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

	)	
	)	
	)	
In re:	)	OCS Appeal Nos.
	)	10-01, 10-02, 10-03
Shell Gulf of Mexico, Inc.,	)	
	)	
Permit No. R10OCS/PSD-AK-09-01; and	)	
	)	
Shell Offshore, Inc.,	)	
	)	
Permit No. R10OCS/PSD-AK-2010-01	)	
_____	)	

**RESPONSE TO NOTICE OF RELATED DECISION**

Shell Gulf of Mexico, Inc., and Shell Offshore, Inc. (collectively “Shell”) filed a “Notice of Related Decision” in the above-captioned proceedings on May 13, 2010, attaching a memorandum decision issued by the Ninth Circuit Court of Appeals in *Native Village of Point Hope v. Salazar*, Nos. 09-73942, 09-73944, 10-70166, 10-70368 (May 13, 2010). Although Shell’s notice characterizes this decision as “related” to the instant appeal, the *Point Hope* case concerns agency approvals and legal issues that are entirely outside the jurisdiction of the Environmental Appeals Board (“EAB”) and that are not at issue in the above-captioned appeals. *See, e.g.*, EAB Practice Manual at 39 (citing *In re Federated Oil & Gas of Traverse City*, 6 E.A.D. 722 (EAB 1997) (EAB jurisdiction extends only to conditions of challenged permits)). The *Point Hope* decision was relevant here, if at all, only to Shell’s motion to expedite these proceedings, and then only the extent that it upheld *one of the many* permits and approvals that Shell must obtain before it may begin drilling operations this summer. Now that EAB has resolved Shell’s motion to expedite these proceedings, the *Point Hope* decision has no relevance to, and no bearing upon, the EAB’s adjudication of the instant appeals. Accordingly, the Center for Biological Diversity submits that the *Point Hope* decision is not a “related” decision for purposes of the EAB’s consideration of the matters currently within its jurisdiction.

Respectfully submitted this 17th day of May, 2010,

/s/ Kevin P. Bundy  
Kevin P. Bundy  
Center for Biological Diversity  
Petitioner

## CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the above RESPONSE TO NOTICE OF RELATED DECISION to be served by first-class mail and electronic mail upon the counsel listed below.

Dated: May 17, 2010

/s/ Kevin P. Bundy  
Kevin P. Bundy  
Center for Biological Diversity  
Petitioner

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