



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

REGIONAL ADMINISTRATOR

August 20, 2009

Peter E. Slaiby
Shell Alaska General Manager
Shell Exploration & Production, Inc.
3601 C Street, Suite 1000
Anchorage, Alaska 99503

Dear Mr. Slaiby:

This letter is in response to your August 4, 2009, letter to me raising concerns about EPA's processing of Shell's air permits for exploratory drilling in the Chukchi Sea and the Beaufort Sea. EPA recognizes your concerns and I want to reiterate that the Agency is working diligently on the permits. EPA and Shell share the common goal to have in place, as expeditiously as possible, legally defensible Outer Continental Shelf (OSC) / Prevention of Significant Deterioration (PSD) permits. Additionally, I have directed my staff to treat the Shell permitting efforts as the highest priority. Timely permit issuance is dependent upon the permit applicant submitting the necessary information to us in a timely and collaborative manner. As described below, project reconfigurations and late submittals on Shell's part have created a challenge for EPA.

Chukchi Sea Permit Application. Shell submitted its initial permit application for the Chukchi permit in December 2008. EPA sent two incompleteness determinations to Shell, dated January 16, 2009, and March 12, 2009, identifying additional information that was needed to process the permit application. Shell's formal submittal in response to the second incompleteness determination was submitted to EPA on May 18, 2009. Not until this submission did Shell conclusively define the ambient air boundary for the proposed activity. Because the air quality impact analysis is dependent upon the ambient boundary, Shell's timing in deciding the boundary significantly impeded the Agency's permit work. Although the application was still incomplete in other aspects after the May 18 submittal, EPA continued to work on the permit while continuing to reiterate our requests for additional information. After May 18, Shell submitted updated information on emissions to reflect changes in the project configuration and other aspects of the operation in support of requests for additional operational flexibility. Shell finally submitted the necessary background air quality data on July 27, 2009, along with other information requested related to your submittals under the Endangered Species Act. We issued a completeness determination for the Chukchi permit application on July 31, the date I committed to in my July 27, 2009, letter to you. EPA will be issuing a public notice for the proposed Chukchi Sea permit on August 20, 2009.

Beaufort Sea Permit Application. Your letter is not accurate regarding the Agency's response to the Beaufort Sea permit application. EPA issued a partial incompleteness determination letter on July 29, 2009, as I committed to doing in my July 27, 2009, letter to you. The determination was made following ongoing technical discussions with Shell and it specified additional information that was necessary to complete specified sections of the permit. Missing information included key elements such as an updated emission inventory and associated updates to the Best Available Control Technology (BACT) analyses, modeling and a potential to emit inventory for all regulated New Source Review (NSR) pollutants. We also expressed concern about the adequacy of ambient monitoring data. We met again with Shell's consultants on July 29, provided them with a signed copy of the letter, and discussed the permit issues with them at length. The timing for issuance of the Beaufort Sea permit depends on how quickly Shell submits the necessary missing information. We anticipate being able to issue a public notice for the proposed permit within approximately 10 weeks after we receive all of the necessary information from Shell. We continue to work on the project in the meantime and anticipate building on the work carried out for the Chukchi Sea permit, however there are additional requirements in the area of the Beaufort Sea that is subject to onshore area regulations. I look forward to our August 25th meeting to discuss the schedule for public notice of the Beaufort permit.

Permit writing resources and staffing. In an effort to expedite processing of Shell's permit applications, EPA has devoted considerable resources towards the Shell permits at the expense of other high priority Agency work. Although we do have staffing limitations, the permit applications are not processed by a "one person technical expert approach." Rather, there is a designated lead permit writer for each permit, who is supported by a team of Agency technical, legal, managerial and administrative personnel from within Region 10 and at EPA Headquarters. Additionally, EPA staff continue to consult with other federal agencies.

We appreciate your noting that the Alaska Department of Environmental Conservation (ADEC) has offered their assistance, and we do seek their assistance as appropriate. We have, for example, advised Shell that we will accept Shell's regional emissions inventory, derived from State-developed databases for sources they regulate, for the Beaufort Sea application if ADEC approves it. Nonetheless, there are limitations on how much EPA can rely on assistance from the State. The Beaufort Sea Exploration plan includes activity in areas subject to federal jurisdiction both more and less than 25 miles from the state's seaward boundaries. Accordingly, both the corresponding onshore area regulations and the federal regulations apply to the proposed activity. Pursuant to the federal regulation, the State does not have the authority to issue the permits in this instance, and EPA has an independent responsibility to carry out the development of permit terms and conditions.

Response to Comments. You expressed concern regarding the estimated time for EPA to respond to comments received on the proposed permit and offered to provide support or information necessary to respond to the public comments. As with the previous EPA OCS permits proposed for Shell, we anticipate considerable public interest in these permits and comments that raise technically and legally complex issues. I appreciate your offer to assist us in

responding to the public comments; however, it is EPA's independent responsibility and obligation to consider and respond to the comments received. Throughout the public comment process Shell may certainly provide its own comments and additional information that it believes relevant to the issues that may be raised by other parties. I can assure you that we will respond to the comments and issue the final permit as expeditiously as possible.

PM2.5 issues. Your letter expressed concern about EPA's requirement to address PM2.5 in this application. The National Ambient Air Quality Standards (NAAQS) for PM2.5 were originally promulgated in 1997, and PSD permits issued by EPA or States since that date have been required to address compliance with the PM2.5 NAAQS. Until recently, EPA and States had the discretion to use PM10 as a surrogate for PM2.5 in PSD permitting. However, as of July 2008, EPA rescinded the surrogate policy for the federal PSD permitting programs, such that PSD permit applications needed to fully comply with all requirements for PM2.5 direct emissions and PM2.5 precursors (SO2 and NOx). EPA no longer utilizes the PM10 surrogate policy in any federal permitting action, including when we are implementing federal rules on the OCS that mirror the onshore PSD rules. The PSD permit application for the Chukchi project was initially submitted in December 2008 and the Beaufort application in May 2009, both well after the July 2008 effective date of EPA's PSD rulemaking. Shell's applications do indeed address emissions of PM2.5, as required. The remaining concern is the limited amount of ambient PM2.5 data; however, ambient air quality data is a requirement of PSD applications and this requirement is not unique to Shell.

Endangered Species Act (ESA) consultation. Finally you inquired as to the status of EPA's ESA consultation efforts. We are continuing our efforts related to complying with our obligations under the ESA and want to reassure you that our consultation efforts are proceeding on track. The Mineral Management Service has also consulted on Shell's oil exploration activities and serves as the lead agency for Shell's oil exploration activities and has consulted with the Services regarding the Chukchi and Beaufort Seas. EPA has had discussions with the Services regarding our specific permitting actions and we are currently researching the scientific literature for species impacts due to air quality, which we will use to formulate our determination.

As EPA is currently working on the Clean Air Act permits necessary for Shell to begin its exploratory drilling program in the Chukchi and Beaufort Seas, we also recognize that additional approvals or actions from other federal agencies are also required. For example, the Exploration Plans need to be approved, the letters of authorizations issued and the analysis completed regarding the lease sales as required by the DC Circuit Court of Appeals.

As you know, Shell's proposed exploratory drilling activity is the subject of considerable public interest. The proposed activity potentially affects a number of communities on the Alaska North Slope. We expect the Chukchi and Beaufort permits will receive careful scrutiny from a number of interested parties. EPA is working diligently to enhance coordination with affected communities and to issue technically sound, legally defensible permits as quickly as possible.

As stated above, I understand the urgency associated with these permits and assure you that the Agency is working diligently to issue technically sound, legally defensible permits in time for Shell's 2010 drilling program. We look forward to your cooperation and collaboration in the coming weeks and months as we continue our work.

Please feel free to give me a call if you any further questions.

Sincerely,



Michelle L. Pirzadeh
Acting Regional Administrator

cc: The Honorable Ken Salazar
Secretary, Department of Interior

The Honorable Lisa Murkowski
United States Senator, Alaska

The Honorable Mark Begich
United States Senator, Alaska

The Honorable Don Young
United States Representative, Alaska

The Honorable Sean Parnell
Governor, State of Alaska

Larry Hartig, Commissioner
Alaska Department of Environmental Conservation