

UNITED STATES DEPARTMENT OF TRANSPORTATION
LICENSE TO OWN, CONSTRUCT AND OPERATE A DEEPWATER PORT
ISSUED TO SPOT TERMINAL SERVICES LLC

The Maritime Administrator (hereinafter the "Administrator") of the Maritime Administration (hereinafter, "MARAD"), pursuant to authority delegated by the Secretary of Transportation of the United States of America (hereinafter the "Secretary") under the Deepwater Port Act of 1974 (Pub. L. 93-627) (hereinafter, as amended from time to time, the "Act"), hereby issues to SPOT Terminal Services LLC, a Texas limited liability company (hereinafter the "Licensee"), this license (hereinafter the "License") to own, construct and operate the Deepwater Port known as Sea Port Oil Terminal (hereinafter the "SPOT") Project, (hereinafter the "Deepwater Port"), located in Federal waters within the Outer Continental Shelf (hereinafter the "OCS") Galveston Protraction Area (Gulf of Mexico [GoM]) Lease Block 463, approximately 27.2 to 30.8 nautical miles off the coast of Brazoria County, in water depths of approximately 115 feet, subject to the terms, conditions and provisions of this License. The Deepwater Port shall consist of offshore structures, pipelines, buoys, and related facilities, to the extent such structures, pipelines, buoys, and facilities are located seaward of the high-water mark, as more fully described in the SPOT Terminal Services LLC Deepwater Port License Application for this License (said application, as amended, hereinafter the "Application").

ARTICLE 1. General Obligations of Licensee.

The Licensee shall own, construct, and operate the Deepwater Port:

- A. in accordance with, and consistent with the purposes of, the Act and any regulations heretofore or hereafter promulgated under the Act (hereinafter the "Regulations"), and any applicable Federal, State or local law or international treaty or agreement;
- B. in accordance with the Record of Decision dated November 21, 2022;
- C. in accordance with the conditions of this License; and
- D. in accordance with, and with no substantial change (unless otherwise approved by the Administrator, which approval shall not be unreasonably delayed) from the plans, operational systems, methods, procedures and safeguards set forth in the Application.

The Licensee shall obtain and maintain in force the necessary approvals and authorizations, including licenses and permits from MARAD and the United States Coast Guard (hereinafter "USCG"), the United States Environmental Protection Agency (hereinafter "USEPA"), the United States Army Corps of Engineers (hereinafter "USACE"), the State of Texas and other Federal and State agencies, as required by law and by this License, for the construction and/or operation, as applicable, of the Deepwater Port and connection of the Deepwater Port to other facilities.

ARTICLE 2. Term.

This License shall remain in effect unless suspended or revoked by the Administrator, surrendered by the Licensee, or as otherwise provided in this License. The Licensee shall submit prior written request to the Administrator for the approval of relinquishment/surrender of the License.

The obligations of the Licensee contained in this License (except the obligations under Articles 10, 11, 12 and 13) shall survive any revocation, suspension or surrender of the rights and privileges granted hereby and shall continue until the Licensee shall have been notified by the Administrator in writing that such obligations have been satisfied and discharged.

ARTICLE 3. Location.

The Licensee is authorized to construct and emplace the offshore structures, pipelines and related facilities comprising the Deepwater Port at the locations shown on, and in accordance with, the charts and descriptions in the Application and approved by this License, to the extent that such locations are on the Outer Continental Shelf, outside of the jurisdiction of the State of Texas.

This License does not convey any rights or interests or any exclusive privileges, except as expressly set forth herein in respect of lands on the Outer Continental Shelf, in or to real property, whether by title, easement or otherwise, and it does not authorize any infringement of applicable Federal, State or local laws or regulations, or the property rights of any person.

ARTICLE 4. Design.

The Licensee shall submit plans of the offshore structures and related facilities comprising the Deepwater Port for approval by the Commandant of the USCG (hereinafter the "Commandant"). There shall not be made, without prior approval of the Commandant, any substantial deviation, either before or after completion of the Deepwater Port, from those plans approved by the Commandant. The Licensee shall keep current at all times the record drawings as may be required by applicable regulations. The design of the Deepwater Port shall be in accordance with the requirements set forth in the Application, Record of Decision and Annex A of the License, attached hereto.

ARTICLE 5. Construction.

All work in the construction of the Deepwater Port and any expansion or modification thereof shall be undertaken in a manner that does not interfere with the reasonable use of the high seas, adversely affect the safety of navigation or pose a threat to human safety or health or to the environment.

The Licensee shall complete construction of the Deepwater Port by no later than December 31, 2028, except this deadline shall be extended by: (a) the number of days after the date of issuance of the License, if any, that the Licensee receives all necessary approvals, permits, or authorizations to construct the Deepwater Port ("Necessary Permits"), or the number of days that one or more Necessary Permits are enjoined by an appeal or subject to administrative/judicial review; (b) the number of days associated with necessary delays due to time-of-year construction limitations to the

extent such delays are beyond the direct control of the Licensee, as determined by MARAD; or (c) such additional period as MARAD may permit for good cause. In the event construction is not completed within such time limit, this License shall terminate.

ARTICLE 6. Operation and Maintenance.

The Licensee shall operate the Deepwater Port at all times (a) in the manner contemplated in the design and construction of the port approved by the Commandant, and (b) in accordance with the Deepwater Port Operations Manual approved by the Commandant.

ARTICLE 7. Facilities Furnished to the Government.

During the construction of the Deepwater Port, the Licensee shall make office space available to Federal inspection personnel at all construction and fabrication sites and shall provide subsistence, quarters, transportation and voice communications to shore for Federal inspection personnel conducting inspections at offshore sites.

When the Deepwater Port is in operation, the Licensee shall furnish office space, subsistence, quarters and necessary support services at the Deepwater Port for USCG/BSEE/PHMSA or other Federal inspection personnel while such personnel are onboard in connection with inspection and monitoring of operations of the Deepwater Port.

All facilities and services provided to Federal inspection personnel shall be equal in quality to that provided to the Licensee's representatives.

ARTICLE 8. Environmental Protection.

The Licensee shall implement in the design, construction, operation, maintenance, and decommissioning of the Deepwater Port the measures necessary to prevent, minimize or mitigate adverse environmental effects described in Annex A, the Application and the Record of Decision.

The Licensee shall observe all requirements set forth in Annex A and shall comply with all applicable Federal and State laws and regulations relating to environmental protection, land and water use, and coastal zone management.

The Licensee shall keep informed about procedures and equipment suitable for minimizing adverse effects on the environment directly associated with its Deepwater Port and shall, as so directed by the Administrator and the Governor of Texas, procure and employ the best available technology for such purpose, provided such technology is cost-effective. The Licensee shall cooperate fully with Federal, State and local agencies in the response to, or for the mitigation of, damage related to or caused by any discharge of petroleum products from the Deepwater Port or associated components.

ARTICLE 9. Financial Responsibility.

In order to ensure that the necessary financial resources are available to the Licensee to meet design, construction, and operational requirements under this License, the Licensee provided evidence, in form and substance so described in Annex B, and accepted by the Administrator as

further described in this Article, that the Licensee can meet its financial responsibility obligations under the Act and other applicable regulations regarding financial responsibility.

- A. To meet the financial responsibility requirements of this Article, the Licensee shall maintain in effect at all times the financial guarantee agreement, from the ultimate parent, Enterprise Products Operating LLC (or its successors), in the form of a Construction and Operational Guarantee, attached hereto as Annex B. The Construction and Operational Guarantee is operative upon execution. The executed Construction and Operational Guarantee shall be provided to MARAD within thirty (30) days from the date of issuance of the License.
- B. Section 4(c)(1) of the DWPA, [33 U.S.C. § 1503(c)(1)], requires the determination that the “applicant,” or in this case, SPOT, “is financially responsible and will meet the requirements of Section 1016 [33 U.S.C. § 2716] of the Oil Pollution Act of 1990” (OPA 90). Financial Responsibility requirements are promulgated by regulation at 33 CFR § 138.230. Determination of financial responsibility is based upon the following three factors:
1. The Applicant must demonstrate the ability to meet the OPA 90 requirements either through financial ability, a parent company guarantee by Enterprise Products Operating LLC in the form attached hereto, insurance coverage or a USCG determination that the deepwater port is not a facility under OPA 90;
 2. The Applicant must be financially able to own, construct and operate the proposed Port; and
 3. The Applicant must meet all bonding requirements or provide other assurances that the Port and its components will be removed upon revocation or termination of the License.
- C. To ensure that the necessary financial resources are available, as required, for any decommissioning activities of the Deepwater Port, the Licensee provided a Decommissioning Guarantee from its parent company, Enterprise Products Operating LLC (hereinafter “Owner”), in an amount currently estimated at \$176.9 million. Such Decommissioning Guarantee, attached hereto as Annex C, the “Decommissioning Guarantee,” shall be adjusted annually by the percentage amount of the Consumer Price Index established by the Bureau of Labor Statistics to cover the estimated full decommissioning costs for the Deepwater Port. Further, such Decommissioning Guarantee stipulates that upon termination of the License, in the event that the Licensee is unable to fully fund the decommissioning costs for the Deepwater Port, Enterprise Products Operating LLC, as the Guarantor, will provide the required funding for all decommissioning expenses and any additional or unforeseen decommissioning costs incurred in accordance with Article 20 of this License. The Decommissioning guarantee is operative upon execution. The executed Decommissioning Guarantee shall be provided to MARAD within thirty (30) days from the date of issuance of the License.

ARTICLE 10. Requirements for Vessels Calling.

Except in the case of *force majeure*, the Licensee shall not accept for mooring, and not accept cargoes from, any vessel unless and until such vessel:

- A. conforms to applicable Federal regulations; and
- B. has a USCG issued determination of compliance with applicable financial responsibility requirements of OPA 90.

The Deepwater Port is considered a United States port and vessels are subject to all laws and regulations governing vessels calling on United States ports.

ARTICLE 11. Managed Access.

Pursuant to 33 U.S.C. § 1507(a), the Deepwater Port and a storage facility serviced directly by the Deepwater Port shall operate as a common carrier under applicable provision of part I of the Interstate Commerce Act and subtitle IV of title 49, and shall accept, transport or convey without discrimination all oil delivered to the Deepwater Port except as provided by 33 U.S.C. § 1507(b).

ARTICLE 12. Modification.

The Licensee shall submit alterations and modifications affecting the design and construction of the Deepwater Port in accordance with the procedures set out at 33 CFR § 149.15.

ARTICLE 13. Hazard Prevention.

Notwithstanding any other provisions of this License, the Licensee shall take any measures necessary to prevent hazards to human safety and health that may arise from any activity concerning the construction, operation, maintenance or termination of all or any part of the Deepwater Port. In addition to the other measures specified in this License, the Licensee shall have a further duty to act as a prudent operator in taking all reasonable measures necessary to prevent hazards to property and to the environment that may arise from any activity concerning the construction, operation, maintenance or termination of all or any part of the Deepwater Port.

ARTICLE 14. Fair Market Rental Valuation.

In accordance with 33 U.S.C. § 1504(h)(3)), as amended, the Licensee shall pay annually to MARAD, in advance, the fair market rental value (as determined by the Secretary of the United States Department of the Interior) of the subsoil and seabed of the Outer Continental Shelf of the United States to be utilized by the Deepwater Port, including the fair market rental value of the right-of-way necessary for the pipeline segment of the port located on such subsoil and seabed. The Licensee shall ensure that fair market rental value payments are promptly issued to MARAD upon receipt of invoice and billing notification.

ARTICLE 15. Indemnification.

The Licensee shall indemnify and hold harmless the Administrator, the Secretary, the United States of America, the State of Texas, and their agents and employees (such parties being hereinafter called "Indemnified Parties"), against and from any and all causes of action, penalties, claims, demands and judgments, which may be imposed on, asserted against or incurred by the Indemnified Parties, and any and all liabilities, damages, obligations, costs, disbursements and expenses (including reasonable attorney's fees and expenses) of any nature which arise out of, or are connected with, the issuance of this License for any failure or refusal by a Licensee to perform any obligation or comply with any term or condition of the License.

ARTICLE 16. Transferability; Ownership Interests.

Neither this License nor any right or privilege afforded hereby shall be assigned or transferred by the Licensee without the prior written consent of the Administrator. Additionally, the Licensee shall provide the Governor of Texas with written notice no less than three (3) months prior to the formal written request to the Administrator. During the transfer review process, the Maritime Administration will consult with the Governor of Texas prior to rendering a decision.

Upon final approval by the Administrator, the Owner may sell, assign or transfer its ownership interest in the Licensee, or any part thereof, to any person or business entity, and that person or business entity shall assume the Owner's obligations under this License, including without limitation, demonstrating financial responsibility to the Administrator in accordance with the Act, applicable regulations and this License.

ARTICLE 17. Equal Opportunity.

The Licensee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Licensee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

ARTICLE 18. Conformance of Corporate Documents.

The Licensee shall not enter into or file with any government body any corporate document or agreement with others inconsistent with the terms hereof.

ARTICLE 19. Cause for Suspension or Revocation.

If, during the term of this License, one or more of the following events shall occur:

- A. The Licensee shall fail to observe or perform any obligation or condition contained in this License, or any guarantor shall fail to observe or perform any obligation contained in any

assurance or guarantee given in connection with this License, and such failure shall continue after written notice (to the Licensee and such guarantor) from the Administrator specifying the failure and demanding that the same be remedied within the period specified in such notice, which shall be not less than thirty (30) days unless a lesser period is necessary to protect public health or safety or to eliminate imminent and substantial danger to the environment; or

- B. Any statement of the Licensee contained in the Application, or in any document submitted to the Administrator or the Commandant in connection with the Application or a request for approval thereunder, hereunder, or under applicable Regulations, shall contain a material misrepresentation or an omission of a material fact; or
- C. Any unauthorized assignment or transfer of this License or any rights granted hereby; or
- D. Any unauthorized assignment or transfer of an assurance or guarantee given pursuant to this License; or
- E. Following proper accounting and notice from the Administrator, the Licensee shall have failed to pay within sixty (60) days of such accounting and notice fees or other amounts due hereunder or under the Act or applicable Regulations; or
- F. Provided that the Administrator has reason to believe that a petition in bankruptcy or insolvency against the Licensee will have a material and adverse effect on the ability of the Licensee to meet its obligations under the License, there shall be filed by or against the Licensee a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of the Licensee's property, or if the Licensee makes an assignment for the benefit of creditors or takes advantage of any insolvency act, and, in the case of an involuntary proceeding, within sixty (60) days after the initiation of the proceeding the Licensee fails to secure a discontinuance of the proceeding, unless the Licensee shall have procured a guarantee satisfactory to the Administrator of the obligations of the Licensee; or
- G. Provided that the Administrator has reason to believe that a petition in bankruptcy or insolvency against any owner or guarantor of such owner will have a material and adverse effect on the ability of such owner or guarantor to meet its obligations under this License, there shall be filed by or against any owner, or any guarantor of such owner, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of the property of such owner or guarantor, or if any owner or guarantor of such owner makes an assignment for the benefit of creditors or takes advantage of any insolvency act, and, in the case of an involuntary proceeding, within sixty (60) days after the initiation of the proceeding such owner or guarantor of such owner fails to secure a discontinuance of the proceeding, unless the Licensee shall have procured a guarantee satisfactory to the Administrator of the obligations of such owner or guarantor; or
- H. Following the commencement of commercial operations at the Deepwater Port, unless compelled to discontinue operation by a court of competent jurisdiction, the Licensee shall have discontinued operating the Deepwater Port for a period of one hundred eighty (180) days, unless such failure is due to authorized construction activities or *force majeure*, or unless the Administrator shall have authorized such discontinuance; or
- I. The Licensee shall fail to comply with any order of a court of competent jurisdiction, or fail to satisfy a judgment, issued or arising out of a breach of any provision of this License, or any violation of the Act or the Regulations; or

- J. The Licensee shall fail to comply with any order issued by the Administrator, within the period set forth therein for compliance, and such compliance order shall not have been appealed pursuant to the provision of the Regulations in respect thereof, or a final determination in respect of such an appeal shall have been made; then, in any such case, the Administrator, at his/her option, may suspend or revoke this License or any right or privilege afforded the Licensee hereunder in accordance with the Act and with Regulations for suspension or revocation of licenses issued under the Act.

Without limiting the foregoing, the Administrator may proceed (or request the Attorney General to proceed) by appropriate court action or actions either at law or in equity, to enforce performance by the Licensee of the applicable provisions of this License or to recover damages for the breach thereof.

The remedies in this License provided in favor of the Administrator shall not be deemed exclusive but shall be cumulative and shall be in addition to all other remedies in its favor existing in the Act, the Regulations, and otherwise at law and in equity.

The failure of the Administrator to exercise his/her rights upon the occurrence of any of the contingencies set forth herein, shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies, nor shall performance by the Administrator of the obligations of the Licensee constitute a waiver of any other right.

ARTICLE 20. Removal.

Upon termination or revocation of this License, unless an application for transfer is pending and/or has been approved, the Licensee shall decommission the Deepwater Port in accordance with plans approved by the Administrator. Such decommissioning plans shall be submitted by the Licensee to the Administrator within ninety (90) days after the termination or revocation of this License. All decommissioning activities must be conducted in accordance with all applicable and appropriate regulations and guidelines in place at the time of decommissioning.

Any removal must be completed within two (2) years after the Licensee receives the Administrator's approval of the final decommissioning plans, unless that time period is otherwise extended by the Administrator. If public health and safety compel a shorter removal schedule, the Administrator will make appropriate adjustments. If an application for transfer of the License is pending, the obligation of the Licensee to take any decommissioning actions shall be suspended until the Administrator acts upon the transfer application.

If the Licensee fails to remove any component of the Deepwater Port as required by the Administrator, the Administrator may arrange for its removal, and the Licensee shall be deemed liable for the removal costs incurred.

ARTICLE 21. Effectiveness; Conditions.

This License shall not be effective unless and until the Licensee has executed and delivered the "Agreement to Comply" at the foot of this License, and the Administrator has received (and acknowledged such receipt), in form and substance satisfactory to her, within 30 days of the issuance of this License:

- A. An opinion of counsel of the Licensee to the effect that (i) the Licensee has been duly formed, is validly existing and in good standing in the State of its formation, (ii) said "Agreement to Comply" has been duly authorized, executed and delivered by the Licensee and is a legal, valid and binding instrument and this License is enforceable against the Licensee, and any related guarantee is enforceable against the guarantor, if any, in accordance with its terms, and (iii) all relevant corporate documents and agreements among the Licensee and Owner and other applicable entities and/or governmental agencies are fully consistent with the provisions of this License; and
- B. A certificate of good standing from the State of formation for the Licensee.
- C. As stipulated in Article 9 of the License, the Licensee shall provide the executed Construction and Operational Guarantee and the executed Decommissioning Guarantee to the Maritime Administrator within thirty (30) days from the date of issuance of the License.

ARTICLE 22. Enforcement; Delegation.

The rights, powers, and authority of the Administrator hereunder may be enforced by the Attorney General or such other official of the United States of America having authority to enforce the provisions of the Act or having jurisdiction of the matters covered hereby or thereby.

The rights, powers, and authority of the Administrator hereunder and under the Act and the Regulations may be exercised and enforced by the Commandant and such agents or employees of MARAD, the Department of Homeland Security, and USCG to whom such rights, powers and authority may from time to time be delegated, whether generally by means of customary procedures or specifically by delegation or appointment.

ARTICLE 23. Reports.

In addition to any reports required by applicable Regulations, the Licensee shall furnish to the Administrator and/or Commandant, as appropriate, within a reasonable period of time, such other information as the Commandant or the Administrator may request from time to time. The Licensee shall notify the Administrator of any proceeding, order or other judicial or administrative action concerning the activities covered hereby which could be reasonably expected to have a material and adverse effect on the ability of the Licensee to perform its obligations under this License and shall advise the Administrator from time to time of the status and results of any such action.

ARTICLE 24. Definitions.

Except as otherwise defined herein, the terms used in this License shall have the meanings specified in the Act.

ARTICLE 25. Limitations.

Except as expressly set forth in this License, no other license, authorization, permit or approval required by law is granted hereby. This License does not authorize anything in the Application that is or may be found to be in conflict with the Act, applicable Regulations or guidelines issued under the Act.

The approval of the Administrator or the Commandant of any design, construction method or operating procedure, or any other approval granted by this License, shall not relieve the Licensee of liability that it may incur in the ownership, construction or operation of the Deepwater Port.

ARTICLE 26. Responsibilities of Employees.

The Licensee shall cause its agents, employees, contractors and subcontractors to comply with all applicable provisions of this License.

ARTICLE 27. Notice.

Any notice required or permitted to be given by this License, the Act or the Regulations shall be deemed to have been given when delivered or deposited in the United States mail, first class postage prepaid, addressed as follows:

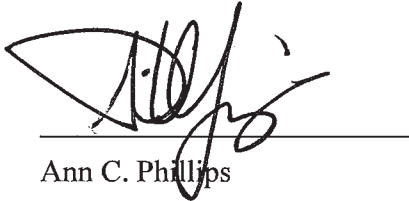
- A. If to the Maritime Administrator, at the U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Ave. SE, W22-305, Washington, D.C. 20590, unless required otherwise by regulation or another provision of this License;
- B. If to the Assistant Commandant for Prevention Policy (CG-5P), U.S. Coast Guard, Stop 7501, 2703 Martin Luther King Jr Ave., SE, Washington, DC 20593-7501, unless required otherwise by regulation or another provision of this License; and
- C. If to the Licensee, at SPOT Terminal Services LLC, 1100 Louisiana Street, 10th Floor, Houston, TX 77002, or at such other address as the Licensee shall notify the Administrator from time to time.

The Licensee shall notify the Administrator of any change in its address or other contact information within thirty (30) days of the change.

ARTICLE 28. Severability.

Each provision of this License is, and shall be deemed to be, separate and independent of any other provision. If any provision of this License is held invalid or unenforceable or the operation thereof shall be suspended by order of a court of competent jurisdiction, the remainder of this License shall not be affected and shall be valid and enforced to the fullest extent permitted by law. Any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Dated: 4/8/2024

A handwritten signature in black ink, appearing to read 'Ann C. Phillips', is written over a horizontal line.

Ann C. Phillips
Maritime Administrator
Washington, D.C.

ANNEX A

SPOT TERMINAL SERVICES LLC DEEPWATER PORT CONDITIONS

This Annex contains certain conditions of the License issued to the Licensee under the Deepwater Port Act of 1974 (Act)¹ to own, construct, operate, and eventually decommission the Sea Port Oil Terminal Services LLC (SPOT) Deepwater Port (Port) approximately 27.2 to 30.8 nautical miles off the coast of Brazoria County, Texas. These conditions were developed during the review of the Deepwater Port License Application (Application)² and development of the Final Environmental Impact Statement (FEIS)³ for the Port, performed by the U.S. Coast Guard (USCG) in conjunction with cooperating Federal and State agencies, to support the Maritime Administration's (MARAD) Record of Decision (ROD). The authority for these conditions may be found in Section 4 of the Act.

- A. The Licensee shall obtain and maintain in force all authorizations, approvals, and permits required for the construction, operation, and eventual decommissioning of the Port under Federal, State, and local laws. The Licensee shall comply with the terms and conditions of such authorizations, approvals, and permits, which shall include without limitation the following:
1. Clean Air Act, as amended (CAA) Title I Preconstruction Permit and Title V Operating Permit. The Licensee shall comply, at a minimum, with the following conditions relating to the CAA:
 - a. The Licensee shall obtain a Title V Operating Permit and a Prevention of Significant Deterioration (PSD) Air Permit from the U.S. Environmental Protection Agency (USEPA) and comply with the terms and conditions of such permits.
 - b. The Licensee shall obtain, from the Texas Commission on Environmental Quality (TCEQ), Air Quality Division, in coordination with USEPA, the following air permits: 1) a New Source Review (NSR) permit for the Oyster Creek Terminal as an Oil and Gas Handling and Production Facility, and 2) the appropriate NSR preconstruction authorization(s) for construction or modifications necessary at the ECHO terminal and other onshore sites that are part of the DWP project. The Licensee shall comply with the terms and conditions of such authorizations.⁴
 - c. The Licensee shall coordinate with and allow participation of the USEPA or the TCEQ when planning and conducting any air quality related performance

¹ The Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.* (the Act), and implemented under 33 Code of Federal Regulations (CFR) Parts 148, 149, and 150.

² The SPOT Deepwater Port Application can be viewed at <https://www.regulations.gov/> under the document number MARAD-2019-0011-0001.

³ The SPOT Final Environmental Impact Statement (FEIS) can be viewed at <https://www.regulations.gov/> under the document number MARAD-2019-0011-5032.

⁴ On August 3, 2023, the EPA provided MARAD with a revised set of conditions from the ones provided in the Record of Decision. For more information on the changes provided by the EPA, please contact MARAD via e-mail at Deepwater.Ports@dot.gov.

testing required under this License, the CAA or relevant Texas air quality rules and statutes.

- d. The Licensee shall provide upon request of USEPA or the TCEQ program with jurisdiction any ambient meteorological, ambient air quality monitoring, or source testing data or reports, including relevant supporting information required by this License. Such information will be provided in a format acceptable to the agency requesting such information.

2. CAA General Conformity Determination. The Licensee shall reevaluate the emissions from the project if the proposed action is modified in any way that would increase construction emissions and/or operations emissions from what was determined in the Final General Conformity Determination, issued on July 29, 2022, which required that the Port conform to the Texas State Implementation Plan (SIP). The Licensee shall provide ongoing construction and operation progress reports, which will allow MARAD to track the progress of the activities subject to the General Conformity Determination, as outlined in 40 CFR § 93.157. The Final General Conformity Determination is included by reference in the SPOT Record of Decision (ROD)⁵ and outlined in the FEIS Appendix V⁶.
3. Volatile Organic Compounds (VOCs) Control. To address VOCs impacts to human health from the Project's air emissions the Licensee must install three vapor combustion units at the proposed Oyster Creek Terminal and a vapor combustion system at the Port. It is anticipated that these systems will eliminate the VOCs emitted from the project by 99 percent and 95 percent, respectively. In addition to the installation of onshore and offshore vapor combustion units/systems, the Licensee shall conduct the following measures to mitigate the potential impacts from VOC emissions:
 - a. Prior to construction, conduct a baseline monitoring test of the project site.
 - b. Post-construction, conduct a baseline monitoring test of the vapor combustion units/system.
 - c. Conduct performance testing of the vapor combustion units/system on a quarterly basis to ensure the efficacy of the units/system. The results of the performance testing must be submitted to MARAD, Office of Environmental Compliance (MAR-400) within 30 days of receipt of testing results.
 - d. Conduct visual inspections of the vapor combustion units/system on a weekly basis to ensure the units/system are in proper working order.
 - e. Implement and maintain an Ambient Air Monitoring Plan for VOCs for the Oyster Creek Terminal, in coordination with USEPA and TCEQ. The VOC Monitoring Plan (Approved by MARAD on July 17, 2023) describes the VOC ambient air monitoring activities that will be conducted at the Oyster

⁵ The signed Record of Decision (ROD) on the Deepwater Port License Application of SPOT Terminal Service LLC can be viewed at <https://www.regulations.gov>, under docket number MARAD-2019-0011-7890.

⁶ See Appendix V of the SPOT FEIS for the Final General Conformity Determination for the evaluation of construction and operation emissions from the proposed action. Appendix V can be viewed at the Federal Docket Management System at <https://www.regulations.gov>, MARAD-2019-0011-5032.

Creek facility. The ambient air monitoring activities characterize the ambient air VOC concentration at the Oyster Creek Terminal and nearby local areas. Monitoring results shall be provided to MARAD and included in the continued public outreach described in Section V.5.5 Condition xiii of the ROD.

- f. Maintain records of the performance tests conducted. If the VOC Control systems/units do not eliminate the VOCs consistent with the emission elimination projections in the FEIS, then the Licensee shall report any deficiencies to MARAD within 30 days of receipt of testing results. The Licensee shall implement remedial measures approved by MARAD to reduce emissions to levels analyzed in the FEIS. Failure to comply with these requirements may result in suspension or termination of the License pursuant to 33 U.S.C. § 1511.
- g. VOC monitoring performed during construction and operation of the facility shall specifically describe the methods, processes, and mechanisms the Licensee will implement to meet the VOC monitoring requirements.

- 4. Continued Public Outreach. The Licensee must continue to conduct public outreach to the impacted communities in the project vicinity and provide specific information/fact sheets as to how the pipelines and terminals will impact those communities. Additionally, the Licensee must maintain a historical Project website at <https://spotprojectupdate.com/> so that the public remains informed of future updates. The website shall include translated information for impacted LEP persons within the Project area. The Licensee must maintain the MARAD approved EJ and LEP Outreach and Engagement Plan (Engagement Plan). The Engagement Plan identifies methods of public outreach, including but not limited to developing a website and toll-free hotline where the public can report and ask questions during the construction and operation phases of the Project; identifying potentially impacted EJ communities and LEP persons; providing public notices and conducting monthly public in-person meetings; and other public outreach actions designed to meaningfully engage with EJ communities and LEP persons, including translation and interpretation accommodations. The Licensee must submit monthly reports to MARAD, Office of Environmental Compliance (MAR-400) during construction and operation identifying any EJ or LEP related issues encountered during the reporting period. The Licensee's public outreach and information plan must be performed consistent with the Engagement Plan (Approved by MARAD on July 24, 2023).
- 5. Federal Water Pollution Control Act, as amended (Clean Water Act (CWA)).⁷ The Licensee shall comply, at a minimum, with the following conditions relating to the CWA:
 - a. The Licensee shall obtain a USEPA National Pollutant Discharge Elimination System (NPDES) permit for regulated discharges of wastewater

⁷ The history of the Clean Water Act (CWA) can be viewed at <https://www.epa.gov/laws-regulations/history-clean-water-act>.

for the Port and stormwater associated with industrial activities for the Port's onshore facilities.

- b. The Licensee shall obtain a Texas Commission on Environmental Quality (TCEQ) Construction General Permit (CGP) for stormwater discharges from construction activities for onshore facilities.
- c. The Licensee shall obtain a Texas Railroad Commission (TRRC) Section 401 Water Quality Certification, in conjunction with the U.S. Army Corps of Engineers (USACE) Section 404 permit and provide the Certification to USEPA.
- d. The Licensee shall, to the extent required, obtain permits under Section 10 of the Rivers and Harbors Act (RHA) and a Section 404 Permit and Section 408 authorization administered by USACE.
- e. The Licensee shall comply with all terms, conditions, and requirements of the Wetland Restoration Plan (Approved by MARAD on July 12, 2023).

6. Endangered Species Act of 1973 (ESA). The Licensee has a continuing obligation to employ the best available technology and use the agreed upon Best Management Practices (BMPs) and conservation measures, as listed and described in the SPOT FEIS, Appendices M and N⁸ and the ROD issued by MARAD on November 21, 2022. The Licensee must comply with all mitigation measures and requirements contained in the Endangered Species Act – Section 7 Consultation Final Biological Opinion.⁹ Some of these measures are listed below and are listed in further detail in Appendix I of the ROD. Pursuant to 50 CFR 402.16, ESA consultation must be reinitiated if:

- a. The amount or extent of the take specified in the incidental take statement is exceeded;
- b. New information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- c. The identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the Final Biological Opinion or written letter of concurrence; or
- d. A new species is listed, or critical habitat designated that may be affected by the identified action.

If the Licensee wishes to make changes to the proposed construction, operation, or decommissioning of the Port after issuance of the License, the Licensee must first notify MARAD, Office of Deepwater Port Licensing & Port Conveyance (MAR-530) and the USCG, Office of Operating and Environmental Standards (CG-OES) of any proposed

⁸ See Appendices M and N of the Final EIS for listing of the Best Management Practices (BMPs) that SPOT has agreed to incorporate into the construction, operation and decommissioning of the Port as a result of Federal, State and local agency comments received during the environmental review process. Appendices M and N are available for viewing at the Federal Docket Management System, <http://www.regulations.gov>, MARAD-2019-0011-5032.

⁹ The National Marine Fisheries Service (NMFS) Final Biological Opinion is available for viewing at <https://www.regulations.gov/document/MARAD-2019-0011-7887>, as well as Appendix I of the Record of Decision.

Port changes and their potential effects. MARAD and the USCG will evaluate the proposed changes to determine if they warrant re-initiation of the ESA Section 7 consultations with the NMFS and USFWS. The Licensee shall at a minimum comply with all listed conditions relating to the ESA, and as identified in the FEIS and the ROD.

7. Incidental Take or Harassment Authorization. In the event the Licensee obtains an Incidental Harassment Authorization (IHA) or Letter of Authorization (LOA) the Licensee shall be subjected to the terms and conditions set forth in the authorization. The authorization may be modified, withdrawn, or suspended, pursuant to National Oceanic and Atmospheric Administration (NOAA) regulations at 50 CFR Part 216.
 - a. The Licensee shall consult with NMFS to determine if any changes in Port construction, operation, and/or decommissioning activities require Incidental Take or Harassment Authorizations under the Marine Mammal Protection Act (MMPA). If required, the Licensee shall obtain such authorization and submit the authorization to MARAD and the USCG prior to commencement of construction or decommissioning activities.
 - b. The Licensee shall implement NMFS' Protected Species Construction Conditions (NMFS 2021)¹⁰ to reduce the risk of adverse effects on ESA species by requiring all construction workers to watch for ESA-listed species during all construction activities.¹¹
 - c. The Licensee shall immediately cease operation of any in-water moving equipment if a protected species is seen within a 150-ft radius of the equipment. Activities will not resume until the protected species has departed the Project area of its own volition.
 - d. The Licensee shall ensure that all construction vessels comply with NOAA's NMFS Southeast Region's Protected Species Construction Conditions (NMFS 2021) to reduce the risk of a vessel strike during Port construction.
 - e. The Licensee shall ensure adherence to procedures described in NOAA Fisheries Guidelines for Vessel Strike Avoidance Measures for all vessels that the Licensee operates.¹² These guidelines shall be provided to the operators of VLCCs that are not owned or operated by the Licensee.
 - f. The Licensee shall implement mitigation measures and Best Management Practices (BMPs) related to pile driving noise generation that include:
 - i. Clearing of the surrounding waters by a Protected Species Observer (PSO);
 - ii. Implementing a "soft start" procedure to pile driving and a "shut down" of pile driving activity, if ESA-listed species are observed

¹⁰ The National Marine Fisheries Service 2021 Protected Species Construction Conditions can be viewed at <https://media.fisheries.noaa.gov>.

¹¹ SPOT will implement the procedures described in NOAA Fisheries Guidelines for Vessel Strike Avoidance Measures, revised 2021. NOAA Guidelines can be viewed at [https://media.fisheries.noaa.gov/2021-06/Vessel Strike Avoidance Measures.pdf](https://media.fisheries.noaa.gov/2021-06/Vessel%20Strike%20Avoidance%20Measures.pdf).

¹² SPOT will implement the procedures described in NOAA Fisheries Guidelines for Vessel Strike Avoidance Measures, revised 2021. NOAA Guidelines can be viewed at [https://media.fisheries.noaa.gov/2021-06/Vessel Strike Avoidance Measures.pdf](https://media.fisheries.noaa.gov/2021-06/Vessel%20Strike%20Avoidance%20Measures.pdf).

- approaching or within the area of acoustic effects that can cause injury;
- iii. Applying a bubble curtain system to all pile driving activity; and
 - iv. Ensuring a PSO monitors the Zone of Influence (ZOI) for the entirety of the in-water activity and afterward. All marine mammal and ESA-listed species sightings must be fully documented.
- g. The Licensee shall monitor and document any inadvertent spills or releases of oil resulting from, or in any way related to, the operation of the Port. The Licensee shall provide annual reports to NMFS Southeast Regional Office (SERO), including details of any such spills or releases and any remediation or mitigation measures that were taken in response to those spills or releases. NMFS will track these annual reports and calculate total spill amounts, on a 5-year basis, to determine if the project is exceeding the level of oil spill impacts anticipated and analyzed in the Final Biological Opinion. Reports shall reference the NMFS Environmental Consultation Organizer (ECO) tracking number for this consultation (SERO-2020-00075) and shall be submitted to the following email address: nmfs.ser.esa.consultations@noaa.gov.
- h. The Licensee must develop a comprehensive hydroacoustic monitoring plan based on procedures described in CalTrans' Technical Guidance for the Assessment of Hydroacoustic Effects of Pile Driving on Fish – Appendix II Procedures for Measuring Pile Driving Sound (October 2020), as recommended by NMFS in the Endangered Species Act - Section 7 Consultation Final Biological Opinion (Appendix I & II). The Licensee must submit its hydroacoustic monitoring plan to NMFS SERO for approval prior to commencement of pile driving activities. The Licensee must submit a detailed report of the final monitoring results to NMFS SERO upon completion of the pile driving activities. Reports shall reference the NMFS ECO tracking number for this consultation (SERO-2020-00075) and shall be submitted to the following email address: nmfs.ser.esa.consultations@noaa.gov.
8. Prevention, Monitoring, and Mitigation Plan (PMMP). The Licensee shall develop and maintain a PMMP. The MARAD approved PMMP, developed with concurrence from appropriate Federal, State, and local agencies shall be incorporated as an annex to the Deepwater Port Operations Manual.

Additionally, the Licensee will collectively work with Federal, State, and local agencies, as appropriate, to develop the PMMP. The PMMP will be regulatory and performance-based and will include periodic evaluation of effectiveness to identify environmental protection improvements in the Port's area of operation. The PMMP must:

- a. Establish a single consolidated prevention, monitoring, and mitigation plan of the environmental impacts, which may result from the construction and operation of the Port. The Plan must be satisfactory to all relevant Federal and State agencies.

- b. Address regulatory requirements and requirements of permits, approvals, and authorizations; project-specific requirements; Best Management Practices; and any other commitments made by the Licensee included in the Application, Final EIS, and ROD including the Best Management Practices, which are outlined in Appendices M and N of the FEIS and attached to the License as Attachments A and B, respectively.
- c. Provide Port personnel with the necessary information, training, procedures, and equipment to implement the PMMP's requirements and integrate them into all Port operations.

9. Pipeline and Hazardous Materials Safety Administration (PHMSA) Office of Pipeline Safety Requirements. The Licensee shall ensure the pipeline(s) are designed, constructed, installed, tested, inspected, operated, and maintained according to applicable Federal Pipeline Safety Regulations as defined in 49 U.S.C. §§ 601 and 603 and 49 C.F.R. Parts 190-199 in coordination with the PHMSA Office of Pipeline Safety. These regulations concern the safe construction, operation, or maintenance of pipelines on Federal lands and the OCS. The Licensee will develop a contingency plan, in coordination with PHMSA and USEPA, for the local impacted communities. The plan shall outline procedures to be followed in case of accidents such as explosion, pipeline failure/fires, and/or other health and safety matters. The contingency plan must be submitted and approved by PHMSA before the commencement of construction of the Project.

10. Outer Continental Shelf (OCS) Activities. The Licensee must comply, at a minimum, with the following conditions relating to the activities on the OCS:

- a. The Licensee shall secure the necessary rights to utilize the OCS, including pipeline rights-of-way, in consultation with the Bureau of Ocean Energy Management (BOEM).
- b. The Licensee shall work with BOEM to obtain the initial Fair Market Rental Value assessment for the submerged lands required for the Port's construction, operation, and decommissioning. Following BOEM's initial assessment, the Licensee will pay to MARAD the annual payments for the Fair Market Rental Value and pipeline right-of-way assessments, which will be calculated and collected by MARAD on an annual basis until the Port is decommissioned.
- c. The Licensee shall follow all applicable BOEM and Bureau of Safety and Environmental Enforcement (BSEE) Notices to Lessees and Operators concerning impacts on OCS areas.
- d. Prior to decommissioning, the Licensee will be required to provide demonstration of site clearance under BOEM regulations (30 C.F.R. Part 250, Subpart Q; Sections 1740—1743 for platforms and other facilities and Sections 1750—1754 for pipelines). BOEM regulations provide the following methods to verify adequate site clearance: trawling with a shrimp-style net, using high-frequency sonar (at least 500 kHz), using divers, and using Remotely Operated Vehicles.

11. Deepwater Port Operations Manual. Prior to the commencement of construction activities, the Licensee shall prepare, submit to the USCG for approval, and maintain throughout the operational life of the Port, a Deepwater Port Operations Manual that conforms to the requirements set forth in 33 C.F.R. Part 150. The Operations Manual must describe the measures that will be followed by the Licensee to promote and protect health, safety, security, and the environment during the operation of the Deepwater Port. Specifically, the Operations Manual must:

- a. Include the safety and security procedures and strategies set forth in the Final SPOT Risk Assessment Phase II Final Report and be approved by the Commandant and Federal Maritime Security Coordinator. The Risk Assessment Phase II Final Report contains Sensitive Security Information ("SSI") and is not releasable to the public.
- b. Address such areas as engineering, design, and construction information; communications systems and plans; personnel qualifications, training, and instruction; navigation procedures and aids to navigation; operating and maintenance procedures, notifications, equipment, and training; occupational safety and health; emergency response and security procedures; and waste management.
- c. Address ships' routing measures, to be determined by the USCG, including Safety Zones, No-Anchoring Areas (NAAS), and an Area To Be Avoided (ATBA).
- d. Address simultaneous operations protocols (communications, identification, safety and security, etc.) to ensure coordination between the Deepwater Port operations and other vessels to manage risks through coordination, controlled access, and operational restrictions.
- e. Include a safety and environmental management system to address implementation, understanding and commitments by SPOT Terminal Services LLC contract and company employees and management officials to properly manage risks and to ensure compliance with regulations, industry practices and company procedures. The safety and environmental management system should include specific strategies to mitigate human error through proper human system integration.
- f. Include an approved Prevention Monitoring and Mitigation Plan (PMMP). The MARAD approved PMMP, with concurrence from appropriate resource agencies, shall be incorporated as an Annex to the Deepwater Port Operations Manual. Compliance with an approved PMMP is required under Condition 8 (above) of this License.
- g. Include a Waste Management Plan that incorporates: 1) the provisions of the 1978 Protocol of the 1973 International Convention for the Prevention of Pollution from Ships ("MARPOL"), 30 C.F.R. § 250.300, and 33 C.F.R. Part 151 on the discharge of wastes, and 2) Minerals Management Service ("MMS") Notice to Lessees and Operators ("NTL") 2007-G03, Marine Trash and Debris Awareness and Elimination. The plan will specifically include, without limitation, the following measures:

- i. The discharge of plastics, including ashes from burned plastics, is strictly prohibited.
- ii. Other refuse and oil and engine waste generated from the Deepwater Port operations will be stored, transported, and disposed of in accordance with applicable Federal, State, and local regulations, including NPDES permit conditions.
- iii. Oil and engine wastes (e.g., lube oil, hydraulic fluid, and engine coolant) will be collected and transported to shore for reclaiming or disposal. Discharges of processed deck drainage water will comply with permit limitations (e.g., 40 milligrams per liter ("mg/L") oil content) and will produce no visible sheen.
- iv. Include a Facility Response Plan. The plan will include a spill prevention and response plan that meets or exceeds the requirements of all applicable and appropriate regulations and guidelines.
- v. Incorporate, substantively or by reference, all conditions of this Annex A to ensure compliance with all such conditions in the day-to-day operations of the Deepwater Port.
- vi. Conform with all applicable Federal and State laws as well as environmental permits needed for the construction, operation, and decommissioning of the Deepwater Port.

The Licensee shall submit the Operations Manual with all required documentation and site-specific information to the USCG for review and approval at least 180 days prior to commencing operations. Operations at the Deepwater Port may not commence prior to final approval of the Operations Manual by the USCG and satisfaction of all other preoperational activities required of the Licensee. The Licensee shall update the Operations Manual at least every five years and at any time major changes are made to the Deepwater Port or its operation or if required by MARAD and/or the USCG.

12. Additional USCG Requirements. The Licensee must meet the requirements of 33 C.F.R. Part 149 governing design, planning, reviewing, fabrication, installation, inspection, maintenance, and equipment requirements. These include, but are not limited to, those requirements contained within 33 C.F.R. Part 149.625, which requires that component design must meet a recognized industry standard and be appropriate for the protection of human life from death or serious injury, both on the deepwater port and on vessels calling on or servicing the deepwater port, and for the protection of the environment. The Licensee must also comply with 33 C.F.R. Part 150 governing operations, navigation measures, and oversight of the Port. The U.S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) No. 03-05 Guidance for Oversight of Post-Licensing Activities Associated with Development of Deepwater Ports provides useful reference information regarding these requirements.
13. No Dumping. The Licensee is prohibited from receiving at or shipping from the Deepwater Port any material for purposes of dumping it into the ocean.

14. Self-Enforced Precautionary Requirement. The Licensee must designate a self-enforced precautionary area around each service vessel mooring point to allow the vessels to turn or move as necessary. This requirement is in accordance with the World Association for Waterborne Transport Infrastructure guidelines. Each mooring point will have a secondary precautionary area of a prescribed distance to minimize risk of collision and meet the U.S. Department of Defense (UFC 4-150-06) Unified Facilities Criteria.
15. Requirements for Discharge of Operational Wastes. The Licensee must ensure that all deepwater port-related activities shall comply with Federal regulations to control the discharge of operational wastes, such as bilge and ballast waters, trash, debris, and sanitary and domestic waste generated from the vessels and platform associated with the Port.
16. Inspections and Monitoring. The Licensee shall allow authorized representatives from MARAD and the USCG access to inspect the Port at any time to ensure that the Port is being operated in conformity with the License and other applicable regulatory requirements. To the extent required, the Licensee shall allow authorized representatives of USEPA and other authorized Federal and State agencies to verify and enforce License requirements.
17. Safety, Security, and Risk Mitigation. The Licensee has committed to, and shall work with, local and headquarters USCG units and applicable local stakeholders to ensure the implementation of the required safety and security risk mitigation measures identified during the Risk Assessment. The measures are intended to reduce the risk of, and consequences associated with, a crude oil release caused by either accidental or intentional events. The risk mitigation measures aim to minimize spill impacts on high consequence areas and vessel traffic in commercially navigable waterways and nearest shipping fairways, such as the Freeport Harbor Safety Fairway. Safety, security, and risk mitigation will be incorporated into the applicable USCG requirements of the Facility Security Plan, Facility Response Plan, Port Operations Manual, and addressed in ships' routing measures, including Safety Zones, NAAs, and an ATBA. The Licensee shall address simultaneous operations protocols relating to communications, identification, safety, and security to ensure coordination between the Port and other vessels in the Facility Security Plan, Facility Response Plan, and Port Operations Manual. These protocols are intended to manage risks through controlled access and operational restrictions.
18. Avoidance of Geologic Hazards and Hazardous Materials. Before the commencement of any marine construction authorized under the License, the Licensee shall update the geophysical and geotechnical survey originally conducted as part of the deepwater port licensing application review process for both the onshore and offshore Port facilities. The surveys aim to avoid any significant debris that may adversely affect construction activities and identify cultural areas of significance and/or significant geologic hazards. Geologic hazards may include but are not limited to seismicity, slope stability, flooding and storm surge, competency

of bedrock, and subsidence or settlement. The Licensee shall make the results of such surveys known to appropriate personnel at BOEM, USACE, USEPA, and USCG.

19. Protection of Cultural/Archeological Resources. The Licensee shall develop and implement an Unanticipated Discoveries Plan (UDP) prior to construction. The UDP will address procedures if previously unidentified cultural or underwater archaeological resources, and/or human remains are discovered during the construction of the Port's onshore, inshore, and offshore components. If buried cultural or archaeological resources and/or human remains are encountered during construction, all work must cease in the immediate area. If the human remains are determined to be Native American or of unknown cultural affiliation, the remains will be left in place and protected from any form of disturbance until a plan for their protection or removal can be developed. The offshore portion of the UDP shall be reviewed and approved by the Texas Historical Commission (THC), BOEM, MARAD, and USCG. The onshore portion of UDP shall be reviewed by THC, Tribal Historic Preservation Officers (THPOs), MARAD, and USCG. In the event of a cultural or archaeological resource and/or human remains discovery, the Licensee shall follow the UDP and comply with applicable BOEM and NHPA regulations.

20. Viewshed Mitigation Plan. The SPOT FEIS identified potential disproportionate impact to surrounding communities, including EJ communities, within 1 mile of the Oyster Creek Terminal in regard to the viewshed of the Project. The Licensee must prepare a MARAD approved Viewshed Mitigation Plan to avoid or minimize potential visual impacts associated with the Oyster Creek Terminal. The Licensee shall coordinate with Texas Parks and Wildlife Department (TPWD) to include the use of native species in the Viewshed Mitigation Plan and must comply with all terms, conditions, and requirements set forth by MARAD and TPWD. The Viewshed Mitigation Plan must be submitted to and approved by MARAD, Office of Environmental Compliance (MAR-400) prior to commencement of construction and operations.

21. Coastal Zone Consistency Determination.¹³ The Licensee shall implement and comply with the Texas General Land Office (GLO) coastal zone consistency determination and its conditions during the construction and operation of the Port.¹⁴
22. Port and Pipeline Construction. The Licensee shall minimize underwater noise transmission by the use of a bubble curtain system and use of pile-driving soft start ramp-up procedures. Prior to the initiation of construction activities, including pile driving operations, the surrounding waters will be cleared by a certified Protected Species Observer. Best available offshore construction practices using the most efficient and effective construction equipment and methods available must be used to minimize the duration of construction activities. The Licensee will notify MARAD headquarters and the local USCG unit in writing at least thirty (30) days prior to commencement of any marine construction authorized by this License.
23. Decommissioning. The Licensee shall conduct all decommissioning activities in accordance with approved plans required by the Maritime Administrator. Decommissioning plans shall comply with applicable and appropriate regulations and guidelines at the time of decommissioning. A financial guarantee agreement or other suitable evidence of financing was provided to ensure the Licensee has sufficient financial resources to decommission all components of the Port in a manner acceptable to the Maritime Administrator (33 CFR §148.105(g)(2) (iii)). Annual financial statements must be submitted to MARAD to demonstrate continued financial capability to fund the full costs of decommissioning the Port, including removal of Port structures and associated facilities.
- Review and approval of removal activities by MARAD, USCG, PHMSA, BSEE, BOEM, Texas GLO, USEPA and other agencies as appropriate, must occur prior to the start of decommissioning. Approval of the decommissioning plan may require preparing a supplemental NEPA document. All required Federal, State, and local permits, approvals, and authorizations must be applied for and received prior to commencement of any decommissioning activity.
24. Changes to the Deepwater Port. In the event that the Licensee proposes to make any substantive changes to the construction and/or operation of the Port from that which is specifically authorized in the Record of Decision and/or in the License, the Licensee shall submit to MARAD and USCG, an Environmental Impact Assessment (Assessment) that details the proposed changes and evaluates the probable environmental consequences, adverse or beneficial. The Assessment shall be appropriate to the nature of the proposed changes and of a level of detail and depth of analysis to enable the USCG and MARAD to prepare the appropriate NEPA document, if necessary.

To the extent the substantive changes require the preparation of a supplemental environmental impact statement or other supplemental NEPA analysis, the Licensee shall reimburse the Government for all costs associated with the preparation thereof.

Substantive changes include but are not limited to:

- a. Changes in purpose, technology, mechanical systems or infrastructure and operations that will have any significant effect on the environment and/or are not consistent with the project, as described in the Port's original application, as amended, or in the ROD, or as analyzed in the FEIS;
- b. Any change that would require significant modifications to the Deepwater Port Operations Manual that are inconsistent with the requirements of the License;
- c. Any change in pipeline routing or installation methods for which the environmental impacts were not analyzed in the FEIS or that is not consistent with the analysis in the FEIS; and
- d. Any change that would require significant modifications to the original application, as amended, or as described in the ROD, or as analyzed in the Final EIS.

In the event substantive changes are proposed, the Licensee must do the following: 1) provide a list of all Federal, State, or local permits which may be affected by the proposed change and include the permit number (if applicable), the current status, and the date of expiration; 2) apply for new or amended permits as required; and 3) provide MARAD and the USCG with information sufficient for the re-initiation of consultation under the ESA, Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, the National Historic Preservation Act, the National Marine Sanctuaries Act, the Texas Deepwater Port Procedures Act or other applicable laws. All required new and/or amended permits, approvals, and authorizations must be received prior to the commencement of construction or operation activities related to the substantive change. Potential changes shall also comply with all the terms and conditions set forth by Texas General Land Office (GLO) Coastal Zone Consistency Determination and Texas Commission on Environmental Quality (TCEQ).

¹⁴ See Texas General Land Office (GLO) Coastal Zone Management Program (CZMP). The coastal zone consistency determination can be viewed at the Federal Docket Management System at <https://www.regulations.gov>, MARAD-2019-0011-1258.

25. The Licensee shall obtain all necessary State of Texas approvals, permits and authorizations to construct and operate the Deepwater Port and shall comply with all conditions and /or requirements of the required approvals, permits, and authorizations. The Licensee shall comply with all conditions as set forth in the State of Texas's final Coastal Zone Management Act Consistency review determination, and the State Environmental Resource Permit and submerged Land Use Authorization, including mitigation measures, compensatory mitigation and regulatory monitoring resulting from unavoidable impacts to benthic and upland resources.
26. The Licensee shall develop and implement a study to assess the impacts of the Deepwater Port's operational water intake on marine fisheries through a Population Connectivity Study prior to operations. Development and implementation of the study shall require the coordination with and approval of the State of Texas, Texas Fish and Wildlife Conservation Commission, NOAA, and NOAA Fisheries Service, in concurrence with USCG and MARAD. The study shall include field data collection. An approved study plan shall be required as part of the Port Operations Manual.
27. To avoid the preemptive use of beach quality sand in the pipeline corridor, the Licensee shall compensate for the assessment of potential borrow areas and the permitting for and recovery of beach quality sand from the identified borrow areas prior to construction of the pipeline through the borrow areas. Development and recovery of borrow areas located in federal waters will be consistent with federal sand removal processes. Compensation shall be provided by the Licensee.
28. The Licensee shall develop and implement a plan to mitigate for unavoidable impacts to and monitor the recovery of hard and live-bottom habitats affected by the construction of the Deepwater Port prior to construction. The plan shall require approval by the State of Texas, the TCEQ and be developed in consultation with the USCG, MARAD, and other appropriate Federal and State agencies.
29. The Licensee shall assist in supporting the State of Texas's renewable energy goals by providing compensatory contributions to the Texas Energy Systems Consortium or alternate entity to fund renewable energy research and development.
30. Should any State of Texas agency personnel, equipment, or other resources be required in the event of any incident at the Deepwater Port, the Licensee shall reimburse the cost of funds expended by each state agency within 30 days of receipt of invoice or other notice by the agency.
31. The Licensee shall continue their commitment to support MARAD's manning/crew program by providing job opportunities for U.S. cadets on board of its fleet as well as by funding training initiatives aimed to prepare qualified U.S. mariners.

Appendices M and N: Best Management Practices

ANNEX E

AGREEMENT TO COMPLY

Pursuant to the provisions of Section 4(e)(2) of the Deepwater Port Act of 1974 (33 U.S.C. § 1503(e)(2)), SPOT Terminal Services LLC, a Texas limited liability company, hereby accepts this License to own, construct, and operate a deepwater port, pursuant to the License to which this Agreement is attached, and in consideration thereof agrees to comply with and be bound by all terms, conditions, and provisions contained in such License and its Annexes.

Dated: 4/8/24

By: 

Mr. A. James Teague

Chief Executive Officer

SPOT Terminal Services LLC