

**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE
OF GUYANA**

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

PROCEEDING FOR JUDICIAL REVIEW

2020-HC-DEM-CIV-

**IN THE MATTER OF AN APPLICATION
BY TROY THOMAS FOR ORDERS
OF CERTIORARI, MANDAMUS
AND PROHIBITION**

BETWEEN:

TROY THOMAS

APPLICANT

And

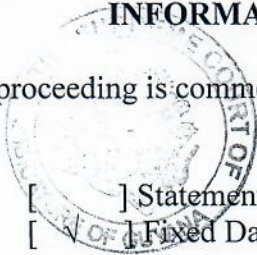
THE ENVIRONMENTAL PROTECTION AGENCY

RESPONDENT

FIXED DATE APPLICATION

MADE UPON NOTICE

INFORMATION FOR COURT USE

1. This proceeding is commenced as a:

 - ☐ Statement of Claim
 - ☒ Fixed Date Application

2. This proceeding falls under the High Court's:
 - ☐ Appellate Jurisdiction
 - ☐ Admiralty Jurisdiction
 - ☐ Commercial Jurisdiction
 - ☐ Criminal Jurisdiction
 - ☐ Family Jurisdiction
 - ☒ Regular Jurisdiction

3. The proceeding is a:

- ☐ 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 (name of Act)
- ☐ Other Proceeding

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

Date: 21st May, 2020



Signature of Attorney-at-Law



Seenath Jairam SC

Melinda Janki

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Attorneys-at-Law for the Applicant Troy Thomas

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Seenath Jairam SC

Melinda Janki

Attorneys-at-Law for the Applicant

79B Cowan Street, Kingston, Georgetown

Tel: 653 6905; 226 1126

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Date Filed: 4/06/20
Time: 9:28

**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION
PROCEEDING FOR JUDICIAL REVIEW**

2020-HC-DEM-CIV- FDA-460

**IN THE MATTER OF AN APPLICATION
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AND PROHIBITION**

BETWEEN:

TROY THOMAS

APPLICANT

And

THE ENVIRONMENTAL PROTECTION AGENCY

RESPONDENT

**FIXED DATE APPLICATION
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TO THE RESPONDENT

**THE ENVIRONMENTAL PROTECTION AGENCY
GANGES ST
SOPHIA
GEORGETOWN
GUYANA.**



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

THIS APPLICATION will come on for a hearing on day of 2020, at
, before the Honourable *Chief Justice* at The Law Courts, 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 FOUR DAYS before the date fixed for the hearing of the Application, and you or your Attorney-at-Law must appear at the hearing.

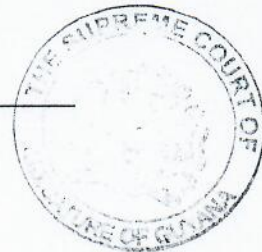
IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER OR JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT ANY FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

THIS NOTICE OF APPLICATION has no validity unless it is served on you at least seven days before the date fixed for the hearing of this application.

Date: 4/6/20

L. Layne

Signature of Registry



Issued by: L. Layne

Address of Registry where issued: The Law Courts,
Georgetown, Demerara

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

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA
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APPLICATION

1. The Applicant, TROY THOMAS, makes application for:
 - (a) AN ORDER OF CERTIORARI directed to the Environmental Protection Agency ("the Respondent" or "the Agency") quashing the decision of the Agency purportedly made under the Environmental Protection Act Cap: 20:05 ("the Act") and/or the Environmental Protection Regulations 2000 ("the Regulations") to grant an environmental permit dated 1st June 2017 and numbered 20160705-EEDPF to Esso Exploration and Production Guyana Ltd. ("Esso") for a period of twenty-three (23) years and seven (7) months until 31st December 2040 ("the said Esso Liza 1 Permit"), unless otherwise revised, amended, suspended, or revoked in accordance with the provisions of the permit or the Act or the Regulations on the grounds that the decision is so flawed at, and/or contrary to, or in breach of the law as to amount to, *inter alia*:-

- (i) a nullity; is void and of no legal effect; was made without or want of or in excess of jurisdiction; is ultra vires; is unreasonable or irrational (Wednesbury unreasonableness); is arbitrary, capricious or erroneous at law; is illegal; disproportionate; in defiance of logic; without any legal foundation or basis or authorisation or authority; and/or contrary to or in breach of the provisions of the Act and/or the Regulations;
 - (ii) a breach of or omission to perform a duty;
 - (iii) a failure to satisfy or observe conditions or procedures required by law;
 - (iv) an abuse of power;
 - (v) an improper purpose or irrelevant consideration;
 - (vi) a conflict with the policy of the Act and/or the Regulations; and
 - (vii) an exercise of a power in a manner that is so unreasonable that no reasonable or respectable person or public authority, acting judicially or quasi judicially and properly instructed as to the relevant law could or would have so exercised the power to the grant of the said Permit for more than five (5) years.
- (b) AN ORDER OF MANDAMUS directed to the Agency to issue a corrected Liza Phase 1 environmental permit which states that it expires on a fixed date which shall be no later than 31st May 2022 on the grounds that Regulation 19 of the Regulations expressly states that an environmental authorisation shall be effective until a fixed date which shall not be beyond five (5) years from the date on which the environmental authorisation was granted.
- (c) AN ORDER OF CERTIORARI directed to the Environmental Protection Agency ("the Respondent" or "the Agency") quashing the decision of the Agency purportedly made under the Environmental Protection Act Cap: 20:05 ("the Act") and/or the Environmental Protection Regulations 2000 ("the Regulations") to grant an environmental permit dated 27th April 2019 and numbered 20171204-ESSLP to Esso Exploration and Production Guyana Ltd. ("Esso") for a period of twenty-four (24) years from April 2019 to March 2043 ("the said Esso Liza 2

Permit”), unless otherwise revised, amended, suspended, or revoked in accordance with the provisions of the permit or the Act or the Regulations on the grounds that the decision is so flawed at, and/or contrary to, or in breach of the law as to amount to, *inter alia*:-

- (i) a nullity; is void and of no legal effect; was made without or want of or in excess of jurisdiction; is ultra vires; is unreasonable or irrational (Wednesbury unreasonableness); is arbitrary, capricious or erroneous at law; is illegal; disproportionate; in defiance of logic; without any legal foundation or basis or authorisation or authority; and/or contrary to or in breach of the provisions of the Act and/or the Regulations;
 - (ii) a breach of or omission to perform a duty;
 - (iii) a failure to satisfy or observe conditions or procedures required by law;
 - (iv) an abuse of power;
 - (v) an improper purpose or irrelevant consideration;
 - (vi) a conflict with the policy of the Act and/or the Regulations; and
 - (vii) an exercise of a power in a manner that is so unreasonable that no reasonable or respectable person or public authority, acting judicially or quasi judicially and properly instructed as to the relevant law could or would have so exercised the power to the grant of the said Permit for more than five (5) years.
- (d) AN ORDER OF MANDAMUS directed to the Agency to issue a corrected Liza Phase 2 environmental permit which states that it expires on a fixed date which shall be no later than 26th March 2024 on the grounds that Regulation 19 of the Regulations expressly states that an environmental authorisation shall be effective until a fixed date which shall not be beyond five (5) years from the date on which the environmental authorisation was granted.
- (e) AN ORDER OF PROHIBITION directed to the Agency prohibiting the Agency from issuing any future environmental authorisations to Esso or to any other

person, applicant, developer or entity or any project for a period beyond five years.

- (f) A Declaration that the issuance of the said Esso Liza 1 Permit is, *inter alia*, ultra vires, unreasonable, irrational (Wednesbury unreasonableness), arbitrary, capricious, erroneous at law illegal, disproportionate, in defiance of logic, without any legal foundation or basis or authorisation or authority and/or contrary to the provisions of the Act and/or the Regulations.
- (g) A Declaration that the issuance of the said Esso Liza 2 Permit is, *inter alia*, ultra vires, unreasonable, irrational (Wednesbury unreasonableness), arbitrary, capricious, erroneous at law illegal, disproportionate, in defiance of logic, without any legal foundation or basis or authorisation or authority and/or contrary to the provisions of the Act and/or the Regulations.
- (h) Costs.
- (i) Such further or other orders, directions and/ or relief as the Court may deem just.

2. The grounds of the application are:

- (1) The Applicant is a citizen of Guyana.
- (2) The Respondent is a public authority with the exclusive statutory responsibility for granting environmental permits under the Environmental Protection Act Cap 20:05 ("the Act");
- (3) Purportedly in exercise of the powers conferred upon it by the Act, the Respondent granted the said Esso Liza 1 Permit dated 1st June 2017 until 31st December 2040 and the said Esso Liza 2 Permit dated 26th April 2019 until March 2043.

(4) The Respondent's powers to grant the said Esso Liza 1 Permit and the said Esso Liza 2 Permit (together "the said Liza Permits") under the Act are regulated by Regulation 19 of the Regulations made under section 68(1) of the Act.

(5) Regulation 19 provides that-

"Subject to regulation 14, unless previously cancelled by the Agency, an environmental authorisation shall be effective until a fixed date specified in the authorisation, which date shall not be beyond five years from the date on which the environmental authorisation was granted." [Emphasis added for the convenience of the court.]

(6) Section 2 of the Act defines an environmental authorisation as including an environmental permit issued under Part IV of the said Act.

(7) The Respondent is prohibited by Regulation 19 from granting the said Liza Permits for any period in excess of five (5) years and has acted, *inter alia*, ultra vires, unreasonably, irrationally (Wednesbury unreasonableness), arbitrarily, capriciously, erroneously at law, illegally, disproportionately, in defiance of logic, without any legal foundation, basis, authorisation or authority, and contrary to the provisions of Regulation 19 of the Regulations in granting the said Liza Permits to Esso for more than five (5) years.

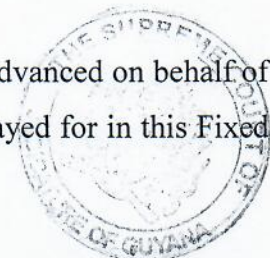
(8) In purporting to grant the said Liza Permits for more than five (5) years the Respondent has acted, *inter alia*, in breach of or has omitted to perform a duty, has failed to satisfy or to observe conditions or procedures required by law, has acted for an improper purpose or taken into account irrelevant considerations.

(9) The purported grant of the said Liza Permits conflicts with the policy of the Act and/or with the Regulations.

(10) For the reasons aforesaid and such other reasons as may be advanced on behalf of the Applicant, the Applicant respectfully seeks the orders prayed for in this Fixed Date Application filed herein.

3. The following documentary evidence will be used at the hearing of the application:

(i) Affidavit of Troy Thomas and the exhibits thereto.



Issued this 21st day of May, 2020



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Melinda Janki

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Attorneys-at-Law for the Applicant Troy Thomas

The Registry is located at The Law Courts, Georgetown, Demerara. The office is open to the public between 8:30 a.m. and noon on Tuesdays and Thursdays except holidays.



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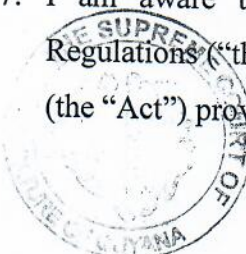
MADE UPON NOTICE

AFFIDAVIT OF APPLICANT TROY THOMAS

1, Troy Thomas of 391 Block EE Eccles, East Coast Demerara, the Applicant,
MAKE OATH AND SAY:

1. I am the Applicant in this matter.
2. The facts deposed to in this Affidavit are true and correct and within my own knowledge, save where I may state otherwise in which case I believe the same to be true and correct.
3. I am a citizen of Guyana and my name appears on the electoral register of Guyana. I am a scientist by profession and am currently the Dean of the Faculty of Natural Sciences at the University of Guyana. I hold a PhD degree from the University of Ghent in Comparative Science of Cultures and an MSc degree in Statistics from the University of

Leuven. I also hold an MSc degree in Development, Policy and Analysis, a Graduate Diploma in Education (Mathematics) and a BSc degree in Mathematics from the University of Guyana. I am a graduate of the Cyril Potter College of Education. My research includes methodologies of data collection and analysis of data. I deliver cross-faculty courses on biostatistics.

4. As a scientist I am familiar with the threat that off-shore petroleum exploration and production poses to the marine environment including the dangers of deep sea drilling and the potentially catastrophic impact of a well blow out or tanker accident. I am also very conscious of the importance of using up to date scientific knowledge and methods to inform decision-making by regulatory bodies.
5. My research also covers issues relating to institutional trust and poverty. I have a strong interest in ensuring that government and the private sector comply with national law. I have been a director of Transparency Institute Guyana Inc. for five (5) years. I also served as president for three (3) years.
6. On 1st June 2017, the Environmental Protection Agency (“the Agency”) purportedly granted an environmental permit number 20160705-EEDPF (“the Esso Liza 1 Permit”) to Esso Exploration and Production Guyana Ltd (“Esso”) until 31st December 2040, a period of time which amounts to twenty-three (23) years and seven (7) months. A true copy of the Esso Liza 1 Permit is attached as “**Exhibit TT 1**”.
7. I am aware that Regulation 19 of the Environmental Protection (Authorisation) Regulations (“the Regulations”) made under the Environmental Protection Act Cap 20:05 (the “Act”) provides that:

“Subject to regulation 14, unless previously cancelled by the Agency, an environmental authorisation shall be effective until a fixed date specified in the authorisation, which date shall not be beyond five years from the date on which the environmental authorisation was granted.”

I have underlined the above provision for the benefit of the court and for ease of reference.

8. I am aware that section 2 of the Act defines an environmental authorisation as including an environmental permit issued under Part IV of the said Act.
9. Having regard to the foregoing I say and in fact I am advised by my Attorneys-at-Law and verily believe that, the Esso Liza 1 Permit clearly and obviously breaches Regulation 19, since it was purportedly granted for a period in excess of five (5) years. When both the Act and the Regulations are read together it is clear to me that the Agency is only authorised by law to grant an environmental permit or environmental authorisation for a period not exceeding five (5) years.
10. On 28th January 2020 my Attorneys-at-Law wrote to Dr. Vincent Adams, the Executive Director of the Agency, setting out Regulation 19 and requesting him to bring the Esso Permit in line with national law or provide written reasons. A true copy of this letter is attached as **“Exhibit TT 2”**.
11. On 4th February 2020 my Attorneys-at-Law wrote to Dr. Vincent Adams a second time asking him to bring the Esso Liza 1 Permit in line with national law or provide written reasons for his refusal to do. A true copy of this letter is attached as **“Exhibit TT 3”**.
12. On 28th February 2020 my Attorneys-at-Law received a response from Dr. Vincent Adams. A true copy of this letter (“the Agency letter”) is attached as **“Exhibit TT 4”**.
13. In the second paragraph of the Agency letter, Dr. Adams states-

“During the application process for the relevant Permit, the Agency made the decision to honour the timeline prescribed by the Production Sharing Agreement (PSA) and the arrangements between the Operator and Government of Guyana. The Agency acted in pursuit of ensuring conformity and consistency with the contractual obligations contained therein.”
14. This statement is an unequivocal admission by Dr. Adams that the Agency was influenced by or took into account an agreement made by the Government of Guyana in determining the length of the Esso Liza 1 Permit. The Agency therefore took into

consideration irrelevant matters and omitted to take into consideration relevant matters namely, its statutory remit or the limits of its statutory jurisdiction to grant a permit that does not last beyond five (5) years. I am further advised by my Attorneys-at-Law and verily believe that in doing so the Agency took into account and was influenced by matters that were irrelevant and improper.

15. Further, in his letter Dr. Adams states,

“The Agency is currently reviewing the Environmental Protection Act and Regulations to propose amendments in consideration of the new oil and gas sector. Once such proposed amendment is to review Regulation 19 regarding the duration of environmental authorisations, to allow more flexibility to the Agency in cases such as these.”

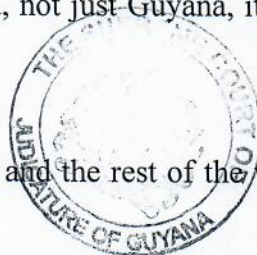
16. This statement is a clear and unequivocal admission by Dr. Adams that the Agency has acted in breach of Regulation 19 and does not currently have what Dr. Adams calls “flexibility” to grant the Esso Permit for more than five (5) years.

17. On 27th April 2019, the Agency purportedly granted a second environmental permit number 20171204-ESSLP (“the Esso Liza 2 Permit”) to Esso for a period of twenty-four (24) years from April 2019 to March 2043 which also states “24 years” on page 1/23. A true copy of the Esso Liza 2 Permit is attached as “**Exhibit TT 5**”.

18. Having regard to the foregoing I say, and in fact I am advised by my Attorneys-at-Law and verily believe that, the Esso Liza 2 Permit clearly and obviously breaches Regulation 19, since it too was purportedly granted for a period in excess of five (5) years.

19. As a public spirited citizen of Guyana and with keen sense and knowledge of the dangers of global warming, I am gravely concerned about the catastrophic consequences of that global warming which affects the entire world, not just Guyana, its environment and the Caribbean region.

20. The breach of Regulation 19 exposes Guyana and the rest of the world to serious, if not



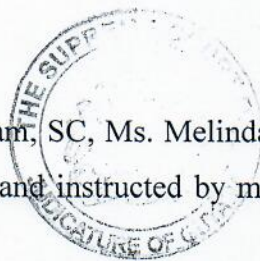
irreparable, harm and adverse consequences from climate change. It is public and common knowledge, and within my knowledge as well, that the burning of fossil fuels emits greenhouse gases, that the pre-industrial concentration of greenhouse gases in the atmosphere was 280 parts per million, that there is a scientific consensus that the safe limit is 350 parts per million, that the current concentration is over 400 parts per million and that the excess concentration of greenhouse gases in the atmosphere is causing dangerous global warming. It is also public and common knowledge and within my knowledge that this dangerous anthropogenic global warming is causing dangerous climate change as evidenced by extremes of heat and cold, more intense and dangerous storms, massive floods and extended droughts.

21. It is public and common knowledge, and within my knowledge as well, that global warming is causing sea-levels to rise and that Guyana is particularly vulnerable to sea-level rise as much of the coastline is low or already below sea-level. Global warming is also making it harder for farmers to maintain sustainable agriculture and take care of their livestock.
22. It is public and common knowledge, and within my knowledge as well, that the excess concentrations of greenhouse gases in the atmosphere are contributing to ocean acidification and the death of coral reefs.
23. I am aware and in fact I am advised by my Attorneys-at-Law and verily believe that Guyana is a signatory to the Paris Agreement 2015, an international agreement, which aims to limit global warming to 1.5⁰C or well below 2⁰C and that states have committed to take action to reduce global emissions of greenhouse gases.
24. It is common and public knowledge, and within my knowledge, as well that continued investment in oil is contrary to the goals of the Paris Agreement. I set below the link to the relevant website where this information may readily be found:

<https://www.independent.co.uk/news/business/news/oil-gas-companies-fossil-fuels-climate-change-global-warming-shell-exxon-a9094946.html>

For the convenience of the court an extract of the report is attached as “**Exhibit TT 6**”.

25. It is common and public knowledge and within my knowledge as well that countries (including Guyana) must move away from fossil fuels in order to halt global warming. As a consequence, economies that are based on oil and gas are vulnerable and could end up with stranded fossil fuel assets.
26. The International Monetary Fund ("IMF") is a global financial institution whose primary function is to ensure the stability of the global monetary system. The IMF working paper entitled '*Riding the Energy Transition: Oil and beyond 2040*' and published in 2017 concludes that, "The transition away from oil has deep implications...To prepare for such a future, diversification away from oil should be the most crucial policy item on policymakers' agenda in oil-exporting countries." In order not to overwhelm the court with unnecessary material a true copy of the concluding remarks from pages 29 to 31 is attached as **Exhibit TT 7**. A copy of the full report can be provided if requested by the court or may be accessed here: <https://www.imf.org/en/Publications/WP/Issues/2017/05/22/Riding-the-Energy-Transition-Oil-Beyond-2040-44932>
27. By granting environmental permits in excess of five (5) years, the Agency has put Guyana at serious economic risk with possible financial collapse and has acted contrary to the specific mandate given to it by our Parliament.
28. It is my respectful application that, for these reasons and other legal grounds stated in my Fixed Date Claim Application and/or also to be addressed by Counsel on my behalf, the orders sought by me in the Fixed Date Application with which this Affidavit is filed, ought to be granted with costs.
29. This Affidavit was drawn by Mr. Seenath Jairam, SC, Ms. Melinda Janki, and Mr C. V. Satram, Attorneys-at-Law who are authorised and instructed by me Troy Thomas to do all acts and things necessary on my behalf.



closing the Registry to the public. Paragraph 28 of the said Practice Direction encouraged Attorneys-at-Law to file only matters that were urgent. The Further Updated Emergency Directions extended that one-month period to 22nd May 2020.

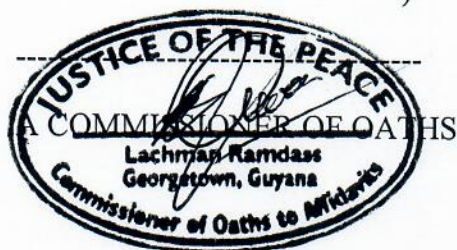
30. This Affidavit was drawn by Mr. Seenath Jairam, SC, Ms. Melinda Janki, and Mr C. V. Satram, Attorneys-at-Law who are authorised and instructed by me Troy Thomas to do all acts and things necessary on my behalf.

Sworn to at Georgetown, Demerara)

This 21st day of May, 2020)

Before me)

_____ *Handwritten Signature* _____



FILED ON BEHALF OF THE APPLICANT, TROY THOMAS



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NOTICE OF CLAIM FOR AN ADMINISTRATIVE ORDER

TROY THOMAS issued a claim for an administrative order on May 2020 for orders of Certiorari, Mandamus and Prohibition against the Environmental Protection Agency in relation to the environmental permits granted to Esso Exploration and Production Guyana Ltd. for a period in excess of five years.

May 2020



Seenath Jairam SC

Melinda Janki

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2020-HC-DEM-CIV-

**IN THE MATTER OF AN APPLICATION
BY TROY THOMAS FOR ORDERS
OF CERTIORARI, MANDAMUS
AND PROHIBITION**

BETWEEN:



TROY THOMAS

APPLICANT

And

THE ENVIRONMENTAL PROTECTION AGENCY

RESPONDENT

NOTICE OF APPOINTMENT OF ATTORNEYS-AT-LAW

THE APPLICANT TROY THOMAS has appointed Seenath Jairam SC, Melinda Janki and C. V. Satram as his Attorneys-at-Law of record.

A handwritten signature in dark ink, appearing to read "Troy Thomas", is written over a horizontal dashed line.

TROY THOMAS

Applicant

Seenath Jairam SC

Melinda Janki

C. V. Satram

Satram & Satram

228B Cummings Street, Bourda, Georgetown

Tel: 653 6905; 223 6050

Email: prateshsatram@yahoo.com;

mmjanki@yahoo.co.uk

Attorneys-at-Law for the Applicant Troy Thomas

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

PROCEEDING FOR JUDICIAL REVIEW

2020-HC-DEM-CIV-FDA-

IN THE MATTER OF AN APPLICATION
BY TROY THOMAS FOR ORDERS OF
CERTIORARI, PROHIBITION
AND MANDAMUS

BETWEEN:

TROY THOMAS

APPLICANT

And

THE ENVIRONMENTAL PROTECTION AGENCY

RESPONDENT

**FIXED DATE APPLICATION
MADE UPON NOTICE**

Seenath Jairam SC

Melinda Janki

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Attorneys-at-Law for the Applicant Troy Thomas

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE
OF GUYANA
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION
PROCEEDING FOR JUDICIAL REVIEW

2020-HC-DEM-CIV-

IN THE MATTER OF AN APPLICATION
BY TROY THOMAS FOR ORDERS
OF CERTIORARI, MANDAMUS
AND PROHIBITION

BETWEEN:

TROY THOMAS

APPLICANT

And

THE ENVIRONMENTAL PROTECTION AGENCY

RESPONDENT

BEFORE THE HONOURABLE JUSTICE

DATED THE DAY OF , 2020

ENTERED THE DAY OF , 2020



Seenath Jairam SC, Melinda Janki and C.V. Satram Attorneys-at-Law for the Applicant

ORDER

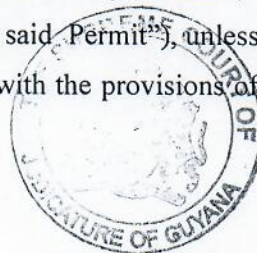
THIS APPLICATION, made by **TROY THOMAS** for judicial review was heard this day of
at the High Court, Georgetown.

ON READING the Fixed Date Application and the Affidavit of TROY THOMAS, and on
hearing the submissions of the Attorneys-at-Law for the Applicant made without notice,

- (a) THIS COURT ORDERS that an AN ORDER OF CERTIORARI be directed to the Environmental Protection Agency (the Respondent or “the Agency”) quashing the decision of the Agency purportedly made under the Environmental Protection Act Cap: 20:05 (“the Act”) and the Environmental Protection Regulations 2000 (“the

Regulations”) to grant an environmental permit dated 1st June 2017 and numbered 20160705-EEDPF to Esso Exploration and Production Guyana Ltd. (“Esso”) for a period of twenty-three (23) years and seven (7) months until 31st December 2040 (“the said Permit”), unless otherwise revised, amended, suspended, or revoked in accordance with the provisions of the said Permit or the Act or the Regulations

- (b) THIS COURT FURTHER ORDERS that AN ORDER OF MANDAMUS be directed to the Agency to issue a corrected environmental permit which states that it expires on a fixed date which shall be no later than 31st May 2022 on the grounds that Regulation 19 of the Regulations expressly states that an environmental authorisation shall be effective until a fixed date which shall not be beyond five (5) years from the date on which the environmental authorisation was granted;
- (c) THIS COURT ORDERS that an AN ORDER OF CERTIORARI be directed to the Environmental Protection Agency (the Respondent or “the Agency”) quashing the decision of the Agency purportedly made under the Environmental Protection Act Cap: 20:05 (“the Act”) and the Environmental Protection Regulations 2000 (“the Regulations”) to grant an environmental permit dated 27th April 2019 and numbered 20171204-EESLP to Esso Exploration and Production Guyana Ltd. (“Esso”) for a period of twenty-four (24) years until March 2043 (“the said Permit”), unless otherwise revised, amended, suspended, or revoked in accordance with the provisions of the said Permit or the Act or the Regulations
- (d) THIS COURT FURTHER ORDERS that AN ORDER OF MANDAMUS be directed to the Agency to issue a corrected environmental permit which states that it expires on a fixed date which shall be no later than 26th March 2024 on the grounds that Regulation 19 of the Regulations expressly states that an environmental authorisation shall be effective until a fixed date which shall not be beyond five (5) years from the date on which the environmental authorisation was granted;



- (e) THIS COURT FURTHER ORDERS that AN ORDER OF PROHIBITION be directed to the Agency prohibiting the Agency from issuing any future environmental authorisations for a period beyond five years;
- (f) THIS COURT MAKES A DECLARATION that the issuance of the said Permit is ultra vires, unreasonable, irrational (Wednesbury unreasonableness), arbitrary, capricious, erroneous at law illegal, disproportionate, in defiance of logic, without any legal foundation or basis or authorisation or authority and/or contrary to the provisions of the Act and/or the Regulations.



.....
Signature of Judge/Registrar

PLEASE BE ADVISED THAT YOU HAVE THE RIGHT TO MAKE AN APPLICATION TO SET ASIDE OR VARY THE AFORESAID ORDER(S) WITHIN FOURTEEN (14) DAYS OF THE DATE OF THE SAID ORDERS.

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

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

PROCEEDING FOR JUDICIAL REVIEW

2020-HC-DEM-CIV-FDA-400

IN THE MATTER OF AN APPLICATION
BY TROY THOMAS FOR ORDERS OF
CERTIORARI, PROHIBITION
AND MANDAMUS

BETWEEN:

TROY THOMAS

APPLICANT

And

THE ENVIRONMENTAL PROTECTION AGENCY

RESPONDENT

**FIXED DATE APPLICATION
MADE UPON NOTICE**

Seenath Jairam SC

Melinda Janki

C. V. Satram

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Bourda

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Tel: 653 6905; 223 6050

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mmjanki@yahoo.co.uk

Attorneys-at-Law for the Applicant Troy Thomas



NOTE TO PARTIES – TEMPORARY COVID 19 PROTOCOLS

THIS DOCUMENT MUST BE PRINTED BY THE APPLICANT AND SERVED ON THE RESPONDENT/S WITH THE FIXED DATE APPLICATION

1. This Fixed Date Application is fixed for a **VIRTUAL HEARING** on **Friday the 21st day of September, 2020 at 09:30 hrs** before the **Honourable Justice Jo-Ann Barlow**

Instructions for the Applicant:

2. The Applicant must serve these proceedings on or before **Friday the 4th day of September, 2020.**
3. The Applicant must file an Affidavit of Service on or before **Friday the 11th day of September, 2020**

4. Instructions for the Respondent:

5. If the Fixed Date Application is opposed/defended, the Respondent must serve and file an Affidavit in Defence, or make any relevant application to the Court, at least **7 days** before date fixed for hearing.

6. Both Parties:

7. Both the Applicant and Respondent and/or their Counsel must contact the hearing Court at least 2 clear days of the date fixed for hearing by either **email** at registrarbarlowj@gmail.com or by **telephone** at **592-680 7350**, between 8:00 am and 4:00pm, for further information on how the matter is to be heard virtually.



Video Conferencing Etiquette for Virtual hearings

Video conferencing has become an integral part of the operations of the Supreme Court. Similar to in-person hearings or meetings, there are protocols that should be observed so that proceedings are carried out successfully and efficiently. Below are some key practices that should be observed for all video conferences with the Supreme Court.

1. Choose an appropriate location.

The location chosen should be quiet and well-lit so that the person speaking can be clearly seen. Avoid sitting in locations where there is a bright light or window behind you. Ensure your background is work-appropriate. A plain background is always best but may not always be possible. Having bookshelves and office-friendly paintings and photographs on the wall is acceptable. The background should not be untidy and distracting.

2. Test the camera and microphone.

Before any video conference call it is best to perform the required testing of the equipment to ensure proper participation in the meeting/hearing. All virtual platforms in use by the Supreme Court [especially ZOOM and Microsoft Teams] have a test feature. Use it or do a test call if possible.

3. Frame the camera.

Do not position the camera too high or too low. The angle of the camera is important to capture the person speaking as though they are face-to-face with others in the meeting.

4. Wear appropriate clothing.

Wear clothing suitable for court appearances as if you are appearing in-person.

5. Be on time.

It is recommended that you join at least 10 minutes before the actual start time. This way any connection issues can be sorted and there are no delays in the starting of meetings. If the Court is engaged with another hearing when you join, you will be placed in a virtual 'waiting room' and the administrator will admit you into the virtual 'hearing room' when the Court is ready to deal with your matter.

6. Do not be a “No Show”.

If a Party/Counsel is unable to attend the hearing, they must give advance notice to the Court as soon as possible so appropriate directions can be given and alternative hearing dates be identified.

7. Mute your microphone when not speaking.

Background noises are distracting. All participants must mute their microphones until they are required to speak. All cell phones and other electronic devices must also be muted/silenced during virtual court appearances.

8. Say Your Name.

Participants must identify themselves for the record before they begin to speak. This is especially important if the device being used for the call does not include a camera.

9. Do not cross talk or interrupt speakers.

Only one person must speak at a time. Participants may utilise the ‘raise your hand’ feature in the virtual hearing platform to indicate they wish to speak.

10. Remember the camera is on.

Act as though you are always being seen by everyone in the meeting. Participants sometimes forget that the camera is on, especially when distracted by reading e-mails or trying to multi-task during a video conference call. Avoid distractions and making inappropriate actions while on camera.

NOTE: All participants are advised to familiarise themselves with the Supreme Court’s Practice Directions on Remote Hearings, No. 2 of 2020, gazetted on the 22nd June, 2020. This may be found by visiting our website at <https://supremecourt.gy/practice-directions>

-END-

**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION
PROCEEDINGS FOR JUDICIAL REVIEW**

2020-HC-DEM-CIV-FDA-460

BETWEEN:

**IN THE MATTER OF AN
APPLICATION BY TROY THOMAS
FOR ORDERS OF CERTIORARI,
MANDAMUS AND PROHIBITION
TROY THOMAS**

Applicant

-and-

**THE ENVIRONMENTAL
PROTECTION AGENCY**

Respondent

BEFORE: THE HONOURABLE MADAM JUSTICE JO-ANN BARLOW

DATED: THE 14th DAY OF AUGUST, 2020

ENTERED: 17th DAY OF AUGUST, 2020

ORDER

THIS APPLICATION being made by **TROY THOMAS**, the Applicant herein for **ORDERS OF CERTIORARI, MANDAMUS AND PROHIBITION** and **UPON READING** the Fixed Date Application filed herein on the 4th day of June, 2020 with Affidavit sworn to and filed in Support thereof by **TROY THOMAS** sworn to on the 21st day of May, 2020:

THIS COURT on its own motion **ORDERS** that the Fixed Date Application, Information for Court use, Affidavit of **TROY THOMAS** together with exhibits, Notice of Appointment of Attorney at Law, the "Note to Parties-Temporary Covid 19 Protocols" together with this Order be served on:

"The Country Manager,

**Esso Petroleum and Production Guyana Ltd.
99 New Market Street,
North Cummingsburg,
Georgetown, Guyana."**

THIS COURT FURTHER ORDERS that service be effected on the above named on or before
4th September, 2020.

BY THE COURT



REGISTRAR

**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE
CONSTITUTIONAL AND ADMINISTRATIVE DIVISION
PROCEEDINGS FOR JUDICIAL REVIEW**

2020-HC-DEM-CIV-FDA-460

BETWEEN:

**IN THE MATTER OF AN
APPLICATION BY TROY THOMAS
FOR ORDERS OF CERTIORARI,
MANDAMUS AND PROHIBITION
TROY THOMAS**

Applicant

-and-

**THE ENVIRONMENTAL
PROTECTION AGENCY**

Respondent

ORDER OF COURT
