



**Response to Response to request for oral argument, (resent with Subject Line)**

**Eskimo Whaler** to: Julie Vergeront

11/23/2011 03:38 AM

Eurika Durr, Alexander Fidis, "Chris Winter \(\(chris@crag.org)\)",  
Cc: Colin O'Brien, David Coursen, David Hobstetter, 'Duane Siler',  
"egrafe@earthjustice.org", "ejorgensen@earthjustice.org", "Sarah

From: Eskimo Whaler <eskimo.whaler@yahoo.com>  
To: Julie Vergeront/R10/USEPA/US@EPA  
Cc: Eurika Durr/DC/USEPA/US@EPA, Alexander Fidis/R10/USEPA/US@EPA, "Chris Winter \(\(chris@crag.org)\)" <chris@crag.org>, Colin O'Brien <cobrien@earthjustice.org>, David Coursen/DC/USEPA/US@EPA, David Hobstetter <dhobstetter@earthjustice.org>, 'Duane Siler' <dsiler@crowell.com>  
Please respond to Eskimo Whaler <eskimo.whaler@yahoo.com>

Because the initial email I sent out today lacked information in the subject line, and to make sure that does not invalidate my submissions to you all, I am resending the original email with a subject line included. Thank you for your continued patience.

Attached is my response to the response to my request for oral argument, in Microsoft Word and PDF Format. I am using this "reply all" format to make sure that all parties involved at the stage I was last involved in, are contacted. I am not clear which parties are still involved, so to be sure I am replying all through an email that I know to contain the most parties that were involved. Please excuse this precaution, but I do not want to exclude any parties in communication as I was excluded, or delayed.

Respectfully,

Daniel Lum.

'I, Daniel Lum, certify that on November 22, 2011, I emailed this document to counsel for all parties.'

From: Eskimo Whaler <eskimo.whaler@yahoo.com>  
To: "Vergeront.Julie@epamail.epa.gov" <Vergeront.Julie@epamail.epa.gov>  
Cc: "durr.eurika@epa.gov" <durr.eurika@epa.gov>; "Fidis.Alexander@epamail.epa.gov" <Fidis.Alexander@epamail.epa.gov>; "Chris Winter (chris@crag.org)" <chris@crag.org>; Colin O'Brien <cobrien@earthjustice.org>; "Coursen.David@epamail.epa.gov" <Coursen.David@epamail.epa.gov>; David Hobstetter <dhobstetter@earthjustice.org>; 'Duane Siler' <dsiler@crowell.com>; "egrafe@earthjustice.org" <egrafe@earthjustice.org>; "ejorgensen@earthjustice.org" <ejorgensen@earthjustice.org>; 'Sarah C. Bordelon' <sbordelon@crowell.com>; "Tanya Sanerib (tanya@crag.org)" <tanya@crag.org>; "tmendoza@crowell.com" <tmendoza@crowell.com>  
Sent: Tuesday, November 22, 2011 11:14 PM  
Subject:

Attached is my response to the response to my request for oral argument, in Microsoft Word and PDF Format. I am using this "reply all" format to make sure that all parties involved at the stage I was last involved in, are contacted. I am not clear which parties are still involved, so to be sure I am replying all through an email that I know to contain the most parties that were involved. Please excuse this precaution, but I do not want to exclude any parties in communication as I was excluded, or delayed.

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Daniel Lum.

'I, Daniel Lum, certify that on November 22, 2011, I emailed this document to counsel for all parties.'

From: "Vergeront.Julie@epamail.epa.gov" <Vergeront.Julie@epamail.epa.gov>  
To: Eskimo Whaler <eskimo.whaler@yahoo.com>  
Cc: durr.eurika@epa.gov; Fidis.Alexander@epamail.epa.gov; "'Chris Winter (chris@crag.org)'" <chris@crag.org>; Colin O'Brien <cobrien@earthjustice.org>; Coursen.David@epamail.epa.gov; David Hobstetter <dhobstetter@earthjustice.org>; 'Duane Siler' <dsiler@crowell.com>; "egrafe@earthjustice.org" <egrafe@earthjustice.org>; "ejorgensen@earthjustice.org" <ejorgensen@earthjustice.org>; 'Sarah C. Bordelon' <sbordelon@crowell.com>; "'Tanya Sanerib (tanya@crag.org)'" <tanya@crag.org>; "tmendoza@crowell.com" <tmendoza@crowell.com>  
Sent: Tuesday, November 8, 2011 11:56 AM  
Subject: Re: Request for Oral Argument

Mr. Lum,

When you called me this morning asking for assistance in understanding the petition process before the Environmental Appeals Board, I recommended that you contact Ms. Eurika Durr, Clerk for the Board, to make sure you understood the Board's requirements for filings and submissions to the Board, including a request for oral argument.

I also explained that the parties in this case (the other petitioners, Shell and EPA Region 10) had agreed to accept electronic service through email. In doing so, however, I emphasized that the Board did not generally accept documents by email and therefore recommended that you call Ms. Durr.

It does not appear that you copied Ms. Durr on your email requesting oral argument. I have copied Ms. Durr here and again encourage you to contact her to make sure you understand the Board's filing and service requirements.

Sincerely,

Julie A. Vergeront  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region 10  
1200 Sixth Avenue, ORC-158  
Seattle, WA 98101  
Phone (206) 553-1497  
Fax (206) 553-0163

From: Eskimo Whaler <eskimo.whaler@yahoo.com>  
To: Julie Vergeront/R10/USEPA/US@EPA, "Chris Winter  
(chris@crag.org)" <chris@crag.org>, "Tanya Sanerib  
(tanya@crag.org)" <tanya@crag.org>, Colin O'Brien  
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<dsiler@crowell.com>, "Sarah C. Bordelon"  
<sbordelon@crowell.com>, "tmendoza@crowell.com"  
<tmendoza@crowell.com>  
Cc: Alexander Fidis/R10/USEPA/US@EPA, David  
Coursen/DC/USEPA/US@EPA  
Date: 11/08/2011 12:03 PM  
Subject: Request for Oral Argument

I, Daniel Lum, hereby request an opportunity for oral argument to the Environmental Appeals Board regarding the air permits issued for Lease sale 193.

I believe the EAB has erred by the issuance of these permits and I believe the Board would benefit greatly by oral argument at this stage of the permitting process. Here is the basis for my request for oral argument:

1) The EAB is at a pivotal moment in history; the decision made regarding this specific permit will have complete and permanent impacts to an entire coastal subsistence culture.

According to law, the EPA is compelled not to issue air permits that have negative impacts of minority population

If ever there were a situation where that would occur, it is within these specific air permits. The EAB must discuss the cultural impacts through the contamination/change of diet and the associated cultural impacts through those changes

The huge amounts of exhaust/particulates to be emitted will have devastating affects to our food chain - our main food source, the

Bowhead Whale is a giant filter feeder. When we start getting contamination in our food source, what will the EPA have us eat? Are there studies done to understand the affects of impending food contamination, the cultural affects of a changing diet and what will we replace our marine mammal food source with?

The EPA has not clarified if this impending (and acknowledged) amount of contaminants is acceptable to ingest. How will we eat? How will we know it is safe? Does the EAB understand this?

2) The complete lack of demonstration of oil spill response capability by the air permit applicants is atrocious. The industry has invested heavily in a fleet of spill response vehicles and also touts its ability to effectively respond to various oil spill scenarios in the ocean, in association to these air permits. But they have yet to demonstrate that supposed ability to our Inupiat people, whose food zone they intend to operate in.

Why does the EPA give the industry a "free pass" to avoid forcing them to demonstrate their spill response capability? Wouldn't a clearer understanding of their true response ability be beneficial for all? For a project of this magnitude, spill response demonstration must be a prerequisite!

In other industries, for example the nuclear power industry, there are safeguards and rules and regulations. I am sure that some type of proven containment is required by the EPA in a nuclear reactor, in landfills or in chemical plants. Why are you allowing the oil industry to bypass this important hurdle? If industry has all of the equipment, touts that it is functional - what harm could come of them demonstrating their ability?

After all these years fighting for these permits - why has the industry completely failed to demonstrate, even once, that they have containment ability? I propose to the EAB that the oil industry has not demonstrated their clean up ability because they simply have no ability.

Where are the practice drills?

Where are the reports that show they can respond?

Where is the documentation that shows they actually can do what they say?

It is a giant farce. A lie.

The EPA is being lied to by the industry. They say they can respond

We know it is impossible. Wouldn't it be prudent and logical to at the LEAST ask them to show us their safety net before we expose our food zones to them?

In conclusion, I ask the EAB to hold oral argument. I am not a lawyer. I am not getting paid to do this, but I have a sincere interest in the activities that are going to affect my children and all our future generations.

I urge the EAB to hold oral argument on these issues. They must be addressed. The finality of your decisions will have a permanent impact on my children, our culture and our complete way of life. You must hear oral arguments. You must hear it. If you are a fair and open minded board, you will give me the opportunity to address these issues, and hopefully come to an understanding or conclusion to many open questions.

I am honored as a United States Citizen to be continued in this process

Daniel James "Inulak" Lum

From: "Vergeront,Julie@epamail.epa.gov"  
<Vergeront,Julie@epamail.epa.gov>  
To: "'Chris Winter (chris@crag.org)'" <chris@crag.org>; "'Tanya Sanerib (tanya@crag.org)'" <tanya@crag.org>; Colin O'Brien <cobrien@earthjustice.org>; ejorgensen@earthjustice.org; David Hobstetter <dhobstetter@earthjustice.org>; egrafe@earthjustice.org; 'Duane Siler' <dsiler@crowell.com>; 'Sarah C. Bordelon' <sbordelon@crowell.com>; tmendoza@crowell.com; Eskimo Whaler <eskimo.whaler@yahoo.com>  
Cc: Fidis.Alexander@epamail.epa.gov; Coursen.David@epamail.epa.gov  
Sent: Monday, November 7, 2011 3:56 PM  
Subject: Fw: Confirmation of Electronic Submission to CDX

Here is the confirmation of the second filing I mentioned.

Julie A. Vergeront  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region 10

1200 Sixth Avenue, ORC- 158  
Seattle, WA 98101  
Phone (206) 553-1497  
Fax (206) 553-0163

Forwarded by Julie Vergeront/R10/USEPA/US on 11/07/2011 04:55 PM

From: DoNotReplv@epacdx.net  
To: Julie Vergeront/R10/USEPA/US@EPA  
Date: 11/07/2011 04:36 PM  
Subject: Confirmation of Electronic Submission to CDX

CDX has received your file and will forward it to the Clerk of the Environmental Appeals Board. You need not file any other copies of your document(s) with the Board, except in certain limited circumstances that are explained in the Board's Standing Orders of January 28, 2010. In general, if the length of your document or the combined page length of all your exhibits exceeds 50 pages, you must send by U.S. Mail or deliver by hand, courier, or commercial delivery service to the Board an identical paper copy of that document or set of exhibits within one business day of the date of electronic filing. If you submit a paper copy of any document or set of exhibits, it must be accompanied by a signed certification stating that the paper copy is identical to the filed electronic copy, and it should be signed in blue ink. For more detailed information, please consult the Standing Order pertinent to your appeal and the Board's website, [www.epa.gov/eab](http://www.epa.gov/eab), in particular the "Electronic Filing" and "Frequently Asked Questions" web pages.

Received File: F:/WORK/Shell Chuckchi/Shell Discoverer Notice re Submission and Cert. of Service 11-7-11.pdf  
Transaction ID: \_355ed3eb-79f3-475f-9e4a-8d32b8832102  
(See attached file: Shell Discoverer Notice re Submission and Cert. of Service 11-7-11.pdf)



EAB ORAL REQUEST LTR.pdfEAB ORAL REQUEST LTR.docx

To the E.P.A. Environmental Appeals Board,

I motion to you in continued interest requesting oral argument regarding the Air Permits in our Arctic Waters. I am also requesting an opportunity to reply to Region 10 and Shell's response brief.

This will help the board by including a local voice, a community member, about the impact of the permits and their apparent failings. Currently the board is insulated from actual interaction/exposure to those who would be most affected, and deciding solely from the legal maneuvering of several factions of lawyers.

My main complaint is that I do not consistently receive information on a timely manner and, because I am not a lawyer and have little experience in this complicated process, it takes me more time to read, comprehend and attempt to comment and respond. Thus it is vital for me to receive communications in an equal, timely matter. This is my first time in this process. I had the right to be involved in equal status as an individual with the other law teams by receiving materials in a timely manner.

This is not fair, and prejudices my ability to respond effectively.

I feel that I have not had the complete allowable time as other parties involved, and thus request for a continuance, specifically I request time to respond and interact in time periods consistent with all other parties involved. My email address has always been available and I respond when I am given materials on a timely basis. These responses I am writing now are short and not complete, rushed and therefore possibly failing.

I received late emails, like I am an afterthought. How am I to be involved if I do not timely receive documents that are relevant, unless that is the intent of the EAB or other parties involved. Initially I felt that I was part of the process of this air permit, but now I sense I am being dismissed or delayed through late or absent materials relevant to this process to hinder or delay my responses effectively.

I appreciate your fair consideration and again beg the EAB to hear my comments in oral argument. A decision of this magnitude warrants this small amount of time from your Board. Please allow my oral argument and the opportunity to respond to the Region's and Shell's response briefs.

In complete respect,

Daniel James Lum

\*I, Daniel Lum, hereby certify that on November 22, 2011 this request for oral argument and opportunity to reply was emailed to counsel for all parties\*



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