

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

HORNBECK OFFSHORE SERVICES,
L.L.C, ET AL.

CIVIL ACTION

VERSUS

NO. 10-1663

KENNET LEE "KEN" SALAZAR
ET AL.

SECTION "F"

ORDER

In response to the limited remand ordered by the United States Court of Appeals for the Fifth Circuit in the captioned matter, the supplemental briefing schedule on the defendant's motion to dismiss ordered on August 11, 2010, is modified as follows:

IT IS ORDERED: that the parties supplemental briefs are hereby due by August 24, 2010, at 5:00 p.m.;

IT IS FURTHER ORDERED: that the parties address the Supreme Court decision in Northeastern Florida Chapter of the Associated General Contractors of America v. City of Jacksonville, Florida, 508 U.S. 656 (1993), as originally ordered, but tailor the remainder of their briefs to address the following questions specifically raised by the Fifth Circuit:


1. Whether the Secretary has the authority under the provisions of the Outer Continental Shelf Lands Act and the Administrative Procedures Act to declare the provisions of the May 28 Moratorium to be withdrawn, cancelled, and no longer in force and effect, especially given that the May 28 Moratorium is the subject of a preliminary injunction issued by the district court and

an appeal filed by the Secretary under the provisions of 28 U.S.C. 1292(a)(1).

2. Whether the evidence upon which the Secretary relied in issuing the July 12 Moratorium and not asserted in the May 28 Moratorium was available or unavailable to the Secretary when the May 28 Moratorium was issued, and the nature of such additional evidence.

3. With respect to the scope and substance of the May 28 Moratorium and the July 12 Moratorium, what are the differences, if any, and, considering such differences and any other circumstances--including changed conditions, changed facts, and changed positions or subsequent conduct of the parties--whether the preliminary injunction of the May 28 Moratorium was mooted by the issuance of the July 12 Moratorium.

New Orleans, Louisiana, August 17, 2010.


MARTIN L. C. FELDMAN
UNITED STATES DISTRICT JUDGE