Record of Communication (June 24, 1994)

Subject: Definition of Maintenance Wastes in Coast Guard Regulations at 33 CFR 151.05

From: Eugene Bromley, EPA, Region 9
(415) 744-1906

To: Chris Lockwood, U.S. Coast Guard, Long Beach
(310) 980-4448

I called Mr. Lockwood to discuss the term "maintenance waste" defined in Coast Guard regulations at 33 CFR 151.05. The definition appears to exclude wastes which are not "collected" at offshore facilities, which would then allow such wastes to be discharged. Discharge of collected maintenance waste is prohibited by the Coast Guard regulations.

Shell Western E&P Inc. has argued in its evidentiary hearing request for the Beta Unit platforms (NPDES permit No. CA0110419) that the Coast Guard regulations do not prohibit all discharges of painting and sandblasting wastes (which are considered maintenance wastes in the Coast Guard regulations), only the waste which is collected. Shell was concerned that Region 9 was reading permit No. CA0110419 to prohibit all discharges of painting and sandblasting wastes.

Shell's interpretation raises concerns, however, regarding how much effort should be expected of offshore facilities to collect the wastes and minimize the discharges. The definition would appear to provide a disincentive to collect the wastes since collected wastes would require an alternate disposal.

Mr. Lockwood confirmed Shell's interpretation of the Coast Guard regulations. However, Mr. Lockwood also indicated that a good faith effort would be required by offshore operators in minimizing the discharges. This is reasonably consistent with the policy which Region 9 has also adopted which requires that discharges of such wastes be minimized, while also recognizing that some discharges may be unavoidable.

Given the above interpretation, we should be able to resolve the Shell's evidentiary hearing request since the interpretation is consistent with Shell's position.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

In Reply
Refer to: W-5-1

AUG 23 1994

F. B. Cummings
Technical Manager
Shell Western E&P Inc.
P. O. Box 11164
Bakersfield, CA 93389

Dear Mr. Cummings:

This is in response to your letter of July 7, 1994 concerning your request for an evidentiary hearing for the NPDES permit for the Beta Unit platforms (NPDES permit No. CA0110419). You had offered to withdraw this request provided a suitable understanding is reached with Region 9 regarding the interpretation of U.S. Coast Guard regulations at 33 CFR 151 pertaining to discharges of fugitive paint and sandblasting materials.

In accordance with 40 CFR 435.14, NPDES permit No. CA0110419 requires compliance with U.S. Coast Guard regulations at 33 CFR 151 for discharges of domestic wastes including "garbage" (discharge 005). For offshore platforms, the U.S. Coast Guard regulations prohibit discharges of garbage with the exception of victual wastes passed through a communitor and discharged beyond 12 nautical miles from nearest land (33 CFR 151.73). The term "garbage" is defined at 33 CFR 151.05 to include "operational waste" which in turn is defined to include "maintenance waste." "Maintenance waste" is defined to include waste associated with painting and sandblasting operations.

The definition of the term "maintenance waste", however, only includes materials <u>collected</u> while maintaining and operating a facility. This implies that discharges of fugitive paint and sandblasting materials which are not collected would not be prohibited by the U.S. Coast Guard regulations, nor NPDES permit No. CA0110419 which incorporates by reference the U.S. Coast Guard regulations. Region 9 recently discussed the definition of "maintenance waste" with Chris Lockwood of the U.S. Coast Guard's Long Beach office and Mr. Lockwood confirmed this interpretation. Your letter of July 7, 1994 had also enclosed a letter from the Commandant, U.S. Coast Guard to Shell Offshore Inc. (dated February 4, 1994) which further confirms this interpretation.

Printed on Recycled Paper

The definition of "maintenance waste", however, raises certain concerns regarding the extent of the efforts which would be undertaken by offshore operators to minimize discharges of fugitive paint and sandblasting materials. The need for an alternate means of disposal for collected waste could provide a disincentive for the collection of the wastes. Collection, on the other hand, would prevent potential impacts to the marine environment. Therefore, Region 9 believes that such discharges should be minimized to the maximum extent practicable, while recognizing that it may not be possible to prevent all such discharges.

From our discussions with the U.S. Coast Guard's Chris Lockwood, and from the February 4, 1994 letter from the Commandant, U.S. Coast Guard, it would appear that the intent of the U.S. Coast Guard regulations is generally consistent with Region 9's views regarding the efforts which should be undertaken to minimize the discharges. For example, the February 4, 1994 letter notes that

> "a reasonable effort must be made to prevent sand blast materials from being discharged into surrounding waters, and that waste which is recovered should be disposed of in accordance with 33 CFR 151."

As such, we believe that the U.S. Coast Guard regulations are appropriate for protection of the marine environment. Given the above interpretation of the term "maintenance waste", we can confirm that NPDES permit No. CA0110419 only prohibits discharges of the fugitive paint and sandblast materials which are collected by the permittee, assuming the permittee has undertaken such efforts as required by the U.S. Coast Guard to minimize these discharges. We believe that this interpretation should satisfy your concerns regarding NPDES permit No. CA0110419, and that you will now be able to withdraw your evidentiary hearing request.

Should you have any questions regarding this matter, please call Eugene Bromley of the Permits Issuance Section at (415) 744-1906.

Sincerely,

Catherine Kuhlman, Chief
Permits and Compliance Branch
Water Management Division

cc: Arun Naik, Shell Western E&P Inc
Chris Lockwood, U.S. Coast Guard
Cy Oggins, California Coastal Commission
Dave Panzer, Minerals Management Service
Nancy Minick, Santa Barbara County Resource Management Department