

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**HORNBECK OFFSHORE SERVICES,  
LLC,**

**Plaintiff,**

**VS**

**KENNETH LEE “KEN” SALAZAR, in,  
his official capacity as Secretary, United States  
Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE  
INTERIOR; ROBERT “BOB” ABBEY, in his  
Official capacity as Acting Director, Mineral  
Management Service; and**

**MINERAL MANAGEMENT SERVICE,  
Defendants**

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**CIVIL ACTION NO.: 10-1663**

**SECTION: “F”**

**MAGISTRATE: “2”**

**MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO  
FILE AMICUS CURIAE BRIEF**

NOW INTO COURT come Bobby Jindal, in his capacity as Governor of the State of Louisiana, and the State of Louisiana, through the Louisiana Attorney General, James D. “Buddy” Caldwell, who seek leave to file the attached amicus brief in opposition to the Defendants’ Motion to Dismiss (Rec. Doc. 125), for the following reasons to wit:

On July 12, 2010, a Motion to Dismiss was filed by Defendants in this action (Rec. Doc. 125), which was heard by this Court on August 11, 2010. The matter was taken under submission

and post hearing briefing was ordered. (Rec. Doc. 151).

Meanwhile, on July 30, 2010, Defendants filed a motion with the United States Court of Appeals for the Fifth Circuit (*Hornbeck Offshore Services, LLC, et al. v. Kenneth Lee Salazar, et al.*, Case No. 10-30585), seeking to vacate as moot, the preliminary injunction of May 28, 2010, issued by this Court. On August 16, 2010, the Fifth Circuit, issued a Per Curiam Order, remanding the matter to this Court with instructions to conduct an appropriate hearing and to issue findings of fact and conclusions of law responsive to three specific questions referenced in its Order (See Order, at Document 00511205036).

On August 17, 2010, this Court issued an Order (Rec. Doc. 153), supplementing its briefing schedule on Defendants' Motion to Dismiss, to include responses to the questions posed by the Fifth Circuit, and to 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 an "Affected State" under the Outer Continental Shelf Lands Act ("OCSLA"), the State of Louisiana has a real interest in the outcome of this litigation. The State is particularly well-positioned to provide this Court with information responsive to the third question raised by the Fifth Circuit with regard to the "subsequent conduct" of Defendants as it relates to the State, prior to issuing the July 12<sup>th</sup> Moratorium. As set forth in the attached amicus brief, Defendants remain in violation of the OCSLA, and in particular, OCSLA's requirement that Defendants notify the State and provide it with a meaningful opportunity to participate in the decision making process prior to issuing the Moratorium.

Moreover, as further discussed in the attached amicus brief, and in former submittals to this Court,<sup>1</sup> the Moratorium continues to have a systemic effect on Louisiana's economy and livelihood.

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<sup>1</sup> See for example the Amicus Brief on Behalf of Bobby Jindal, Governor of the State of Louisiana, and the State of Louisiana in Support of Plaintiffs' Motion for Preliminary Injunction (Rec. Doc. 66).

WHEREFORE, the State of Louisiana moves for leave to file the attached amicus curiae brief in Opposition to Defendants' Motion to Dismiss.

Respectfully submitted,

James D. "Buddy" Caldwell  
Louisiana Attorney General  
James Trey Phillips  
First Assistant Attorney General  
Megan K. Terrell  
Assistant Attorney General  
Section Chief – Environmental  
State of Louisiana  
P.O. Box 94005  
Baton Rouge, Louisiana 70804-9005  
Tel: (225) 326- 6708  
Fax: (225) 326-6797

By: /s/ Henry T. Dart  
Henry T. Dart, Esq. (La. Bar # 4557)  
Grady J. Flattmann, Esq.  
Henry Dart, Attorneys at Law P.C.  
510 N. Jefferson St.  
Covington, LA 70433  
Tel: 985-809-8093  
Fax: 985-809-8094

Special Counsel to the Attorney General

and

/s/ Allan Kanner  
Allan Kanner, Esq.  
Elizabeth B. Petersen, Esq.  
Rebecca J. Davis, Esq.  
Kanner & Whiteley, L.L.C.  
701 Camp Street  
New Orleans, Louisiana 70130  
Tel: (504) 524-5777  
Fax: (504) 524-5763

Special Counsel to the Attorney General

and

/s/ Bradley M. Marten

Bradley M. Marten, Esq.  
Linda R. Larson, Esq.  
Marten Law PLLC  
1191 Second Avenue, Suite 2200  
Seattle, WA 98101  
Tel: (206) 292-2600  
Fax: (206) 292-2601

Of Counsel, Pro Hac Vice Pending

and

/s/ T. Allen Usry

T. Allen Usry, Esq.  
Usry, Weeks, & Matthews, APLC  
1615 Poydras St., Ste. 12  
New Orleans, LA 70112  
Tel: (504) 592-4600  
Fax: (504) 592-4641

Special Counsel to the Attorney General

and

/s/ E. Wade Shows

E. Wade Shows, Esq.  
Shows, Cali, Berthelot & Walsh LLP  
628 St. Louis Street  
Baton Rouge, LA 70802  
Tel: (225) 346-1461  
Fax: (225) 346-1467

Special Counsel to the Attorney General

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing pleading has been electronically filed with the Clerk of court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record, this, the 24th day of August, 2010.

/s/ Henry T. Dart

HENRY T. DART