

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

AMERICAN COMMERCIAL LINES, LLC	*	CIVIL ACTION
	*	
VERSUS	*	NOS. 09-3392, 09-3457,
	*	09-3657, 09-4161
	*	
SHELL TRADING U.S. COMPANY, ET AL.	*	SECTION "B"(4)

ORDER AND REASONS

After hearing oral argument today in open court and for the reasons expressed therein and those that follow,

IT IS ORDERED that the consolidated Motions to Dismiss filed in Civil Action Nos. 09-3392, 09-3457, 09-3657, and 09-4161 are hereby **GRANTED** on the condition that all Counterclaims are **WITHDRAWN, WITHOUT PREJUDICE**. The Court finds that judicial economy is best served by letting the administrative process run its course prior to premature action by the Court. See *Penny v. Southwestern Bell Telephone Co.*, 906 F.2d 183, 187 (5th Cir. 1990); *Mississippi Power & Light Co. v. United Gas Pipe Line*, 532 F.2d 412, 417 (5th Cir. 1976); *Wagner & Brown v. ANR Power*, 837 F.2d 199, 201 (5th Cir. 1988); *Avoyelles Sportsmen's League, Inc. v. Marsh*, 715 F.2d 897, 919 (5th Cir. 1983). Also, as to some Defendants who moved for dismissal, the actions of American Commercial Lines, LLC ("ACL") in seeking OPA preemption is inconsistent with their declaratory judgment action filed only four days after the ruling on OPA preemption. See *Hall v. G.E.*, 327 F.3d 391, 396 (5th Cir. 2003) Today's dismissal pertains to those Defendants who moved for

dismissal and those Defendants who have recently filed or today expressed an intent to file administrative claims against the National Pollution Fund Center ("NPFC"). Said Defendants are entitled to that administrative process without being unduly burdened by parallel proceedings arising from ACL's declaratory actions. If, as ACL speculates, subsequent pleadings are filed with this Court by claimants, seeking review of that process, and/or by the NPFC, in subrogation, everyone's interests including ACL's can be efficiently heard together, avoiding piecemeal litigation while promoting efficient utilization of limited resources. The declaratory action(s) shall be stayed and administratively closed until further orders of the Court as to any remaining Defendant(s).

New Orleans, Louisiana, this 2nd day of September, 2009.

A handwritten signature in black ink, appearing to read 'Ivan L.R. Lemelle', written over a horizontal line.

IVAN L.R. LEMELLE
UNITED STATES DISTRICT JUDGE