

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

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ENVIRONMENTAL APPEALS BOARD

In re:)
)
Shell Offshore, Inc.)
Kulluk Drilling Unit)
)
OCS Permit No. R10OCS-AK-07-01)
(Revised))
_____)

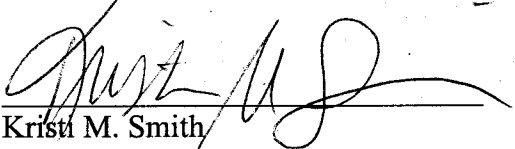
OCS Appeal Nos. 08-01, 08-02, & 08-03

NOTICE OF ACTIVITY IN RELATED NINTH CIRCUIT MATTER

On December 18, 2008, the Board filed a Order Staying Proceedings in this matter "until such time as the Ninth Circuit has issued its final mandate" in the related case of *Alaska Wilderness League v. Kempthorne*, No. 07-71457. *Id.* at 4. While the final mandate has not yet issued in the *Alaska Wilderness League* case, EPA Region 10 hereby notifies the Board of a new development in that case. On March 6, 2009, the three judge panel in the Ninth Circuit case issued an order vacating and withdrawing their opinion of November 20, 2008, and denying as moot the pending petition for rehearing en banc of that opinion. *See Order, Alaska Wilderness League v. Kempthorne*, No. 07-71457 (March 6, 2008), *attached*. The court also indicated that it would issue a new opinion to replace the vacated opinion and that the parties in that case would be allowed to file petitions for hearing en banc of the new opinion once it issued.

Date: March 9, 2009

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of the NOTICE OF ACTIVITY IN RELATED NINTH CIRCUIT MATTER (OCS Appeal Nos. 08-01 thru 08-03) were served on the following persons via U.S. Mail and electronic mail:

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Date: March 9, 2009


Kristi M. Smith

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ALASKA WILDERNESS LEAGUE;
NATURAL RESOURCES DEFENSE
COUNCIL, INC.; PACIFIC
ENVIRONMENT AND RESOURCES
CENTER,

Petitioners,

v.

DIRK KEMPTHORNE, et al.,

Respondent,

SHELL OFFSHORE, INC.,

Respondent-Intervenor.

No. 07-71457

RESISTING ENVIRONMENTAL
DESTRUCTION ON INDIGENOUS LANDS,
A PROJECT OF THE INDIGENOUS
ENVIRONMENTAL NETWORK;
CENTER FOR BIOLOGICAL
DIVERSITY AND SIERRA CLUB,

Petitioners,

v.

DIRK KEMPTHORNE, et al.,

Respondent,

SHELL OFFSHORE, INC.,

Respondent-Intervenor.

No. 07-71989

2808

ALASKA WILDERNESS v. KEMPTHORNE

NORTH SLOPE BOROUGH; ALASKA
ESKIMO WHALING COMMISSION,
Petitioners,

v.

DIRK KEMPTHORNE, et al.,
Respondent,

SHELL OFFSHORE, INC.,
Respondent-Intervenor.

No. 07-72183

DOI No. 2007-152

ORDER

Filed March 6, 2009

Before: Dorothy W. Nelson, Stephen Reinhardt, and
Carlos T. Bea, Circuit Judges.

ORDER

The opinion and dissent filed on November 20, 2008, and published at 548 F.3d 815 (9th Cir. 2008), are hereby vacated and withdrawn. Respondents' petition for rehearing and suggestion for rehearing en banc is denied as moot. All pending motions to file amicus briefs in support of rehearing are likewise denied as moot. The opinion vacated and withdrawn will be replaced by a new opinion. Our denial of the petition for rehearing with suggestion for rehearing en banc is made without prejudice to any party who may wish to file a petition for rehearing or petition for rehearing en banc with regard to the new opinion.

SO ORDERED.

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