ALASKA WILDERNESS LEAGUE—CENTER FOR BIOLOGICAL DIVERSITY—DEFENDERS OF WILDLIFE—EARTHJUSTICE—GREENPEACE USA—NATIONAL AUDUBON SOCIETY—NATIVE VILLAGE OF POINT HOPE—NATURAL RESOURCES DEFENSE COUNCIL—NORTHERN ALASKA ENVIRONMENTAL CENTER—OCEANA—PACIFIC ENVIRONMENT—REDOIL—SIERRA CLUB—THE WILDERNESS SOCIETY—WORLD WILDLIFE FUND

May 5, 2010

VIA EMAIL AND MAIL
Hon. Ken Salazar
Office of the Secretary
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Reconsideration of Arctic Ocean Exploration Drilling Plans for 2010

Dear Secretary Salazar:

In October and December of last year, you approved Shell Oil Company's plans to drill for oil in the Beaufort and Chukchi seas this summer. We write to formally request that you reconsider your approvals of Shell's drilling plans in light of the ongoing *Deepwater Horizon* exploration drilling oil spill in the Gulf of Mexico. The events surrounding the spill provide significant new information that requires the Minerals Management Service (MMS) to supplement its analysis of Shell's drilling plans. The new information goes to the heart of the decision to approve Shell's plans, and accordingly you should suspend your approval of the drilling pending reconsideration of the environmental analysis in light of the *Deepwater Horizon* spill. Because Shell's drilling could commence within sixty days, your urgent action is required.

The Outer Continental Shelf Lands Act (OCSLA) requires you to permit offshore oil and gas activity only "subject to environmental safeguards," 43 U.S.C. § 1332(3), and in full compliance with National Environmental Policy Act (NEPA). 43 U.S.C. § 1866(a). To fulfill this mandate, you have the authority to suspend operations when necessary to carry out the requirements of NEPA or to conduct an environmental analysis. 30 C.F.R. § 250.172(d); *see also id.* at § 250.172(b) (providing for suspension of operations when "activities pose a threat of serious, irreparable, or immediate harm or damage . . . . includ[ing] a threat to life (including fish and other aquatic life) . . . or the marine, coastal, or human environment"). NEPA compels supplementation of environmental impact analyses when "there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 C.F.R. § 1502.9(c)(1)(ii); *Idaho Sporting Cong., Inc. v. Alexander*, 222 F.3d 562, 566 n.2 (9th Cir. 2000) ("NEPA imposes on federal agencies a continuing duty to supplement existing EAs and EISs in response to 'significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.'") (quoting 40 C.F.R. § 1509(c)(1)(ii)).

Despite the different operating environments, the *Deepwater Horizon* spill is directly relevant to the analyses underlying your decision to approve Shell's Arctic Ocean exploration drilling plans. MMS did not analyze or disclose the effects of a large oil spill from Shell's activities before approving the plans, even though it acknowledges that such a spill could have devastating consequences and could be difficult to clean up in the Arctic Ocean's icy waters. The agency concluded that a large spill was "too remote and speculative an occurrence" to warrant analysis,[1] in part because, "since 1971, no large crude or condensate spills have occurred from well-control incidents while drilling approximately 14,000 OCS exploration wells."[2] MMS also concluded that "a large spill likely would not be from a well-control incident."[3]

The *Deepwater Horizon* spill undermines the bases upon which MMS decided not to analyze and disclose the effects of a large exploration oil spill before approving Shell's drilling. The *Deepwater Horizon* was a state of the art drilling rig with what one expert has described as "triple redundant systems to detect and intervene to avoid such blowouts."[4] Despite this technology, a blowout occurred, leaving 11 workers missing and three critically injured and initiating a series of events that have now resulted in an uncontrolled oil spill of at least 5,000 barrels a day,[5] created an oil slick that, as of May 3, stretched across an area 120 miles by 90 miles,[6] and befouled portions of the coast near the Mississippi River delta.[7] As a result, you

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[1] Minerals Management Service, Environmental Assessment, Shell Gulf of Mexico Inc., 2010 Exploration Drilling Program, Burger, Crackerjack, and SW Shoebill Prospects, Chukchi Sea Outer Continental Shelf, Alaska, OCS EIS/EA MMS 2009-061 (December 2009) (Chukchi Sea EA) at A-1; *see also* A-9.

[2] Chukchi Sea EA *at* A-1; *see also id.* at A-4 (noting "[a]ll five of the well-control-incident events [greater than or equal to] 1,000 bbl in the OCS database occurred between 1964 and 1970" and that regulations since that time "significantly strengthened safety, inspection, and pollution-prevention requirements for OCS offshore activities").

[3] Chukchi Sea EA at A-4.

[4] Editors of the New York Times, *What the Spill Means for Offshore Drilling*, New York Times (April 29, 2010), http://roomfordebate.blogs.nytimes.com/2010/04/29/what-the-spill-means-for-offshore-drilling/ (statement of David B. Burnett, director of technology for the Global Petroleum Research Institute and is research coordinator for the Petroleum Engineering Department at Texas A&M University).

[5] Some independent experts have estimated the spill rate is as high as 25,000 barrels per day. *See* Patrick Jonsson, *C'mon, how big is the Gulf of Mexico oil spill, really?*, Christian Science Monitor (May 1, 2010), http://www.csmonitor.com/USA/2010/0501/C-mon-how-big-is-the-Gulf-of-Mexico-oil-spill-really. And in a briefing for members of Congress, a senior BP official explained the spill could reach as much as 60,000 barrels a day. John M. Broder, Campbell Robertson & Clifford Krauss, *Amount of Spill Could Escalate, Company Admits*, New York Times (May 4, 2010), http://www.nytimes.com/2010/05/05/us/05spill.html?hp.

[6] Flickr, Mississippi Canyon 252 Situation Status Map (May 3, 2010), http://www.flickr.com/photos/uscgd8/4577185267/sizes/o/ (Joint Incident Command map).

[7] Craig Guillot, *Oil Spill Hits Gulf Coast Habitats*, National Geographic News (April 30, 2010), http://news.nationalgeographic.com/news/2010/04/100430-energy-oil-spill-hits-gulf-coast/.

should re-evaluate the Department's decision to approve Shell's drilling plans without examining the potential impacts of a large oil spill from Shell's exploration drilling in the Arctic Ocean.

In addition, MMS approved Shell's exploration plan despite the fact that, as MMS staff recognized, Shell did "not adequately describe plans to respond to loss or disablement of [its] drilling unit," the *Frontier Discoverer*.[8] This is a critical omission, because Shell's plans for responding to an oil spill rely on being able to use the *Discoverer* to drill a relief well. Shell does not explain how it will stop an oil spill if the *Discoverer* is disabled. The catastrophic loss of the *Deepwater Horizon* and the resulting spill highlight the central importance of requiring Shell to have a plan to respond to loss or disablement of its drillship. On that basis, you should re-evaluate the decisions to approve the drilling plans.

The *Deepwater Horizon* spill also raises serious questions about the adequacy of Shell's oil spill contingency and response plans. Shell's drill sites are remote, with much less onshore infrastructure or available emergency response equipment and personnel than in the Gulf of Mexico. An oil spill from Shell's drilling could occur when sea-ice is in the area, significantly complicating clean-up efforts.[9] Shell's worst-case oil spill scenario contemplates a daily spill rate roughly equivalent to the reported *Deepwater Horizon* spill rate,[10] but the capacity to respond to such a spill in the Arctic Ocean is likely much smaller than in the Gulf of Mexico. For example, Shell's Chukchi Sea oil spill response plan discloses only six major offshore spill response vessels (only three with identified storage capability),[11] the most critical of which could be stationed as far as 240 nautical miles away from the drill sites and take up to 24 hours to arrive on site.[12] Similarly, Shell's critical nearshore oil spill response vessels may be staged as far as 480 nautical miles from the Chukchi Sea nearshore zone and take as long as 4 days to

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[8] Email from Jeffrey Walker, Minerals Management Service, to James Lusher, Minerals Management Service, Re: EP COCP Comments (October 9, 2009), *Native Village of Point Hope, et al. v. Salazar*, 09-73942, 09-73944, 10-70166, 10-70368 (9th Circuit), administrative record document, Beaufort Sea AR 271 (recommending "further description of plans to respond to the scenario of loss, disablement, or damage of drilling rig and/or support craft is required as per 30 C.F.R. § 250.220(a)").

[9] *See* Shell Gulf of Mexico, Inc., Chukchi Sea Regional Exploration Oil Discharge Prevention and Contingency Plan, Revision 0 (May 7, 2009) (Chukchi Spill Plan) at 1-78 - 1-80; *see also* S. Hrg. 111-259, *Strategic Importance of the Arctic in U.S. Policy*, 111th Cong. S. Hrg. 111-259 at 17-18 (Aug. 20, 2009), (written testimony of U.S. Coast Guard Commandant, Admiral Thad W. Allen, noting "oil spill clean-up is significantly more difficult in colder temperatures and ice covered waters"), *available at* http://www.voltairenet.org/IMG/pdf/Strategic_Importance_of_the_Arctic.pdf (Allen Senate Testimony).

[10] Chukchi Spill Plan at MMS-4 (noting worst case discharge volume of 5,500 barrels of oil per day).

[11] Chukchi Spill Plan at 1-66 (Table 1.6-6) and 1-68 (Table 1.6-8). Shell also may have access to some undisclosed number of additional smaller response vessels from the Alaska Clean Seas program.

[12] Chukchi Spill Plan at 1-19.

arrive on site.[13] It would likely be difficult to quickly mobilize additional emergency vessels into the area due to the Arctic Ocean's remoteness and difficult operating conditions. As Commandant Thad W. Allen, National Incident Commander for the coordinated response to the *Deepwater Horizon* spill, testified before a Senate committee last August, the Coast Guard has "limited response resources and capabilities" in the event of a major oil spill in the Arctic Ocean.[14] In comparison, BP reported that it had mobilized response vessels, including 32 spill response vessels with a skimming capacity of more than 171,000 barrels per day and an offshore storage capacity of 122,000 barrels within forty-eight hours of the *Deepwater Horizon* blowout.[15] As of the morning of April 30, Unified Command reported that "75 response vessels are being used including skimmers, tugs, barges and recovery vessels"[16] and President Obama explained a total of "300 response vessels and aircraft" were on-site fighting the spill.[17] Despite the quick mobilization of these significant response resources, the *Deepwater Horizon* spill remains uncontained.[18]

The new, and evolving, information from the *Deepwater Horizon* oil spill is significant, and it calls into question issues that are central to your decision to approve Shell's proposed exploration drilling. It requires reconsideration of that decision, and given the importance of the areas at risk and the issues you must reconsider, you should suspend your approvals of Shell's drilling during the pendency of that reconsideration. Such a suspension would not only fulfill NEPA and OCSLA's purposes, it would further your commitment to let science guide your decision-making in the Arctic Ocean. A suspension would also be consistent with your recent decision to commission a United States Geological Survey study to, among other things, "determine what research is needed for an effective and reliable oil spill response in ice-covered regions."[19]

In addition, suspending your approval of Shell's drilling plans would also permit you to ensure that a reassessment of the plans that addresses the significant gaps in the Alaska MMS's NEPA

[13] *Id.* at 1-19.
[14] Allen Senate Testimony at 18; *see also id.* at 12-15.
[15] British Petroleum, *BP Initiates Response to Gulf of Mexico Oil Spill* (April 22, 2010), http://www.piersystem.com/go/doc/2931/528479/.
[16] Deepwater Horizon Response (April 30, 2010), http://www.deepwaterhorizonresponse.com/go/doc/2931/534651/.
[17] Statement by the President on the Economy and the Oil Spill in the Gulf of Mexico (April 30, 2010), http://www.whitehouse.gov/the-press-office/statement-president-economy-and-oil-spill-gulf-mexico.
[18] Additionally, critical oil spill response supplies staged in Alaska upon which Shell's spill response plans rely, such as chemical dispersants and in situ burn booms are reported to have been deployed to the Gulf of Mexico to aid in the ongoing response efforts there.
[19] U.S. Dep't of Interior, Secretary Salazar Unveils Arctic Studies Initiative that will Inform Oil and Gas Decisions for Beaufort and Chukchi Seas (April 13, 2010), http://www.doi.gov/news/pressreleases/2010_04_13_releaseA.cfm.

processes recently detailed by the Government Accountability Office.[20] According to the report, "the Alaska OCS Region shares information—including information related to NEPA analyses—on a need-to-know basis."[21] "[I]nterviews with [Alaska OCS Region] staff analysts in the Environmental Assessment Section . . . indicated that they believed that these information-sharing practices hindered their ability to complete sound environmental analyses under NEPA."[22] In fact, "some of [the Alaska OCS Region's] own scientists have alleged that their findings have been suppressed."[23] NEPA analyses of oil spills and the impact to the Arctic environment based on this "need-to-know" approach constitutes an unacceptable risk to the people and resources of the Arctic. Furthermore, a suspension would allow you to more fully consult with federally recognized Alaska Native tribal governments on decisions involving Shell's drilling plans in fulfillment of the Obama administration's policy of ensuring meaningful and regular collaboration on issues that affect tribal governments.

For the foregoing reasons, the undersigned groups respectfully request that you prepare a supplemental environmental analysis of Shell's drilling plans, suspend your approvals of Shell's drilling pending that analysis, and reconsider the approval decisions in light of new information from the *Deepwater Horizon* spill.

Sincerely,

ALASKA WILDERNESS LEAGUE
CENTER FOR BIOLOGICAL DIVERSITY
DEFENDERS OF WILDLIFE
EARTHJUSTICE
GREENPEACE USA
NATIONAL AUDUBON SOCIETY
NATIVE VILLAGE OF POINT HOPE
NATURAL RESOURCES DEFENSE COUNCIL
NORTHERN ALASKA ENVIRONMENTAL CENTER
OCEANA
PACIFIC ENVIRONMENT
RESISTING ENVIRONMENTAL DESTRUCTION ON INDIGENOUS LANDS (REDOIL)
SIERRA CLUB
THE WILDERNESS SOCIETY
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[20] Government Accountability Office, Offshore Oil and Gas Development, Additional Guidance would Help Strengthen the Minerals Management Service's Assessment of Environmental Impacts in the North Aleutian Basin, GAO-10-276 (March 2010) (GAO report).
[21] GAO report at 25.
[22] GAO report at 26.
[23] GAO report at 27.

cc:

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