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

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

**REPLY OF SHELL GULF OF MEXICO, INC.
AND SHELL OFFSHORE, INC.
TO RESPONSES TO URGENT REQUEST
FOR LEAVE TO PARTICIPATE AND
MOTION FOR EXPEDITED AND COMBINED REVIEW**

Shell Gulf of Mexico, Inc. (“SGOMI”) and Shell Offshore, Inc. (“SOI”) (sometimes referred to herein collectively as “Shell”) hereby respond¹ to the responses of Petitioners Center for Biological Diversity (“CBD”) (No. 10-01); Natural Resources Defense Council, Native Village of Point Hope, Resisting Environmental Destruction on Indian Land, a Project of the Indigenous Environmental Network, Alaska Wilderness League, Audubon Alaska, Center for Biological Diversity, Northern Alaska Environmental Center, Ocean Conservancy, Oceana, Pacific Environment, and Sierra Club (“Conservation Groups”) (No. 10-02),² and the Alaska Eskimo Whaling Commission (“AEWC”) and the Inupiat Community of the Arctic Slope (“ICAS”) (No. 10-03)³ (collectively, “Petitioners”) to Shell’s request for leave to participate in

¹ On May 10, 2010, the Board granted SGOMI’s and SOI’s request for leave to participate in the reviews of their respective permits.

² While formally not objecting to expedited review of their petitions, the Conservation Groups gratuitously assert that Shell must still obtain a number of permits from various different agencies before it can commence drilling under the exploration plan. Conservation Groups’ Response at 2. Petitioners cite required authorizations under the Marine Mammal Protection Act from the National Marine Fisheries Service and the Fish & Wildlife Service. However, as noted in Shell’s motion, Shell is working diligently with each agency and has no reason to believe that it will not receive these authorizations by July 2010.

Further, Shell currently has no information to suggest that the rapidly evolving administration response to the *Deepwater Horizon* incident will ultimately limit its ability to conduct exploratory operations this summer as planned, and maintains the matter should not be relevant at this time to its expedition request. While, as cited by Conservation Groups, the Department of Interior (“DOI”) has issued a press release stating it will not issue drilling permits to Shell prior to the submission of DOI’s report to the President on May 28, 2010, this is over a month prior to the start of the Arctic drilling season, and given today’s date, in all likelihood prior to any hearing on these petitions. Shell has no reason to believe that MMS will not ultimately continue to process Shell’s applications for drilling permits in anticipation of issuing approvals in time for commencement of exploration in July, and Shell respectfully asks that the EAB correspondingly continue to expeditiously process these petitions.

³ Similarly, AEWC and ICAS, while not objecting to expedited review of their petition, assert that it is somehow Shell’s fault that the timing of Region 10’s issuance of the Chukchi and Beaufort Permits created the exigent situation in which Shell finds itself. The record of both

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the pending petitions for Environmental Appeals Board (“EAB”) review of OCS Permit No. R10OCS/PSD-AK-09-01 (“Chukchi Permit”) and OCS Permit No. R10OCS/PSD-AK-09-02 (“Beaufort Permit”) and for combined and expedited EAB resolution of those petitions.

Petitioners do not oppose Shell’s request for expedited briefing except insofar as they seek leave to reply to EPA’s and Shell’s response briefs. *See* CBD Response at 1 (“[CBD] objects to any briefing schedule that precludes Petitioner’s ability to file a reply to Shell’s briefing.”); Conservation Groups’ Response at 2 (“Petitioners . . . do not oppose expedited consideration of this appeal, but request that the Board provide a reasonable opportunity for Petitioners to reply to Region 10’s and Shell’s response briefs.”); AEW/ICAS Response at 2 (“Any schedule that fails to provide a full and fair opportunity for Petitioners to reply . . . is highly prejudicial to Petitioners.”). As the Conservation Groups acknowledge, EAB’s Guidance provides that, “[a]fter the permitting authority’s response has been filed, the EAB normally does not require further briefing before issuing a decision whether to grant review.” Environmental Appeals Board Practice Manual at 36. Petitioners argue that Shell’s brief may raise arguments not set forth in Region 10’s Response to Comments on the permits or elsewhere in the record, to which they should be afforded a right of reply. But this is not a unique circumstance – in any permit appeal in which the permittee is granted leave to participate, the permittee very likely will raise additional issues in defense of the permit, yet “normally” the EAB does not grant a reply. Shell does not seek to cut off Petitioner’s ability to respond to the arguments that EPA and Shell

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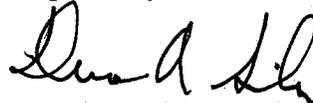
permits is replete with Shell’s submission of multiple rounds of information requested by Region 10, as well as revisions to its permit applications and even to proposed permit conditions. The permits are the product a time-consuming, information-intensive cooperative process in which Shell addressed every concern raised by Region 10.

will present in their respective briefs, but respectfully submits that oral argument before the Board will give Petitioners a full opportunity to do so, as is “normally” the case in permit appeals.

The Board has convened a scheduling conference on May 13, 2010. Shell respectfully maintains its request that the Board establish a schedule for EPA and Shell to submit combined briefs on all pending petitions for review of either permit fifteen (15) days thereafter, subject to the Board’s continuing discretion to de-couple proceedings on the two permits if one of them is deemed to present unique issues that will require a longer time for the Board to resolve. If EAB finds these petitions present extraordinary circumstances warranting reply briefing, Shell urges the Board to require submission of any reply briefs within a maximum of five days after service of EPA’s and Shell’s briefs. For the reasons set forth in Shell’s motion, time is of the essence for the resolution of the challenges to the Chukchi and Beaufort Permits by early July 2010 and every day by which Shell’s 120-day drilling season is reduced will cause major financial loss for Shell and potentially irreparable injury to its 2010 exploration program.

DATED this 11th day of May 2010.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I herby certify that on this date I caused a copy of this Reply of Shell Gulf of Mexico, Inc. and Shell Offshore, Inc. to Responses to Urgent Request for Leave to Participate and Motion for Expedited and Combined Review to be served by electronic mail upon:

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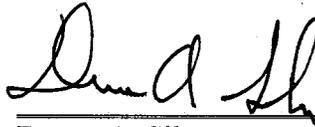
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