

Thomas v Environmental Protection Agency

Case Summary

On 21st May 2020, Dr Thomas' lawyers Melinda Janki and Seenath Jairam filed a Fixed Date Application to quash the decisions of the Environmental Protection Agency (EPA) to issue environmental permits to Esso for more than 23 years in respect of the Liza Phase 1 and Liza Phase 2 projects.

Dr Thomas argued that the grants were contrary to the environmental regulations which restricted the term of the permits to five (5) years.

Dr Thomas is a scientist and the Dean of the Faculty of Natural Sciences at the University of Guyana. In his affidavit he pointed out the importance of using up to date scientific knowledge and methods to inform decision making by regulatory bodies. He provided evidence of the harm of fossil fuel production on the climate and the ocean. Dr Thomas referred to Guyana's international obligations and argued that the investment in oil was contrary to the Paris Agreement.

Dr Thomas also cited material from the International Monetary Fund urging states to move away from fossil fuels. He argued that by granting a permit in excess of 5 years, the EPA had put Guyana at serious economic risk.

Esso Exploration and Production Guyana Ltd. (Esso) applied to join the action. The applicant raised no objection to Esso being added as interested party and on 14th August 2020 the court ordered that the pleadings be served on Esso.

The EPA filed a defence on 14th September 2020 arguing that the EPA had the power to issue permits for more than 5 years. Paragraph 8 of the EPA's Defence stated that, "*The Court is urged to consider that the Regulations were not punctilious nor meticulous in having regards to the long-term development of petroleum activities off-shore Guyana, and it is unreasonable to assume that the Regulations intended for a permit to be granted to a petroleum company for only five years given the lengthy and complicated process involved in the commissioning, start-up and operations of petroleum exploration and production...*"

Following hearings before the judge the matter was settled by consent order on 5th October 2020. The permits were reduced to 5 years. Esso's permit for Liza Phase 1 will now expire on 1st June 2022 instead of 31st December 2040. Esso's permit for Liza Phase 2 will now expire on 25th April 2024 instead of March 2043.

The consent order binds both the EPA and Esso.

An environmental permit for the third project, the Payara development project was issued on 24th September 2020 to expire on 23rd September 2025.