

13-4263 (L)

13-4447 (CON)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Stephen E. Ardizzone, on behalf of himself and all others similarly situated, Adam Haber, SMW Trading Co., Edward Bernstein, Christopher T. Courtiol, on behalf of himself and all others similarly situated, AKA Christopher R. Courtiol, Adams Affiliates, Inc., on behalf of itself and all others similarly situated, Todd Kramer, on behalf of himself and all others similarly situated, Joseph G. Loza, Edward Bernstein, on behalf of himself and al others similarly situated, John J. Losordo, Jr., on behalf of himself and all others similarly situated,
(caption continued on next page)

On Appeal from the United States District Court for the Southern District of New York, No. 11-Civ.-3600, the Hon. William H. Pauley III, U.S. District Court Judge

**APPELLANT SHELL OIL COMPANY'S JOINDER IN BRIEF OF
APPELLANT PLAINS ALL AMERICAN PIPELINE, L.P.**

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January 2, 2014

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Plaintiffs-Appellees,

v.

Castleton Commodities International LLC, Vitol, Inc., Vitol Capital Management Ltd., Plains All American Pipeline, LP,

Objectors-Appellants,

v.

Parnon Energy, Inc., Arcadia Petroleum Ltd., Arcadia Energy (Suisse) SA, Nicholas J. Wildgoose, James T. Dyer,

Defendants-Appellees.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, appellant Shell Oil Company states that it is a wholly-owned subsidiary of Shell Petroleum Inc. Shell Petroleum Inc. is a wholly-owned subsidiary of Shell Petroleum N.V. Shell Petroleum N.V. is a wholly-owned subsidiary of Royal Dutch Shell plc, a publicly traded company. No publicly held corporation owns 10% or more of the stock of Royal Dutch Shell plc.

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JOINDER

Appellant Shell Oil Company (“Shell”) respectfully joins in the brief of Plains All American Pipeline, LP’s (Plains’ Brief, 2nd Circuit Case No. 13-4263, Rec. D. 159) (Plains’ Mot., 2nd Circuit Case No. 13-4447, Rec. D. 67) and hereby adopts and incorporates the jurisdictional statement, factual recitation and legal arguments and authorities set forth therein.

Shell adds as follows: Shell, along with certain affiliated entities, produced a wide range of documents containing proprietary and confidential business information to the U.S. Commodity Futures Trading Commission (“CFTC”) in connection with the CFTC’s non-public review of the **national** crude oil markets in the United States for the period covering **2007 and 2008**. Those documents included, among others, records relating to Shell’s crude oil refineries, storage caverns to which Shell had access, and pipelines on which Shell transported crude oil. *See* JA157 (Case No. 11-cv-3600, Dkt. No. 121, Objections of Shell Oil Company (“Shell Objections”) at 2). Accordingly, Shell requested confidential treatment for those documents under the Freedom of Information Act pursuant to CFTC Rule 145.9, 17 C.F.R. § 145.9. *See* JA158 (Shell Objections at 3.). Shell understands that the CFTC produced at least some of those documents to the Defendants-Appellees as part of its enforcement action against them. However, that action is limited to alleged wrongdoing during 6 month period in 2008, and it

involves a single grade of crude oil at a specific trading hub in Oklahoma. *See* JA157 (Shell Objections at 2.). Notwithstanding this obvious temporal and subject matter disconnect, Shell further understands that the CFTC produced many of Shell's documents without any review by the CFTC, much less a relevancy determination. *See, e.g.*, Case No. 11-cv-3543, Dkt. No. 104, CFTC's Response to Objections by Third Parties at 7 (available at JA 155 in No. 13-4206 Joint Appendix) (stating that relevant documents of Shell and other non-party objectors were housed by the Commission in 46 different databases and consisted of nearly six million documents); JA235 (No. 11-cv-3600, Dkt. 147, at 51:22-25) (stating that "hundreds or tens of thousands of [nonparty] audio" recordings were produced to Defendants-Appellees without review). These same documents produced to the Defendants-Appellees by the CFTC are now the subject of a document request from the plaintiffs in a related putative class action. *See* JA158 (Shell Objections at 3.).

Respectfully submitted,

Dated: January 2, 2014

By: s/ Anthony M. Mansfield

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STATEMENT CONCERNING ORAL ARGUMENT

Counsel for Appellant Shell Oil Company request oral argument.

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32(a)(7)(B) of the Federal Rules of Appellate Procedure, I certify the following:

This brief complies with the type-volume limitations of Fed. R. App. P. 29(d) because it contains 443 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the typestyle requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in Times New Roman 14-point font.

/s Anthony M. Mansfield

Attorney for Appellant Shell Oil Company

CERTIFICATE OF SERVICE

I hereby certify that, on January 2, 2014, I electronically filed the above Joinder in the Brief of Plains' All American Pipeline LP with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system. All participants are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Anthony M. Mansfield
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Company*