UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

REGIONAL ADMINISTRATOR

MAY 18 2010

The Honorable Edward S. Itta
Mayor
North Slope Borough
P.O. Box 69
Barrow, Alaska 99723

Re: Petition to Require Shell Exploration & Production Company to Obtain an Individual National Pollutant Discharge Elimination System (NPDES) Permit for its Proposed Exploration Activities in the Chukchi Sea, Alaska

Dear Mayor Itta:

This letter constitutes the U.S. Environmental Protection Agency's response concerning the petition, dated October 5, 2009, requesting that EPA require Shell to apply for an individual permit as provided in 40 C.F.R. § 122.28(b)(3). After preliminary consideration of the information presented in the petition and the factors set out under 40 C.F.R. § 122.28(b)(3)(i), I have determined that EPA requires additional time to further evaluate the information available to the agency before making a final determination on the petition.

While EPA has the discretion to require an individual permit, based on Shell's current plan, EPA believes Shell has satisfied the terms and conditions of the Arctic Exploration NPDES General Permit (Arctic GP; AKG-28-0000).

As EPA continues to evaluate the petition, information gathered during the 2010 drilling season, should Shell operate, could help inform a final decision. The operational data will include, but is not limited to, toxicity testing results for drilling muds and cuttings, effluent testing data, actual flow volumes for each of the waste streams, and more specific information on the types and quantities of additives used in the systems. EPA will review the available data from 2010 and Shell's reapplication for coverage, which is due by the end of December 2010, before making a final determination on your petition.

In addition to the 2010 operational data, EPA is also gathering information for the reissuance of the Arctic GP. EPA is currently in the planning process of reissuing the Arctic GP as two exploration general permits, one for the Beaufort Sea and one for the Chukchi Sea. We are working closely with tribal governments, communities, local governments, and other stakeholders to identify concerns so they can be incorporated early in the planning and permits development processes. We will also continue to consider the concerns you raised in your letter through the Arctic GP reissuance process. The data gathered during the reissuance process could also help inform EPA's final decision on the petition.

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Please do not hesitate to contact me at (206) 553-1234, or Mike Bussell, Director of the Office of Water and Watersheds at (206) 553-4198, if you have any questions.

Sincerely,

Dennis J. McLerran for
Regional Administrator

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