

TEXAS

Court OKs Interior endangered species review of gas terminal

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A federal appeals court has rejected a lawsuit from environmental groups challenging the Fish and Wildlife Service's analysis of risks to an endangered wildcat species from the Annova liquefied natural gas export project in Texas. An ocelot is pictured. Eric Kilby/Flickr

A federal appeals court this week rejected environmentalists' challenge to a Texas liquefied natural gas terminal project that could harm endangered wildcats.

In a unanimous decision, a three-judge panel for the 5th U.S. Circuit Court of Appeals concluded that the Fish and Wildlife Service complied with the Endangered Species Act in its assessment of the project's impact on the endangered ocelot or jaguarundi.

"The Service has identified the reasons underlying its conclusion that the ocelot and jaguarundi's continued existence would not be jeopardized by the project, and it has articulated a rational connection between these reasons and that conclusion," Senior Judge Carolyn King wrote in a Wednesday [ruling](#).

The judge, a Carter appointee, added that "this is all that the ESA and its implementing regulations require."

Defenders of Wildlife and the Sierra Club had argued that FWS had fallen short in its biological opinion for the Annova LNG terminal in Brownsville, Texas ([Energywire](#), April 22, 2020).

Annova has proposed the construction and operation of the \$5.2 billion LNG export terminal on a 731-acre parcel on the south bank of the Brownsville Ship Channel.

"As it turns out, the project would occupy land that is also home to the two species of cats at issue in this case: the ocelot and jaguarundi," King noted.

There are about 50 ocelots remaining in the United States, with two breeding populations in Cameron and Willacy counties in Texas. The Gulf Coast jaguarundi is another endangered cat whose range includes South Texas, though King observed that "a jaguarundi has not been seen in south Texas in decades."

FWS prepared a biological opinion in connection with the Federal Energy Regulatory Commission's authorization of the LNG terminal.

As a result of the consultations, Annova agreed to move the terminal site 1,800 feet from the original location to minimize harms to the cats' habitats.

FWS then determined that the project would likely harm or harass only one cat during construction and the life of the project, and this single "take" was not enough to jeopardize the cats' continued existence.

"The Service biologists worked for five years with FERC and Annova before issuing the opinion and concluding that the loss of ... 212 acres, offset by habitat acreage and other conservation measures, will not jeopardize the cats' continued existence," King wrote.

King added that "this is precisely the type of conclusion that is entitled to deference" by the courts.

Judges Jennifer Elrod, a George W. Bush appointee, and Don Willett, a Trump pick, also joined the decision.

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