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**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024 - HC - DEM - CIV - FDA - 104

Handwritten:
26/1/2024
2-36-PM

**In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

INFORMATION FOR COURT USE

- 1. The proceeding is commenced as a:-
 - Statement of Claim
 - Fixed Date Application

- 2. The proceeding falls under the High Court's:
 - Appellate Jurisdiction




- Admiralty Jurisdiction
- Commercial Jurisdiction
- Criminal Jurisdiction
- Family Jurisdiction
- Regular Jurisdiction

3. The proceeding is a(n):

- Admiralty Proceeding in Personam
- Admiralty proceeding in rem
- Probate Proceeding
- Proceeding for Judicial Review
- Proceeding for relief under the Constitution
- Proceeding for other Administrative Order
- Proceeding commenced under *Legal Practitioners Act, Cap. 4:01*
- Other Proceeding

4. I certify that the above information is correct, to the best of my knowledge.

Date: 25th day of January 2024


.....
MS. MELINDA JANKI
MR. TIM PRUDHOE &
MS. ANNA-KAY BROWN
Attorneys-at-Law for the Applicant





**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
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AGENCY, a body corporate established under
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INFORMATION FOR COURT USE

25 January 2024

MS MELINDA JANKI,
MR TIM PRUDHOE, and MS ANNA-KAY
BROWN of STANBROOK PRUDHOE
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BETWEEN

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THE ENVIRONMENTAL
PROTECTION AGENCY, a body
corporate established under the
Environmental Protection Act (Cap 20:05)

Respondent

FIXED DATE APPLICATION

URGENT MADE UPON NOTICE

TO THE RESPONDENT

THE ENVIRONMENTAL PROTECTION AGENCY
GANGES ST.
SOPHIA
GEORGETOWN
GUYANA.

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant,
SHERLINA NAGEER. The claim made by the Applicant is set out in the following pages.



THIS APPLICATION will come on for hearing on the 11th of March 2024, at 3:00 a.m. /p.m., before the Honourable chief Justice Roxane George at the High Court of the Supreme Court of Judicature of Guyana, Georgetown, Demerara.

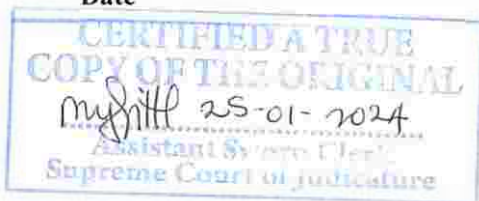
IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Attorney-at-Law acting for you must forthwith prepare an Affidavit in Defence in Form 10C prescribed by the Civil Procedure Rules 2016, serve it on the applicant's Attorney-at-Law or, where the applicant does not have an Attorney-at-Law, serve it on the applicant, and file it, with proof of service, at a Registry, AT LEAST (TWO or FOUR, as applicable) DAYS before the date fixed for the hearing of the application, and you or your Attorney-at-Law must appear at the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER OR JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

THIS NOTICE OF APPLICATION has no validity unless it is served on you at least (seven or four, as applicable) days before the date fixed for the hearing of the application.

25-01-2024

Date



[Signature]

Signature of Registry

Issued by: Onesha Ault
Address of Registry where issued: Victoria Law Courts, Supreme Court Building, Georgetown, Demerara.

TO: THE ENVIRONMENTAL PROTECTION AGENCY
GANGES ST.
SOPHIA
GEORGETOWN, GUYANA.



Filing Attorneys-at-Law:
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**THE ENVIRONMENTAL
PROTECTION AGENCY, a body
corporate established under the
Environmental Protection Act (Cap 20:05)**

Respondent

APPLICATION

1. The Applicant, SHERLINA NAGEER, makes an application for:
 - A. A DECLARATION THAT the Environmental Protection Agency ("the Respondent" or "the Agency") is the sole/exclusive authority competent under and by virtue of the Environmental Protection Act Cap. 20:05 entitled to enforce the provisions of the Environmental Permit (Modified & Varied), Reference number 20171204-ESSLP issued to Esso Exploration and Production Guyana



Ltd (EEPGL), now Exxon Mobil Guyana Ltd, (“the Permit Holder”), covering the period 26 April 2019 to 25 April 2024, and signed by and between the Agency and The Permit Holder (“the Permit”) to undertake Phase 2 of the Liza Development Project (“the Project”);

B. AN ORDER OF MANDAMUS directing the Agency to file forthwith with the Court true copies of the insurance policy or certificate of insurance which Condition 12.1 of the Permit requires the Permit Holder to possess, and to which the Agency is entitled under Conditions 12.1, 12.3, and 12.4, including:

- i. evidence the insurance is of such type and in such amount as is customary in the international petroleum industry in accordance with good oil field practices for petroleum operations in progress offshore Guyana in respect of the matters outlined in Condition 12.1(i) –(v) of the Permit;
- ii. the correspondence dated 20 March 2019, indicating the commitment of the Permit Holder to obtain such insurance coverage under Condition 12.3;
- iii. evidence that the insurer is authorised to provide the insurance in Guyana under Condition 12.4 (i);
- iv. evidence of the insurer’s financial strength under Condition 12.4 (i);
- v. details of the amount of cover and the cost profile under Condition 12.4 (ii);
- vi. evidence of authorisation from the insurer’s institution or parent to provide insurance under Condition 12.4 (ii);



- vii. evidence of any supplementary cover required to cover gaps in the primary cover, inclusive of details relevant to the excess level which the Permit Holder has the responsibility to cover under Condition 12.4 (ii);
- viii. agreement to provide notification to the Agency of any modification, cancellation, expiration, intent to renew, renewal or non-renewal and expiry dates of the policy under Condition 12.4 (iii);
- ix. the reports provided under Condition 12.4 (iv) on whether the insurance policy is maintained or renewed so that the Agency can determine if it is acceptable or if it requires a replacement policy under; and
- x. evidence of the Permit Holder's financial strength and payment of premium under Condition 12.4 (v).

C. AN ORDER OF MANDAMUS directing the Agency to file forthwith with the Court true copies of the legally binding agreement(s) the Permit Holder is required to provide to the Agency under Condition 12.5, specifically agreement(s) wherein Parent Company or Affiliate Companies of the Permit Holder and its Co-Venturers ("Affiliates") undertake to provide the Permit Holder and its Co-Venturers adequate financial resources to pay or satisfy their respective environmental obligations regarding the Stabroek Block, if the Permit Holder or its Co-Venturers fail to do so, and supporting documents, namely,

- i. evidence that the Affiliate(s):
 - 1. are authorised to provide that guarantee or agreement in the jurisdiction;



2. have sufficient financial strength for the amount of the potential liability; and
 3. have the corporate legal capacity to enter into the agreement; and
- ii. agreement from the Permit Holder to the Agency to provide:
1. notification of cancellation, expiration, renewal or non-renewal and expiry dates of the Agreement; and
 2. annual audited financial statements and notification if the Affiliate(s) are no longer likely to be able to meet specified financial obligations.
- D. Where the Agency fails/refuses to provide a copy of the insurance policy or certificate of insurance required to evidence compliance with Condition 12.1 of the Permit on the grounds of the Permit Holder's failure to provide the same, A DECLARATION THAT the Permit is cancelled in accordance with Condition 12.3 of the Permit.
- E. Where the Agency fails/refuses to provide evidence that the Permit Holder has complied with Conditions 12.1 and 12.5 of the Permit on the ground of the Permit Holder's failure to provide the same, AN ORDER OF PROHIBITION prohibiting the Agency from renewing the Permit or issuing a new environmental permit to the Permit Holder (its successors, assigns and/or Affiliates), until the Agency files with the Court evidence of the insurance, legal agreements/guarantees and supporting documents mentioned in paragraphs B and C above.



F. AN ORDER OF PROHIBITION prohibiting the Agency from granting to the Permit Holder (its successors, assigns and/or Affiliates) any environmental permit which does not include all the provisions set out in Condition 12 of the Permit or which contains weaker provisions than contained in the said Condition 12.

G. Further or alternatively, AN ORDER OF MANDAMUS directing the Agency to include in any new (or renewed) permit to the Permit Holder the obligations contained in Condition 12.

H. Costs.

I. Such other orders as the Court may consider just.

2. The grounds for the application are:

- (1) The Applicant is a citizen of the Co-operative Republic of Guyana.
- (2) The Applicant's interest is adversely affected by the administrative acts or omissions of the Respondent/ Agency, which concern matters of public interest.
- (3) The Applicant brings this application in the public interest to uphold the rule of law and to ensure that the Agency carries out its legal duties as a public body.
- (4) The Applicant is, therefore, empowered to bring the application pursuant to the Judicial Review Act Cap 3.03 ("the JRA") section 4(1) (a) and (b).



- (5) The Respondent/ Agency is a corporate body established under the Environmental Protection Act Cap. 20.05 (“the Act”); its statutory functions, duties, and responsibilities include taking such steps as are necessary for the effective management of the natural environment so as to ensure conservation, protection, and sustainable use of its natural resources; co-ordinating the environmental management activities of all persons, organisations and agencies; establishing, monitoring and enforcing environmental regulations; preventing or controlling environmental pollution; and granting or refusing environmental authorisations.
- (6) The Agency and its acts or administrative acts or omissions as a public body or authority are susceptible to judicial review under the JRA on the grounds set out under section 5 thereof.
- (7) The Respondent Agency has the sole/exclusive statutory authority under Part IV of the Act to grant environmental authorisations.
- (8) The Agency has issued the Permit Holder the Permit for Phase 2 of the Liza Development Project, (“Project”), which:
“includes but is not limited to, drilling of subsea development wells, installation and operation of subsea equipment, use of a Floating Production, Storage, and Off loading (FPSO) vessel to process, store, and off load the recovered oil during production operations, within the Stabroek PPL, as well as the use of shorebase facilities and marine/aviation services to support these activities.” [Exhibit SN-2]



- (9) Condition 12 of the Permit imposes on the Permit Holder liability for pollution damage.
- (10) Under Condition 12.10, the Permit Holder, its servants and/or agents are liable jointly and/or severally for environmental damage due to pollution from its activities within Guyana, its territorial waters, contiguous zones, continental shelf and Exclusive Economic Zone, inclusive of damage to the marine environment, biodiversity, protected species and natural habitat with respect to any release or discharge, spill or contamination which is attributable to the Permit Holder and its agents and contractors.
- (11) Under Condition 1.2, the Permit Holder is required to restore or rehabilitate the environment to an acceptable state after any impacts resulting from a breach of the conditions of the Permit.
- (12) Under section 13(1)(d) of the Act, the Permit Holder has an obligation to restore and rehabilitate the environment.
- (13) Condition 12.1 of the Permit requires the Permit Holder to possess insurance coverage in such amount as is customary in the international petroleum industry and in accordance with good oil field practices for petroleum operations in progress under the Project.



- (14) In the event that the Permit Holder fails to fulfil Condition 12.1, such failure constitutes a breach of the Permit and, under Condition 12.3, results in the immediate cancellation of the Permit.
- (15) Under Conditions 12.1, 12.3 and 12.4, the Agency is entitled to require from the Permit Holder copies of the insurance policy/ certificate of insurance and other supporting documents outlined in paragraph B (i) –(iv) of the above-requested orders.
- (16) Condition 12.5 requires the Permit Holder to provide to the Agency as soon as reasonably practicable legally binding agreements, and guarantee or undertaking from its Affiliates to provide adequate financial resources for the Permit Holder and its Co-Venturers to pay or satisfy their respective environmental obligations regarding the Stabroek Block, in the event the Permit Holder or its Co-Venturers fail to do so. Additionally, Condition 12.5 requires the Permit Holder to provide the Agency with the supporting evidence and agreements outlined in paragraph D (i)-(ii) of the above-requested orders.
- (17) Section 13 of the Act provides that each environmental permit shall contain the implied condition that the Agency shall have the right to cancel or suspend the environmental permit if any of the terms or conditions of the environmental permit are breached. This right is echoed in regulation 14(2) (b) and (c) of the Environmental Protection (Authorisations) Regulations, which specifically states that the Agency's right to cancel or suspend a permit is exercisable when the permit



holder contravenes a material condition of the permit or violates a condition of the permit.

(18) By the letter dated 12 January 2024 and sent to the Agency the same day via email and by physical copy delivered and signed for, the Applicant, through her attorney-at-law, Melinda Janki, requested the Agency to confirm in writing that the Agency had obtained from the Permit Holder the insurance policy under Permit Condition 12.1 and the legally binding undertaking(s) and indemnities from its Affiliates under Permit Condition 12.5; and requested the Agency to provide copies of the same along with the correspondence incorporated into the Permit under Condition 12.3 and the supporting documents required under Permit Conditions 12.4 and 12.5 on or before the 19 January 2024. The letter also requested that in the event the Agency refused to provide the requested information and documents, the Agency was to provide reasons for their refusal.

(19) The Agency responded to the letter dated 12 January 2024 by letter dated and sent by email on 22 January 2024 stating that “the said Insurance and Affiliate Company Guarantee Agreement has been obtained,” and that the Agency “remains adherent to the Act as it concerns information which it must make available to the public.”

(20) The Agency did not provide any reasons for its refusal to provide copies of any of the documents requested, including the insurance policy required under Condition 12.1, the correspondence incorporated under Condition 12.3, and the supporting documents required under Conditions 12.4 and 12.5.



(21) Under the common law and by the nature, terms, object and scope of the Act, the Agency has legal duties to be transparent to members of the public, as set out, inter alia, in the Preamble, Section 4(1)(b), 4(2) (d), 4 (2) (e), 4 (3) (e) and Section 36 of the Act. Specifically, Sections 4 (3) (e) and 36 of the Act, provide that the Agency must make available to members of the public environmental authorisations and the terms and conditions included therein (including the financial assurances, liability guarantees and supporting documents the permit holder submits to the Agency as part of the authorisation and which are incorporated by reference), each enforcement or prohibition notice issued thereunder, and each incident or occurrence causing or threatening serious or material environmental harm of which the Agency has notice.

(22) Moreover, the Agency as a public authority is subject to the duty of candour under the common law to give full and frank disclosure *before*, and during judicial review proceedings. That duty of candour attaches to whether or not the disclosure in question would be adverse to the public authority.

(23) Public authorities, such as the Agency, are not to be concerned with defending their own private interests in litigation or otherwise but are engaged in a common enterprise with the court and the public to fulfil the public interest in upholding the rule of law and disclosing all the material facts.

(24) Through the pre-action letter, the Applicant sought that the Agency produce the insurance coverage, guarantee agreements and supporting documents provided by



the Permit Holder pursuant to Condition 12 of the Permit. In response, the Agency has a duty to provide the same pursuant to its duty of candour and obligation under sections 4(3)(e) and 36 of the Act to make available to members of the public its environmental permits, including its terms and conditions incorporated by reference.

(25) The Agency's failure/refusal to provide copies of the insurance policy required under Condition 12.1, the correspondence incorporated under Condition 12.3, and the supporting documents required under Conditions 12.4 and 12.5, constitutes an administrative act or omission that is unauthorised and contrary to the law; a failure to satisfy or observe conditions or procedures required by law; unreasonable, irregular or improper in the exercise of its discretion; an abuse of power; bad faith; and in conflict with the policy of the Act.

(26) Further, the Agency's failure/refusal to give reasons for not providing copies of the insurance policy required under Condition 12.1, the correspondence incorporated under Condition 12.3, and the supporting documents required under Conditions 12.4 and 12.5 constitutes a breach of the principles of natural justice; unreasonable, irregular or improper exercise of discretion; abuse of power; and a failure to observe conditions or procedures required by the Constitution.

(27) Under Condition 13.4, the Agency has the right to cancel the Permit for breach of any of the terms and conditions



(28) Also, by Section 31 of the Act, an environmental authorisation shall not be effective until any requirements for financial assurance have been fully complied with. Condition 12 provides for financial assurances, particularly 12.5. Accordingly, the Permit is ineffective unless the Agency has received the legal agreements required under condition 12.5.

(29) It is, therefore, critical for the public to know whether the Agency has enforced Condition 12 and obtained the required legal agreements.

(30) The Agency, through its executive director and officers, has failed or omitted to carry out or to show that it has carried out its legal duties and/or obligations, thereby amounting to misfeasance in public office by them and by failing or omitting to act, has acted unreasonably, irregularly, or improperly and/or has abused its power.

(31) More generally, the Agency has an obligation to enforce and monitor Condition 12, in particular Conditions 12.1, 12.3, 12.4 and 12.5, section 26 of the Act and regulation 15(1) of the Environmental Protection (Authorisation) Regulations, which require the Agency:

“to take the steps needed to –(a) for the purpose of ensuring that the activities authorised by the environmental authorisation do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and (b) for the purpose of ensuring that the conditions of the environmental authorisation are complied with.”



- (32) A failure by the Agency to enforce and monitor the Permit or to cancel the Permit following the Permit Holder's breach of Conditions 12.1, 12.4 or 12.5 constitutes an administrative act or omission that is, unauthorised and contrary to law; a failure to satisfy or observe conditions or procedures required by law; unreasonable, irregular or improper exercise of discretion; an abuse of power; and in conflict with the policy of the Act.
- (33) The said actions or omissions are therefore reviewable under the JRA.
- (34) A failure by the Agency to enforce the Permit adversely affects the Applicant and the public as a result of the grave risk to the economy and Guyana's public funds, because of liability for environmental harm in the absence of the Permit Holder's compliance with Condition 12 of the Permit.
- (35) Public law entitles members of the public to scrutinise the Agency's actions or omissions to ensure that the Agency carries out its legal duties and/or obligations and to seek redress from the court for any apparent misuse or abuse of power.
- (36) The Application is urgent but made upon notice under Rule 8.04 (4)c) of the Civil Procedure Rules and all other enabling powers of this Honourable Court as a superior court of record entitling the court to hear and determine this matter on an urgent basis, given the grave consequences of any breach by the Agency of its statutory duties.



3. The following documentary evidence will be used at the hearing of the application:
- (a) Affidavit of SHERLINA NAGEER and exhibits thereto.

25 January 2024
.....
Date



.....
MS. MELINDA JANKI
MR. TIM PRUDHOE
MS. ANNA-KAY BROWN
106-107 Lamaha Street
Georgetown, Demerara
Tel: 592-620-5294
tim@spcaribbean.com, &
anna-kay@spcaribbean.com

**Signature of Attorneys-at-Law for the
Applicant**

The Registry is located at The Law Courts, Georgetown, Demerara. The office is open to the public between 8:30 a.m. and 3:30 p.m. Mondays to Thursdays and 8:30 a.m. and 2:30 p.m. on Fridays, except holidays.



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corporate established under the
Environmental Protection Act (Cap 20:05)**

Respondent

FIXED DATE APPLICATION

25 January 2024

MS MELINDA JANKI, and
MR TIM PRUDHOE, and MS ANNA-KAY
BROWN of STANBROOK PRUDHOE
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Georgetown Guyana
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AFFIDAVIT OF SHERLINA NAGEER IN SUPPORT OF FIXED DATE APPLICATION

I, SHERLINA NAGEER, of Lot 6 Richardstown, Lusignan, East Coast Demerara, Guyana, make oath, and say as follows:

1. I am the Applicant named herein, and I make this affidavit in support of my Fixed Date Application filed on 25 January 2024.
2. The facts and matters deposed to in this affidavit in so far as they are within my personal knowledge are true, and in so far as they are not within my personal knowledge, are true to the best of my knowledge, information, and belief.



3. I am a citizen of the Cooperative Republic of Guyana. I exhibit hereto marked "SN-1", for identity, a copy of my passport issued by the Cooperative Republic of Guyana. I am a patriotic citizen, and I am acting in the public interest.
4. My interests are adversely affected by the administrative acts or omissions of the Environmental Protection Agency ("the Respondent" or "the Agency"), which concern matters of public interest and relate to its duty as a public body. The Agency has issued Environmental Permit (Modified & Varied) Reference number 2017/204-ESSLP to Esso Exploration and Production Guyana, now Exxon Mobil Guyana Ltd ("the Permit Holder") covering the period 26 April 2019 to 25 April 2024 ("the Permit) and signed by and between the Agency and the Permit Holder on 22 January 2017 authorising the Permit Holder to undertake Phase 2 of the Liza Development Project ("the Project"). I exhibit hereto marked "SN-2", for identity, the Permit.
5. By my application, as a matter of public interest, I seek to uphold the rule of law, protect Guyana's environment from the risks of irreversible but avoidable adverse effects, and safeguard the national economy of Guyana from potentially massive but unknown liability in the event of an oil spill, well blowout or other catastrophic event arising from the Permit Holder's petroleum operations, breach of the Permit, or lax enforcement by the Agency and to ensure the Agency carries out its legal duties.
6. I have read the Permit, and it describes the Project as including:



drilling of subsea development wells, installation and operation of subsea equipment, use of a Floating Production, Storage, and Offloading (FPSO) vessel to process, store, and offload the recovered oil during production operations, within the Stabroek PPL, as well as the use of shorebase facilities and marine/aviation services to support these activities, in the manner indicated in the Application submitted on December 04, 2017, the approved Environmental Impact Assessment Report dated September, 2018, and the accompanying Environmental and Socio-economic management Plan dated September, 2018, which includes the Wildlife Response Plan and Oil Spill Response Plan, and are subject to the terms and conditions set forth herein and in any existing or forthcoming regulations, best practices, guidelines and standards relevant to this project.

7. It is common and public knowledge that the Project concerns the extraction and production of oil more than 100 miles offshore Guyana in the Exclusive Economic Zone.
8. I have read the Permit, and I see that:
 - a. Condition 1.2 requires the Permit Holder to restore or rehabilitate the environment to an acceptable state after any impacts resulting from any breach of the conditions; and
 - b. Condition 12.1 requires the Permit Holder to possess insurance coverage “in such an amount as is customary in the international petroleum industry in accordance with good oil field practices for petroleum operations in progress” under the Project.



with good oil field practices for petroleum operations in progress” under the Project.

9. I also see that Condition 12.4 of the Permit lists documents to be provided to the Agency, including an insurance policy/ certificate of insurance and the various other documents referred to at i, ii, iii, iv, and v.

10. I further see that Condition 12.5 of the Permit requires the Permit Holder to provide the Agency:

a. as soon as reasonably practicable, one or more legally binding agreements from the Parent Company or Affiliate Companies of the Permit Holder and its Co-Venturers (“Affiliates) to provide adequate financial resources for the Permit Holder and its Co-Venturers to pay or satisfy their respective environmental obligations regarding the Stabroek Block, in the event the Permit Holder or its Co-Venturers fail to do so; and

b. evidence,

i. that the Affiliate(s):

1. are authorised to provide that guarantee or agreement in the jurisdiction;

2. have sufficient financial strength for the amount of the potential liability; and

3. have the corporate legal capacity to enter into the agreement; and

ii. agree to provide:



1. notification of cancellation, expiration, renewal or non-renewal and expiry dates of the Agreement; and
2. annual audited financial statements and notification if the Affiliate(s) are no longer likely to be able to meet specified financial obligations.

11. On 12 January 2024, my attorney-at-law, Ms. Melinda Janki, sent a letter dated 12 January 2024 and addressed to Mr. Khemraj Parsram, Executive Director of the Agency, by email and by physical copy delivered and signed for by the Agency, requesting that on or before 4 pm on 19 January 2024 the Agency:

- a. confirm in writing that it obtained from Esso the insurance policy under Permit Condition 12.1 and the legally binding undertaking(s) and indemnities from its Affiliates under Permit Condition 12.5;
- b. provide copies of the said policy, undertaking(s), indemnities, and supporting documents required under Permit Conditions 12.4 and 12.5; and
- c. provide reasons if the Agency refused to provide the documentation.

I exhibit hereto marked “SN-3(a) and (b)” for identity, respectively, a copy of the letter along with a cover email sent to Mr. Parsram and a copy of the letter signed by personnel of the Agency acknowledging physical receipt of the letter.

12. On 22 January 2024, the Agency responded in a letter sent to my attorney-at-law, Ms. Melinda Janki, via email. I exhibit hereto marked “SN-4” for identity a copy of the Agency’s letter.



13. I have read the Agency's letter, and I see that the Agency writes that "the said Insurance and Affiliate Company Guarantee Agreement has been obtained" and that the Agency "remains adherent to the Act as it concerns information which it must make available to the public."
14. The Agency gave no reasons in its letter for failing to provide the information requested.
15. This is a completely inadequate response to my attorney-at-law's request for information on my behalf. I am a member of the public. I am entitled to the information which allows me to see whether the Agency is carrying out its public duties; such public duties are owed to me and to the rest of the Guyanese public.
16. It is difficult, almost impossible for me, to uphold the rule of law and prevent or stop abuses of power by the Agency if the Agency takes refuge in silence, avoidance, concealment and secrecy.
17. I am advised by my attorneys-at-law and verily believe that the Agency:
- a. has legal duties of transparency, including a duty to provide the information requested in the letter dated 12 January 2024 and to share with members of the public environmental permits and related documents; and
 - b. has a duty of candour *before* and during judicial proceedings, to disclose all material facts relevant to the duty being questioned and that such material facts include the



information requested in the letter dated 12 January 2024 (SN-3) and my Fixed Date Application.

18. I am, therefore, entitled to have the documents requested. Without these documents, I am hindered from holding the Agency to account for unlawful actions or omissions. I am further advised and do verily believe the documents requested are necessary to give me a reasonable prospect of being able to challenge the Agency's breach of duty.
19. I am advised by my attorneys-at-law and verily believe that as a matter of natural justice and fairness, the Agency should provide reasons for its refusal/failure to produce the requested documents.
20. I have read Condition 12.3 of the Permit, and I see that it states that the Permit is issued subject to the fulfilment of the obligations outlined in Condition 12.1 and correspondence dated 20 March 2023 indicating the Permit Holder's commitment to obtain such insurance for coverage of environmental liabilities, in accordance with the requirements of the Agency and the Bank of Guyana; and that a failure to fulfil such obligations or commitments is in breach of the Permit and will result in immediate cancellation.
21. I am advised by my attorneys-at-law and verily believe that by section 31 of the Act, an environmental authorisation shall not be effective until any requirements for financial assurance have been fully complied with.



22. I am advised by my attorney-at-law and verily believe that the Agency has a legal duty to monitor and enforce the Permit and to exercise its discretion in accordance with its functions and the policy of the Act and that the Agency's failure to do so is a breach of its duty; an administrative act or omission contrary to the law and without authority; an unreasonable, irregular or improper exercise of its discretion; an abuse of power; a failure to satisfy or observe conditions or procedures required by law; and a conflict with the policy of the Act and its Regulations, which include the effective management of the natural environment so as to ensure conservation, protection, and sustainable use of its natural resources; co-ordinating the environmental management activities of all persons, organisations and agencies; establishing, monitoring and enforcing environmental regulations; preventing or controlling environmental pollution; and monitoring and enforcing environmental permits.

23. It is common and public knowledge and in the national press on a regular basis that insurance and financial guarantees are necessary to ensure that if there is damage from the Permit Holder's operations under the Project, the Permit Holder has the money to remedy the damage and restore and rehabilitate the environment. If the Agency allows the Permit Holder to flout the requirements of Condition 12, then the Agency transfers the risk from the Permit Holder to Guyana, and Guyana is liable for the harm caused by the Permit Holder's actions. The situation affects the viability of our environment, health and livelihoods, wastes resources, and erases existing development.



24. The terms of Condition 12 for financial assurance, including providing an unlimited guarantee, reflect the position that the harm which can result from the Project is enormous. The Permit Holder's liability means little to nothing without an enforceable insurance policy with appropriate coverage and guarantees for indemnification from its Affiliates.
25. I have seen the maps from the Permit Holder's Environmental Impact Assessment (EIA) of the Project, including the maps appended to the letter of 12 January 2022 (SN-3), which show that an oil spill could result in oil fouling Guyana's coast. Such an oil spill could have a severe impact on the Guyanese people, their health and livelihoods, especially the Amerindian and other communities who live on or near the coast and who depend on the ocean for their livelihoods and their cultural and physical well-being.
26. I note that the maps further show that an oil spill could cover the Caribbean Sea and harm the Caribbean islands, environments and economies.
27. I am advised by my attorneys-at-law and verily believe that such an oil spill would expose Guyana to significant liability under international law.
28. It is essential to the public interest that the Agency demonstrates to me and the Guyanese people that it is carrying out its legal duties, including enforcing the Permit. Otherwise, the State and, therefore, the people of Guyana, who make up the population of the State, would be liable in the event of an oil spill, well blowout, or catastrophic event arising from the Permit Holder's carrying out of the Project.



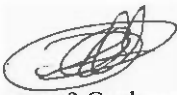
29. Human beings are not separate from nature but depend on nature in order to survive and to thrive physically, mentally and spiritually. An oil spill, well blowout or other failure by the Permit Holder resulting in pollution would adversely affect the lives of the Guyanese people by harming the natural environment, biodiversity and ecosystems, affecting health, and impairing the safety of people.
30. As a citizen and taxpayer, I am adversely affected by the risk that public funds, including taxes raised from hard-working Guyanese as well as Guyana's small share of oil revenue would be allocated to dealing with pollution from an oil spill, well blowout or other catastrophic event caused by the Permit Holder's actions or default and paying for the costs of clean up, restoration rehabilitation and compensation to affected persons in Guyana and the Caribbean instead of being spent to benefit the citizens of Guyana.
31. Given the grave consequences of any breach by the Agency of its statutory duties including the gravity of the harm at stake, I respectfully request the court to hear and determine my Fixed Date Application as soon as possible.
32. I am advised by my attorneys-at-law and verily believe that the law entitles members of the public to scrutinise the Agency's actions and omissions in order to ensure that the Agency carries out its legal duties and functions and to ask the court to put an end to unlawful conduct including any misuse or abuse of power. In accordance with the rule of law, as a citizen, I have a duty and a right to ensure that public authorities act within the limits of their powers.



33. In the circumstances, I ask that this Honourable Court grant the orders sought in my Fixed Date Application filed on 25 January 2024.

Sworn to at Georgetown Demerara
105 Lamana & Carmichael St.

This 25 day of January 2024

Before me 
Commissioner of Oaths

PT. ROOPNARAIN PERSAUD
JUSTICE OF PEACE AND COMMISSIONER
OF OATHS & AFFIDAVITS GOA


SHERLINA NAGEER

The Applicant





**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024 - HC - DEM - CIV - FDA-104

**In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

AFFIDAVIT OF SHERLINA NAGEER IN SUPPORT OF FIXED DATE APPLICATION

25 January 2024

MS. MELINDA JANKI, and
MR. TIM PRUDHOE, and MS. ANNA-KAY
BROWN of STANBROOK PRUDHOE
106-107 Lamaha Street
Georgetown Guyana
Tel: 592-620-5294
Email: tim@spacribbea.com & anna-kay@sparibbean.com

1047

**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024 - HC - DEM - CIV - FDA - 104

**In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06**

BETWEEN



SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

EXHIBIT BUNDLE TO THE AFFIDAVIT OF SHERLINA NAGEER

I **HERBY CERTIFY** that the following exhibits are included and referred to the Affidavit of **SHERLINA NAGEER IN SUPPORT OF THE FIXED DATE APPLICATION** sworn to this 25 day of **January** 2024:

EXHIBIT	DESCRIPTION	PARAGRAPH
SN-1	A copy of the Passport of Sherlina Nageer, issued by the Cooperative Republic of Guyana	3
SN-2	Environmental Permit (Modified & Varied), Reference number 20171204-ESSLP, issued to Esso Exploration	4

and Production Guyana Ltd (EEPGL), now Exxon Mobil Guyana Ltd, covering the period 26 April 2019, to 25 April 2024, and signed by and between the Agency and Esso to undertake Phase 2 of the Liza Development Project.

SN-3 (a) A copy of the letter dated 12 January 2024 and a cover email to Mr. Parsram of the Agency from Ms. Janki; and

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(b) A copy of the said letter dated 12 January 2024 from Ms. Janki to Mr. Parsram, signed by personnel of the Agency acknowledging physical receipt of the letter.

SN-4 A copy of the letter dated 22 January 2024 from the Agency to Ms. Janki


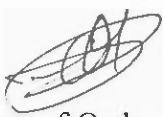
12

Sworn to at Georgetown Demerara

105 Lamaha + Carmichael STS

This 7th day of January 2024

Beforeme
Commissioner of Oaths



SHERLINA NAGEER

The Applicant





**Environmental
Protection
Agency**

Ganges Street, Sophia,
Georgetown, GUYANA
Tel.: (592)-225-5467-9
Fax: (592)- 225-5481
Email: epa@epaguyana.org
Website:
<http://www.epaguyana.org>

Environmental Permit (Varied & Modified)

Issued under the Environmental Protection Act, Cap. 20:05, Laws of Guyana, the Environmental Protection (Amendment) Act, 2005, and the Environmental Protection (Authorisations) Regulations, 2000.

Reference No.:	20171204-ESSLP
Fees:	Extra Large(C1) – US \$15,500 (5 years) i.e.US \$3100 per year
Fees Paid:	USD \$15,500 (April 26, 2019 – April 25, 2024)

Addressee(s): Mr Alistair Routledge
President
Esso Exploration and Production Guyana Limited
86, Duke Street
Kingston
Georgetown
Guyana.

*I certify that this is a true copy of the original documents seen by me
A. Boopnarain, President, J.P. CoA*

Activity: Liza Phase 2 Development Project – Stabroek Block, Offshore, Guyana

Esso Exploration and Production Guyana Limited (EEPGL), hereinafter referred to as the "Permit Holder", is hereby authorised by the Environmental Protection Agency (EPA) hereinafter referred to as the Agency, in accordance with the Environmental Protection Act, Cap 20:05, Laws of Guyana, the Environmental Protection (Amendment) Act, 2005, and the Environmental Protection (Authorisations) Regulations, 2000, to

Handwritten initials/signatures: J.P. CoA and another signature.

undertake Phase 2 of the Liza Development Project, herein after referred to as the "Project", which includes but is not limited to, drilling of subsea development wells, installation and operation of subsea equipment, use of a Floating Production, Storage, and Offloading (FPSO) vessel to process, store, and offload the recovered oil during production operations, within the Stabroek PPL, as well as the use of shorebase facilities and marine/aviation services to support these activities, in the manner indicated in the Application submitted on December 04, 2017, the approved Environmental Impact Assessment Report dated September, 2018, and the accompanying Environmental and Socio-economic Management Plan dated September, 2018, which includes the Wildlife Response Plan and Oil Spill Response Plan, and are subject to the terms and conditions set forth herein and in any existing or forthcoming regulations, best practices, guidelines and standards relevant to this project.

Environmental Permit, Reference Number 20171204-ESSLP, which was issued on April 26, 2019 and which is slated to expire on April 25, 2024, is hereby modified and varied in accordance with the Application for Variance of an Environmental Authorization submitted on October 7, 2021, deemed Environmental Permit (Modified & Varied) Reference Number 20171204-ESSLP, and issued pursuant to the Environmental Protection Act, Cap 20:05.

The Permit Holder shall comply with the following Terms and Conditions.

1.0 GENERAL

- 1.1 Comply with any directions of the Agency where compliance with such directions is necessary for the implementation of any obligations of Guyana under any treaty or international law related to environmental protection.
- 1.2 Restore or rehabilitate the environment to an acceptable state after any impacts resulting from any breach of the conditions of this Permit.
- 1.3 Comply with the approved Liza Phase 2 Environmental Impact Assessment, Environmental and Socioeconomic Management Plan and Oil Spill Response Plan.
- 1.4 Comply with any forthcoming guidelines, standards, best practices and the National Oil Spill Contingency Plan.
- 1.5 The Permit Holder shall submit **within one (1) year** of issuance of this Permit an updated Liza Phase 2 Environmental and Socioeconomic Monitoring Plan, including protocols, performance standards, and responsibilities in Consultation with and jointly implemented by the Permit Holder and the Agency. Capacity (e.g. training) within the EPA shall be supported by the Permit Holder where

necessary and practicable. External expertise (local and international) may be sourced by the EPA as may be required to augment this monitoring plan and/or conduct associated audits. The Permit Holder will be responsible for all reasonable and jointly agreed upon costs associated with this monitoring plan and its implementation, and any associated independent audits.

- 1.6 The Permit Holder shall notify the Agency in writing and obtain its approval for **ANY** proposed changes to the operation at least **21 calendar days** prior to making the change.
- 1.6.1 The notification shall contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition 'change in operation' means a change in the nature or functioning, or an extension, or any additional installation, which may have consequences for the environment. Changes to operation may include but not be limited to the following:
- i. Changes in vessels, equipment, or technology;
 - ii. Installation of new and/or changes (excluding routine maintenance) to equipment, machine, apparatus, mechanism, system or technology serving the facility or operation; or
 - iii. Any change of technology used or installed at the facility from which effluents may be discharged or any changes in the nature, composition, concentration or quantity of the discharge.
- 1.7 Comply with all applicable laws and regulations, including but not limited to the following:
- i. Environmental Protection Act, Cap 20:05, Laws of Guyana and associated Regulations;
 - ii. Petroleum Exploration and Production Act, 1986;
 - iii. Petroleum Exploration and Production (Amendment) Act, 1992;
 - iv. Pesticides and Toxic Chemicals Act, No. 13 of 2000;
 - v. Pesticides and Toxic Chemicals Regulations, No. 8 of 2004;
 - vi. Pesticides and Toxic Chemicals (Amendment) Regulations, No.8 of 2007;
 - vii. All applicable policies, laws and regulations of Guyana; and
 - viii. International conventions and protocols
- 1.8 The best available techniques and technologies which consider economic and technical feasibility, as well as the facilities and controls described in the EIA, shall be used to prevent or mitigate pollution in relation to any aspect of the operation, which is not regulated by any other condition of this Permit.
- 1.9 The Permit Holder shall use an effective Environmental Management System with policies and procedures for environmental compliance and improvements, and shall perform internal audits on at least an annual basis. The Permit Holder

Environmental Permit (Varied & Modified) - Ref. No.20171204-ESSLP

Issued under the Environmental Protection Act, Cap. 20:05, Laws of Guyana, the Environmental Protection (Amendment) Act, 2005, and Environmental Protection (Authorisations) Regulations, 2000

shall share the results of the internal audits with the Agency. The Agency at its discretion may require other independent environmental audits, in accordance with applicable International Conventions and Protocols during the course of this Permit.

- 1.10 Employ effective operational and maintenance systems on all aspects of the facility whose failure could impact the environment. A schedule of maintenance of all vessels, equipment, and/or plant shall be kept on site and made available for inspection on request from the Agency. Maintenance shall be carried out in accordance with the relevant manufacturer's specification.
- 1.11 Comply with the following Legislation/Guidelines/Conventions as indicated under 3.0 Administrative Framework as well as Section 6, 7, and 8 in the Environmental Impact Assessment, dated September 2018, and under the following headings:
 - i. Environmental Protection Act, Cap.20:05, Laws of Guyana;
 - ii. National Legal Framework;
 - iii. Environmental Permits and Licenses;
 - iv. Laws and regulations enacted by Guyana to implement the National Policy Framework;
 - v. International Conventions and Protocols; and
 - vi. EEPGL's Operations Integrity Management System

2.0 NOISE MANAGEMENT

- 2.1 Where practicable, ensure that sound-making devices or equipment are equipped with silencers or mufflers and are enclosed, and/or utilise soft-start procedures (e.g., pile driving, vertical seismic profiling activities, etc.) to reduce noise to levels that do not cause material harm or injury to marine species.
- 2.2 Implement engineering controls, administrative controls and training to protect offshore workforce from high noise levels in offshore work environment.

3.0 AIR QUALITY MANAGEMENT

- 3.1 Annually quantify aggregate greenhouse gas (GHG) emissions from all offshore facilities and all offshore and onshore support activities conducted by Permit Holder or its dedicated contractors in accordance with internationally recognized methodologies.
- 3.2 Implement internationally recognized methods for controlling and reducing fugitive emissions in the design, operation, and maintenance of offshore facilities and onshore support activities conducted by the Permit Holder or its dedicated contractors to maximise energy efficiency and design facilities for lowest energy use. The overall objective is to reduce air emissions.

- 3.3 Operate all mechanical equipment in accordance with the manufacturer's specifications. Additionally, ensure that mechanical equipment, vehicles, vessels and helicopters, utilised during Project works, are regularly maintained and operated at their optimal levels to minimise atmospheric emissions.
- 3.4 Utilize low sulphur fuels for major vessels, where available and commercially viable.
- 3.5 Routine flaring and venting is strictly prohibited (except for background flare streams which include low pressure streams; flaring required to maintain the flare system in a safe and ready condition including pilot gas; tank flashing emission; and standing/working/breathing losses) during any developmental drilling or production activities. Flaring is only permissible under the following conditions: Commissioning, Start-up, or Special Circumstances, as defined below:
- i. **Commissioning** shall be defined as the process of ensuring that all systems and components are designed, installed, tested, operated, and maintained according to the operational requirements or manufacturer's specifications. This condition shall also apply to the commissioning of any new units or systems post-production, or the renovation of existing units or systems, which may require flaring. During commissioning, all gas systems, must be properly installed, fully leak tested and able to receive gas, before start-up.
 - ii. **Start-up** shall be defined as the activity that occurs at the end of commissioning where production operations are initiated. The Permit Holder shall not exceed **sixty (60) cumulative days** of flaring during Start-up. For the purpose of this Condition, any day that gas is flared above background flare, regardless of the duration, is considered one (1) day of flaring.
 - iii. **Special Circumstances:**
 - a. **Emergencies:**
 - i. Controlled - any unavoidable expected event, including inclement weather conditions, strictly requiring the flaring of gas; and
 - ii. Safety Response - any unplanned event requiring the flaring of gas for safety purposes or flaring required to maintain the flare system in a safe and ready condition (purge gas/make-up gas/fuel gas) and pilot flame.

b. Maintenance:

- i. Planned/unplanned maintenance and inspections on gas handling system and related processes, and construction activities.
- ii. Scheduled unloading or cleaning of a well or well work-over, well testing, production testing, other well-evaluation testing, or the necessary blow down to perform these procedures; and maintenance required during and after an emergency shutdown or restart.

c. Restart: the instance of resumption of FPSO operations following a shutdown event.

3.5.1 Where any of the abovementioned Special Circumstances conditions is expected to exceed **fourteen (14) calendar days**, the Permit Holder shall seek an Approval from the EPA for flaring **within the first ninety-six (96) hours** of the commencement of flaring. Where flaring during Start-up is expected to exceed sixty (60) cumulative days, the Permit Holder shall seek an Approval from the EPA for flaring no later than **five (5) days** prior to the end of the sixty (60) cumulative-day period.

3.5.2 When seeking an Approval under Condition 3.5.1, the Permit Holder shall submit the following to the EPA:

- i. Description of conditions which includes but is not limited to commissioning schedule, start-up schedule, and/or maintenance schedule; where applicable;
- ii. Detailed schedule for flaring;
- iii. Justification(s) for required approval; and
- iv. Daily projected flare volumes.

3.5.3 The Agency reserves the right to require the submission of such further information it deems necessary, before issuing an Approval for flaring.

3.5.4 An Approval for flaring shall be subject to such terms and conditions as may be required by the EPA, including the strict adherence to Conditions 3.6, 3.7 and 3.8.

3.5.5 An Approval shall not be issued for a period exceeding **sixty calendar (60) days**; noting where flaring exceeds or is expected to exceed the sixty days period, the Permit Holder shall seek an additional Approval **at least forty-eight (48) hours** before the expiration of the current Approval,



which may be issued subject to such further terms and conditions as the Agency deems appropriate.

Any Approval for flaring shall be treated as an extension of the Environmental Permit and any breach or contravention thereof, shall be considered a breach or contravention of the Permit.

- 3.6 The Permit Holder shall pay **US\$45 per tonne** of carbon dioxide equivalents (CO_{2e}) emitted as a result of flaring in excess of the periods of flaring expressly stipulated at 3.5(ii) and 3.5.1 above, which shall be calculated based on the CO₂ equivalent (CO_{2e}) emitted.
- 3.7 The Permit Holder shall submit CO_{2e} payment calculations within **twenty-eight (28) days** from the date of expiration of the Approval granted by the EPA. CO_{2e} emission payments shall be made payable to the EPA within **fourteen (14) days** of the EPA's approval of the CO_{2e} payment calculations.
- 3.8 Nothing contained herein shall be interpreted to mean the EPA rescinds its authority to revise the rate of **US\$45 per tonne** established by Condition 3.6 for the emission of CO_{2e} for any period of continuous flaring beyond sixty (60) days; to order the cessation of all flaring through the issuance of a Prohibition Notice, pursuant to Section 27 of the Environmental Protection Act, Cap. 20:05; or any other course of action provided by the Environmental Protection Act and Regulations.
- 3.9 Greenhouse gas (GHG) emissions, including CO₂ and CO_{2e} emissions, from gas flaring activities must be estimated based on sound engineering mass and energy balance calculation, and accurate data. Therefore, GHG emissions shall be estimated based on the most recent updated versions of the following approved methodologies:
1. American Petroleum Institute's (API) Compendium of Greenhouse Gas Emissions Methodologies for the Oil and Gas Industry;
 2. Intergovernmental Panel on Climate Change (IPCC) Guidelines for National Greenhouse Gas Inventory;
 3. U.S. Code of Federal Regulations (CFR), Title 40 – Protection of the Environment, Chapter I – Environmental Protection Agency , Subchapter C – Air Programs, Part 98 – Mandatory Greenhouse Gas Reporting, Subpart W – Petroleum and Natural Gas Systems (USEPA 40CFR98.233 – Calculating GHG Emissions); or
 4. Any other equivalent standard/document approved by the EPA.

Considerations made to calculate the quantity of GHG emissions must be summarized and reported to the EPA.

- 3.10 Notify the Agency within **twenty-four (24) hours** of all process upset events or unplanned maintenance occurrences which result in a flaring event on the FPSO lasting more than **twelve (12) hours**.
- 3.11 Ensure that associated gas brought to the surface with crude oil during oil production is re-injected into the reservoir, utilized as fuel gas on the FPSO, and/or exported to shore to a processing facility. The Permit Holder shall seek permission in writing from the Agency for any alternative use of associated gas.
- 3.12 Adopt risk assessment processes (e.g. hazard and operability study (HAZOP), hazard identifications study (HAZID), etc.) to assess risks associated with process upset and loss-of-containment events which could impact the environment.
- 3.13 Adopt measures as far as practicable in keeping with the Global Gas Flaring and Venting Reduction Partnership when considering venting and flaring options under emergency or upset conditions.
- 3.14 The following conditions should be complied with when flaring from the FPSO is necessary, particularly under emergency and/or upset conditions:
- i. Flare equipment shall be properly inspected, well maintained, monitored, certified and function/tested, prior to and throughout operations;
 - ii. Install flare at a safe distance from storage tanks containing flammable liquids or vapours and accommodation units;
 - iii. Combustion equipment shall be designed and built to appropriate engineering codes and standards certified. Flare must not be operated outside design operating ranges;
 - iv. Use efficient flare tips and optimise the size and number of burning nozzles;
 - v. Minimise risk of pilot blowout by ensuring sufficient exit velocity and providing wind guards;
 - vi. Utilize a reliable pilot ignition system;
 - vii. Install high-integrity instrument pressure protection systems, to reduce overpressure events and avoid or reduce flaring situations;
 - viii. Operate flare to control odour and visible smoke emissions;
 - ix. Record volumes of hydrocarbons flared and submit a copy of the record to the Agency annually;
 - x. Implement burner maintenance and replacement programs to ensure continuous maximum flare efficiency;
 - xi. Maximise flare combustion efficiency by controlling and optimizing flare fuel, air, and stream flow rates to ensure the correct ratio of assist stream to flare stream;
 - xii. Minimise liquid carryover and entrainment in the gas flare stream with a suitable liquid separation system, with sufficient holding capacity for

- liquids that may accumulate and which must be designed in accordance with good engineering practice;
- xiii. Equip liquid separation system (e.g., knockout drum) with high level facility shut down or high level alarms and empty as needed to increase flare combustion efficiency.
 - xiv. Implement source gas reduction measures (i.e., gas re-injection into reservoir) to the extent possible to avoid or reduce flaring from FPSO.
 - xv. Minimise flaring from purges and pilots without compromising safety through measures such as installation of purge gas reduction devices, vapour recovery units, inert purge gas, and soft seat valve technology where appropriate, and installation of conservation pilots.
 - xvi. Minimise flame lift off and/or flame lick.
 - xvii. Ensure the volumes of hydrocarbons flared are recorded and submitted to the Agency in a monthly report and the estimated quantity of specific pollutants emitted from flaring including but not limited to carbon dioxide (CO₂), carbon dioxide equivalent (CO₂-e), nitrogen oxides (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), particulate matter, hydrogen sulfide (H₂S), volatile organic compounds (VOCs); methane and ethane; benzene, ethyl benzene, toluene, and xylenes (BTEX); and glycols, polycyclic aromatic hydrocarbons (PAHs) must also be reported.
- 3.15 In the event of an emergency or equipment breakdown on the FPSO, or when facility upset conditions arise, excess gas should not be vented but rather should be sent to an efficient flare gas system.
- 3.16 Develop equipment strategies and execute a maintenance programme to minimise equipment breakdowns and plant upsets which could result in flaring and provisions should be made for equipment sparing and plant turn-down protocols where practical.
- 3.17 Avoid use of chlorofluorocarbons (CFCs) and polychlorinated biphenyls (PCBs) on the FPSO.
- 3.18 Implement inspection, maintenance and surveillance programs to identify and prevent unplanned emissions to atmosphere onboard the FPSO.
- 3.19 Implement the following measures in the event well testing has to be conducted:
- i. During well testing, only the minimum volume of hydrocarbons required for the test should be flowed and well-test durations should be reduced to the extent practical. An efficient test flare burner head equipped with an appropriate combustion enhancement system should be selected to minimise incomplete combustion, black smoke, and hydrocarbon fallout to the sea;
 - ii. Record volumes of hydrocarbons flared and make available to the Agency upon request;

- iii. Provide adequate gas sensors that are to be appropriately located during testing operations, to ensure all sources of gas can be detected;
- iv. Monitor pipes and joints on a daily basis for leakages and fugitive emissions. Additionally, all collected gaseous streams should be burned in high efficiency flare(s), and leak detection and repair programs should be implemented and maintained;
Install an efficient test flare burner head equipped with an appropriate combustion enhancement system which should be selected to minimise incomplete combustion, black smoke, and hydrocarbon fallout to the sea;
- v. Well test shall be kept to the minimum practical time, in keeping with pre-approved schedule between the Agency and Permit Holder. Also, notify the Agency immediately in case of any deviation / variation to the well test; and
- vi. Provide sufficient compressed air to oil burner for efficient flaring assignment.

4.0 WATER QUALITY MANAGEMENT

- 4.1 Marine discharges from well drilling, hydrostatic testing of flow lines and risers, and the overall production operations shall be undertaken in a manner that does not cause or permit the entry of contaminants into the environment in amounts, concentrations or levels in excess of that prescribed by the regulations or stipulated by any environmental authorisation.
- 4.2 Notify the Agency in writing of any change in the type of drilling fluid used, disposal/recycle/treatment method outlined.
- 4.3 Submit upon receipt, a copy of the FPSOs International Sewage Pollution Prevention Certificate along with a copy of the Certificate of Type Approval for Sewage Treatment Plants and associated appendices.
- 4.4 Discharges of pollutants/contaminants in coastal waters (i.e., twelve (12) nautical miles) in amounts, concentrations or levels in excess of that prescribed by the regulations or stipulated by any environmental authorisation are prohibited.
- 4.5 Visually check and take appropriate measures to mitigate occurrence of free oil resulting from discharge of NADF drill cuttings.
- 4.6 Maintain an inventory of all drilling fluid constituents added downhole for each well.
- 4.7 Produced water from the reservoir shall be treated onboard the FPSO to an acceptable specification prior to discharging. The oil content specification of produced water to be discharged shall not exceed 42 mg/L on a daily basis or 29 mg/L on a monthly average. If the oil content of produced water is observed to exceed these limits, the produced water shall be routed to an appropriate storage

- tank on the FPSO until further treatment system is restored, and the discharge meets the specification above.
- 4.8 The use of fluids that contain diesel as the principal component of the drilling mud liquid phase is prohibited.
 - 4.9 For well sections requiring non-aqueous drill fluid (NADF), use only low-toxicity International Oil and Gas Producers (IOGP) Group 3 base fluid.
 - 4.10 Use solids control and cuttings dryer systems to treat cuttings such that end of well maximum weighted mass ratio averaged over all well sections drilled using non-aqueous fluids shall not exceed 6.9 percent wet weight base fluid retained on cuttings.
 - 4.11 Antifouling chemical dosing to prevent marine fouling of offshore facility cooling water systems shall be carefully considered. Available alternatives should be evaluated and, where practical, the seawater intake depth should be optimised to reduce the need for use of chemicals. Appropriate screens should be fitted to the seawater intake, if safe and practical, to avoid entrainment and impingement of marine flora and fauna.
 - 4.12 The cooling water discharge should be designed to ensure that the temperature is within 3°C of ambient seawater temperature at 100 meters.
 - 4.13 Monitor temperature of FPSO cooling water discharges to ensure a temperature rise of no more than 3°C above ambient water temperatures at 100 m.
 - 4.14 Abide with the International Maritime Organization (IMO) Guidelines including the International Convention for the Control and Management of Ship's Ballast Water and Sediments (2004), with the exception of Regulation D-2 (Ballast Water Performance Standard) while the FPSO is on station, and abide with the International Convention for the Prevention of Pollution from Ships (MARPOL).
 - 4.15 Adhere to operational controls regarding material storage, wash-downs and drainage systems.
 - 4.16 Treat bilge water in accordance with MARPOL to ensure compliance with an oil in water content of <15 ppm as applicable.
 - 4.17 Ensure there is no visible oil sheen from commissioning-related discharges (i.e., flowlines/risers commissioning fluids, including hydrotesting waters) or FPSO cooling water discharge.
 - 4.18 Prohibit the discharge of drilling fluids, which contain used/waste engine oil, cooling oil, gear oil or lubricant, and which has previously been used for purposes other than borehole lubrication.

- 4.19 Prohibit the discharge of cuttings generated using drilling fluids, which contain conventional mineral oil (IOGP Group 1), except when the mineral oil is used as a carrier fluid (transporter fluid), lubricity additive, or pill.
- 4.20 Discharge of diesel oil, halogenated phenol compounds, or chrome lignosulfonate is prohibited.
- 4.21 Wastewater that is released from the onboard Sewage Treatment Plant, when sampled three times or more over 24 hours, shall comply with the aquatic discharge standards in accordance with MARPOL 73/78 regulations.
- 4.22 Macerate food waste in accordance with MARPOL prior to discharge.
- 4.23 Measure residual chlorine concentration of treated sewage discharges on FPSO monthly to ensure that it is below 0.5mg/L in accordance with MARPOL 73/78 regulations; keep log of results and submit in the quarterly compliance report.
- 4.24 Safety management system onboard shall include steps for regular checks and maintenance of the sewage plant check pipes, storage tanks, and other equipment as per manufacturer's instructions; checks and maintenance of the sewage plant and other equipment should be logged and documented for the annual compliance report.
- 4.25 Inform the Agency in the event that wastewater from the sewage treatment plant is diverted to the oily/bilge water separator providing the reasons for this occurrence, its duration, the quantity diverted and actions taken to resolve the issue should be provided. Further, any discharge from the oily/bilge separator in this occurrence should be in accordance with Annex IV of MARPOL.
- 4.26 Perform daily visual inspections on the FPSO of discharge points to ensure that there are no floating solids or discolouration of the surrounding waters and document observations provide same in the quarterly compliance report.
- 4.27 Ensure that leak detection mechanisms are in place for those equipment, treatment and storage facilities (fuel, chemical, etc.) on the drillship in accordance with international offshore petroleum industry standards.
- 4.28 Utilize leak detection controls during FPSO offloading (e.g., for breach of floating hose, instrumentation / procedures to perform volumetric checks).
- 4.29 Utilize leak detection controls during installation and operation of SURF equipment (e.g., pigging and pressure testing of lines, periodic ROV surveys of subsea trees, manifolds, flowlines and risers).

5.0 HAZARDOUS AND NON-HAZARDOUS WASTE & MATERIALS MANAGEMENT

- 5.1 Adhere to the provisions of the Environmental Protection (Hazardous Waste Management) Regulations, 2000.
- 5.2 Ensure effective management of waste and recoverable materials generated by the project in accordance with internationally acceptable standards and the Environmental Protection Act, Cap. 20:05, Laws of Guyana.
- 5.3 Dispose of all wastes in accordance with the Waste Management Plan and individual vessel Garbage Management Plans.
- 5.4 Waste management companies contracted by the Permit Holder to manage waste which includes collection transportation, storage, treatment and disposal shall be authorized by the Agency.
- 5.5 Maintain a high level of housekeeping, sanitary and hygienic practices, and environmental standards of all facilities, vessels and associated structures at all times.
- 5.6 Operate incinerators in accordance with the Manufacturer's Operating Manuals and Waste Management Plan. Ensure that the incinerators are operated only by trained personnel.
- 5.7 Perform periodic inspections of the FPSO's waste storage areas and containers and maintain an inspection log.
- 5.8 Maintain an inventory of wastes stored aboard the FPSO and Drill Ship.
- 5.9 Maintain a record of hazardous materials used in operation and submit in the Annual Report a summary table with the following information:
 - (a) Name and description;
 - (b) Classification e.g. code or class;
 - (c) Quantity used per month; and
 - (d) Characteristic(s) that make(s) the material (s) hazardous e.g. flammability, toxicity.
- 5.10 Maintain copies of waste manifests and chain of custody forms.
- 5.11 Transport of hazardous waste offsite for treatment and/or disposal MUST be accompanied by a manifest signed by the hazardous waste generator and transporter; the manifest must be provided within the Annual Report, as well as, submitted to the Agency electronically and should include the name and address of waste generator; name and description of the waste and hazard class; number and type of containers; quantity transported and name and address of receiving facility.

- 5.12 Periodically audit waste contractors to verify appropriate waste management practices are being utilized.
- 5.13 Utilise low toxicity chemicals/materials where practical. Each chemical/material should be managed in accordance with the associated Safety Data Sheet.
- 5.14 Implement best practices outlined in the IFC Environmental, Health and Safety (EHS) General Introduction Guidelines and Offshore Oil and Gas Development Guidelines with respect to the prevention of spills of hazardous materials from offshore facilities during chemical transfers and loading activities.
- 5.15 Radioactive sources will be returned to their supplier and radioactive wastes will be sent, according to the Waste Management Plan, to a facility permitted to manage such wastes.
- 5.16 The Agency considers all materials listed in Schedules I and II of the Environmental Protection (Hazardous Waste Management) Regulations, 2000, to be hazardous. Please see attached list of Hazardous Wastes to be controlled.
- 5.17 Fuel, oils and chemicals shall be appropriately secured and contained in accordance with their Material Safety Data Sheet.
- 5.18 Submit the types and quantities of chemicals stored in offshore facilities as part of reporting requirements stipulated in Condition 11.5 of this Permit.
- 5.19 Spent oils, lubes and chemicals that cannot practically and safely be recycled through the FPSO process will be sent to shore for disposal in a manner approved by the EPA. Disposal of used/waste oils and chemicals in the marine environment or in any waterways is prohibited, as well as, disposal onshore if untreated.

6.0 SEISMIC-RELATED ACTIVITIES

- 6.1 Notify the Agency in writing of the intent to commence seismic-related activities (e.g., Vertical Seismic Profiling (VSP), site investigations or monitoring surveys) in the Liza Phase 2 Area of Interest at least **thirty (30) days** in advance of commencing activities.
- 6.2 Employ trained Marine Mammal Observers (MMOs) during the conduct of seismic-related activities (e.g., at least one trained MMO for VSPs or at least two trained MMOs for other seismic surveys requiring more than 12 continuous hours of observation per day).
- 6.3 Conduct a continuous observation of a mitigation zone (500 metres around a sound source) to verify whether it is clear of marine mammals and marine turtles before commencing sound producing seismic operations.

- 6.4 Sound producing seismic operations (including soft starts) shall not commence if marine mammals or turtles are sighted within the mitigation zone during the 30 minutes prior to commencing sound producing operations in water depths less than 200 metres, or 60 minutes prior to commencing sound producing operations in water depths greater than 200 metres.
- 6.5 Adhere to the Joint Nature Conservation Committee (JNCC) Guidelines (2017) during the conduct of seismic-related activities.
- 6.6 Record all marine mammals, protected species, and marine turtle observations and respective mitigation actions (e.g., delay of soft start) in a standardized report format and submit a copy of the report to the Agency within **forty-five (45) days** of the activity completion. The report should contain at minimum the following:
- i. The location, date and start time of the activity;
 - ii. Name, qualification and experience of MMOs involved in the survey;
 - iii. The location, time and reasons when observations were hampered by poor visibility or high winds;
 - iv. The location and time when any start-up delays, power downs or stop work procedures were initiated due to marine mammal, protected species and marine turtle sightings;
 - v. The location, date, time and distance of any marine mammal, protected species and marine turtle sighting including species where possible and whether the sound source was active at the time of sighting; and
 - vi. The date and time when the activity was completed.
- 7.0 FPSO/ DRILL SHIP / INSTALLATION AND SUPPORT VESSELS**
- 7.1 Vessels shall travel no faster than idle or 'no wake' speed within 300 metres of observed marine mammals and sea turtles, and not approach the animals closer than 100 metres.
- 7.2 Lighting on the vessels shall adhere to maritime safety regulations/standards.
- 7.3 Where practicable, direct lighting on FPSO and major vessels to required operational areas rather than at the sea surface or skyward.
- 7.4 Procedures for loading, storage, processing, and offloading operations, either for consumables (i.e., fuel, drilling fluids, and additives) or for liquid products, should be utilized to minimise spill risks. Pumps, hoses, and valves should be inspected and maintained on a monthly basis.
- 7.5 FPSO may be subject to inspection and certification by an appropriate national or international body, in accordance with International Maritime Organization (IMO) requirements. Double hull vessels are preferred, whenever available.

- 7.6 Offloading activities shall be supervised by the designated Mooring Master, according to the conditions of the sea.
- 7.7 The conditions and characteristics of the export tankers should be assessed by the Mooring Master and reported to the Offshore Field Manager prior to commencing offloading operations; only properly registered and well-maintained double-hull vessels should be utilized.
- 7.8 In accordance with MARPOL 73/78 requirements, maintain an Oil Record Book to document the manner in which sludge, oil, bilge water, waste oil, etc., are disposed.
- 7.9 In accordance with MARPOL requirements, maintain a Garbage Management Plan and Garbage Record Book to record the manner in which waste (e.g., sewage, macerated food waste, etc.) are managed and disposed. The Garbage Management Plan shall include all information as per MARPOL specification (waste type, quantity stored on-board, waste delivered ashore, amount of waste generated, and waste discharged at sea in accordance with MARPOL Requirements).
- 7.10 Equipment on board (engines, compressors, generators, sewage treatment plant and oil-water separators) shall be inspected and maintained in accordance with manufacturer's guidelines, in order to maximise efficiency and minimise malfunctions, and unnecessary discharges into the environment.
- 8.0 WELL BLOWOUT PREVENTION (BOP)**
- 8.1 Install a well BOP system that can be closed rapidly in the event of an uncontrolled influx of formation fluids and that allows the well to be circulated to safety by venting the gas at surface and routing oil so that it may be contained. The BOP system should be tested at installation and at regular intervals (at least every **14 days** or as operations allow).
- 8.2 The BOP system shall be pressure tested at installation, after the disconnection or repair of any pressure containment seal in the BOP system, and at least every **14 days** or as operations allow. Subsea BOP stack should be tested to the maximum anticipated wellhead pressure for the current well program. Annular preventers should not be tested to greater than 70% of the working pressure of the preventer.
- 8.3 Facility personnel shall conduct bi-weekly well-control drills, or as operations allow, which should be attended by key personnel. Well control training and drills shall be documented and made available to the Agency upon request.
- 8.4 BOP testing shall be conducted by the drill ship contractor.

- 8.5 The BOP system design, maintenance, and repair shall be undertaken in accordance with international standards. It is recommended that, at a minimum, subsea BOP systems consist of one annular preventer, two shear ram preventers one of which must be sealings, and two pipe ram preventers, and that they be equipped with choke and kill lines and failsafe choke and kill close valves.
- 8.6 The BOP must be able to close on the maximum OD drill pipe string used for the drilling operations. BOP systems shall operate (failsafe) in the event of a loss of control signal and hydraulic supply from the surface. At a minimum, subsea BOP systems should allow closure of one set of pipe rams and all blind-shearing type rams by Remotely Operated Vehicle (ROV) intervention, should automatic systems fail.
- 8.7 Contingency plans shall be prepared for well operations and must include identification of provisions for well capping in the event of uncontrolled blowout (providing indication of the tools, equipment, and intervention time required) and identification of spill recovery measures.
- 8.8 Within **one (1 year)** of issuance of this Permit, an emergency plan shall be prepared, detailing the measures in place to prevent a blowout and the provisions for well control in a blowout scenario (including capping tools and oil spill recovery means) and submitted to the Agency.
- 9.0 OIL SPILLS AND OTHER EMERGENCY MANAGEMENT**
- 9.1 Adhere to the approved Oil Spill Response Plan contained within Volume III of the Environmental Impact Assessment, dated September, 2018.
- 9.2 Install an Emergency Shutdown System on the FPSO to initiate automatic shutdown actions to bring the offshore facility to a safe condition and which should be activated in case of any significant release.
- 9.3 Implement a corrosion management system to monitor risks and identify corrective actions in the atmospheric zone, splash zone, submerged zone and internal zones.
- 9.4 Develop and implement appropriate maintenance and monitoring programs to ensure the integrity of well field equipment.
- 9.5 Implement personnel training and field exercises such as drills in oil spill prevention, containment and response at the frequencies defined in the approved Oil Spill Response Plan submitted in the Environmental Impact Assessment.
- 9.6 Inspect, maintain and operate in-country spill response and containment equipment in accordance with the defined OSRP, which will include: monthly inspection of oil spill response equipment, quarterly test run of oil spill response equipment, annual preventive maintenance program execution, and annual

exercise and deployment of oil spill response equipment to test readiness and response capability. Ex-country spill response equipment shall be inspected according to the oil spill response organization's established programs which are aligned with good industry practice and periodically verified by operator.

- 9.7 Spills and near misses shall be documented and made available to the Agency upon request.
- 9.8 Notify the Agency in alignment with the approved Oil Spill Response Plan for the utilization of in-situ burning and/or use of dispersant (e.g., Corexit 9500, Corexit 9527A, Finasol OSR 52, and Dasic Slickgone NS.).
- 9.9 Build Capacity where applicable and/or ensure continued Oil Spill Response capacity building among key national Agencies, Community Based Organizations, Regional Democratic Councils, Neighbourhood Democratic Councils and other relevant stakeholders in Regions 1, 2, 3, 4, 5, and 6.

10.0 EMPLOYEES

- 10.1 Operate in accordance with the Occupational Safety and Health Act, 1997.
- 10.2 Employees must, at all times, be provided with the necessary personal protective equipment to job specification.
- 10.3 Implement and document training for all employees and contractors on the conditions of the Environmental Permit and good environmental management practices.
- 10.4 Employ a Health Safety and Environmental Officer and/or establish a health and Safety Committee who would be responsible for the implementation of the Health, Safety, Environmental and Social Management Plan and the terms and conditions of this Permit.

11.0 COMPLIANCE MONITORING AND REPORTING

- 11.1 Prepare and submit to the Agency no later than **forty-five (45) days** after the end of the operating year, a report relating to the activities for the previous year. The report shall include:
- i. The identification information of the facility;
 - ii. Types and quantities of waste including hazardous waste generated, treatment and disposal (both onshore and offshore);
 - iii. Notwithstanding the obligation to immediately report any accidents and/or non-compliances with this permit, a summary of any accidents and non-compliances that may have occurred and any action(s) taken should be provided;

- iv. A report on all routine marine species observations on vessels, and any mitigation measures implemented to avoid injury or harm;
 - v. Provide and inventory of prior years' emissions including but not limited to particulate matter, sulphur dioxide, volatile organic compounds, carbon monoxide, nitrogen dioxide, and other greenhouse gases as applicable;
 - vi. Report on generation, treatment, and disposal of wastewater generated on all vessels associated with the project; and
 - vii. Any other matter the Agency may require.
- 11.2 Retain copies of all reports required by this Permit for a period of at least three (3) years.
- 11.3 Provide any information or copies of records requested within a reasonable timeframe, as requested by the Agency.
- 11.4 Submit to the Agency annually a summary of any non-conformances with the Environmental Permit and corrective actions taken.
- 11.5 Submit **Environmental Annual Report** to the EPA on or before **March 31** every year on your compliance with this Permit (Please see attached, *Guidelines for the Preparation of Environmental Annual Reports*).
- 11.6 Submit to the Agency Ballast Water Management Plans prepared specifically for the FPSO, Drill Ship, installation and support vessels, outlining how ballast water is managed in accordance with international standards.
- 11.7 Submit to the Agency within **one (1) week** of commencement of drilling a list and estimated quantities of all additives to be used in the drilling fluids.
- 11.8 Notify the Agency **21 days prior** to the proposed date of making any changes in the type of drilling fluid to be used, and outline the disposal/recycle/treatment methods to be applied. Notification after the 21 days period can be accepted under conditions where the notification period was not feasible or where flow assurance or safety risks are a concern.
- 11.9 Submit End of Well Reports **ninety (90) days** following the completion of drilling operations for each well with estimated quantities of fluids, additives and cuttings discharged, duration of discharges, and estimated maximum concentration of each constituent in the discharged drilling fluid.
- 11.10 Inform the Agency in the End of Well Report of tests conducted with the Blow out Preventer (BOP) equipment, detailing occasions where there was an influx of formation fluids, the well control methods applied, and their effectiveness.

- 11.11 Inform the Agency in a timely manner of any variation or intentions to conduct other activities not stipulated in this permit, such as, but not limited to Sidetracking of a well.
- 11.12 Notify the Agency in writing, **two (2) years** prior to planned decommissioning of the well, (save and except where mechanical issues or safety concerns are encountered that will affect the integrity of the well to continue operations) and submit revised End of Operations Decommissioning Plan including Well Abandonment Plan for approval.
- 11.13 Notify the Agency in writing, **six (6) months** prior to well abandonment (save and except where mechanical issues or safety concerns are encountered that will affect the integrity of the well to continue operations).
- 11.14 Submit to the EPA report(s) on the progress of the Project activities and compliance with the conditions under which this Permit was granted within **two (2) months** after the closure of activity specific Project stage (e.g., drilling, installation, etc.).
- 11.15 Report spills to the Agency and other relevant authorities in accordance with the Oil Spill Response Plan.
- 11.16 Notify the Agency in writing, within **twenty-one (21) days** in event of death, bankruptcy, liquidation or receivership of the Permit Holder or if the Company becomes a party to an amalgamation.
- 11.17 Inform the Agency prior to or within **thirty (30) days** of any change of name or ownership of the Project.
- 11.18 Submit a copy of the International Oil Pollution Prevention (IOPP) Certificate for the FPSO.

12.0 LIABILITY FOR POLLUTION DAMAGE

- 12.1 The Permit Holder shall have insurance of such type and in such amount as is customary in the international petroleum industry in accordance with good oil field practices for Petroleum Operations in progress Offshore Guyana in respect of:
 - i. Loss or damage to all assets used in Project.
 - ii. Pollution caused in the course of the Project for which EGGPL will be, jointly and severally, held responsible.
 - iii. Loss or damage to property or bodily injury suffered by any third party in the course of the Project for which EGGPL is liable to, according to the terms of the policy.
 - iv. EEPGL's liability to its employees engaged in the Project.
 - v. Any other requirement(s) made by the EPA under condition 12.4 below.

- 12.2 Condition 12.1 shall not be interpreted to mean the Permit Holder, its Parent Company, Servants and/or Agents will not be liable to any other existing or forthcoming applicable laws, rules and regulations related to insurance for Petroleum Operations within or out the jurisdiction of Guyana.
- 12.3 This Permit is issued subject to the fulfillment of the obligations outlined in 12.1, above, and in a correspondence dated March 20, 2019 indicating the commitment of EEPGL to obtain such insurance for coverage of environmental liabilities, in accordance with the requirements of the EPA and the Bank of Guyana. **Failure to fulfill such obligations or commitments is in breach of this Permit and will result in its immediate cancellation.**
- 12.4 **The EPA shall reserve the right to request and review the environmental liability insurance policy.** Such review is subject to the following:
- i. Provision of documentary evidence that the insurer is authorised to provide the insurance in the jurisdiction and to provide evidence of the insurer's financial strength.
 - ii. Provision of details of the amount of cover and the cost profile, evidence of authorisation of the institution or parent (insurer's) to provide insurance. As well as, evidence of any supplementary cover required to cover gaps in the primary cover, inclusive of details relevant to the excess level which is the responsibility of the policyholder to cover.
 - iii. Agreement to provide notification to the EPA of modification, cancellation, expiration, intent to renew, renewal or non-renewal and expiry dates of the policy.
 - iv. Provision of reports on whether the insurance policy is maintained or renewed so that the EPA can determine if it is acceptable or if it requires a replacement policy.
 - v. Provision of the final insurance policy or certificate of insurance, evidence of financial strength and payment of premium.
- 12.5 The Permit Holder must, as soon as reasonably practicable, provide from the Parent Company or Affiliate Companies of Permit Holder and its Co-Venturers ("Affiliates") one or more legally binding agreements to the EPA, undertaking to provide adequate financial resources for Permit Holder and its Co-Venturers to pay or satisfy their respective environmental obligations regarding the Stabroek Block if EEPGL or its Co-Venturers fail to do so. As a consequence, EEPGL will be required to:
- 1) Provide evidence of the following:
 - That the Affiliate(s) are authorised to provide that guarantee or agreement in this jurisdiction.

- That the Affiliate(s) have sufficient financial strength for the amount of the potential liability.
- That the Affiliate(s) have the corporate legal capacity to enter into the agreement.

2) Agree to the following:

- To provide notification of cancellation, expiration, renewal or non-renewal and expiry dates of the Agreement.
- As well as, to provide annual audited financial statements and notification if the Affiliate(s) are no longer likely to be able to meet specified financial obligations.

- 12.6 The Permit Holder, his Servants and/or Agents shall be strictly liable for the adverse effect of any discharge or release, or cause or permit the entry of pollution, contaminant in any amount, concentration or level in excess of that prescribed by the regulations or stipulated by any environmental authorisation which are attributed to any Project (and more specifically petroleum activities) in accordance with section 19(1) and (2) of the Environmental Protection Act, Cap. 20:05, Laws of Guyana.
- 12.7 The Permit Holder shall compensate any Party who suffers any loss or damage as a result of the attributed project, in accordance with section 19(3)(e) of the Environmental Protection Act Cap. 20:05, Laws of Guyana.
- 12.8 Do not assign or transfer the Environmental Permit to any person without prior consent of the Agency.
- 12.9 The Permit Holder, his Servants and/or Agents shall be strictly liable to penalties prescribed for any material or environmental harm caused by pollution of the environment intentionally or recklessly in accordance, in accordance with section 39 (1), (2), (3) and (4) of the Environmental Protection Act, Cap. 20:05, Laws of Guyana.
- 12.10 The Permit Holder, his Servants and/or Agents shall be liable jointly and/or severally for any gross negligence or willful misconduct to the marine environment, biodiversity, protected species and natural habitat with respect to any release or discharge, spill, contaminant fluids, oil or lubricants from fuel storage at any facilities permitted under this project.
- 12.11 The Permit Holder, his Servants and/or Agents shall be liable jointly and/or severally for environmental damage due to pollution from its activities within Guyana, its territorial waters, contiguous zones, continental margins continental shelf, and Exclusive Economic Zone, inclusive of damage to the marine environment, biodiversity, protected species and natural habitat with respect to any release or discharge, spill, or contamination which is attributable to the Permit Holder and his agents or contractors. This is in accordance with Section

49 (1) of the Maritime Zones Act 2010 and is subject to any other existing or forthcoming laws, regulations and standards governing the protection of the marine environment.


- 12.12 Where it appears to the EPA that the Permit Holder is engaged in any activity that may pose serious threat to natural resources or serious pollution of the environment or any damage to public health, the EPA shall issue to the Permit Holder a Prohibition Notice ordering him to immediately cease the offending activity in accordance with section 27 of the Environmental Protection Act Cap. 20:05, Laws of Guyana.
- 12.13 Should the Permit Holder contravene or is likely to contravene any condition of this Permit, the EPA may serve him an enforcement notice in accordance with section 26 of the Environmental Protection Act Cap. 20:05, Laws of Guyana.

13.0 INSTITUTIONAL AUTHORITY

- 13.1 The EPA reserves the right to review and amend the conditions attached to this Permit.
- 13.2 The EPA reserves the right to conduct regular inspections of the permitted operation(s) as part of its monitoring and enforcement requirements under the Environmental Protection Act, Cap 20:05, Laws of Guyana, the Environmental Protection (Amendment) Act, 2005, and the Environmental Protection (Authorisations) Regulations 2000.
- 13.3 The Permit Holder shall, at all times, allow entry to the permitted facility to any Officer designated by the EPA for the purposes of conducting inspections or any other legitimate business of the Agency. Pursuant to section 38 of the Environmental Protection Act Cap. 20:05, Laws of Guyana, it is an offence to assault, obstruct or hinder an authorised person in the execution of his/her duties under the said Act or its Regulations and the Permit Holder shall be liable to penalties prescribed under paragraph (c) of the fifth schedule for doing so.
- 13.4 The EPA shall have the right to cancel or suspend this Permit for breach of any of the terms and conditions contained herein.
- 13.5 This Environmental Permit is not the final development consent. Permission from the other relevant regulatory bodies must be obtained prior to Project implementation as required.
- 13.6 The EPA reserves the right to review/amend the permit fees attached to this Permit, which also includes the review and/or amendment of permit fees in consideration of any changes in fee structure as determined by the Agency for projects of this nature.

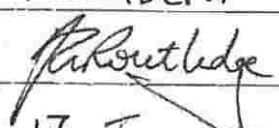
Environmental Permit (Varied & Modified) - Ref. No.20171204-ESSLP
Issued under the Environmental Protection Act, Cap. 20:05, Laws of Guyana, the Environmental Protection (Amendment) Act, 2005, and Environmental Protection (Authorisations) Regulations, 2000

- 13.7 This Permit shall be governed by, interpreted and construed in accordance with the Laws of Guyana including but not limited to the Environmental Protection Act and Regulations and consistent with such rules of international law as may be applicable or appropriate, including the generally accepted customs and usages of the international petroleum industry.
- 13.8 This Permit is effective for the period stipulated herein (**April 26, 2019 to April 25, 2024**), or until notification by Permit Holder of completion of decommissioning activities, Whichever is later.
- 13.9 This Environmental Permit shall remain valid until **April 25, 2024**, unless otherwise suspended, cancelled, modified or varied in accordance with the provisions of this Permit or the Environmental Protection Act, Cap. 20:05, Laws of Guyana, the Environmental Protection (Amendment) Act, 2005, and the Environmental Protection (Authorisations) Regulations, 2000.
- 13.10 Failure to comply with the requirements of this Permit or with applicable laws and regulations, whether existing or forthcoming, shall render the Permit Holder liable to prosecution and to penalties prescribed under the Environmental Protection Act, Cap. 20:05, Laws of Guyana, the Environmental Protection Regulations, 2000 and other applicable laws of Guyana.

Signed by  on behalf of the Environmental Protection Agency.
Kemraj Parsram
Executive Director

Date: 17.1.2022

Esso Exploration and Production Guyana Limited (EEGPL), hereby accepts the above terms and conditions upon which this Environmental Permit is granted and agree to abide by the Environmental Protection Act, Cap. 20:05, Laws of Guyana, the Environmental Protection (Amendment) Act, 2005, and the Environmental Protection (Authorisations) Regulations, 2000, and any existing or forthcoming regulations, best practices, guidelines and standards made under this Act.

NAME: Alistair G. Routledge
DESIGNATION: PRESIDENT
SIGNATURE: 
DATE: 17 JANUARY 2022



"SN-3 (a)"

Letter regarding Liza 2 liability for pollution

From: Melinda Janki (mmjanki@yahoo.co.uk)

To: kparsram@epaguyana.org

Date: Friday, 12 January 2024 at 17:30 GMT-4

Dear Mr Parsram,

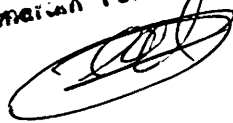
Please find attached for your attention an electronic copy of the letter which was delivered to your office earlier and signed for.

Kind regards, Melinda Janki



Mr K Parsram_Liza 2_12th January 2024.pdf
302.9kB

*I certify that this is a true copy of
the original documents seen by me
A. Bropharian Permana, Jn CoA*

A handwritten signature in black ink, appearing to be 'A. Bropharian Permana', enclosed within a hand-drawn oval.

Mr K Parsram: liability for pollution for Liza Phase 2

Melinda Janki LL.B (Lond.), BCL (Oxon.), LL.M (Lond.)
Attorney-at-Law
mmjanki@yahoo.co.uk
Tel +592 653 6905
c/o Stanbrook Prudhoe
106-107 Lamaha St.
Kingston, Georgetown

12th January 2024

Mr Khemraj Parsram
Executive Director
Environmental Protection Agency
Ganges St., Sophia, Georgetown
kparsram@epaguyana.org

Letter Before Action

Dear Mr Parsram,

ExxonMobil Guyana Ltd (Exxon): Liability for Pollution Damage in Liza Phase 2

I act on behalf of Sherlina Nageer and other concerned citizens, in respect of the above.

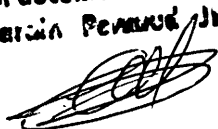
Kindly note that there is, respectfully, a deadline for any response to this letter of **4pm on Friday 19th January 2024**. In the event (which we hope does not come to pass) that no such reply is received within that time period, it is likely that judicial review proceedings will be commenced without further reference to you.

For at least the reasons stated below, action is necessary. Public action is critical to upholding the rule of law and ensuring that regulatory bodies such as the Environmental Protection Agency (“the Agency”) act strictly within the limits of their legal powers.

I refer to my previous letter of 14th December 2023 and look forward to receiving from you a copy of Exxon’s application which I requested in that letter.

The Agency issued Environmental Permit No. EEPGL 20171204 ESSLP (“the permit”) to Esso Exploration and Production Guyana Ltd. (now Exxon Mobil Guyana Ltd.) in respect of the Liza Phase 2 Development Project, Stabroek Block, Offshore Guyana. It appears that there have been 3 versions of the permit:

I certify that this is a true copy of
the original documents seen by me
A. Boopnarain Permaud JN CoA



Page 1 of 4

Mr K Parsram: liability for pollution for Liza Phase 2

- (i) Dated 26th April 2019 from April 2019 to March 2043;
- (ii) Dated 28th September 2020 in compliance with a court order following the successful legal challenge by Dr Thomas¹ and ending on April 25, 2024; and
- (iii) Dated 17th January 2022 and ending on April 25, 2024.

The permit dated 17th January 2022 is the most recent permit on the Agency's website. If there is a more recent permit, please send me an electronic copy as soon as possible.

Condition 12 of the permit is headed 'Liability for Pollution Damage'. It requires Exxon Mobil Guyana Ltd (Exxon) to cover such liability by providing,

- (i) Insurance for pollution caused in the course of the Liza 2 project; and
- (ii) Parent company/affiliate legal agreements/undertakings to provide adequate financial resources to pay or satisfy the environmental obligations referred to.

Condition 12 states that failure to fulfil certain such obligations or commitments is a breach of the permit and will result in its immediate cancellation.

The Agency approved an Environmental Impact Assessment (EIA) of the Liza 2 project. The maps from Esso's EIA for the Liza 2 project show that an oil spill could result in oil fouling Guyana's coast. Any such oil spill could have a serious impact on the Guyanese people and economy, especially the Amerindian communities who live on or near the coast and whose cultural, physical and economic survival depend on the ocean and coastal areas.

The maps also show that an oil spill could cover the Caribbean Sea and harm Caribbean islands, Caribbean environments and Caribbean economies. Although the Agency has the entire EIA, for your convenience enclosed with this letter are two of Exxon's EIA maps at Schedule 1.

It is critical to the public interest for it to be generally known whether Exxon has provided the insurance and the parent company/affiliate undertakings. Otherwise, the State, and therefore the

¹ *Thomas v EPA 2020-HC-DEM-CIV-FDA 460*

Mr K Parsram: liability for pollution for Liza Phase 2

people of Guyana who make up the population of the State, would be liable in the event of an oil spill or well blow-out or other catastrophic event arising from Exxon's petroleum operations.

Also critical to the same interest is that the public be able to see for themselves that the Agency is acting lawfully, that the Agency is not allowing Exxon to violate its permit and operate without the required liability coverage, and that the Agency has in its possession the insurance and legal agreements/undertakings required under Condition 12.

In light of the foregoing please

- (i) confirm in writing that the Agency has obtained from Exxon the insurance and legally binding parent/affiliate company undertakings and indemnities, as required under Condition 12 of the permit; and
- (ii) provide copies of the insurance, undertakings, indemnities and all other documents provided to the Agency by Esso in fulfilment of its obligations under Condition 12. This should include the correspondence dated March 20, 2019 and incorporated by reference into Condition 12.3.

If there are any charges for the provision of such copies, my clients will be happy to cover such charges.

As stated above, a response to this letter is required by **4pm on Friday 19th January 2024** in order to avoid likely proceedings. For the avoidance of doubt, any such response from the Agency should be substantive – that is providing the requested information / documentation or if you refuse to do so, then providing the *reasons* for your refusal.

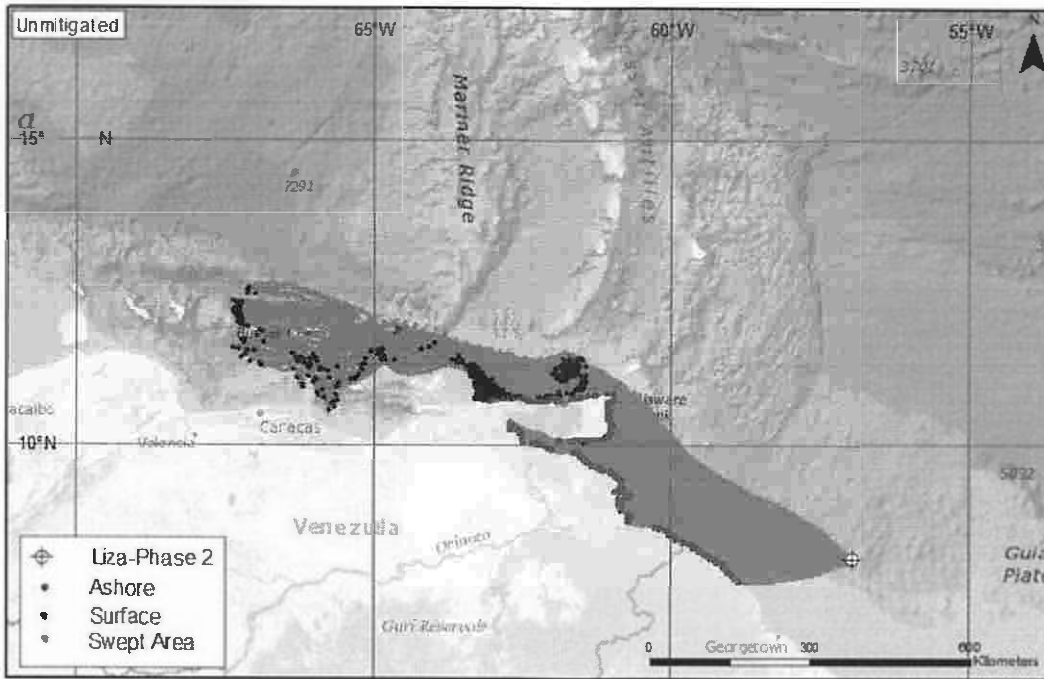
Yours sincerely,

Melinda Janki

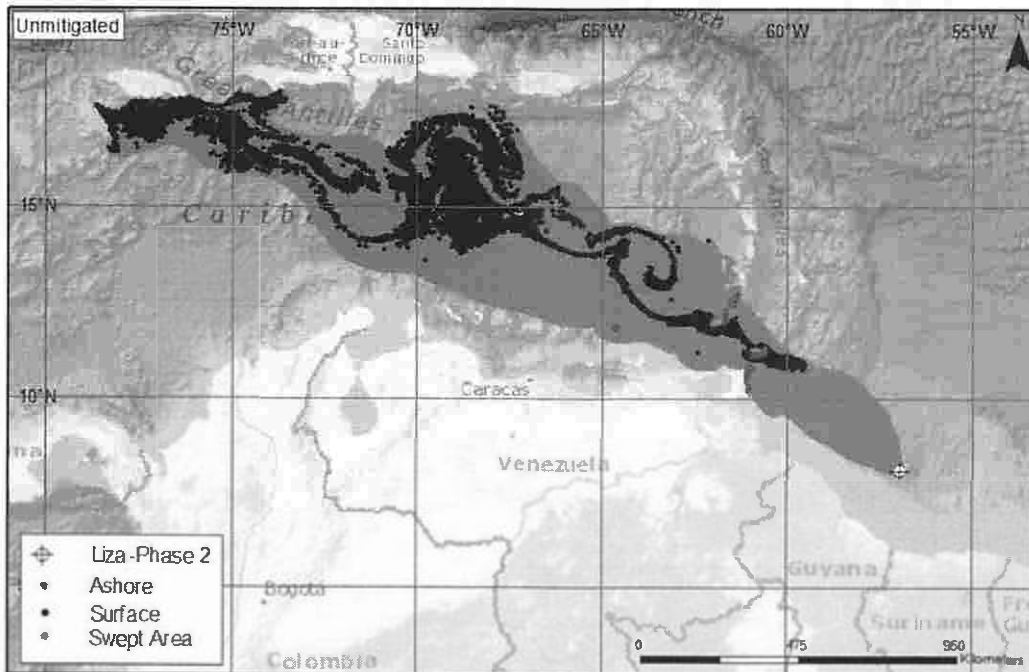
Melinda Janki

SCHEDULE 1

Page 9-32 Esso EIA for Liza Phase 2



Page 9-22 Esso EIA for Liza Phase 2



"SN-3 (b)"

Mr K Parsram: liability for pollution for Liza Phase 2

*Received a true copy of this letter and the
Environmental Protection Agency
Name: Winifred Pereira
Date: 12-01-2024*

Melinda Janki LL.B (Lond.), BCL (Oxon.), LL.M (Lond.)
Attorney-at-Law
mmjanki@yahoo.co.uk
Tel +592 653 6905
c/o Stanbrook Prudhoe
106-107 Lamaha St.
Kingston, Georgetown

12th January 2024

Mr Khemraj Parsram
Executive Director
Environmental Protection Agency
Ganges St., Sophia, Georgetown
kparsram@epaguyana.org

*I certify that this is a true copy of
the original documents seen by me
W. Boopnarain Pereraud Jn CoA*



Letter Before Action

Dear Mr Parsram,

ExxonMobil Guyana Ltd (Exxon): Liability for Pollution Damage in Liza Phase 2

I act on behalf of Sherlina Nageer and other concerned citizens, in respect of the above.

Kindly note that there is, respectfully, a deadline for any response to this letter of **4pm on Friday 19th January 2024**. In the event (which we hope does not come to pass) that no such reply is received within that time period, it is likely that judicial review proceedings will be commenced without further reference to you.

For at least the reasons stated below, action is necessary. Public action is critical to upholding the rule of law and ensuring that regulatory bodies such as the Environmental Protection Agency ("the Agency") act strictly within the limits of their legal powers.

I refer to my previous letter of 14th December 2023 and look forward to receiving from you a copy of Exxon's application which I requested in that letter.

The Agency issued Environmental Permit No. EEPGL 20171204 ESSLP ("the permit") to Esso Exploration and Production Guyana Ltd. (now Exxon Mobil Guyana Ltd.) in respect of the Liza Phase 2 Development Project, Stabroek Block, Offshore Guyana. It appears that there have been 3 versions of the permit:

Mr K Parsram: liability for pollution for Liza Phase 2

- (i) Dated 26th April 2019 from April 2019 to March 2043;
- (ii) Dated 28th September 2020 in compliance with a court order following the successful legal challenge by Dr Thomas¹ and ending on April 25, 2024; and
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¹ Thomas v EPA 2020-HC-DEM-CIV-FDA 460

Mr K Parsram: liability for pollution for Liza Phase 2

people of Guyana who make up the population of the State, would be liable in the event of an oil spill or well blow-out or other catastrophic event arising from Exxon's petroleum operations.

Also critical to the same interest is that the public be able to see for themselves that the Agency is acting lawfully, that the Agency is not allowing Exxon to violate its permit and operate without the required liability coverage, and that the Agency has in its possession the insurance and legal agreements/undertakings required under Condition 12.

In light of the foregoing please

- (i) confirm in writing that the Agency has obtained from Exxon the insurance and legally binding parent/affiliate company undertakings and indemnities, as required under Condition 12 of the permit; and
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As stated above, a response to this letter is required by 4pm on Friday 19th January 2024 in order to avoid likely proceedings. For the avoidance of doubt, any such response from the Agency should be substantive—that is providing the requested information / documentation or if you refuse to do so, then providing the *reasons* for your refusal.

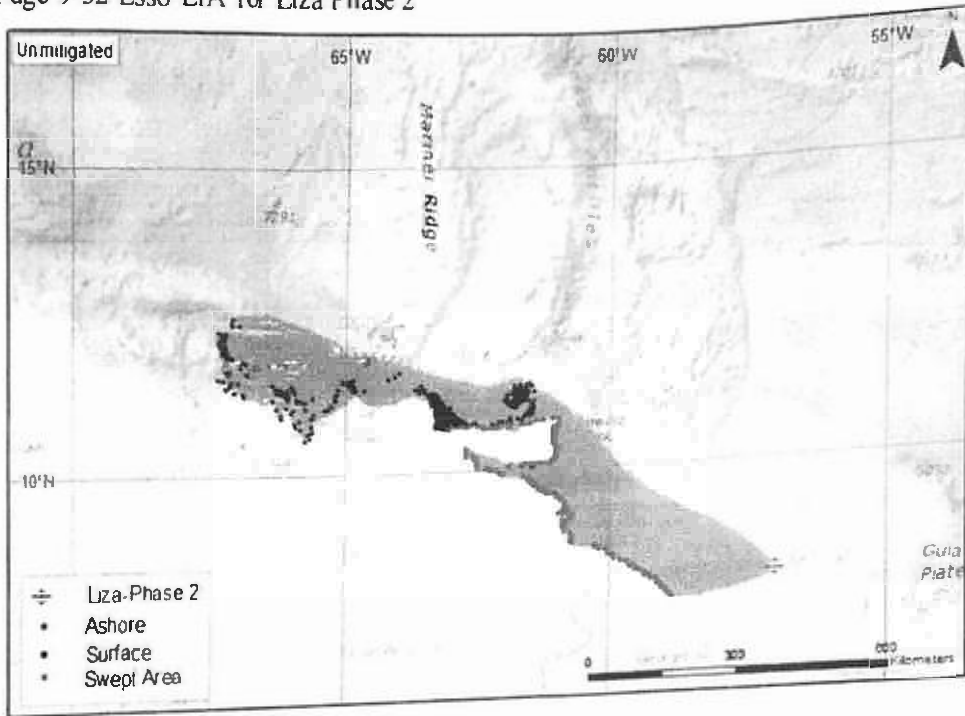
Yours sincerely,



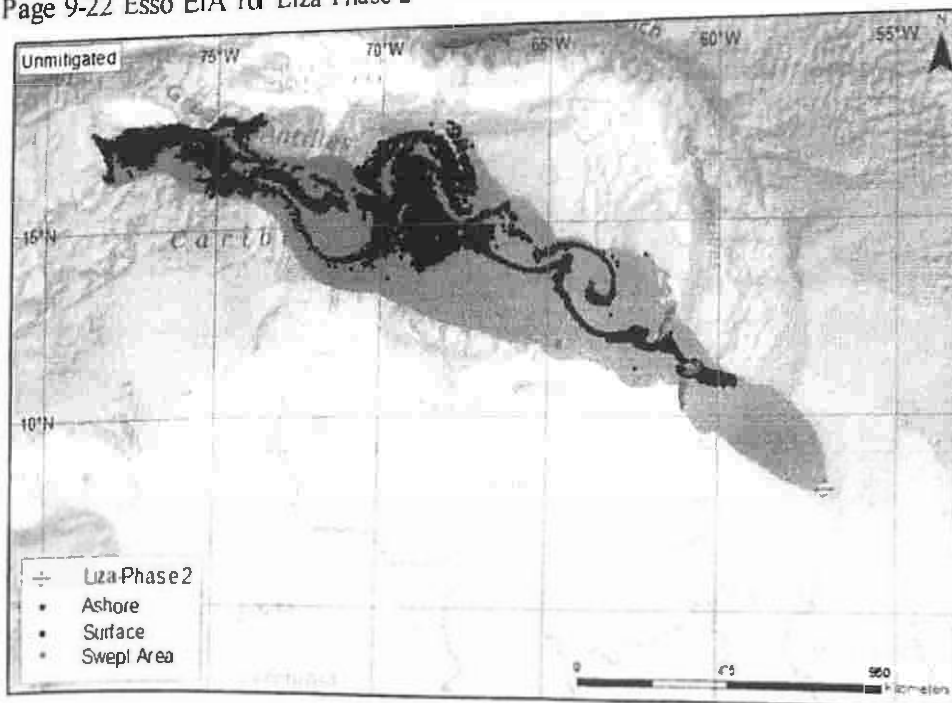
Melinda Janki

SCHEDULE 1

Page 9-32 Esso EIA for Liza Phase 2



Page 9-22 Esso EIA for Liza Phase 2





Government of the Co-operative Republic of Guyana
Environmental Protection Agency



January 22, 2024

"SN-4"

Melinda Janki
Attorney-at-law
mmjanki@yahoo.co.uk
+592-653-6905
c/o Stanbrook Prudhoe
106-107 Lamaha Street
Kingston
Georgetown

Dear Ms. Janki,

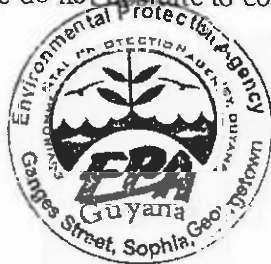
**Re: Request for information regarding Financial Assurance for Pollution Damage
in relation to Liza Phase 2 Development Project**

The Environmental Protection Agency (EPA) writes with reference to your January 12, 2024, request for confirmation "that the Agency has obtained from Exxon the insurance and legally binding parent/affiliate company undertakings and indemnities" as required under Environmental Permit (Varied and Modified) Ref 20171204-ESSLP in respect of the Liza Phase 2 Development Project. Please note that the said Insurance and Affiliate Company Guarantee Agreement have been obtained.

Kindly note as well that the EPA remains adherent to the *Environmental Protection Act Cap 20:05* as it concerns information which it must make available to the public. Should you require any such information, please do not hesitate to contact our office.

Yours sincerely,


.....
Kemiraj Parsram
Executive Director



I certify that this is a true copy of
the original documents seen by me
M. Boonpratin Permea in CoA



Ganges St., Sophia, Georgetown, GUYANA.

Tel: (592) 225-5467/5471-5472/6044/6048 | Fax: 225-5481

 epa@epaguyana.org |  www.epaguyana.org |  Environmental Protection Agency - Guyana

"The Environment is Everybody's Business"

**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024 - HC-DEM-CIV -FDA-104

**In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

**BUNDLE OF EXHIBITS AFFIDAVIT OF SHERLINA NAGEER IN SUPPORT OF
FIXED DATE APPLICATION**

25 January 2024

MS MELINDA JANKI, and
MR TIM PRUDHOE, and MS ANNA-KAY
BROWN of STANBROOK PRUDHOE
106-107 Lamaha Street
Georgetown Guyana
Tel: 592-620-5294
Email: tim@spacribbea.com & anna-kay@sparibbean.com

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2024- HC - DEM -CIV -FDA-1024

In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)

Respondent

NOTICE OF APPOINTMENT OF ATTORNEYS-AT-LAW

The Applicant, SHERLINA NAGEER, has appointed Ms. MELINDA JANKI, Mr. TIM PRUDHOE and Ms. ANNA-KAY BROWN as Attorneys-at-Law of record.

Date: 25 day of January 2024

Signed by
SHERLINA NAGEER



**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024 - HC - DEM - CIV - FDA - 1024

**In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

NOTICE OF APPOINTMENT OF ATTORNEYS-A-T-LAW

25 January 2024

MS MELINDA JANKI, and
MR TIM PRUDHOE, and MS ANNA-KAY
BROWN of STANBROOK PRUDHOE
106-107 Lamaha Street
Georgetown Guyana
Tel: 592-620-5294
Email: tim@spcaribbean.com & anna-kay@spcaribbean.com

**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024- HC - DEM - CIV -FDA -10 4

**In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

NOTICE OF CLAIM FOR ADMINISTRATIVE ORDERS

The Applicant, SHERLINA NAGEER, issued a claim for administrative orders on 25th day of January 2024 for Orders of **Mandamus, Prohibition and Declarations and in the matter of the Judicial Review Act Cap 3:06** against The Environmental Protection Agency, a body corporate established under the Environmental Protection Act (Cap. 20:05).

25 January 2024
.....
Date

[Handwritten Signature]
.....

MS. MELINDA JANKI
MR. TIM PRUDHOE
MS. ANNA-KAY BROWN
106-107 Lamaha Street
Georgetown, Demerara
Tel: 592-620-5294
tim@spcaribbean.com, &
anna-kay@spcaribbean.com

**Signature of Attorneys-at-Law for the
Applicant**



**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024 -HC-DEM-CIV -FDA- 104

**In the Matter of an Application for Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

NOTICE OF CLAIM FOR ADMINISTRATIVE ORDERS

25 January 2024

MS MELINDA JANKI, and
MR TIM PRUDHOE, and MS ANNA-KAY
BROWN of STANBROOK PRUDHOE
106-107 Lamaha Street
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**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024 -HC - DEM -CIV -FDA-104

**In the Matter of an Application for Orders
of Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

DRAFT ORDER

BEFORE THE HONOURABLE _____

DATED THE DAY OF 2024

ENTERED THE DAY OF 2024

Attorney-at-Law for the Applicant: **Ms Melinda Janki, Mr Tim Prudhoe and Ms
Anna-Kay Brown**

THIS APPLICATION, made by **SHERLINA NAGEER**, for various administrative
orders against the Respondent, **THE ENVIRONMENTAL PROTECTION AGENCY**,
dated the _____ day of 2024.

ON READING the said Application and the Affidavit in Support thereof, sworn to and
filed by the Applicant on the 25th day of January 2024.

AND UPON HEARING the submissions of the Attorney-at-Law for the Applicant and
the Respondent;



THIS COURT ORDERS as follows:

- A.** A DECLARATION THAT the Environmental Protection Agency ("the Respondent" or "the Agency") is the sole/exclusive authority competent under and by virtue of the Environmental Protection Act Cap. 20:05 entitled to enforce the provisions of the Environmental Permit (Modified & Varied), Reference number 20171204-ESSLP issued to Esso Exploration and Production Guyana Ltd (EEPGL), now Exxon Mobil Guyana Ltd, ("the Permit Holder"), covering the period 26 April 2019 to 25 April 2024, and signed by and between the Agency and The Permit Holder ("the Permit") to undertake Phase 2 of the Liza Development Project ("the Project");
- B.** AN ORDER OF MANDAMUS directing the Agency to file forthwith with the Court true copies of the insurance policy or certificate of insurance which Condition 12.1 of the Permit requires the Permit Holder to possess, and to which the Agency is entitled under Conditions 12.1, 12.3, and 12.4, including:
- i.** evidence the insurance is of such type and in such amount as is customary in the international petroleum industry in accordance with good oil field practices for petroleum operations in progress offshore Guyana in respect of the matters outlined in Condition 12.1(i)-(v) of the Permit;
 - ii.** the correspondence dated 20 March 2019, indicating the commitment of the Permit Holder to obtain such insurance coverage under Condition 12.3;
 - iii.** evidence that the insurer is authorised to provide the insurance in Guyana under Condition 12.4 (i);



- iv. evidence of the insurer's financial strength under Condition 12.4 (i);
- v. details of the amount of cover and the cost profile under Condition 12.4 (ii);
- vi. evidence of authorisation from the insurer's institution or parent to provide insurance under Condition 12.4 (ii);
- vii. evidence of any supplementary cover required to cover gaps in the primary cover, inclusive of details relevant to the excess level which the Permit Holder has the responsibility to cover under Condition 12.4 (ii);
- viii. agreement to provide notification to the Agency of any modification, cancellation, expiration, intent to renew, renewal or non-renewal and expiry dates of the policy under Condition 12.4 (iii);
- ix. the reports provided under Condition 12.4 (iv) on whether the insurance policy is maintained or renewed so that the Agency can determine if it is acceptable or if it requires a replacement policy under; and
- x. evidence of the Permit Holder's financial strength and payment of premium under Condition 12.4 (v).

C. AN ORDER OF MANDAMUS directing the Agency to file forthwith with the Court true copies of the legally binding agreement(s) the Permit Holder is required to provide to the Agency under Condition 12.5, specifically agreement(s) wherein Parent Company or Affiliate Companies of the Permit Holder and its Co-Venturers ("Affiliates") undertake to provide the Permit Holder and its Co-Venturers adequate financial resources to pay or satisfy their respective environmental



obligations regarding the Stabroek Block, if the Permit Holder or its Co-Venturers fail to do so, and supporting documents, namely,

i. evidence that the Affiliate(s):

1. are authorised to provide that guarantee or agreement in the jurisdiction;
2. have sufficient financial strength for the amount of the potential liability; and
3. have the corporate legal capacity to enter into the agreement; and

ii. agreement from the Permit Holder to the Agency to provide:

1. notification of cancellation, expiration, renewal or non-renewal and expiry dates of the Agreement; and
2. annual audited financial statements and notification if the Affiliate(s) are no longer likely to be able to meet specified financial obligations.

D. Where the Agency fails/refuses to provide a copy of the insurance policy or certificate of insurance required to evidence compliance with Condition 12.1 of the Permit on the grounds of the Permit Holder's failure to provide the same, A DECLARATION THAT the Permit is cancelled in accordance with Condition 12.3 of the Permit.

E. Where the Agency fails/refuses to provide evidence that the Permit Holder has complied with Conditions 12.1 and 12.5 of the Permit on the ground of the Permit:



Holder's failure to provide the same, AN ORDER OF PROHIBITION prohibiting the Agency from renewing the Permit or issuing a new environmental permit to the Permit Holder (its successors, assigns and/or Affiliates), until the Agency files with the Court evidence of the insurance, legal agreements/guarantees and supporting documents mentioned in paragraphs Band C above.

F. AN ORDER OF PROHIBITION prohibiting the Agency from granting to the Permit Holder (its successors, assigns and/or Affiliates) any environmental permit which does not include all the provisions set out in Condition 12 of the Permit or which contains weaker provisions than contained in the said Condition 12.

G. Further or alternatively, AN ORDER OF MANDAMUS directing the Agency to include in any new (or renewed) permit to the Permit Holder the obligations contained in Condition 12.

H. Costs.

Signature of Judge or REGISTRAR

IF YOU FAIL TO COMPLY WITH THE TERMS OF THIS ORDER, YOU WILL BE IN CONTEMPT OF COURT AND MAYBE LIABLE IMPRISONMENT OR TO HAVE YOUR ASSETS CONFISCATED



**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION**

2024- HC -DEM-CIV-FDA -104

**In the Matter of an Application or Orders of
Mandamus, Prohibition and Declarations
and in the Matter of the Judicial Review Act
Cap 3:06**

BETWEEN

SHERLINA NAGEER

Applicant

-AND-

**THE ENVIRONMENTAL PROTECTION
AGENCY, a body corporate established under
the Environmental Protection Act (Cap 20:05)**

Respondent

DRAFT ORDER

25 January 2024

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