

From: [Gordon, Joe](#)
To: [Kendall, James J.](#); [Domangue, Bryan A](#)
Cc: kimberly.damon-randall@noaa.gov; [Cruickshank, Walter](#)
Subject: [EXTERNAL] Chevron Request for Applicant Status
Date: Thursday, February 13, 2025 2:53:36 PM
Attachments: [February 13 2025 Chevron Request for Applicant Status Letter.pdf](#)

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Good afternoon Dr. Kendall and Mr. Domangue:

I have attached a third request letter for Chevron be granted applicant status in the ESA Section 7 Reinitiated Consultation on the Federally Regulated Oil and Gas Program Activities in the Gulf of America. We anticipate that the ongoing reinitiated Section 7 consultation will reach substantive decisions that will impact Chevron's activities in the Gulf of America and will be the only consultation applicable to many of Chevron's future authorization requests to be submitted to BOEM/BSEE. As such, we are requesting to be granted applicant status pursuant to the ESA and implementing regulations to the extent that granting this request does not preclude the agencies from completing the consultation process and finalizing the revised BiOp by May 21, 2025. Please let me know if you have any questions regarding this request. I can be reached at 985-773-0355.

Thank you

Joe Gordon

GOM Regulatory Affairs Team Lead
Strategy, Operations, and Advocacy

Chevron North America Exploration and Production Company

(a Chevron U.S.A. Inc division)

100 Northpark Boulevard

Covington, LA 70433

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joegordon@chevron.com



Brent Gros
Vice President, Gulf of Mexico Business Unit

February 13, 2025

Via E-mail

Dr. James Kendall, Regional Director
Gulf of America Regional Office
Bureau of Ocean Energy Management
1201 Elmwood Park Blvd.
New Orleans, LA 70123

Bryan Domangue, Regional Director
Gulf of America Region
Bureau of Safety and Environmental Enforcement
1201 Elmwood Park Blvd.
New Orleans, LA 70123

RE: Third Request for Applicant Status in ESA Section 7 Reinitiation of Consultation on the Federally Regulated Oil and Gas Program Activities in the Gulf of America

Dear Dr. Kendall and Mr. Domangue:

As a follow up to our letters dated March 22, 2024 and October 30, 2024 asserting applicant rights, this letter respectfully requests, pursuant to the Endangered Species Act ("ESA") and its implementing regulations, that the Bureau of Ocean Energy Management ("BOEM") and the Bureau of Safety and Environmental Enforcement ("BSEE") grant applicant status to Chevron U.S.A. Inc. ("Chevron") for the above-referenced ESA Section 7 consultation, to the extent that granting this request will not preclude the agencies from concluding the consultation and finalizing a new Biological Opinion by May 21, 2025.¹ That consultation is intended to provide a comprehensive evaluation of the potential impacts of the full range of oil and gas activities in the Gulf of America authorized by BOEM and BSEE, from pre-lease surveys of potential oil and gas reserves through exploration, development, and production of oil and gas from its leases, and ultimately decommissioning of oil and gas production infrastructure and facilities after operations end. Chevron has not received a response to its prior letters on this topic.

Chevron, and its affiliated companies, have been exploring and developing outer continental shelf ("OCS") leases from the inception of the federal offshore leasing program under the Outer Continental Shelf Lands Act of 1953 ("OCSLA") and plan to remain active in the OCS well into the future. Chevron and its legacy companies share a long history of operating safely and in a

¹ The current Biological Opinion for the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico and accompanying incidental take statement, issued March 13, 2020 and amended on April 24, 2021, will be vacated on May 21, 2025. See *Sierra Club v. National Marine Fisheries Service*, Case No. 8:20-cv-03060 (D. Maryland), Document 220.

responsible manner on the OCS. We are committed to sound stewardship in our operations and developing a successful future for the Gulf of America that includes world-class projects, new offshore technologies, and protection of the marine environmental and the species that inhabit it. Chevron is currently a significant producer in the Gulf of America, with a goal of growing production to 300,000 barrels of oil equivalent per day in 2026. Chevron maintains interests in leases across the Gulf of America and has invested billions of dollars in exploration, appraisal, development, and production activities. To help conduct these activities, Chevron regularly applies for authorizations and permits from BOEM and BSEE. For several years, the permits BOEM and BSEE have issued to Chevron have included conditions of approval contemplated by the 2020 Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico. Chevron is supportive of responsible regulatory activity, informed by the best available scientific and commercial information.

Chevron anticipates that the ongoing reinitiated Section 7 consultation will reach substantive decisions, including the identification of reasonable and prudent measures and alternatives, terms and conditions, and their associated take exemption, that will apply to Chevron's future applications and permits. Unlike purely programmatic consultations that merely provide a framework for future tiered project-specific consultations, the ongoing reinitiated consultation will be the only consultation applicable to many of Chevron's future authorization requests, meaning that the current consultation is Chevron's only opportunity to participate in the process that will directly affect the formal approvals or authorizations it will seek from BOEM and BSEE.

Under the ESA implementing regulations, the term "applicant" refers to "any person . . . who requires formal approval or authorization from a Federal agency as a prerequisite to conducting the action." 50 C.F.R. § 402.02. The determination as to whether a person qualifies for applicant status under ESA Section 7 is made by the federal action agency, in this instance BOEM and BSEE. Under these circumstances, Chevron qualifies for applicant status under ESA Section 7 because Chevron routinely submits applications to both BOEM and BSEE for authorization to conduct activities, the impacts of which are being evaluated in the ongoing consultation.

BOEM and BSEE are consulting with the National Marine Fisheries Service ("NMFS") on the impacts to ESA-listed species from oil and gas leasing, geophysical exploration, exploration plans, development, production, and decommissioning in the Gulf of America. As noted, Chevron holds significant lease interests in the Gulf of America and is actively engaged in exploration, development, production and decommissioning related to its leasehold. Therefore, Chevron clearly qualifies for applicant status.

As detailed in our March 2024 letter, under the ESA regulations, an applicant has many participation rights in the consultation process. To the extent that our participation would not preclude the agencies from concluding the consultation and finalizing a new Biological Opinion by May 21, 2025, Chevron requests full participation in the consultation and is particularly interested in sharing its perspective as an operator on descriptions and evaluation of permitted activities as well as the feasibility of any potential minimization measures or alternatives.

At a minimum, Chevron requests that it be permitted to participate in the development of any reasonable and prudent alternatives, as Chevron is a unique source of information necessary to the

consultation. In the Section 7 Consultation Handbook (at 4-43), NMFS has stressed the importance of involving both your agencies (as action agencies) and applicants like Chevron in the development of reasonable and prudent alternatives, noting that, they “should be given every opportunity to assist in developing the reasonable and prudent alternatives. Often, they are the only ones who can determine if an alternative is within their legal authority and jurisdiction, and if it is economically and technologically feasible.” Chevron’s input, derived from its decades of operating in the Gulf, will be invaluable on the economic and technological feasibility of any reasonable and prudent alternatives to ensure that the selected alternative can be implemented.

Thank you for your consideration of Chevron’s request to be granted applicant status in this consultation. Please let Joe Gordon know if you have any questions about this submission or send him a return letter regarding your agency’s decision on this request. We look forward to working with the agencies as an applicant in this consultation.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Gros", written in a cursive style.

Brent Gros

Attachments: March 22, 2024 and October 30, 2024 Chevron ESA Section 7 Applicant Status Request Letters

cc: Department of the Interior:
Ms. Katherine McGregor
Mr. Walter Cruickshank

Department of Commerce:
Ms. Kimberly Damon-Randall

Attachment A:

March 22, 2024 Chevron Request for Applicant Status in the
ESA Section 7 Consultation



Brent Gros

Vice President, Gulf of Mexico Business Unit

March 22, 2024

Via E-mail/Facsimile

Dr. James Kendall, Regional Director
Gulf of Mexico Regional Office
Bureau of Ocean Energy Management
1201 Elmwood Park Blvd.
New Orleans, LA 70123

Bryan Domangue, Regional Director
Gulf of Mexico Region
Bureau of Safety and Environmental Enforcement
1201 Elmwood Park Blvd.
New Orleans, LA 70123

RE: Request for Applicant Status in ESA Section 7 Reinitiation of Consultation on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico

Dear Dr. Kendall and Mr. Domangue:

This letter respectfully requests, pursuant to the Endangered Species Act ("ESA") and its implementing regulations, that the Bureau of Ocean Energy Management ("BOEM") and the Bureau of Safety and Environmental Enforcement ("BSEE") grant applicant status to Chevron U.S.A. Inc. ("Chevron") for the above-referenced ESA Section 7 consultation. That consultation is intended to provide a comprehensive evaluation of the potential impacts of the full range of oil and gas activities in the Gulf of Mexico authorized by BOEM and BSEE, from pre-lease surveys of potential oil and gas reserves through exploration, development, and production of oil and gas from its leases, and ultimately decommissioning of oil and gas production infrastructure and facilities after operations end.

Chevron, and its affiliated companies, have been exploring and developing outer continental shelf ("OCS") leases from the inception of the federal offshore leasing program under the Outer Continental Shelf Lands Act of 1953 ("OCSLA") and plan to remain active in the OCS well into the future. Chevron and its legacy companies share a long history of operating safely and in a responsible manner on the OCS. We are committed to sound stewardship in our operations and developing a successful future for the Gulf of Mexico that includes world-class projects, new offshore technologies, and protection of the marine environmental and the species that inhabit it. Chevron is currently a significant producer in the Gulf of Mexico, responsible for delivering nearly 200,000 barrels of oil equivalent per day. Chevron maintains interests in leases across the Gulf of Mexico and has invested billions of dollars in exploration, appraisal, development, and production activities. To help conduct these activities, Chevron regularly applies for authorizations and permits from BOEM and BSEE. For several years, the permits BOEM and

BSEE have issued to Chevron have included conditions of approval contemplated by the 2020 Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico. Chevron is supportive of responsible regulatory activity, informed by the best available scientific and commercial information.

Chevron anticipates that the ongoing reinitiated Section 7 consultation will reach substantive decisions, including the identification of reasonable and prudent measures and alternatives, terms and conditions, and their associated take exemption, that will apply to Chevron's future applications and permits. Unlike purely programmatic consultations that merely provide a framework for future tiered project-specific consultations, the ongoing reinitiated consultation will be the only consultation applicable to many of Chevron's future authorization requests, meaning that the current consultation is Chevron's only opportunity to participate in the process that will directly affect the formal approvals or authorizations it will seek from BOEM and BSEE.

Under the ESA implementing regulations, the term "applicant" refers to "any person . . . who requires formal approval or authorization from a Federal agency as a prerequisite to conducting the action." 50 C.F.R. § 402.02. The determination as to whether a person qualifies for applicant status under ESA Section 7 is made by the federal action agency, in this instance BOEM and BSEE. Under these circumstances, Chevron qualifies for applicant status under ESA Section 7 because Chevron routinely submits applications to both BOEM and BSEE for authorization to conduct activities, the impacts of which are being evaluated in the ongoing consultation.

BOEM and BSEE are consulting with the National Marine Fisheries Service ("NMFS") on the impacts to ESA-listed species from oil and gas leasing, geophysical exploration, exploration plans, development, production, and decommissioning in the Gulf of Mexico. As noted, Chevron holds significant lease interests in the Gulf of Mexico and is actively engaged in exploration, development, production and decommissioning related to its leasehold. Therefore, Chevron clearly qualifies for applicant status.

Under the ESA regulations, an applicant has the following participation rights in the consultation process:

- 1) preparation of the biological assessment under the supervision of BOEM and BSEE or provision of information and analyses for inclusion in the biological assessment (*see* 50 C.F.R. § 402.12(b));
- 2) participating in any on-site inspection of a project area with representatives of NMFS (*see id.* § 402.14(g)(l));
- 3) participating in any informal consultation with NMFS (*id.* § 402.13);
- 4) the general submission of information for consideration during the consultation process (*id.* § 402.14(d));
- 5) discussing with BOEM, BSEE, and NMFS the results of NMFS's review and evaluation of the relevant information and potential effects of the action on listed species or designated critical habitat, and the availability of reasonable and prudent alternatives, if a jeopardy opinion is contemplated (*see id.* § 402.14(g)(5));
- 6) reviewing a draft of the biological opinion to be provided by BOEM and BSEE, and submitting comments on the draft through BOEM and BSEE with a copy sent directly to NMFS (*id.*);
- 7) providing information on appropriate beneficial actions taken by the applicant, including any actions taken prior to the initiation of consultation (*id.* § 402.14(g)(8)); and

- 8) providing the required concurrence, if it is determined to do so, with any decisions to extend the 60-day timeframe to conclude a formal consultation (*id.* § 402.14(e)).

Chevron would welcome full participation in the consultation and is particularly interested in sharing its perspective as an operator on descriptions and evaluation of permitted activities as well as the feasibility of any potential minimization measures or alternatives.

Thank you for your consideration of Chevron's request to be granted applicant status in this consultation. Please let Joe Gordon know if you have any questions about this submission or send him a return letter regarding your agency's decision on this request. We look forward to working with the agencies as an applicant in this consultation.

Sincerely,

A handwritten signature in cursive script that reads "Brent Gros".

Brent Gros

cc: Ms. Kimberly Damon-Randall, Director, NMFS Office of Protected Resources

Attachment B:

October 30, 2024 Chevron Request for Applicant Status in
the ESA Section 7 Consultation



Brent Gros

Vice President, Gulf of Mexico Business Unit

October 30, 2024

Via E-mail/Facsimile

Kimberly Damon-Randall
Director, Office of Protected Resources
National Marine Fisheries Service
Silver Spring, MD 20910

**RE: Participation in Development of Reasonable and Prudent Alternatives in the
ESA Section 7 Reinitiated Consultation on the Federally Regulated Oil and
Gas Program Activities in the Gulf of Mexico**

Dear Ms. Damon-Randall:

On October 24, 2022, the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) requested reinitiation of formal Endangered Species Act (ESA) Section 7 consultation on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico. On January 29, 2024, the National Marine Fisheries Service (NMFS) accepted the reinitiation package and reinitiated formal consultation. That consultation is ongoing, and NMFS has informed a federal district court that it will be completed by May 21, 2025.

As an oil and gas operator in the Gulf of Mexico that requires authorizations from BOEM and BSEE that are the subject of the reinitiated consultation, Chevron U.S.A. Inc. (Chevron) is an applicant for purposes of the Section 7 consultation.¹ As such, NMFS has certain obligations under the Section 7 regulations to coordinate with Chevron.² While the applicant's participation rights in Section 7 consultation are numerous,³ Chevron recognizes that preparing a biological opinion of this scope is a difficult undertaking and that completing it within the judicial timeline will require careful attention to the schedule. Thus, to support the Service's effort to prepare a defensible

¹ 50 C.F.R. § 402.02 (defining "applicant" as "any person . . . who requires formal approval or authorization from a Federal agency as a prerequisite to conducting the action.").

² While Chevron's March 22, 2024 request to BOEM and BSEE for "applicant status" has gone unanswered, that inaction by the agencies does not alter the fact that Chevron is an applicant per the plain language of the regulatory definition and has the right to be involved in the reinitiated consultation. Moreover, any suggestion that applicants should not be involved in programmatic consultations has been obviated by the preamble to the 2024 regulatory revisions, which states that programmatic consultations can "includ[e] applicants as appropriate." 89 Fed. Reg. 24,268, 24,291 (April 5, 2024). Involving applicants is especially important for this mixed programmatic consultation wherein, for some activities, no further consultation will be conducted.

³ See 50 C.F.R. § 402.14(g)(5).

and timely biological opinion, Chevron proposes to prioritize its participation to focus on the issue where Chevron is a unique source of information necessary to the consultation — the development of any reasonable and prudent alternatives.

In the Section 7 Consultation Handbook, NMFS has stressed the importance of involving action agencies and applicants in the development of reasonable and prudent alternatives, noting that, they "should be given every opportunity to assist in developing the reasonable and prudent alternatives. Often they are the only ones who can determine if an alternative is within their legal authority and jurisdiction, and if it is economically and technologically feasible."⁴ Chevron's input, derived from its decades of operating in the Gulf, will be invaluable on the economic and technological feasibility of any reasonable and prudent alternatives to ensure that the selected alternative can be implemented.

We look forward to working with NMFS, BOEM and BSEE in the development and analysis of reasonable and prudent alternatives in the ongoing Section 7 consultation for Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico. Please let Joe Gordon know when NMFS is prepared to discuss those alternatives.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Gros", written in a cursive style.

Brent Gros

cc: Dr. James Kendall, BOEM
Bryan Domangue, BSEE

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⁴ Section 7 Consultation Handbook at 4-43.