

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

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In re:	)	
	)	
Shell Gulf of Mexico, Inc.	)	OCS Appeal Nos. 10-01 through 10-04
Permit No. R10OCS/PSD-AK-09-01	)	
	)	
and	)	
	)	
Shell Offshore, Inc.	)	
Permit No. R10OCS/PSD-AK-2010-01	)	
	)	
	)	

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**PETITIONERS' JOINT RESPONSE TO SHELL OFFSHORE INC.'S AND SHELL  
GULF OF MEXICO INC.'S NOTICE OF RELATED DECISION**

Petitioners Natural Resources Defense Council, *et al.*, Alaska Eskimo Whaling Commission, *et al.*, and Center for Biological Diversity (collectively, Petitioners) hereby provide the following response to Shell Offshore Inc.'s and Shell Gulf of Mexico Inc.'s (collectively, Shell) notice of related decision, Docket No. 70. The July 21 order issued in *Native Village of Point Hope v. Salazar*, No. 1:08-cv-0004 (D. Alaska July 21, 2010), enjoins all activity under the Chukchi Sea lease sale pursuant to which Shell obtained the leases upon which it proposes to conduct the exploration that is the subject of the Chukchi PSD permit at issue here, pending further agency review under the National Environmental Policy Act. The federal court's order directs the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE), formerly the Minerals Management Service, to conduct an assessment of the importance of missing scientific information in the Chukchi Sea and determine whether such information can be obtained and to analyze the effects of potential natural gas development on the leases.

The potentially far-reaching nature of the revisions the court ordered BOEMRE to conduct, like the existing suspension of Shell's Arctic Ocean exploration drilling for 2010 and the ongoing review of offshore oil and gas activities by the administration, introduces considerable uncertainty as to whether the drilling that is the subject of the permits at issue here will occur at all. Shell's request that the Board decide the petitions now, notwithstanding this considerable uncertainty, because "issues raised in the above-captioned appeals are broadly applicable such that decisions made for one Outer Continental Shelf air permit could be relevant in any proceeding regarding another Outer Continental Shelf air permit," Docket No. 70 at 1, underscores the advisory nature of the adjudication that Shell and now partly also Region 10

seek.<sup>1</sup> At this point, Shell will not conduct drilling in 2010 in either the Chukchi Sea or Beaufort Sea, there are no pending or approved exploration plans for either sea in future years, and all activities under existing Chukchi Sea leases are enjoined pending substantial revision of the analysis underlying the decision to offer those leases. This recent decision further supports vacatur of the permits and a remand to EPA as requested by Petitioners pending new analysis of any drilling operations that may be approved in the future.

Respectfully submitted,

*s/ David R. Hobstetter*

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<sup>1</sup> Region 10 this morning agreed to Shell's demand that the agency ask the Board to decide the merits of three issues set forth in the Board's July 19, 2010, Order, departing from its prior request that the Board hold these matters in abeyance. Region 10, Motion to Reschedule Oral Argument at 3-4 (Docket No. 71).

*s/ Vera P. Pardee*

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Date: July 28, 2010.

**CERTIFICATE OF SERVICE**

I hereby certify that on July 28, 2010, a copy of foregoing PETITIONERS' JOINT RESPONSE TO SHELL OFFSHORE INC.'S AND SHELL GULF OF MEXICO INC.'S NOTICE OF RELATED DECISION in the matter of *In re: Shell Gulf of Mexico, Inc., Permit No. R10OCS/PSD-AK-09-01 and Shell Offshore, Inc., Permit No. R10OCS/PSD-AK-2010-01*, OCS Appeal Nos. 10-01 through 10-04, was served by electronic mail on the following persons:

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