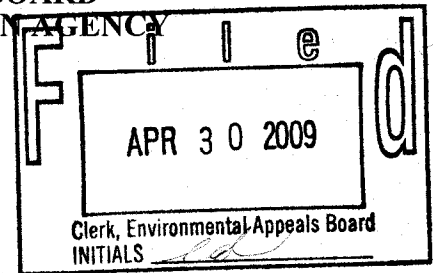


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



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 DISMISSING PETITIONS FOR REVIEW

On June 18, 2008, U.S. EPA Region 10 ("Region") issued an Outer Continental Shelf ("OCS") air regulation minor source permit to Shell Offshore, Inc. ("SOI"), pursuant to Clean Air Act section 328, 42 U.S.C. § 7627, and the applicable regulations governing air emissions from OCS sources at 40 C.F.R. part 55. The permit authorized SOI to "mobilize, operate, and demobilize" a drilling vessel for placement and anchoring in the Beaufort Sea floor off the North Slope of Alaska, for the purpose of oil exploration. Three petitioners sought review of the permit: 1) Bill MacClarence, P.E.; 2) The North Slope Borough, Inupiat Community of the Arctic Slope, and the Alaska Eskimo Whaling Commission (collectively: "NSB"); and 3) the Alaska Wilderness League, Center for Biological Diversity, Natural Resources Defense Council, Northern Alaska Environmental Center, Pacific Environment, and Resisting Environmental Destruction on Indigenous Land (collectively: "AWL").

On December 18, 2008, this Board stayed proceedings in this matter pending a final mandate from the United States Court of Appeals for the Ninth Circuit in *Alaska Wilderness League v. Kempthorne*, No. 07-71457.¹ The Court's final mandate has yet to issue. However, by submission filed with the Board on April 27, 2009, the Region states as follows:

EPA Region 10 hereby notifies the Board that Region 10 received a letter from SOI on March 26, 2009, stating that SOI was "withdrawing its application * * * for operation of the *Kulluk* drilling vessel in the Beaufort Sea" and requesting that "Region 10 terminate and cancel the proposed permit immediately." In response, EPA Region 10 has terminated all permitting activity on the *Kulluk* OCS permit application, will not move to finalize the revised OCS Air Quality Control Minor Permit issued to SOI, and has declared [the OCS permit in this matter] to be null and void."

Accordingly, EPA Region 10 hereby moves that the Board dismiss the pending petitions as moot and close this permit appeal.

Notice of Permit Withdrawal and Partially Unopposed Motion to Dismiss Petitions as Moot at 2 (Apr. 27, 2009) ("EPA Motion") (internal citations omitted). The Region represents that NSB and SOI do not oppose the EPA Motion.² *Id.* at 3. By submission filed with the Board on April 27, 2009, SOI confirms that it does not oppose EPA's Motion. Shell Offshore Inc.'s Notice of Non-Opposition to EPA Motion to Dismiss Appeal (Apr. 27, 2009). Similarly, AWL has informed the Board that it does not oppose EPA's Motion. [AWL's] Non-Opposition to Motion to Dismiss as Moot (Apr. 29, 2009).

¹ In a November 28, 2008 decision, the Ninth Circuit vacated the Mineral Management Service's approval of SOI's exploration plan for proposed drilling in the Beaufort Sea. Subsequently, the Ninth Circuit withdrew its opinion and indicated it will issue a new decision, but has not yet done so.

² The Region states that it has also contacted Mr. Bill MacClarence but that Mr. MacClarence "has not yet responded to phone and e-mail messages regarding this filing." EPA Motion at 3.

Upon consideration, the Region's motion to dismiss the petitions for review in the above-caption matter as moot is granted and the petitions are hereby dismissed with prejudice.

So ordered.

Dated: *April 30, 2009*

ENVIRONMENTAL APPEALS BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Dismissing Petitions for Review 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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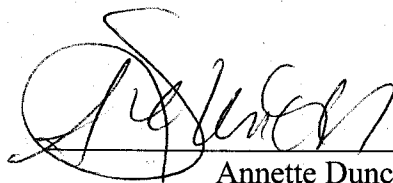
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Dated: APR 30 2009



Annette Duncan
Secretary