



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by WesternGeco of South Carolina Objection

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Reopening and of Closure — Administrative Appeal Decision Record

SUMMARY: This announcement provides notice that the decision record has reopened on June 5, 2020, and closed on June 5, 2020, for an administrative appeal filed by WesternGeco (Appellant) under the Coastal Zone Management Act requesting that the Secretary of Commerce (Secretary) override an objection by the South Carolina Department of Health and Environmental Control to a consistency certification for a proposed project to conduct a marine Geological and Geophysical seismic survey in the Atlantic Ocean.

DATES: The decision record for WesternGeco’s Federal Consistency Appeal of South Carolina’s objection reopened and closed on June 5, 2020.

ADDRESSES: NOAA has provided access to publicly available materials and related documents comprising the appeal record on the following web site:

<http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2019-0118>.

FOR FURTHER INFORMATION CONTACT: For questions about this Notice, contact Jonelle Dilley, NOAA Office of General Counsel, Oceans and Coasts Section,

1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 713-7383,
jonelle.dilley@noaa.gov.

SUPPLEMENTARY INFORMATION: On September 20, 2019, the Secretary received a “Notice of Appeal” filed by WesternGeco pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.*, and implementing regulations found at 15 CFR part 930, subpart H. The “Notice of Appeal” is taken from an objection by the South Carolina Department of Health and Environmental Control to a consistency certification for a proposed project to conduct a marine Geological and Geophysical seismic survey in the Atlantic Ocean. This matter constitutes an appeal of an “energy project” within the meaning of the CZMA regulations, *see* 15 CFR 930.123(c).

Under the CZMA, the Secretary may override South Carolina’s objection on grounds that the project is consistent with the objectives or purposes of the CZMA, or is necessary in the interest of national security. To make the determination that the proposed activity is “consistent with the objectives or purposes of the CZMA,” the Department must find that: (1) the proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity’s adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the applicable coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is “necessary in the interest of national security,” the Secretary must find that a

national defense or other national security interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed. 15 CFR 930.122.

The Secretary must close the decision record in a federal consistency appeal 160 days after the Notice of Appeal is published in the Federal Register. 15 CFR 930.130(a)(1). However, the CZMA authorizes the Secretary to stay closing the decision record for up to 60 days when the Secretary determines it necessary to receive, on an expedited basis, any supplemental information specifically requested by the Secretary to complete a consistency review or any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency. 15 CFR 930.130(a)(2), (3). In order to solicit supplemental and clarifying information from the Bureau of Ocean Energy Management pertaining to the withholding of certain information as proprietary, the Secretary stayed the closure of the decision record on two occasions for a total of 28 days. 85 FR 17538 (March 30, 2020); 85 FR 20475 (April 13, 2020). On April 27, 2020, NOAA published a Federal Register Notice announcing closure of the appeal decision record. 85 FR 23328.

On May 14, 2020, South Carolina submitted to NOAA a request to reopen the record so that South Carolina may provide a supplemental document in response to two documents added to the appeal record on March 30, 2020. On May 18, 2020, WesternGeco filed an opposition to South Carolina's motion, and, in the alternative, moved to supplement the record with one additional document. On June 5, 2020, NOAA issued an Order in the appeal determining that a limited reopening of the appeal decision record was necessary to receive supplemental or clarifying information that either of the parties may submit regarding the two record documents added on March 30, 2020.

Consistent with the above schedule, the decision record for WesternGeco's federal consistency appeal of South Carolina's objection reopened on June 5, 2020, for NOAA to receive supplemental record material, and it closed on June 5, 2020. No further information or briefs will be considered in deciding this appeal.

Public Availability of Appeal Documents

NOAA has provided access to publicly available materials and related documents comprising the appeal record on the following web site:

<http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2019-0118>.

(Authority Citation: 15 CFR 930.130(a)(2), (3))

Adam Dilts

Chief, Oceans and Coasts Section

NOAA Office of General Counsel

[FR Doc. 2020-12263 Filed: 6/5/2020 8:45 am; Publication Date: 6/8/2020]