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VIA ELECTRONIC MAIL

U.S. Environmental Protection Agency
Eurika Durr, Clerk of the Board
Environmental Appeals Board
Ronald Reagan Building, EPA Mail Room
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
durr.eurika@epa.gov

Re: *In re Shell Offshore Inc. and Shell Gulf of Mexico Inc.*, OCS Permit Nos.
R10OCS/PSD-AK-2010-01 & R10OCS/PSD-AK-09-01, OCS 11-03

Dear Ms. Durr,

On behalf of the Alaska Eskimo Whaling Commission and the Iñupiat Community of the Arctic Slope (hereafter AEWG Petitioners), I am writing to respond to the letter from Shell Offshore Inc. and Shell Gulf of Mexico Inc. (hereafter Shell) requesting expedited consideration of any petitions for review of the two OCS PSD air permits issued for Shell's drillship the *Discoverer*. (Docket Entry #1.) AEWG Petitioners in no way wish to delay resolution of their October 24th petition for review, and in particular the AEWG does not wish to see the present action cause a delay in Shell's planned operations for 2012. However, they do wish to request the opportunity to expeditiously file a reply brief. This request ensures that affected communities will have a fair opportunity to review and comment on a complete record in this matter. AEWG Petitioners believe that accommodating this request will benefit all parties by contributing to the expeditious resolution of these issues, and obviating the need for further action on these matters and the potential for even further delay in Shell's plans.

On April 19, 2011, the Board issued a Standing Order addressing petitions for review of new source air permits. NSR Standing Order (4/19/2011). Abiding by that Order, AEWG Petitioners submitted a petition for review that is less than 14,000 words and the Board has set November 16, 2011 as the deadline for Region 10 and Shell's responses. Letter from Durr to Stern (Oct. 26, 2011) (Docket Entry #17). While the Standing Order indicates a presumption against the filing of reply briefs and having oral argument in new source review cases, AEWG Petitioners believe that a reply brief is warranted in this situation and that the issues raised in their petition for review may benefit from argument.

AEWC Petitioners request the opportunity to file a reply brief for several reasons. First, Petitioners did not have the complete administrative record for the Beaufort or Chukchi OCS permits when they filed their petition for review. AEWc Petitioners would like the opportunity to review the complete record and where appropriate offer additional documents in support of their petition for review. In particular, as noted in AEWc and ICAS's Petition for Review, Shell relied upon confidential information in calculating its methane emissions and after the close of the public comment period (on September 16, 2011), Shell provided the Region with additional information that was used in reaching its methane emissions calculations. AEWc Petition for Review at 19 n.9; RTC at 29. The Region relied upon this new information in approving the air permits for the Discoverer and Petitioners would like the opportunity to review and comment upon it.

Second, it appears that Shell (the permittee) intends to participate in these proceedings. While the Region prepared a response to AEWc and ICAS's comments on the draft permits, Shell did not. Therefore, Shell's filing will be unique and AEWc Petitioners would like the opportunity to respond to it. Third, the two OCS PSD permits issued to Shell are important, precedent setting permits for offshore oil and gas activities in the Arctic. Due to the importance of these issues to Arctic offshore oil and gas permitting and to the health and welfare of local communities, AEWc Petitioners respectfully request the opportunity to file a reply brief in this matter. For these same reasons, AEWc Petitioners also believe that the issues raised in their October 24, 2011 petition may benefit from oral argument.¹

AEWC Petitioners suggest that upon receipt of Region 10 and Shell's responses to the petitions for review of the Beaufort and Chukchi OCS PSD permits², that the Board hold a status conference to discuss the timing for the filing of reply briefs and if the Board desires, oral argument in this matter. Both the AEWc and ICAS would like to see the Board resolve the issues raised in the petitions for review as expeditiously as possible and are, therefore, prepared to file a reply brief and appear for oral argument within a short timeframe.

¹ While respectful of Shell's desire for expedited review, AEWc Petitioners point out, as they have in the past, that much of the five-year delay that Shell notes in its letter requesting expedited processing is of Shell's own making. As explained in AEWc Petitioners' response to Shell's request for reconsideration of the Board's December 30, 2010 decision, Shell delayed its receipt of air permits by attempting to avoid BACT analysis as a major source under the Clean Air Act, failing to collect relevant data and provide important information to Region 10, and by otherwise attempting to rush its permits through the Region and through public review. *In re Shell*, OCS Appeals 10-01 to 10-04 (Docket Entry #95) (Petitioners' Response and Opposition to the Motions for Reconsideration or Clarification at 36-38).

² Another petition for review was filed on October 24, 2011 by a coalition of entities represented by Earthjustice.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tanya Smith". The signature is fluid and cursive, with the first name "Tanya" written in a larger, more prominent script than the last name "Smith".

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