

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

**HORNBECK OFFSHORE SERVICES,
L.L.C.,**

Plaintiff,

v.

KENNETH LEE “KEN” SALAZAR, et al.

Defendants.

CIVIL ACTION NO. 10-1663

JUDGE MARTIN L.C. FELDMAN

SECTION “F”

MAGISTRATE JOSEPH C. WILKINSON

DIVISION 2

**FEDERAL DEFENDANTS’ ANSWER TO
PLAINTIFF-INTERVENORS’ ORIGINAL COMPLAINT AND APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF**

Federal Defendants Kenneth Lee “Ken” Salazar, the United States Department of the Interior, Michael R. Bromwich, and the Bureau of Ocean Energy Management, Regulation, and Enforcement, hereby respond to the Plaintiff-Intervenors Diamond Offshore Services Company and Diamond Offshore Management Company’s Original Complaint and Application for Temporary Restraining Order and Injunctive Relief (Dkt. # 130). The introductory paragraph in Plaintiff-Intervenors’ Complaint constitutes Plaintiff-Intervenors’ characterization of their action, which requires no response. The following Paragraphs are numbered to correspond with the Paragraphs in the remainder Plaintiff-Intervenors’ Complaint. Federal Defendants deny any allegations not specifically denied, admitted, or modified.

1. Federal Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations in Paragraph 1, and the allegations are therefore denied.
2. Federal Defendants admit the allegations contained in the first sentence of Paragraph 2. Federal Defendants admit that the Secretary of the Interior is the federal official

ultimately responsible for the management and oversight of the leasing, exploration, and production of oil and gas on the Outer Continental Shelf (OCS), but deny the remaining allegations contained in Paragraph 2.

3. Federal Defendants admit the allegations contained in Paragraph 3, but aver that the Bureau of Ocean Energy Management, Regulation, and Enforcement has succeeded the Minerals Management Service and assumed all of the latter's functions and responsibilities.

4. Federal Defendants admit the allegations contained in Paragraph 4, but aver that the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) has succeeded the Minerals Management Service and assumed all of the latter's functions and responsibilities, and that Michael Bromwich has succeeded Robert Abbey as the Director of BOEMRE.

5. Federal Defendants admit the allegations contained in the first sentence of Paragraph 5, but aver that the Bureau of Ocean Energy Management, Regulation, and Enforcement has succeeded the Minerals Management Service and assumed all of the latter's functions and responsibilities. The second sentence of Paragraph 5 constitutes a collective reference to Defendants, which requires no response.

6. The allegations contained in Paragraph 6 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

7. The allegations contained in Paragraph 7 state conclusions of law, which require no response. To the extent a response is required, Federal Defendants admit that venue is proper in the Eastern District of Louisiana.

8. The allegations contained in Paragraph 8 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

9. Federal Defendants admit that Diamond Offshore performs drilling and exploration activities in the Gulf of Mexico, but lack sufficient knowledge or information to form a belief as to the truthfulness of the remaining allegations in the first three sentences of Paragraph 9, and the allegations are therefore denied. Federal Defendants admit that Diamond Offshore has drilled over 650 wells in the Gulf of Mexico since 2000 and that, at times, approximately one-third of the floating rigs in the Gulf of Mexico have been Diamond Offshore rigs. The remaining allegations in the fourth and fifth sentences of Paragraph 9 are too vague and ambiguous for Federal Defendants to form a belief as to their truthfulness, and the allegations are therefore denied.

10. Federal Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations in Paragraph 10, and the allegations are therefore denied.

11. Federal Defendants admit the allegations contained in Paragraph 11.

12. Federal Defendants admit the allegations contained in the first sentence of Paragraph 12. The allegations contained in the second and third sentences of Paragraph 12 purport to characterize Notice to Lessees No. 2010-N04 (“NTL-04”) and a May 28, 2010, memorandum, which speak for themselves and are the best evidence their contents. To the extent the allegations are inconsistent with those documents, they are denied. The allegations contained in the fourth sentence of Paragraph 12 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

13. Federal Defendants admit the allegations contained in Paragraph 13.

14. The allegations contained in Paragraph 14 purport to characterize NTL-04, the May 28, 2010, memorandum, a report entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“Safety Report”), and federal regulations, which

speak for themselves and are the best evidence their contents. To the extent the allegations are inconsistent with those documents, they are denied.

15. The allegations contained in first five sentences of Paragraph 15 purport to characterize NTL-04, federal regulations, the May 28, 2010, memorandum, and an “MMS Deepwater Drilling Inspection Report” (“Inspection Report”), which speak for themselves and are the best evidence their contents. To the extent the allegations are inconsistent with those documents, they are denied. The allegations contained in the sixth sentence of Paragraph 15 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

16. The allegations contained in the first sentence of Paragraph 16, including footnotes 1 and 2, purport to characterize federal statutes, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with those statutes, they are denied. In addition, the fourth sentence of footnote 1 states conclusions of law, which require no response. To the extent a response is required, Federal Defendants admit that the APA governs Plaintiff-Intervenors’ claims. The allegations contained in the second sentence of Paragraph 16 state conclusions of law, which require no response. To the extent a response is required, Federal Defendants admit that Plaintiff-Intervenors have properly stated the APA’s standard of review. The allegations contained in the third and fourth sentences of Paragraph 16 purport to characterize the Safety Report, May 28, 2010, memorandum, and the Inspection Report, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with those documents, they are denied.

17. The allegations contained in the first three sentences of Paragraph 17 purport to characterize the the Inspection Report, which speaks for itself and is the best evidence of its

contents. To the extent the allegations are inconsistent with the Inspection Report, they are denied. The allegations contained in the fourth sentence of Paragraph 17 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

18. The allegations contained in the first sentence of Paragraph 18 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied. The remaining allegations contained in Paragraph 18 purport to characterize Exhibit 5 to Plaintiff-Intervenors' Complaint, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with that document, they are denied.

19. The allegations contained in Paragraph 19 purport to characterize the Safety Report, the May 28, 2010, memorandum, the Inspection Report, and Exhibits 5, 6, and 8 to Plaintiff-Intervenors' Complaint, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with those documents, they are denied.

20. The allegations contained in Paragraph 20 purport to characterize Exhibits 5, 6, and 7 to Plaintiff-Intervenors' Complaint, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with those documents, they are denied.

21. Federal Defendants deny the allegations contained in the first sentence of Paragraph 21. The allegations contained in the second sentence of Paragraph 21 purport to characterize Exhibit 13 to Plaintiff-Intervenors' Complaint, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with that document, they are denied.

22. The allegations contained in the first sentence of Paragraph 22 purport to characterize Exhibit 13 to Plaintiff-Intervenors' Complaint, which speaks for itself and is the best

evidence of its contents. To the extent the allegations are inconsistent with that document, they are denied. The allegations contained in the second sentence of Paragraph 22 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

23. The allegations contained in the first sentence of Paragraph 23 purport to characterize Exhibit 7 to Plaintiff-Intervenors' Complaint, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with that document, they are denied. The allegations contained in the second sentence of Paragraph 23 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

24. The allegations contained in Paragraph 24 purport to characterize NTL-04 and the Safety Report, which speak for themselves and are the best evidence their contents. To the extent the allegations are inconsistent with those documents, they are denied.

25. Federal Defendants admit the allegations contained in the first sentence of Paragraph 25. The allegations contained in the second and third sentences of Paragraph 25 purport to characterize Exhibit 8 to Plaintiff-Intervenors' Complaint, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with that document, they are denied. The remaining allegations in Paragraph 25, including footnote 3, purport to characterize judicial opinions, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with those opinions, they are denied.

26. Federal Defendants deny the allegations contained in the first and third sentences of Paragraph 26. The allegations contained in second sentence of Paragraph 26 purport to

characterize NTL-05 and NTL-04, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with those documents, they are denied.

27. The allegations contained in Paragraph 27 purport to characterize Exhibit 9 to Plaintiff-Intervenors' Complaint, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with that document, they are denied.

28. Federal Defendants deny the allegations contained in the fourth sentence of Paragraph 28. Federal Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the remaining allegations in Paragraph 28, and the allegations are therefore denied.

29. The allegations contained in Paragraph 29 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

30. The allegations contained in the first sentence of Paragraph 30 purport to characterize a judicial opinion, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with that opinion, they are denied. Federal Defendants deny the allegations contained in the second and third sentences of Paragraph 30. Federal Defendants admit the allegations contained in fourth sentence of Paragraph 30.

31. The allegations contained in Paragraph 31 purport to characterize NTL-05, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with that document, they are denied.

32. The allegations contained in Paragraph 32, including its subparagraphs and footnote 4, state conclusions of law, which require no response. To the extent a response is required, the allegations are denied. The allegations contained in Paragraph 32, including its subparagraphs and footnote 4, also purport to characterize a federal statute, the Safety Report,

the May 28, 2010, memorandum, NTL-04, federal regulations, and the Inspection Report, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with those documents, they are denied.

33. The allegations contained in the first and third sentences of Paragraph 33 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied. The allegations contained in the second sentence of Paragraph 33 purport to characterize the U.S. Constitution, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with the U.S. Constitution, they are denied.

34. Federal Defendants deny the allegations contained in the first, third, fourth, fifth, sixth, and eighth sentences of Paragraph 34. The allegations contained in the second sentence of Paragraph 34 constitute Plaintiff-Intervenors' request for preliminary injunctive relief, which requires no response. To the extent a response is required, Federal Defendants deny that Plaintiff-Intervenors are entitled to the requested relief or any relief whatsoever. The allegations contained in the seventh and ninth sentences of Paragraph 34 are too vague and ambiguous for Federal Defendants to form a belief as to their truthfulness, and the allegations are therefore denied. With respect to the allegations contained in the tenth sentence of Paragraph 34, Federal Defendants deny that the May 28, 2010, decision to suspend certain drilling operations was arbitrary and capricious. The remaining allegations contained in the tenth sentence of Paragraph 34 are too vague and ambiguous for Federal Defendants to be able to form a response as to their truthfulness, and the allegations are therefore denied.

35. The allegations contained in Paragraph 35 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

36. The allegations contained in Paragraph 36 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

37. The allegations contained in Paragraph 37 state conclusions of law, which require no response. To the extent a response is required, the allegations are denied.

38. The allegations contained in Paragraph 38 state Plaintiff-Intervenors' willingness to post a bond, which requires no response.

39. The allegations contained in Paragraph 39 constitute Plaintiff-Intervenors' request for preliminary injunctive relief, which requires no response. To the extent a response is required, Federal Defendants deny Plaintiff-Intervenors are entitled to the requested relief or any relief whatsoever.

40. The allegations contained in Paragraph 40 constitute Plaintiff-Intervenors' request for relief, which requires no response. To the extent a response is required, Federal Defendants deny Plaintiff-Intervenors are entitled to the requested relief or any relief whatsoever.

41. The allegations contained in the first sentence of Paragraph 41 constitute conclusions of law, which require no response. To the extent a response is required, the allegations are denied. The allegations contained in the second sentence of Paragraph 41 constitute Plaintiff-Intervenors' request for relief, which requires no response. To the extent a response is required, Federal Defendants deny Plaintiff-Intervenors are entitled to the requested relief or any relief whatsoever.

The remaining Paragraph of Plaintiff-Intervenors' Complaint and Application for Temporary Restraining Order and Injunctive Relief constitutes Plaintiff-Intervenors' prayer for relief, which requires no response. To the extent a response is required, Federal Defendants deny that Plaintiff-Intervenors are entitled to the relief requested or any relief whatsoever.

AFFIRMATIVE DEFENSES

1. One or more of Plaintiff-Intervenors' claims is moot.
2. Plaintiff-Intervenors lack standing for one or more of their claims.
3. The Court lacks subject matter jurisdiction over one or more of Plaintiff-Intervenors' claims.

Respectfully submitted this 6th day of October, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2010, I caused a copy of the foregoing to be served through the Court's CM/ECF System to all parties.

s/ Kristofor R. Swanson
Kristofor R. Swanson