

September 10, 2008

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**VIA FIRST CLASS MAIL**

U.S. Environmental Protection Agency  
Clerk of the Board  
Environmental Appeals Board  
Colorado Building  
1341 G Street, N.W.  
Suite 600  
Washington, DC 20005

Re: *Shell Offshore Inc.*, OCS Appeal Nos. 08-01, 08-02, and 08-03

Dear Clerk of the Board,

Please find attached Shell Offshore Inc.'s Motion for Oral Argument. This document has also been electronically filed. Five copies of this motion are attached. One additional copy is to be stamped-received and returned with the waiting courier.

Please do not hesitate to contact me at (202) 457-6132 if you have any questions or concerns.

Sincerely,



Sarah C. Bordelon  
Associate

SCB:srt

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*Attorneys for Shell Offshore Inc.*

**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

**SHELL OFFSHORE INC.'S REQUEST FOR ORAL ARGUMENT**

Shell Offshore Inc. ("SOI") hereby requests the opportunity to present its opposition to the above-captioned appeals at oral argument and requests that the Environmental Appeals Board

schedule oral argument for a date promptly following the conclusion of briefing on October 20, 2008.

Oral argument is appropriate in this case because it concerns a novel issue relating to permitting portable sources on the Outer Continental Shelf (“OCS”). SOI believes the Board will benefit from the opportunity to question the parties regarding the revised definition of stationary source for SOI’s exploratory activities in the Beaufort Sea OCS in the challenged permit and the evidence in the Environmental Protection Agency’s administrative record supporting that definition.

Oral argument is particularly important in this case in light of the Board’s request for clarification on the ripeness of this appeal. Pursuant to the Board’s August 19, 2008 order, the petitioners may raise new arguments in response to this issue as late as October 20, allowing SOI no opportunity to respond under the current briefing schedule.

In light of the unique circumstances associated with drilling operations during the brief Arctic open-water season and the long lead time necessary for SOI to prepare to drill, SOI further requests that the Board schedule oral argument for a date promptly following the conclusion of briefing on October 20, 2008.<sup>1</sup>

Petitioner Bill MacClarence and counsel for the Alaska Wilderness League et al. do not oppose this motion. SOI has not yet received a response from counsel for the North Slope Borough et al. or the Environmental Protection Agency.

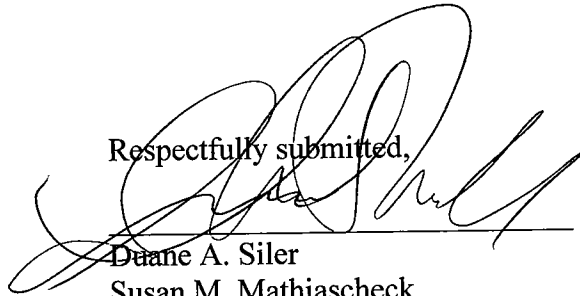
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<sup>1</sup> SOI must begin making commitments for the 2009 open-water season as early as January 2009. *See* Declaration of Chandler Wilhelm, Exhibit A, at ¶ 7. Because briefing will not be complete until the end of October, leaving only two months for Board deliberations before January, any further delay in the Board’s consideration of these appeals would seriously jeopardize SOI’s 2009 open-water season.

For the foregoing reasons SOI respectfully requests the Board to schedule oral argument and to do so for a date promptly following the completion of briefing.

DATED: September 10, 2008.

Respectfully submitted,



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**EXHIBIT A**

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*Attorneys for Shell Offshore Inc.*

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

_____ )	
In re: )	
Shell Offshore Inc. )	
Kulluk Drilling Unit )	
_____ )	OCS Appeal Nos. 08-01, 08-02, and
OCS Permit No. R10OCS-AK-07-01 )	08-03
(Revised) )	
_____ )	

**DECLARATION OF CHANDLER T. WILHELM  
28 U.S.C. § 1746**

1. My name is Chandler T. Wilhelm. I have first-hand experience with, and personal knowledge of, the facts and matters discussed in this declaration.
2. I am the Alaska Exploration Manager for Shell Exploration & Production Company ("SEPCo"). SEPCo's principal office is in Houston, Texas. SEPCo and Shell

Offshore Inc. ("SOI"), the legal entity holding state and federal oil and gas leases in the Beaufort Sea, have a new and rapidly expanding presence in Alaska, which includes an office in Anchorage. SEPCo and SOI are affiliates of Shell Oil Company ("Shell").

3. I am a professional petroleum geologist with approximately 25 years of experience working in the oil and gas exploration and production industry. I hold the following degrees: B.A., 1979, Geology, Pomona College; M.S., 1983, Geological Sciences, University of Colorado; Certificate of Completion, 1997, Global Finance Program, University of Texas Graduate School of Business. I have been employed by Shell or its affiliates since 1983.

4. As Alaska Exploration Manager for SEPCo, I direct execution of SOI's Alaska exploration program. I manage and oversee administration of SOI's Alaska oil and gas lease portfolio, participate in decisions on investments in new oil and gas leases, and oversee execution of seismic and drilling operations. I have a staff of approximately 30 technical professionals in Houston and Anchorage who work as a part of my team. In addition, I work closely with Legal, Regulatory Affairs, and Government and External Affairs staff in Anchorage, Houston, and Washington, D.C., to ensure that SOI conducts its business in Alaska with appropriate attention to stakeholder issues and in compliance with all applicable local, state, and federal laws, as well as Shell standards.

5. I make this declaration in support of SOI's Request for Leave to Respond and Motion for Expedited Review in the above-captioned appeals. SOI has substantial interests that are directly and significantly affected by these appeals, as I discuss further below. No other party to these appeals represents SOI or SOI's interests. SOI desires to

participate in this appeal as a party to protect its interests. I believe that SOI's participation will be helpful and beneficial to the Board and the process generally, and that SOI's participation will aid in the development of a more complete record in this case. If SOI is denied intervention, SOI will have no other means of protecting its interests in this matter. SOI's motion to intervene is not brought for purpose of delay or any other improper purpose.

6. SOI plans to conduct exploratory drilling, site clearance, and seismic activities on certain of SOI's 179 federal oil and gas leases in the Beaufort Sea. Seismic and site clearance activities in support of future drilling seasons were conducted successfully in 2006 and 2007 at a net cost to Shell in excess of \$75 million. These same activities are also currently underway in 2008. On July 11, 2008, the U.S. Court of Appeals for the Ninth Circuit denied a request for a temporary injunction pending appeal that would have enjoined SOI's seismic activities for the 2008 season. SOI is therefore executing, through a contractor, its 2008 seismic and site clearance activities as planned at a projected total cost in excess of \$60 million.

7. SOI would like to consider exploratory drilling using the Kulluk in the Beaufort Sea as early as the 2009 season. Because of the limited summer drilling season, SOI would need to begin committing to contracts for ice management vessels, logistics support, and rig personnel, and commence rig warm-up as early as January of 2009. To carry out these activities, SOI is required by law to obtain a number of different governmental approvals from various agencies of the federal government and State of Alaska. These include: (1) approval by the Minerals Management Service ("MMS") of



SOI's Plan of Exploration ("EP"), (2) an air permit, which is the subject of these appeals, (3) Coastal Zone Management Act ("CZMA") certification, (4) Incidental Take Authorizations under the Marine Mammal Protection Act and (5) an Oil Discharge Prevention and Contingency Plan ("ODPCP" or "C-Plan"). As discussed below, SOI has invested substantial resources in obtaining all of these authorizations and either has received, or expects to receive on a timely basis, all of them. However, exploration cannot occur without the OCS air permit at issue in these appeals, which is why SOI has a vital interest in the outcome of these appeals.

8. **Exploration Plan.** On February 15, 2007, the MMS conditionally approved SOI's EP, authorizing the drilling of up to four wells at specific locations that summer and fall, and additional wells in 2008 and 2009. On August 15, 2007, the U.S. Court of Appeals for the Ninth Circuit issued a temporary injunction that prohibits SOI from proceeding on its EP. The court granted expedited review of the appeal challenging the EP and held oral arguments in December 2007. As of the date of this Declaration, the Court of Appeals has not issued a decision on the merits of the appeal.

9. **Oil Discharge Prevention and Contingency Plan.** SOI has developed and funded a comprehensive ODPCP that details the many proactive measures that will be implemented to prevent a spill during exploratory operations and, in the unlikely event of a spill, minimize any potential impacts from that spill. SOI's C-Plan was conditionally approved by the MMS on February 15, 2007. In total, SOI has committed in excess of \$100 million to develop a robust spill response capacity (including vessels, equipment and personnel).

10. **Coastal Zone Management Act.** The EP must also be reviewed and approved by the State of Alaska under the federal CZMA. The CZMA consistency review process requires the State to issue a determination that the conditionally-approved EP is consistent with the standards of the State's approved coastal zone management program. The State of Alaska determined that SOI's plan is consistent with Alaska statewide standards on July 27, 2007.

11. **Incidental Take Authorization.** In order to conduct drilling in 2009 SOI must obtain an Incidental Harassment Authorization ("IHA") from the National Marine Fisheries Service ("NMFS") for whales and seals and a Letter of Authorization ("LOA") from the U.S. Fish and Wildlife Service ("USFWS") for polar bears and walrus. SOI is working with NMFS and USFWS on an ongoing basis to ensure that SOI has all necessary authorizations from those agencies to undertake activities that are determined to have only a negligible impact on protected marine species.

12. Because the open-water season in the Beaufort Sea is extremely short, typically lasting only from July through October, the logistical preparation and upfront investment in exploratory drilling and support activities is substantial. In terms of cost, SOI has committed hundreds of millions of dollars on its current three-year EP. The actual costs for SOI's activities in 2007 alone exceed \$300 million.

13. SOI's EP is based on several years of background research, data acquisition, and analysis, including seismic and/or shallow hazards data acquisition in the Beaufort and Chukchi Seas during the 2006 open-water season. SOI expended significant resources in not only planning the 2006, 2007, and 2008 seismic data acquisition program

and securing the equipment and resources necessary to complete the program, but also in obtaining the authorizations and approvals from the United States Government that are required for these types of activities.<sup>1</sup>

14. As noted, SOI has expended and/or committed substantial financial and human resources to planning, permitting, and executing its multi-year Alaska open-water exploration drilling and seismic campaign. From the outset, SOI committed to employing the best available drill ship technology to safely drill in the Arctic. To that end, SOI spent in excess of \$200 million to acquire and upgrade the Kulluk (which is 100 percent Shell-owned). SOI has conducted numerous geological and geophysical analyses of its leases and available technical data to determine the areas most prospective for hydrocarbons and where to drill its planned exploration wells. SOI has completed numerous other technical studies in order to engineer each well. These specialized studies required the efforts of some 30 technical experts, including petroleum engineers, geologists and geophysicists, and countless person-hours of work.

15. In addition, because SOI currently plans to conduct future exploration drilling in the Beaufort Sea based on the analysis of the data acquired in 2009, SOI's inability to complete that data acquisition may delay the schedule for drilling future exploration wells. Given that Arctic exploration and development involves extended planning horizons, the loss of even a single season can jeopardize SOI's ability to evaluate and, ideally, bring its leases into production within the primary term of the leases, which in

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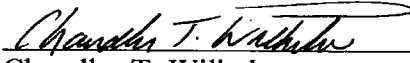
<sup>1</sup> In all, excluding lease bonuses, SOI has spent almost \$600 million between 2005 and the present in technical studies, data acquisition, and preparation for drilling.

turn threatens the substantial investment made by SOI in acquiring and exploring the leases. Moreover, due to the short Arctic open-water season, any delay of SOI's project threatens SOI's ability to conduct a safe and effective data acquisition program.

16. It is critical for SOI, in planning its long-term investments in Alaska, to know that the federal government's permitting decisions are final and effective. For the reasons set forth above, SOI has a vital interest in any appeal that would seek to overturn any of those decisions, including the present challenges to the minor air permit issued by Region 10.

17. I declare under penalty of perjury that the foregoing is true and correct.


Executed on July 29, 2008.

  
Chandler T. Wilhelm

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Request for Oral Argument was electronically filed with the Environmental Appeals Board and sent via Electronic Mail and First Class Mail on the 10<sup>th</sup> day of September, 2008, to the following:

<p>Chris Winter Crag Law Center 917 SW Oak St., Suite 417 Portland, OR 97205 Phone: (503) 525-2725 Facsimile: (503) 296-5454 Email: <a href="mailto:chris@crag.org">chris@crag.org</a></p>	<p>Juliane Matthews Edward Kowalski, Regional Counsel Office of Regional Counsel U.S. EPA, Region 10 1200 Sixth Avenue Seattle, WA 98101 Phone: (206) 553-1083 Facsimile: (206) 553-0163 Email: <a href="mailto:matthews.juliane@epa.gov">matthews.juliane@epa.gov</a></p>
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<p>Clayton Jernigan Eric Jorgensen EARTHJUSTICE 325 Fourth Street Juneau, AK 99801 Phone: (907) 586-2751 Facsimile: (907) 4635891 Email: <a href="mailto:cjernigan@earthjustice.org">cjernigan@earthjustice.org</a></p>	<p>Bill MacClarence, P.E. 10840 Glazanof Drive Anchorage, AK 99507 Phone: (907) 346-1349 Email: <a href="mailto:billnjan@gci.net">billnjan@gci.net</a></p>

  
Shaunice Thomas, Secretary