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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NATIVE VILLAGE OF POINT HOPE, *et al.*,

Plaintiffs,

v.

KENNETH L. SALAZAR, *et al.*,

Defendants.

No. 1:08-cv-00004-RRB

FEDERAL DEFENDANTS' MARCH 4, 2011
STATUS REPORT PURSUANT TO COURT'S
ORDER OF SEPTEMBER 2, 2010 [DKT. #171]

Hon. Ralph R. Beistline

Federal Defendants Kenneth L. Salazar, Michael R. Bromwich, and the Bureau of Ocean Energy Management, Regulation and Enforcement (“BOEMRE”) submit this status report, pursuant to the Court’s Order of September 2, 2010 [Dkt. #171] (“September 2 Order”) and Order of February 9, 2011 [Dkt. #183].

In this case, Plaintiffs challenge Lease Sale 193 offered by the Department of the Interior on an area of the Outer Continental Shelf, pursuant to the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 *et seq.*, bringing claims under the National Environmental Policy Act, 42 U.S.C. §§ 4321–4370h, and Section 7 of the Endangered Species Act, 16 U.S.C. § 1536. On July 21, 2010, the Court ruled on the parties’ cross-motions for summary judgment, remanding the matter to BOEMRE to address two specific issues. (Order Remanding to Agency (“Remand Order”) [Dkt. #136].) The Court directed BOEMRE to “analyze the environmental impact of natural gas development” and “to determine whether missing information identified by the agency was relevant or essential under 40 C.F.R. § 1502.22” and, if so, “to determine whether the cost of obtaining the missing information was exorbitant, or the means of doing so unknown.” (Remand Order at 20.) The Court entered judgment on July 22, 2010 [Dkt. #137]. The Court amended the Remand Order as it might affect certain ongoing activities, but not with respect to the scope of the matters to be considered by the Agency on remand. (*See* Amended Order Remanding to Agency [Dkt. #164] at 20–21.) The Court’s September 2 Order vacated the earlier judgment [Dkt. #137] and retained jurisdiction. That Order further directed BOEMRE to “make reasonable efforts to respond to the issues raised on remand by January 21, 2011,” but “[i]f that proves unrealistic, [to] file a report with the Court outlining the status of the matter.” (Sept. 2 Order at 2.) The Federal Defendants submitted a status report on January 21 [Dkt. #182] and, pursuant to order of this Court [Dkt. #183], filed a further status report on February 25 [Dkt. #184]. In that report, the Federal Defendants stated that BOEMRE expected to have an estimated timetable for completion of the SEIS by today’s date, and this status report provides the Court with that information.

BOEMRE completed a draft supplemental EIS ("SEIS") that provided an analysis of the issues remanded, published that draft SEIS for public comment on October 15, 2010, and provided a 45-day comment period on the draft. As noted in its January 21 and February 25 status reports, BOEMRE received over 150,000 comments on the draft SEIS. Due to the Deepwater Horizon oil spill, many commenters requested an analysis that takes into account the possibility of a blowout during exploration. After reviewing those comments, BOEMRE has determined that it is appropriate to update its spill risk assessment and provide a very large oil spill ("VLOS") analysis from an exploration well blowout as part of this SEIS. Current information and the possible submission of exploration plans for the Chukchi Sea in 2012 make analysis of a VLOS appropriate at this time. Analyzing a VLOS now will promote the agency's decision-making on remand and aid any future environmental reviews and decisions related to exploration plans for leases in the 193 Lease Sale area. This analysis will be contained in a revised draft SEIS, which will be circulated for review and public comment.

BOEMRE presently anticipates releasing the revised draft SEIS by late May 2011 and will provide 45 days for public comment. The public comment period based on this schedule would end in early July 2011. Based on the public response to the last draft SEIS, BOEMRE presently anticipates needing 70 days to respond to the public comments and issue a Final SEIS, but acknowledges that it is not known how much time will be required to properly respond to the comments yet to be received. If the 70-day response time proves adequate, the SEIS should issue in late September 2011, and the Record of Decision should issue in late October 2011.

The Federal Defendants will provide a further status report advising the Court and other parties of progress being made towards completion of the final SEIS, no later than May 6, 2011.

DATED: March 4, 2011

Respectfully submitted,

/s/David B. Glazer
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CERTIFICATE OF SERVICE

I, David B. Glazer, hereby certify that I have caused the foregoing to be served upon counsel of record through the Court's electronic service system.

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I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 4, 2011

/s/ David B. Glazer
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