discussions, EPA Region 10 asks that the briefing schedule for these matters be amended as follows:
  - a. EPA Region 10 must file a response brief on the merits of the pending Petitions by Monday, June 7, 2010;
  - b. EPA Region 10 must file its Certified Index of the administrative records for both permits (with accompanying copies of relevant documents) by Monday, June 7, 2010;
  - c. EPA Region 10 must file a response to Petitioners' Joint Motion to Vacate and Remand and a response to Shell's opposition to EPA Region 10's Motion to Hold in Abeyance by Thursday, June 10, 2010 (and continuing to allow other parties to file responses or replies to pending motions by that date as well); and

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<sup>1</sup> Prior to filing and while in discussions with the other parties, we also conferred with the Clerk of the Board to ascertain whether a short extension in the oral argument date might be entertained by the Board and were informed the date could not be moved.

d. Petitioners may file reply briefs on the merits of the pending Petitions by June 15, 2010.

In accordance with the existing schedules (and unchanged by the present request), Shell Gulf of Mexico, Inc. and Shell Offshore Inc. (collectively, "Shell") will file a response brief on the merits of the pending Petitions by Friday, June 4, 2010, and the Board will hold oral argument on the pending Motions on June 18, 2010.

6. Counsel for Center for Biological Diversity and Counsel for Alaska Eskimo Whaling Commission and the Inupiat Community of the Arctic Slope do not oppose EPA's request for our extension of time and the resulting amended schedule put forward in ¶ 5 above. Counsel for Shell do not agree with the amended schedule in so far as it requires Shell to file its response brief on Friday, June 4, prior to EPA Region 10 filing its response brief. Counsel from Earthjustice, representing several conservation group Petitioners, were on travel or otherwise out of the office and unable to provide their position as to the revised schedule in the time period necessary for the filing of this motion.

WHEREFORE, for the reasons set forward above, EPA Region 10 requests that the Board grant this Partially Unopposed Motion for Extension of Time and amend the existing briefing schedule as set forth above.

Dated this 3rd day of June, 2010

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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EPA Office of General Counsel

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Assistant Regional Counsel  
EPA Region 10

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of the EPA Region 10 Partially Unopposed Motion for Extension of Time to be served by electronic mail upon the counsel listed below.

6/3/10  
Date

/s/  
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