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Judge Declines Review of Freeze on California Offshore Fracking Permits

MARTIN MACIAS JR April 24, 2019





A close-up of a sea otter, taken in Morro Bay, California. (Photo via Wikipedia Commons)

LOS ANGELES (CN) – A federal judge on Tuesday declined to reconsider his ruling that bars the Trump administration from issuing offshore drilling permits without first conducting environmental review, rejecting an oil company’s request for review.

Conservation groups the Center for Biological Diversity, Wishtoyo Foundation and Environmental Defense Center filed a lawsuit in 2016 challenging the federal government’s approval of offshore well

stimulation treatments – commonly known as fracking or acidizing – in the Pacific Ocean.

The groups argued approval of drilling permits violated environmental protection laws and that chemicals used during fracking exposed sea otters and other endangered wildlife along the Pacific Coast to extreme harm.

In his December 2018 [judgment](#), U.S. District Judge Philip Gutierrez concluded that the Trump administration [violated](#) the Endangered Species Act and the Coastal Zone Management Act by allowing fracking in federal waters off California. He barred new permits for offshore fracking in the Pacific Ocean until federal agencies conduct further environmental review.

Offshore drilling platform operator and defendant-intervenor DCOR asked Gutierrez to reconsider his order, arguing the ban could force them to abandon work on [Platform Gilda](#) in the Santa Barbara Channel at a loss of between \$27 million and \$174 million.

The Ventura, California-based company also claimed the conservation groups failed to meet their burden in showing they are entitled to the injunction.

But Gutierrez **disagreed**, finding DCOR had never raised the issue before and cannot do so now.

“DCOR’s motion is procedurally improper,” Gutierrez wrote, adding a reconsideration request does not give parties a “second bite at the apple.”

The oil company – formerly known as Dos Cuadras Offshore – should have addressed the argument when they were given leave to submit arguments not addressed by the federal government, Gutierrez added.

“When the government chose not to argue that an injunction would not be appropriate, DCOR could have made this argument in its own brief,” he wrote. “It did not do so.”

The company did not sway Gutierrez with concerns about its financial losses, either. The judge noted new permits are only barred until proper environment review is conducted.

“The oil will still remain in the ground, and therefore it seems likely that the profits DCOR points to will not be lost entirely, but only delayed,” Gutierrez wrote. “DCOR’s assertions to the contrary appear to be more of a parade of horrors than an argument

grounded in reality.”

Gutierrez’s December 2018 judgment also bars issuance of new permits until the California Coastal Commission makes a determination as to whether offshore fracking is consistent with the Golden State’s coastal management program.

Kristen Monsell of the Center for Biological Diversity said in a statement Wednesday that Gutierrez’s ruling will protect ocean life and uphold proper environmental review of drilling permits.

“We’re glad the court rejected DCOR’s baseless request to frack off California’s coast without the careful review mandated by law,” said Monsell. “This ruling ensures that oil companies can’t threaten sea otters and other imperiled wildlife with dangerous offshore fracking while further environmental analysis is conducted.”

Neither DCOR nor its attorneys at Baker Hostetler responded to emails seeking comment by press time.