

## **Exhibit 9**

EPA, Public Hearing, Shell Kulluk air permit for oil and gas exploration  
in the Beaufort Sea, Anchorage, Alaska (Aug. 6, 2011)



1 P R O C E E D I N G S

2 (On record at 6:00 p.m.)

3 MR. ROCKWELL: Okay. By my watch I have 6:00 p.m. so  
4 we'll begin the hearing at this time. I'd like to welcome  
5 everyone, good evening, thank you for coming. We're going to  
6 come to order and begin tonight's proceedings. It's the 26th of  
7 August, 2011 and the time is 6:00 p.m.

8 We are here to hold a public hearing on the Environmental  
9 Protection Agency's proposed draft Title V Clean Air Act permit  
10 to Shell Offshore, Incorporated for oil and gas exploration  
11 using the Kulluk drill rig in the Beaufort Sea, Camden Bay,  
12 outer continental shelf. EPA is asking for public comment from  
13 July 22nd to September 6th, 2011 on the Shell Kulluk Title V  
14 draft air permit.

15 Shell plans to operate the Kulluk drill rig and support  
16 fleet for exploration drilling beginning in 2012 on the Beaufort  
17 Sea outer continental shelf. The draft permit, statement of  
18 basis and permit application are available on EPA's website. Be  
19 sure to pick up a copy of informational materials on the back  
20 table.

21 The hearing -- this hearing is to receive your comments on  
22 the proposed draft air permit. It's being held today, Friday,  
23 August 26th, 2011, at the Anchorage Loussac public library in  
24 Anchorage, Alaska.

25 My name is Ted Rockwell. I'm the Acting Deputy Director

1 and a half years ago, four years ago, I went out boating and we  
2 seen this -- it's called a puuptaaq. And I was trying to gauge  
3 a similar size building and it happens to be this library. The  
4 entire size of this library was floating in 120 feet of water.  
5 We were boating around, we were looking for bearded seal, and  
6 they said stay away from that, they flip.

7 One of those on course -- those come from the polar caps.  
8 They chip off now and then. Is there a plan in place, can that  
9 repel a puuptaaq? Is there a plan in place? Do they -- I mean  
10 have they ever proven they can contain? Can they set a boom,  
11 icebreakers and all? The power of the ice is complete as it is  
12 unforgiving.

13 This is the biggest catastrophe in the making. This air  
14 permit is a part of that catastrophe. I ask you to consider  
15 that. They aren't looking at the rigs cumulatively and they  
16 have not proven they can spill because they cannot and anyone  
17 who tells you that they can contain is either a liar or an  
18 idiot. I'm sorry to be blunt.

19 These are my concerns and I say these things for my  
20 children and their children some day because I don't want their  
21 pollution in my kids' digestive tracts and that's what it's  
22 coming to through this air permit. Thank you.

23 MR. ROCKWELL: Thank you. Betsy Beardsley.

24 MS. BEARDSLEY: Sorry, I'm seven months pregnant and have  
25 to catch my breath. Whoo. I'm Betsy Beardsley. I represent

1 the Alaska Wilderness League. I'm the Environmental Justice  
2 Program Director. Alaska Wilderness League has 20,000 dues  
3 paying members. We have an activist list of over 50,000 people  
4 around the country.

5 Here in Alaska our environmental justice program is  
6 focused on working with communities that are dealing with  
7 industrial development in their backyard. We spend a lot of  
8 time up on the Arctic slope working with communities that are  
9 concerned about the issue of offshore oil and gas development  
10 being introduced to the Beaufort and Chukchi Seas.

11 This permit is an important one. It's a step in the  
12 direction of introducing an industrial activity that the Arctic  
13 Ocean and the communities living there have never seen and that  
14 many feel are just not prepared for at this time.

15 I will submit extensive written comments so today I just  
16 wanted to in my oral testimony focus on a couple points. This  
17 is the third attempt by Shell to obtain a minor source permit  
18 for the Kulluk. A minor permit as opposed to a major permit  
19 does not have to go through the best available control  
20 technology review. And there were tribal governments and other  
21 groups that have appealed the previous air permits issued for  
22 the Kulluk to the Environmental Appeals Board in Washington,  
23 D.C. because of concerns that a major permit was necessary and  
24 the Alaska Wilderness League does feel that a major permit is  
25 necessary for the activities that Shell is planning to do.

1 While the amount of pollution that will be released under  
2 the permit has been greatly reduced in this permit application  
3 it's still very close to exceeding the air quality standards and  
4 there are still significant concerns about whether the permits  
5 comply with EPA's legal obligations. Because of that issue we  
6 have concerns about the modeling that was done for this permit.  
7 We're concerned about the pollution that will be emitted and  
8 could potentially impact not just the 500 meters around the  
9 Kulluk itself but the communities throughout the Arctic.  
10 Because communities in the Arctic are not just limited to the  
11 shoreline but they spend much of their time out on the ice or on  
12 the open water throughout the year.

13 I wanted to talk a little bit about the public process  
14 related to this permit and why I think that the permit should be  
15 -- the comment period should be extended to at least 45 days.  
16 The fact that this comment period was shared with the -- that  
17 was ConocoPhillips' application for the Chukchi Sea has been  
18 confusing for many people throughout Alaska and in particular on  
19 the North Slope. It's one thing to try to decipher a permit for  
20 one drilling operation in one sea but then when you expect  
21 people at the same time, within the same 30 days, to review a  
22 second permit for a totally different operation it can really be  
23 overwhelming and that's a lot to ask of one person if they do  
24 want to provide meaningful testimony.

25 Also, I do appreciate that EPA took the step to set up

1 teleconferencing for all of the communities that are part of the  
2 North Slope Borough but I think that there's still an issue for  
3 -- with the fact that EPA only went to Barrow to hold public  
4 meetings and hearings. The other communities, in particular on  
5 the Beaufort Sea side for this permit, really have a right to  
6 meet with EPA in person to share their comments and concerns and  
7 to expect people to go to the teleconference center in their  
8 community when there are issues with technology isn't fair. I  
9 think that EPA should follow the course of the other agencies  
10 who have at least taken the time to go and hold hearings in  
11 person in those communities.

12 For one thing, we know that many of the communities in the  
13 Arctic are bilingual. Inupiak is the first language for many  
14 people and to conduct a public hearing over the telephone for an  
15 elder in Nuiqsut or Kaktovik and expect those people to  
16 understand what the issue is at hand and provide meaningful  
17 testimony when they're competing with seven other villages isn't  
18 fair.

19 I also wanted to say that -- excuse me. We have concerns  
20 about the environmental justice analysis that was done for this.  
21 I believe that EPA should do a more thorough environmental  
22 justice analysis, again looking at the air pollution impacts on  
23 communities. As the person before me mentioned, the government  
24 has a duty, as stated in the environmental justice executive  
25 order, to protect communities and to make sure that they're

1 providing a meaningful opportunity for people to fully engage in  
2 the public process and share their concerns before decisions are  
3 made. This environmental justice analysis does not address  
4 EPA's decision to create a new eight hour ozone standard and I  
5 think that it should.

6 In closing, I want to again say that I think that this  
7 comment period for Shell's Kulluk permit should be extended to  
8 at least the 45 days. I think that it was very confusing for  
9 people to be asked to comment on both the Conoco and Shell  
10 permits at the same time. I think that it was a great oversight  
11 for EPA not to look at the cumulative effects from this permit  
12 and I believe that there are some environmental justice  
13 violations that we'll be addressing in our written comments.  
14 And this is something that could greatly affect the future and  
15 the health of communities in the years to come and I think that  
16 it's the job of the environmental justice -- or excuse me, the  
17 Environmental Protection Agency to protect communities and  
18 health and the environment and in doing so they need to  
19 thoroughly analyze the impacts before signing off on this  
20 permit. Thank you.

21 MR. ROCKWELL: Thank you. Next will be Earl Kingik.

22 MR. KINGIK: (Indiscernible - speaking in Native tongue).

23 My name is Earl Kingik, E-A-R-L, last name K-I-N-G-I-K. I come  
24 from Point Hope, Alaska. I'm a whaler, subsistence user of all  
25 the animals of the north.



1 facing.

2 AOGA urges EPA to approve and issue the draft permits and  
3 in time to allow for a successful exploratory drilling program  
4 in 2012. Thank you.

5 MR. ROCKWELL: Thank you. Carole Holley.

6 MS. HOLLEY: Hello. My name is Carole Holley, C-A-R-O-L-  
7 E, H-O-L-L-E-Y, and I'm the Alaska Program Co-Director and Staff  
8 Attorney for Pacific Environment. We're an international  
9 environmental non-profit. We work throughout the Arctic. We  
10 have offices here in Anchorage where I'm based as well as in  
11 Russia and we work in the Arctic council and in the  
12 international maritime organization on the polar code.

13 I wanted to first state that I agree with Betsy  
14 Beardsley's comments from the Alaska Wilderness League and would  
15 echo her testimony. We will also be submitting extensive  
16 comments, extensive technical comments on the draft permit. So  
17 I'll try to be brief here.

18 So, as you know, Shell's planned oil and gas exploration  
19 activities starting in 2012 in the Beaufort Sea using the Kulluk  
20 drill rig, these activities would involve many large ships and  
21 would release many tons of harmful pollutants into the air,  
22 would discharge dangerous chemicals into the water, generate  
23 loud noises that would disturb local marine life and subsistence  
24 activities and would create the risk of a catastrophic oil  
25 spill. EPA Region 10, which has management responsibility for

1 Alaska, has released this draft permit for Shell's operations  
2 which would pollute the Arctic air and it would allow this to go  
3 on for many years and in various locations in the Beaufort Sea.

4 So we have -- we believe there's several significant  
5 problems with the draft permit that Region 10 must correct.  
6 First, I would echo the -- our objection to it being a minor air  
7 permit instead of a major air permit.

8 We also believe that Region 10 has not analyzed how  
9 Shell's contributions to Arctic warming might affect Alaska  
10 Natives. Shell could emit the equivalent of 80,000 tons per  
11 year of carbon dioxide which is equal to the greenhouse gas  
12 emissions of close to 6,000 households or doubling the 2,800  
13 households are residents in Barrow. Also, Shell will emit up to  
14 30 tons per year of particulate matter, a substantial portion of  
15 which will be black carbon which is a major driver of Arctic  
16 warming. Region 10 must not issue Shell's permits until it has  
17 considered how these emissions could disproportionately affect  
18 Alaska Native communities by driving Arctic warming.

19 My second point is that Region 10 has not required Shell  
20 to comply with limits designed to keep clean air clean. Region  
21 10 needs to require Shell to demonstrate that it will comply  
22 with the increments created by congress to keep clean air clean.  
23 In addition, Shell has not demonstrated that it will comply with  
24 the health based standards for nitrogen dioxide. Shell's own  
25 pollution modeling shows that its operations could cause

1 pollution levels to reach 81 percent of allowable concentrations  
2 of nitrogen dioxide pollution. High levels can cause breathing  
3 problems, particularly asthma, impacts the elderly and small  
4 children. Shell should also be required to demonstrate its  
5 compliance with health based standards for nitrogen dioxide.

6 Shell also will not be complying with the limits on  
7 particulate matter that could exceed health based limits and  
8 increments. It also contributes to climate change. As I said  
9 previously, Shell's modeling indicates that the particulate  
10 matter emissions could cause pollution levels to reach 97  
11 percent of health based standards and almost double the fine  
12 particulate matter increment.

13 In sum, we are greatly concerned that this permit will --  
14 or whether or not this permit will actually adequately protect  
15 our air quality. And in conclusion we would ask EPA to inspect  
16 the Kulluk and all associated vessels before they depart for the  
17 North Slope or coordinate with BOEMRE on such inspections.  
18 We're making this request based on reports that the Discoverer  
19 was damaged during a storm and because the physical condition of  
20 the engines and equipment associated with Shell's operations is  
21 actually unknown. Thank you very much.

22 MR. ROCKWELL: Thank you. Pauline Ruddy.

23 MS. RUDDY: Good evening. My name is Pauline Ruddy, P-A-  
24 U-L-I-N-E, R-U-D-D-Y. I am the Team Leader for the Regulatory  
25 Affairs and Permitting Group in Shell's Alaska venture. Thank

1 had another meeting that she had to go to and she asked me to  
2 say that she's going to turn in substantial written comments and  
3 she is a woman Inupiat whaler from the Arctic.

4 MR. ROCKWELL: Okay. Thank you very much. Lindsey  
5 Hajduk.

6 MS. HAJDUK: Hello. My name is Lindsey Hajduk, that's L-  
7 I-N-D-S-E-Y, H-A-J-D-U-K.

8 MR. ROCKWELL: Sorry.

9 MS. HAJDUK: I'm an organizer with the Sierra Club here in  
10 Anchorage. The Sierra Club is a grassroots environmental  
11 organization with about 1,500 members in Alaska and the Sierra  
12 Club will be submitting more detailed comments for the EPA's  
13 review. And I also agree with what Betsy Beardsley and Carole  
14 Holley said earlier.

15 But right now I'd actually like to address both the Kulluk  
16 and the ConocoPhillips drill rigs because I think it's important  
17 to talk about these permits together because they will -- they  
18 could be functioning together in real life. And even on their  
19 own there is much that Region 10 must do to ensure the public  
20 and the environment are protected based on the two permits.

21 Just a few weeks ago I attended the EPA's informational  
22 meeting also involving the Discoverer drillship's air permits in  
23 Barrow. It was explained that the first drillship would receive  
24 a permit that would start with a clean slate of ambient air  
25 pollution levels and then subsequent ship -- or subsequent ship

1 permits would then have permitted levels reflecting the changed  
2 background air quality levels based on the ships already  
3 permitted and already emitting pollution. The problem I see  
4 here is that the draft air permits are for three drill rigs, the  
5 Discoverer, Kulluk and ConocoPhillips, and none of them reflect  
6 the other. Region 10 needs to make sure many important changes  
7 to these permits are made to incorporate a comprehensive look at  
8 the cumulative impacts of these air permits.

9 One blatant change in these permits is that Region 10 is  
10 not measuring pollution from the point of emission but 540  
11 meters from the drillships. We are not to know if the OCS air  
12 remains clean and healthy within that zone and there is not  
13 justification for changing this in terms of the operation's  
14 emissions. It was just a mandate that the Coast Guard made and  
15 it's OSHA's authority in size. So it's just a lot of different  
16 groups not necessarily working together. Within those 540  
17 meters the worst and most dangerous pollution levels will occur  
18 and affect the workers and others who enter the zone. We need  
19 to be assured that the lawful emission levels exist throughout  
20 the OCS, including this zone.

21 In addition, Region 10 must also work harder to make sure  
22 the Kulluk and Conoco air permits allow for air pollution levels  
23 that do not harm people and the environment, especially as  
24 Alaska Native communities will be disproportionately impacted by  
25 these activities. Previously EPA's reviewing court found that

1 more analysis was needed to assess the impact to Alaska Native  
2 communities for Shell's Discoverer drillship permit and the  
3 Kulluk and ConocoPhillips permits are the same. Once example is  
4 Conoco can emit 39,800 tons of -- per year of carbon dioxide and  
5 the Kulluk can emit 80,000 tons of carbon dioxide per year and  
6 those equal the greenhouse gas emission levels of about 9,500  
7 households when there are only 2,800 North Slope Borough  
8 households today. It's a huge increase.

9 Much of the particulate matter released is also black  
10 carbon, the second most important driver for Arctic warming.  
11 Region 10 cannot issue these permits without assessing how the  
12 communities will be affected. Shell's modeling shows that fine  
13 particulate matter emissions could cause pollution levels to  
14 reach 97 percent of health based standards and almost double the  
15 fine particulate matter increment. At the same time, Conoco  
16 models particulates to reach 90 percent of the health based  
17 standard and to exceed the fine particulate matter increment.  
18 This is a great concern because fine particulate matter can  
19 cause breathing problems, heart disease and even death and this  
20 is the same for similarly high levels of nitrogen dioxide.

21 We need to know that Region 10 is doing all it can to  
22 protect our clean air. Congress has designated the Clean Air  
23 Act to keep -- to prevent clean air from becoming polluted and  
24 unhealthy, but Region 10 has not required pollution limits  
25 called increments to help prevent the degradation of our clean

1 air. Region 10 cannot turn a blind eye to what the -- what  
2 emissions might occur off the coast and affect the public health  
3 and the environment. So these draft permits must be heavily  
4 improved upon to assure the public that our health is first.  
5 Thank you.

6 MR. ROCKWELL: Thank you. Carl Wassilie.

7 MR. WASSILIE: Good evening. So there's -- it looks like  
8 there's some confusion on the testimony and I have a hearing  
9 loss so I wasn't able to hear but I know Earl had mentioned both  
10 ConocoPhillips and Shell so I'm not sure if we're looking at the  
11 cumulative air permits from both of them at this point in time.  
12 That's.....

13 MR. ROCKWELL: This hearing is for the Shell.

14 MR. WASSILIE: Okay. My name is Carl Wassilie, W-A-S-S-I-  
15 L-I-E, and I'm a Yupik biologist in the western world as well.

16 So I guess start the testimony. These air permits are in  
17 different seas that are taking place but one question that comes  
18 to mind is the cumulative impacts. And so, first of all, I  
19 don't think we should permit the air pollution by either one of  
20 these companies but Shell Oil is definitely a -- has a larger  
21 operation, at least more pollutant emissions than -- in the  
22 Beaufort and that would -- if you're looking at the model that  
23 you used, that -- or Shell used, I mean that's -- that doesn't  
24 take into account cumulative impacts to the communities that are  
25 already adversely impacted. So the accumulation of multiple