

FILED
MAR 14 2012

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
DIVISION I

EDDIE JEAN CARR, CHANCERY CLERK
BY _____ D.C.

**SIERRA CLUB and
GULF RESTORATION NETWORK**

APPELLANTS

V.

CAUSE NO.: G 2012-440^{TY}

MISSISSIPPI DEVELOPMENT AUTHORITY

APPELLEE

APPEAL OF RULEMAKING BY THE MISSISSIPPI DEVELOPMENT AUTHORITY

COME NOW Appellants Sierra Club and Gulf Restoration Network (“GRN”), through undersigned counsel, and file this appeal from a decision of the Mississippi Development Authority (“MDA”), also known as the Mississippi Major Economic Impact Authority. On February 15, 2012 the MDA issued rules governing seismic testing and leasing for minerals in specified areas of the Mississippi Sound. This appeal is filed pursuant to Miss. Code Ann. 29-7-21.

I.

Appellant Sierra Club is a not-for-profit organization dedicated to the protection and preservation of the environment and our natural resources. Sierra Club is one of the oldest and largest conservation groups in the country, with over 700,000 members nationally in sixty-four chapters in all of the 50 states, the District of Columbia and Puerto Rico. Approximately 1,700 members of the Sierra Club are residents of the state of Mississippi. The Sierra Club brings this action for itself and as representative of its members in the State of Mississippi. The Sierra Club and its members actively participated in and filed comments on the proposed seismic and leasing rules.

II.

Appellant GRN is a non-profit Louisiana corporation with its principal place of business in New Orleans, Louisiana. GRN is a network of environmental, social justice, and citizens' groups and individuals committed to restoring the Gulf of Mexico to an ecologically and biologically sustainable condition. The GRN was formed in 1994 to raise awareness of environmental issues in Gulf States and to increase communication and coordination of member activities across the region. The GRN is playing a pivotal role in providing our members and others with the technical information, Gulf-wide networking opportunities, and communication that empowers local communities to successfully address the environmental threats that they face. The GRN presently has 40 group members and approximately 4,000 individual members. Our group membership includes groups such as the Environmental Coalition of Mississippi and the Gulf Islands Conservancy. The GRN also has approximately 100 individual members that hail from throughout the State of Mississippi. The GRN and its members actively participated in and filed comments on the proposed seismic and leasing rules.

III.

Appellee Mississippi Development Authority is a governmental subdivision of the state of Mississippi, and is responsible for the issuance of rules and regulations governing seismic activities and oil and gas leasing of public trust resources in the Mississippi Sound.

IV.

The court has subject matter jurisdiction and venue of this action is proper in this district pursuant to Miss. Code Ann. § 29-7-21 as well as any other applicable jurisdictional statute. MDA's Seismic and Oil and Gas Leasing Rules were filed with the Secretary of State, and adopted by MDA, on or about February 15, 2012. This appeal is therefore timely.

V.

The record of all proceedings done, including all comments, transcripts of hearings, and all matters before the Commission are hereby incorporated and made a part of this Notice of Appeal as if copied in full herein.

VI.

Miss. Code Ann. 29-7-21 further provides that a party aggrieved by a final rule, regulation or order “may” file a petition with the Commission and request a hearing on the matter. However, the Sierra Club and GRN believe that such a petition is discretionary and does not deprive this Court of jurisdiction over this matter. As a precautionary matter, however, and because the appeal provision in Section 29-7-21 has never been applied, the Sierra Club is filing a protective notice with the Mississippi Development Authority.

VII.

The Sierra Club and GRN submits that MDA’s Seismic and Oil and Gas Leasing Rules are invalid for at least the following reasons:

- (1) MDA has failed to prepare a valid Economic Impact Statement, despite requests that it do so;
- (2) The rules are arbitrary, capricious, and contrary to law in that, among other reasons, the agency failed to respond to and analyze all of the public comments and other relevant information; and
- (3) The rules violate Mississippi’s statutory and constitutional Public Trust Doctrine by committing public trust resources to development for private profit without benefit of full analysis and balancing of public trust interests.

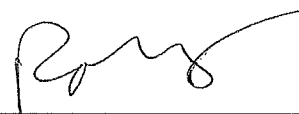
VIII.

In order to prevent irreparable injury to the GRN, the Sierra Club and to the citizens of Mississippi, the implementation of the MDA Seismic and Oil and Gas leasing rules should be stayed pending a decision on the merits by this Court. The Sierra Club will file additional briefing and request an immediate hearing on its request for a stay, pursuant to Miss. Code Ann. 29-7-21

XXX.

The Sierra Club also prays for its costs and any other and further relief that may be appropriate in this appeal.

Respectfully submitted, this the 14th day of March, 2012.



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