

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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

Plaintiff

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

*

VERSUS

* **SECTION F**

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**KENNETH LEE “KEN” SALAZAR, IN HIS
OFFICIAL CAPACITY AS SECRETARY,
UNITED STATES DEPARTMENT OF THE
INTERIOR; UNITED STATES**

* **JUDGE FELDMAN**

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**DEPARTMENT OF THE INTERIOR;
ROBERT “BOB” ABBEY, IN HIS OFFICIAL
CAPACITY AS ACTING DIRECTOR,
MINERALS MANAGEMENT SERVICE;
AND MINERALS MANAGEMENT SERVICE,**

* **MAGISTRATE 2**

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Defendants

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AFFIDAVIT OF TODD M. HORNBECK

STATE OF TEXAS

COUNTY OF HARRIS

Personally came and appeared before me, Todd M. Hornbeck, who being first
duly sworn, deposed and said:

1. I am a person of the full age of majority and competent to execute this affidavit. I am the Chairman, Chief Executive Officer, and President of Hornbeck Offshore Services, Inc. and its subsidiaries including the Plaintiff in this proceeding (“Hornbeck”) and have personal knowledge of the facts set forth herein.
2. Hornbeck owns and operates a fleet of 55 offshore supply vessels (“OSV’s) and multi-purpose support vessels (“MPSV’s), of which 49 are U.S. flagged and Jones Act qualified. These vessels perform services in connection with offshore oil and

gas drilling, exploration and production activities in the Gulf of Mexico's Outer Continental Shelf ("OCS").

3. Many businesses and labor specialties have formed to support the unique needs of deepwater drilling, exploration and production activities in the Gulf of Mexico's OCS. Gulf of Mexico drilling activities, particularly deepwater activities, rely upon an intricate network of technology, assets, human capital and experience that has gathered in the Gulf of Mexico region to make deepwater drilling a reality. Thousands of companies form this network that constitutes the Gulf OCS drilling enterprise. Port Fourchon, the largest deepwater oil port in the nation, is home to the host of oil companies and service companies required to successfully engage in deepwater drilling. In 2006, it supported 90% of the oil produced in the deepwater Gulf of Mexico.
4. Specialized supply vessels, such as those owned and operated by Hornbeck, are indispensable to the drilling effort on deepwater drilling rigs and other aspects of deepwater exploration and production. These vessels are outfitted with specialized technologies and systems and crewed by highly experienced mariners conversant with the intricacies of interfacing with the deepwater drilling rig. The vessels serve as the umbilical link between offshore drilling and all of the shore-based infrastructure that supports the deepwater drilling effort. Lessees of deepwater mineral rights depend upon the service companies to provide the assets and human capital needed to carry out their exploration and production plans in a safe and cost effective manner.
5. Hornbeck conducts its business mainly through time charter contracts with oil and gas exploration and production companies ("E&P Customers") operating in the Gulf of Mexico's OCS. These time charter contracts require Hornbeck to provide vessels to assist exploration and production companies with their offshore drilling activities.
6. Hornbeck's E&P Customers are leaseholders of deepwater mineral rights in the Gulf of Mexico that were issued by the Defendants under OCSLA. The leaseholders typically contract with third-parties, like Hornbeck, to provide all of the myriad products and services required to explore, produce and transport hydrocarbons.
7. At the time of the announcement of the Moratorium, there were 33 deepwater drilling rigs actively working in the Gulf of Mexico, contracted for by 18 E&P Customers. Deepwater exploration and production activities accounted for more than 80% of all OCS activities in the Gulf. In addition 8 additional deepwater rigs were contracted to arrive in the Gulf of Mexico between 2010 and 2011.
8. At the time of the announcement of the Moratorium, there were 44 shallow water drilling rigs actively working in the Gulf of Mexico at water depths up to approximately 1,000 feet.

9. Hornbeck has master time charters in effect with all 18 E&P Customers that had contracted for the 33 deepwater drilling rigs and with many, if not all, of the entities that had contracts or permits to drill in water depths up to 1,000 feet.
10. Hornbeck executes its contracting strategy in two ways. First, Hornbeck contracts with some E&P Customers for a fixed term ("Term Contracts"), pursuant to which the E&P Customer and Hornbeck agree that a specific Hornbeck vessel will be chartered for a fixed period of time and for a specified day rate. Depending upon the requirements of the E&P Customers, these contracts are sometimes renewed for an additional term following the completion of the stated term of the agreement. In addition, once a vessel has been paired with a rig, even if the rig leaves the employment of one E&P Customer and is contracted by or farmed out to another E&P Customer, it is typical that the second E&P Customer will contract the vessel to maintain the operational familiarity between the supply vessel and the drilling rig.
11. Second, Hornbeck retains certain of its vessels in the "spot" market and provides these vessels to E&P Customers pursuant to contracts with terms of 60 days or less ("Spot Contracts"). These vessels are called upon by E&P Customers to fulfill short-term requirements related to their OCS operations. The spot market for vessels in the Gulf of Mexico varies and at times can present the opportunity to enhance earnings from short-term vessel supply imbalances.
12. At the time of the announcement of the Moratorium, Hornbeck had Term Contracts with nine of these 18 entities for 15 vessels. It was performing or had performed services in connection with all or nearly all of the deepwater drilling rigs affected by the Moratorium. In addition, during 2010, Hornbeck has provided services under Term Contracts and Spot Contracts to an additional three of the 18 entities.
13. At the time of the announcement of the Moratorium, Hornbeck had Term Contracts with E&P Customers drilling in waters of less than 1,000 feet.
14. At the time of the announcement of the Moratorium, Hornbeck had Spot Contracts with E&P Customers for seven additional vessels.
15. Several of Hornbeck's Term Contracts are scheduled to expire during the Moratorium. Because of the Moratorium, it is unlikely that E&P Customers will renew or enter into new contracts with Hornbeck vessels.
16. As a result of the Moratorium, there will be a significant oversupply of deepwater support vessels in the Gulf of Mexico, weakening prices in both the Term and Spot markets. Despite the reduction in the size of the market, additional Hornbeck vessels that were under Term Contracts will be forced to enter the spot market.

17. Since the announcement of the Moratorium, Hornbeck has received a series of notifications from entities with which it has vessel charter contracts of the repudiation of those contracts or of steps that strongly suggest imminent action by Hornbeck's customer to repudiate in response to the shutdown of deepwater drilling activity imposed by Defendants. These actions have caused or will cause Hornbeck harm in the form of lost contracted revenue.
18. At the time of the announcement of the Moratorium, one of Hornbeck's E&P Customers, Cobalt International Energy, L.P. ("Cobalt"), had under contract a deepwater drilling rig, the Ocean Monarch, which was one of the 33 deepwater drilling rigs that was required to halt drilling under the Moratorium. On June 1, 2010, Cobalt notified Hornbeck that it was placing one of Hornbeck's vessels, the HOS Brimstone, "offcharter" based on Cobalt's declaration of force majeure with respect to the Ocean Monarch. Although Hornbeck has challenged the legal right of Cobalt to place the HOS Brimstone "offcharter," Hornbeck does not expect that Cobalt will honor its contract with Hornbeck. Currently, Hornbeck is not receiving revenue under its Term Contract with Cobalt. It is extremely unlikely that Hornbeck will be able to mitigate its lost revenue by use of the HOS Brimstone in the spot market during the Moratorium. If Hornbeck is required to pursue a legal claim against Cobalt, Hornbeck will be forced to incur legal fees that are not contractually recoverable and further will endanger its relationship with an important E&P Customer.
19. Another of Hornbeck's E&P Customers, Shell Offshore Inc. ("Shell"), has contracts with seven of the thirty-three deepwater drilling rigs affected by the Moratorium: (a) the Noble Danny Adkins; (b) the H&P 205; (c) the Transocean Deepwater Nautilus; (d) the Noble Jim Thomson; (e) the Frontier Driller; (f) the H&P 202, and; (g) the Auger.
20. At the time of the announcement of the Moratorium, Hornbeck had three Term Contracts with Shell for three Hornbeck vessels. On June 14, 2010, Hornbeck received written notification from Shell that, as a result of the Moratorium, Shell expects that it will have excess vessels in its fleet and requested Hornbeck to consider placing its vessels "off-hire temporarily or permanently." Shell also requested that Hornbeck consider other ways that Shell could reduce its costs in connection with the vessels Shell has chartered from Hornbeck.
21. Shell indicated the imminence of its intention to take actions to reduce its exposure to losses resulting from the vessels it has contracted in the Gulf of Mexico, including Hornbeck's vessels under Term Contracts. Shell stated to Hornbeck that "we should have a better idea of our exact situation next week."
22. If Shell places Hornbeck's vessels "off-hire," notwithstanding that it would be in violation of its contracts with Hornbeck, Hornbeck would not receive the revenue due under its Term Contracts with Shell. It is extremely unlikely that Hornbeck's losses could be mitigated in the Spot market during the Moratorium. If Hornbeck

is required to pursue a legal claim against Shell, Hornbeck will be forced to incur legal fees that are not contractually recoverable and further will endanger its relationship with an important E&P Customer.

23. In addition to its Term Contracts with Shell, Hornbeck had chartered vessels to Shell on a spot basis before the Moratorium and had expected to continue to charter vessels to Shell on a spot basis throughout the year. Based on Shell's statements to Hornbeck, it is extremely unlikely that Shell will have any need to enter into Spot Contracts with Hornbeck for any additional vessels during the Moratorium.
24. ENI U.S. Operating Co., Inc. ("ENI") is another Hornbeck E&P Customer. ENI has contracts with two of the thirty-three deepwater drilling rigs affected by the Moratorium: the Transocean Marianas and the Transocean Amarante.
25. At the time of the Moratorium's announcement Hornbeck had two Term Contracts with ENI for two Hornbeck vessels. ENI has informed a Hornbeck representative that, as a result of the Moratorium, it has decided to immediately discontinue operations of the Transocean Marianas in the Gulf of Mexico and to move the rig to West Africa, and therefore that at least one Hornbeck vessel will be placed "offhire".
26. If ENI places Hornbeck's vessel or vessels "off-hire," notwithstanding that it would be in violation of its contracts with Hornbeck, Hornbeck would not receive the revenue due under its Term Contracts with ENI. It is extremely unlikely that Hornbeck's losses could be mitigated in the spot market during the Moratorium. If Hornbeck is required to pursue a legal claim against ENI, Hornbeck will be forced to incur legal fees that are not contractually recoverable and further will endanger its relationship with an important E&P Customer.
27. Anadarko Petroleum Corporation is a Hornbeck E&P Customer. Anadarko and its subsidiary Kerr-McGee Oil & Gas Corporation have contracts with the owners of three deepwater drilling rigs affected by the Moratorium: the Noble Amos Runner, the ENSCO 8500 and the Transocean Discoverer Spirit.
28. At the time of the Moratorium's announcement, Hornbeck had three Term Contracts with Anadarko for three vessels, two of which were scheduled to expire during the Moratorium. Notwithstanding the expected expiration of these two contracts, Hornbeck has had a long-standing relationship with Anadarko and expected to either renew its Term Contracts with Anadarko following their expiration or to provide these or other Hornbeck vessels to Anadarko following the contractual expirations on a spot basis, as Hornbeck has historically done.
29. On June 3, 2010, Anadarko announced in a press release that it had provided notification of force majeure to drilling contractors of three of the company's contracted rigs in the Gulf of Mexico. Hornbeck vessels have provided services

to the affected rigs in the period prior to the Moratorium order. Anadarko also stated that, although its Gulf of Mexico activity has been suspended due to the moratorium, it is evaluating opportunities to reallocate some of its 2010 capital from the Gulf to other areas of its global portfolio.

30. If Anadarko reallocates capital to other areas of its global portfolio, Hornbeck is unlikely to receive from Anadarko additional Term or Spot Contracts for its vessels in the Gulf of Mexico, which Hornbeck has routinely obtained.
31. ATP Oil and Gas Corporation (“ATP”) is also a Hornbeck E&P Customer. ATP has a contract for the deepwater drilling rig Diamond Ocean Confidence, which is one of the 33 drilling rigs affected by the Moratorium.
32. On June 4, 2010, ATP announced in a press release that, as a result of the Moratorium, it would be unable to complete drilling of four wells previously planned as part of ATP’s 2010 capital expenditure program in the Gulf of Mexico and that its 2010 capital expenditures would be reduced in the Gulf by \$50 million to \$100 million.
33. Hornbeck has had Spot Contracts with ATP during 2010 and had anticipated additional contracts with ATP during the year. However, based on ATP’s statements and the Moratorium, Hornbeck believes it has limited prospects for further work with ATP in 2010.
34. Noble Energy Inc. (“Noble”) is another Hornbeck E&P Customer. Noble has contracts for three of the 33 deepwater drilling rigs affected by the Moratorium: the ENSCO 8501, the Noble Clyde Boudreaux and the Olympic Intervention IV.
35. On June 2, 2010, Noble announced in a press release that as a result of the Moratorium it will consider reallocating near term Gulf of Mexico drilling capital to other opportunities.
36. Hornbeck has reason to believe that the Moratorium will last longer than six months. The Executive Order establishing the President’s National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling provides that the Commission’s report will not be submitted until six months after its first meeting, which has not yet occurred. Once the Commission reports, additional time will elapse before the Commission’s recommendations are fully reviewed and either accepted, modified, or rejected.
37. Because of the uncertainty in connection with the length of the Moratorium, Hornbeck believes that its E&P Customers already have been or will imminently be forced to take steps to relocate the 33 deepwater drilling rigs that are currently in the Gulf of Mexico, and will be forced to deploy to alternative markets the eight announced additional deepwater drilling rigs that were expected to arrive in

the Gulf in 2010 and 2011. As a result, even if the Moratorium lasts for only six months, the effects of the Moratorium will last much longer than six months.

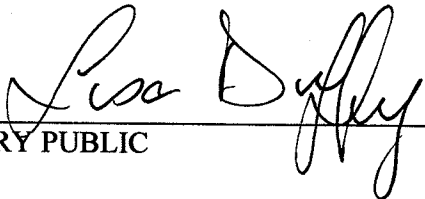
38. As a result of the overcapacity of support vessels in the Gulf of Mexico resulting from the Moratorium, Hornbeck anticipates that for a prolonged period of time, the demand for its deepwaters Jones Act OSV's and MPSV's will be very weak in the Gulf of Mexico.
39. Given the circumstances, Hornbeck has begun to consider measures to cut its costs and to move vessels that it had anticipated to operate in the Gulf of Mexico to international locations.
40. Forty-nine of Hornbeck's vessels are U.S. flagged Jones Act qualified vessels, which requires their construction in the United States in accordance with United States Coast Guard standards and further requires that they are crewed by United States citizen mariners and are owned and managed by a U.S. citizen, i.e., Hornbeck.
41. Because Hornbeck invested in U.S. flagged Jones Act qualified vessels, which the law requires for supporting OCS operations, Hornbeck is deprived of the use of these special pedigrees once the vessels are operating in foreign locations. In fact, Hornbeck may be forced, in many jurisdictions,, to reflag its vessels, which will result in a permanent loss of U.S. Jones Act trading privileges.
42. Hornbeck is completing a major new build construction program pursuant to which it constructed 18 "new generation" U.S. flag OSV's and MPSV's at a cost of nearly \$690 million dollars. Hornbeck's vessels are "new generation" OSV's that were constructed or acquired since 1999. These "new generation" vessels were built in order to service the unique requirements of deepwater drilling activities in the Gulf. Hornbeck invested its capital in the construction and acquisition of Jones Act qualified new generation OSV's based upon the long-term vibrancy of the Gulf deepwater market.
43. The cost of constructing or acquiring non-Jones Act qualified vessels is considerably lower than the cost of Jones Act vessels. This is because U.S. shipyard costs are higher than shipyard costs in other parts of the world, such as China, India or Viet Nam, where many OSV's are constructed for use in other regions around the world. Thus, it will be more difficult for Hornbeck to compete with its Jones Act vessels in international locations.
44. The depreciable life of Hornbeck's vessels is 25 years. However, the maximum earnings power of the vessels is estimated to occur within the first 10 years of their lives. This is because as vessels age, they must compete with newer vessels that have more advanced systems favored by customers. In addition, the maintenance of a vessel often increases with its age. Finally, some customers place age restrictions on vessels that limit use of vessels more than 10 years old.

45. Because Jones Act vessels are required to be crewed by U.S. licensed mariners, Hornbeck also has invested heavily in the recruitment, retention and training of mariners required to crew its new generation OSV's and MPSV's.
46. Should Hornbeck deploy its vessels to foreign locations, it is unlikely to retain the U.S. crews that it has trained and developed to support its U.S. OCS operations.
47. In order to support its OCS activities, Hornbeck acquired and improved at a cost in excess of \$35 million, a 58-acre shore-base facility in Port Fourchon, Louisiana that supports its deepwater operations in the Gulf of Mexico. Hornbeck also has a state of the art training facility that is used to train its mariners in the unique navigation skills and practices necessary to engage in deepwater OCS operations in the Gulf of Mexico.
48. Hornbeck's investments made in the shoreside port, training, and recruiting facilities will be lost as vessels and operations leave the Gulf for other areas in the world in which deepwater drilling is being conducted.

Executed on this 16th day of June, 2010.



SWORN TO AND SUBSCRIBED BEFORE ME
ON THIS 16th th DAY OF JUNE, 2010



NOTARY PUBLIC

