

**INTERIOR BOARD OF LAND APPEALS
OFFICE OF HEARINGS AND APPEALS
UNITED STATES DEPARTMENT OF THE INTERIOR
801 NORTH QUINCY ST., SUITE 300
ARLINGTON, VA 22203**

ION/GX TECHNOLOGY CORPORATION Appellants, v. UNITED STATES DEPARTMENT OF THE INTERIOR, Respondent, and OCEANA, INC. Proposed Respondent-Intervenor	IBLA No. 2017-1040
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DECLARATION OF JOHNNY MILLER
IN SUPPORT OF OCEANA, INC.'S MOTION TO INTERVENE

I, Johnny Miller, pursuant to the provisions of 28 U.S.C. § 1746, do hereby declare as follows:

1. I am currently a City Commissioner in my second term (2016-2020) and the former mayor of the City of Fernandina Beach, Florida. Fernandina Beach is a city with a population of approximately 12,000 people and is located on Amelia Island just off the northeast coast of Florida.

2. I am also a member of Oceana. I am familiar with and continue to support Oceana's goals of protecting and conserving the marine environment.

3. Prior to becoming a public servant for the City of Fernandina Beach, I was in the Navy for 20 years. For ten years of my 20-year career in the Navy, I was an acoustic operator flying a P-3 Orion aircraft. My primary job was to look for foreign submarines to mitigate the chance of a foreign submarine entering U.S. coastal waters or approaching U.S. vessels and causing issues. I am specialized in underwater sound in the ocean. I am, therefore, quite familiar with the pros and cons of underwater sound and its adverse effects on the marine environment and coastal communities.

4. In 2013, when I first got elected to the position of City Commissioner, a constituent came to me to discuss an issue involving plastics in the ocean. He also asked: "Have you heard they're going to do seismic testing off our coastline?" I politely told him, you know this area is protected and noted how detrimental seismic airgun testing is to coastal communities and the marine environment. In short, I assumed he was mistaken, but, after doing some research on seismic airgun surveys for offshore oil and gas exploration off the coast of Florida, I was surprised to learn that he was correct. The entire Atlantic coast was at risk of being harmed by seismic airgun testing and offshore oil and gas drilling.

5. More constituents started coming to me to let me know their concerns about seismic airgun blasting and offshore drilling off the coast of Florida. Their reaction was often quite emotional. Many of them, with tears in their eyes, pled: "Please do not let this happen off our coastline."

6. Neither the residents of Fernandina Beach nor I want seismic airgun testing happening off our coast. Seismic airgun testing will adversely affect our economy, which is heavily dependent on tourism and fishing, and it will adversely affect the residents' as well as my own enjoyment of our coastal homes. We love seeing the right whales from the beach.

These endangered whales are often that close. And, the dolphins that go back and forth along the beach at sunrise and sunset are a joy to watch for residents and tourists alike. Seismic airgun testing would endanger marine animals, and the residents and I are very vocal about protecting them as they are a source of enjoyment for the residents as well as a draw for tourists who wish to view them as well.

7. Proponents of seismic airgun testing argue that the sounds will not injure marine animals. Science proves otherwise. The science on seismic airgun testing tells us that, for many marine animals, hearing is often the most important sense. Seismic airgun testing equipment creates sounds that can penetrate thousands of feet of seawater and hundreds of feet of rock and stone. In fact, seismic airgun testing creates one of the loudest man-made sounds in the ocean. When seismic airgun testing occurs, marine animals must endure the blasting sounds in their marine environment every few seconds over and over again for up to several months at a time. Marine mammals cannot run away or cover their ears like a human would. The sound from seismic airgun blasting travels thousands of miles, and is there, wherever they go. Navigation, communication, hunting, mating – everything that marine animals must do to survive in the marine environment – can be adversely affected by the earth-shattering explosive sounds from seismic airgun testing.

8. Fernandina Beach is the birthplace of the modern shrimp industry. We have a shrimp museum along the riverfront that opened up in 2014.¹ Commercial shrimp fishing is still very important to our community to this day, with shrimp boats departing the docks on most days. Shrimp fishermen in my community have told me that they are adamantly against seismic airgun blasting as they are concerned that it will adversely affect their catch. The fourth

¹ Dan Sanian, Jacksonville.com, History of Fernandina Beach's shrimping industry revealed in new museum (Nov. 28, 2014), <http://jacksonville.com/news/metro/2014-11-27/story/history-fernandina-beachs-shrimping-industry-revealed-new-museum#>.

generation shrimp fishermen in my community are focused on sustainability. They are very protective of the marine environment to ensure that shrimping in the area will continue and that shrimp will be there to be caught for future generations. And, when it comes to sea level rise, I can count on the shrimp fishermen who pay close attention to these details to tell me when they see changes in water levels.

9. Shrimping is a cause for celebration in Fernandina Beach. In fact, every year for over 50 years, Fernandina Beach has hosted the “Shrimp Festival.” The event is set to occur again this year from May 5 to May 7, 2017.² The “Shrimp Festival” is one of the premier festivals in the Southeast; it brings the love of locally caught shrimp and arts and entertainment together for long weekend in the historic district of Fernandina Beach. In addition, on New Year’s Eve, the community hosts the “Shrimp Drop,” which involves dropping a hand-crafted shrimp topped with a pirate hat and covered in lights from a crane.³

10. As seismic airgun blasts are within the detectable hearing range of many fish species, they have been found to disperse when blasts occur. Sounds similar to seismic airgun blasting can cause physical damage to hearing structures in octopus, squids, cuttlefish. Research provides evidence that noise from human activities like seismic airgun blasting can adversely impact larval development of marine invertebrates, such as lobster and shrimp. In light of this, the commercial and recreational fishermen in our community that depend on the presence of these marine animals in the waters off our coast will be adversely affected by seismic airgun testing. And, seismic airgun testing could mean that local fishermen will have to forego their usual fishing areas to avoid seismic airgun testing equipment, which are towed behind a ship in an array that can have over 90 airguns and can be well over a mile long and a mile wide.

² 54th Annual Shrimp Festival, <http://www.shrimpfestival.com/>.

³ NCFL Independent, New Year’s Eve Shrimp Drop is Big Fun in Fernandina Beach (Jan. 1, 2016), <http://www.ncflindependent.com/2016/01/01/new-years-eve-shrimp-drop-is-big-fun-in-fernandina-beach/>.

11. The people of Fernandina Beach do not want oil rigs off the coast either. And, they definitely do not want oil spills sending tar balls into the water and onto the beaches.

Residents and tourists of Fernandina Beach, enjoy all the activities that our beach community offers, including swimming, recreational fishing, kayaking, canoeing, paddle surfing, boating, surfing, windsurfing, kite surfing, scuba diving, snorkeling, photography, nature tours to view seabirds, sea turtles, dolphins, whales and manatees, and more or simply lounging or walking along the 13 miles of pristine beach.

12. I enjoy scuba diving, kayaking, canoeing, and joining my friends on their wildlife viewing tours by boat to see dolphins and manatees. I am deeply concerned that seismic airgun testing would adversely affect my ability to engage in these activities well into the future. As a scuba dive instructor, the adverse effects of seismic airgun testing on marine animals would adversely affect my ability to teach my students about these amazing creatures. Another activity I enjoy with my wife is taking walks on the beach, which we sometimes turn into beach clean-up walks, because we pick up any debris as we go to ensure our communities' beach remains pristine for both our and others' use and enjoyment.

13. For many years now, Fernandina Beach has been the host of the Ed Gaw Open Water Challenge, which is an swimming event in the ocean that raises money for youth Aquatic Programs. Participants compete in the race to swim 500 meters, one mile or even five kilometers.⁴ In addition, Fernandina Beach hosts triathlons, such as the Jacksonville Triathlon Olympic & Sprint, which includes swimming off our coast in the Atlantic Ocean.⁵ No one will be getting in the water for this or any other beach activity if either seismic airgun blasting or an oil spill occurs off the coast. Allowing seismic airgun testing in the Atlantic would be disastrous

⁴ Ed Gaw Amelia Island Open Water Challenge 2017, <http://edgawopenswim.wixsite.com/aila>.

⁵ See, e.g., DRC Sports, Jacksonville Triathlon Olympic & Sprint – Series #1, <http://drcsports.com/race/jacksonville-triathlon-olympic-sprint-series-1-2014-06-21>.

for the enjoyment of the residents and me as well as for the local economy, which is heavily dependent on tourism and fishing. In addition, local restaurants that serve locally caught seafood, including shrimp, must have a consistent, sustainable supply, and seismic airgun testing could adversely affect the prevalence of seafood off our coast.

14. My responsibility to the people that I represent is to follow their lead and do what they ask. It is also my responsibility to think of the future and to protect future generations whose voice cannot be heard but will be adversely affected if we do not stop seismic airgun testing and oil and gas drilling off our coast right now.

15. In the course of doing my research on how to stop seismic airgun testing and offshore oil and gas drilling off the Florida coast, I reached out to Oceana to learn more about what I could do. I learned that many local governments along the Atlantic coast were passing resolutions to oppose seismic testing and offshore oil and gas drilling. I invited Oceana to make a presentation during a City Commission meeting to inform our members and the public about seismic airgun testing. After looking into this further, all members of the City Commission became concerned about seismic airgun testing.

16. I introduced a resolution to oppose seismic airgun testing in the Atlantic Ocean, which the City Commission passed on December 2, 2014, with a unanimous 5-0 vote in favor.⁶ Fernandina Beach is one of over 120 local communities along the Atlantic coast that have passed similar resolutions opposing seismic airgun testing and/or offshore drilling in the Atlantic Ocean.

17. In addition to the resolution, I traveled to Washington, D.C. several times to represent my constituents' as well as my own views with Florida's Congressional representatives and with federal government officials, including the Secretary of Interior, Bureau of Ocean

⁶ See Exhibit 1, Resolution 2014-168: A Resolution of the City of Fernandina Beach, Florida, Opposing Seismic Air-gun Testing in the Atlantic Ocean; and Providing an Effective Date (Dec. 2, 2014), http://usa.oceana.org/sites/default/files/fernandina_beach_resolution.pdf.

Energy Management (“BOEM”) staff and White House staff. I let them know that we do not want seismic airgun testing or offshore drilling on our coastline.

18. The residents of Fernandina Beach and I were extremely happy when BOEM removed the Atlantic from the five-year program for offshore oil and gas leasing in March 2016. And, we were elated to learn in January of this year that BOEM denied the permit applications for seismic airgun testing in the Atlantic.

19. This past Friday, I was very disturbed to see that the new Administration failed to listen to coastal communities like my own by announcing its intention to re-open the Atlantic to seismic airgun testing and offshore drilling. This simply must not be allowed to happen.

20. I, on behalf of myself and the 12,000 residents of the City of Fernandina Beach, urge the Interior Board of Land Appeals to uphold BOEM’s denial of permit applications for seismic airgun testing in the Atlantic Ocean. BOEM’s decision to deny seismic airgun testing in the Atlantic should not be enjoined, delayed, set aside or in any way reversed or revised. BOEM’s decision to deny seismic airgun testing is responsive to my demands on my own behalf as well as on behalf the constituents of my coastal community in Fernandina Beach. It is also responsive to the demands of over 120 other coastal communities along the Atlantic coast. The adverse effects of seismic airgun testing and offshore drilling to my coastal community’s economy and the marine environment vastly outweigh any gains from offshore fossil fuel exploration and development in the Atlantic Ocean. Offshore fossil fuel exploration and development in the Atlantic should not be allowed for yet another tremendously adverse effect on me and my community – future sea level rise caused by man-made emissions from fossil fuels. Please uphold BOEM’s denial of the permit applications for seismic airgun testing in the Atlantic Ocean.

I declare under penalty of perjury that the foregoing is true and correct.

05/01/2017

Date

/s/ Johnny Miller

Johnny Miller