Georgia Cranmore
Assistant Regional Administrator
Protected Resources Division
National Marine Fisheries Service
Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, Florida 33702-2432

Subject: Section 7(a)(2) Consultation on the proposed re-issuance of the National Pollution Discharge Elimination System/Louisiana Pollutant Discharge Elimination System Permit No. LA0049492/AI4634 for LOOP LLC.

Dear Ms. Cranmore:

Region 6 of the Environmental Protection Agency is proposing to jointly re-issue the National Pollution Discharge Elimination System/Louisiana Pollutant Discharge Elimination System Permit No. LA0049492/AI4634 to LOOP LLC. The permit presently authorizes discharges from a deepwater port, pipelines and storage facilities for the transportation of crude oil to Federal waters of the Gulf of Mexico seaward to the outer boundary of the territorial seas of Louisiana. The proposed re -issuance of the permit will not authorize any new discharges.

EPA requests concurrence from the National Marine Fishery Service with our determination that the issuance of the NPDES/LPDES Permit No. LA0049492/AI4634 may affect but is not likely to adversely the federally listed endangered Sperm whale, Sei whale, Northern right whale, Blue whale, Fin whale, Humpback whale, the Green turtle, Hawksbill turtle, Kemp's ridley turtle, Leatherback turtle and the threatened Loggerhead turtle. In the absence of such concurrence, this letter further serves as a written request under the provisions of 50 CFR 402.14 to initiate formal consultation with the Service on the effects of permit re - issuance on listed threatened and endangered species.

EPA has determined that the re-issuance of this permit may affect but is not likely to adversely affect listed species in the Gulf of New Mexico based on the distribution of the species as well as the protections provided by permit. Please find Attachment 1 which describes the permit action and EPA's determination of effects. Attachments 2 and 3 are the proposed NPDES/LPDES permit and supporting document, the fact sheet, which explains the methodology for determining permit requirements.

The EPA staff contact for this consultation is Denise Hamilton. Should you have any questions concerning this action, Denise is ready to provide any possible assistance and can be reached by telephone at (214) 665-2775, by E-mail at hamilton.denise@epamail.epa.gov, or by fax at (214) 665-2191.

Sincerely,

Jack V. Ferguson, P.E.
Chief
NPDES Permits Branch

Enclosures

cc w/o attachments:
US Fish and Wildlife Service, Region 4

bcc w/ attachments:
Hamilton, 6WQ-PP
File

File: C:\My Documents\ESA\BEs\LOOP\loop.wpd; dhamilton; 10/22/02.

CONCUR:

VAUGHN	HOSCH
6WQ-PO	6WQ-PO

ATTACHMENT 1 -

EFFECTS DETERMINATION FOR THE ISSUANCE OF PERMIT NO. LA0049492/AI4634 to LOOP LLC, NEW ORLEANS, LOUISIANA.

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1. DESCRIPTION OF THE ACTION

This action is for the reissuance of LPDES/NPDES Permit No. LA0049492/AI No. 4634 to LOOP LLC for discharges to waters of the State of Louisiana and to waters of the United States. According to the application, LOOP LLC, is a deepwater port, pipelines and storage facilities for the transportation of crude oil.

2. DISCHARGE LOCATION

As described in the application, discharges will occur at the following locations:
Outfalls 001, 002, and 015 - Grand Isle Block 59; Outfall 004 - 2.5 miles south of the beach at Fourchon; Outfalls 005 and 006 - Small Boat Harbor, 439 A.J. Estay Road, in Port Fourchon; Outfalls 007 and 020 - between LOOP Operations Center and Warehouse at 224 East 101 Place (LOOP Access Road) in Galliano; Outfalls 008,012 and 022 - LOOP's Clovelly Dome Storage Terminal Facility along LOOP Access Road (East 101 Place), Galliano; Outfalls 018 and 023 - LOOP's Fourchon Booster Station, Port Fourchon; Outfall 021 - Clovelly Tank Facility along Airport Road.

3. RECEIVING WATER

The known uses of the receiving water(s) are:

Primary contact recreation
Secondary contact recreation
Fish and wildlife propagation
Oyster propagation (Bayou Lafourche and Gulf of Mexico)

4. STREAM STANDARDS

Following regulations promulgated at LAC 33:IX.2361.L.2.b/40 CFR Part 122.44(l)(2)(ii), the draft permit limits are based on either technology-based effluent limits pursuant to LAC 33:IX.2361.A/40 CFR Part 122.44(a) or on State water quality standards and requirements pursuant to LAC 33:IX.2361.D/40 CFR Part 122.44(d), whichever are more stringent.

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ATTACHMENT 1 -

EFFECTS DETERMINATION FOR THE ISSUANCE OF PERMIT NO. LA0049492/AI4634 to LOOP LLC, NEW ORLEANS, LOUISIANA.

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5. DISCHARGE DESCRIPTION
(See Attachment 4 for maps of discharges)

A. Outfall 001

a. Type of wastewater - stormwater from the oily water system

b. Location - On the pumping platform at LOOP's Marine Terminal in the Gulf of Mexico, 18 miles south of Grand Isle in Grand Isle Block 59. Latitude 28°53'06", Longitude 90°01'30".

c. Treatment - Oil separation

d. Flow - 0.009015 MGD Intermittent

e. Receiving waters - Gulf of Mexico

f. Basin and segment - Gulf of Mexico, outside Louisiana jurisdictional waters

B. Outfalls 002, 006, 007, 008, 023

a. Type of wastewater - treated sanitary wastewater

b. Location - Outfall 002, Control Platform at LOOP's Marine Terminal in the Gulf of Mexico, 18 miles south of Grand Isle in Grand Isle Block 59 Latitude 28°53'06", Longitude 90°01'30"

Outfall 006, LOOP Small Boat Harbor at 439 A.J. Estay Road in Port Fourchon, Latitude 29°07'00", Longitude 90°12'36"

Outfall 007, Between the LOOP Operations Center and Warehouse at 224 East 101 Place (LOOP Access Road) Galliano,
Latitude 29°27'45", Longitude 90°18'20"

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Outfall 008, Beneath the Control Building at LOOP's Clovelly Dome Storage Terminal Facility, Latitude 29°28'12", Longitude 90°15'16"

Outfall 023, Fourchon Booster Station, Port Fourchon Latitude 29°09'15", Longitude 90°10'30"

c. Treatment - extended aeration

d. Flow - Outfall 002, 0.001767 MGD; Outfall 006, 65 GPD; Outfall 007, 1,500 GPD; Outfall 008, 280 GPD; Outfall 023 <0.0001 MGD.

e. Receiving waters - Outfall 002 - Gulf of Mexico; Outfall 006 - Bayou Lafourche; Outfall 007 and 008 - Breton Canal; Outfall 023 - Bayou Moreau (via Outfall 018)

f. Basin and segment - Outfall 002 - Gulf of Mexico, outside Louisiana jurisdictional waters
Outfall 006 - Barataria 020403
Outfalls 007 and 008 - Barataria 020801
Outfall 023 - Barataria 020905

C. <u>Outfall 004</u>

a. Type of wastewater - Brine discharge

b. Location - LOOP's Clovelly Dome Storage Facility, Gulf of Mexico approximately 2.5 miles southeast of the mouth of Bayou Lafourche. Latitude 29°06'16", Longitude 90°06'47".

c. Treatment - Retention pond

d. Flow - Intermittent, 26 MGD

e. Receiving waters - Gulf of Mexico

f. Basin and segment - Barataria 021102

D. <u>Outfall 005</u>

a. Type of wastewater - marine cargo hose testing water, stormwater runoff from the testing facility, stormwater and wash water from the oil spill equipment cleaning pad and stormwater from the containment area surrounding the oily tank at the small boat harbor.

b. Location - the secondary containment area around the oily tank located at LOOP's Small Boat Harbor at 439 A.J. Estay Road in Port Fourchon, Latitude 29°07'00", Longitude 90°12'36".

c. Treatment - oil separation

d. Flow - 0.05890 MGD

e. Receiving waters - Bayou Lafourche

f. Basin and Segment - Barataria, 020403

E. <u>Outfall 015</u>

a. Type of wastewater - Non-contact cooling water.

b. Location - Pumping Platform at LOOP's Marine Terminal, 18 miles south of Grand Isle in Grand Isle Block 59, Latitude 28°53'06", Longitude 90°01'30".

c. Treatment - Chlorination

d. Flow - 2.16 MGD, intermittent.

e. Receiving waters - Gulf of Mexico

f. Basin and segment - Gulf of Mexico, outside Louisiana jurisdictional waters

F. <u>Outfalls 012, 018, 020, 021, and 022</u>

a. Type of Wastewater - Stormwater runoff (Outfalls 012, 018, 020, 021 and 022)

b. Location - Outfall 012, the secondary containment area around LOOP's Auxiliary Tank (east side of LOOP Access Road) at the Clovelly Dome Storage Terminal facility, Latitude 29°28'12", Longitude 90°15'16".

Outfall 018, the secondary containment area around LOOP's Fourchon Booster Station, Port Fourchon, Latitude 29°09'15", Longitude 90°10'30".

Outfall 020, the secondary containment area around the gasoline tanks located adjacent to the LOOP Warehouse at 224 East 101 Place (LOOP Access Road) in Galliano, Latitude 29°27'45", Longitude 90°18'20".

Outfall 021, the secondary containment area around the Clovelly Tank Facility located along Airport Road, Latitude 29°27'03", Longitude 90°16'06".

Outfall 022, containment area around the Switchgear Platform at the Clovelly Dome Storage Terminal Facility, along the east side of the LOOP Access Road (East 101 Place) in Galliano.

c. Treatment - Outfalls 012, 018, 020, 021 and 022, none

d. Flow - Outfall 012, 0.1998 MGD; Outfall 018, 0.1342 MGD
Outfall 020, 0.0015 MGD; Outfall 021, 0.026 MGD
Outfall 022, 0.0017 MGD

e. Receiving waters - Outfalls 012, 020 and 022 - Breton Canal; Outfall 018 - Bayou Moreau; Outfall 021 - LLE Canal; Outfall 023 - Bayou Moreau (via Outfall 018)

f. Basin and segment - Outfalls 012, 020, 021, 022 - Barataria, 020801
Outfall 018 and 023 - Barataria 020905

6. PROPOSED PERMIT CONDITIONS
(Permit may be found at Attachment 2)

A. Outfall 001- Stormwater from the oily water system

Stormwater is discharged from the oily water system located on the Pumping Platform at LOOP's Marine Terminal in the Gulf of Mexico, Grand Isle Block 59. The discharge is through the sea sump 45 feet below the surface of the water

adjacent to the pumping platform and will receive BPJ limitations/monitoring requirements according to the following schedule:

No discharge of free oil

B. Outfall 004- Brine discharge

Brine discharged through a diffuser located on the bottom of the Gulf of Mexico in approximately 30-35 feet of water will receive BPJ limitations/monitoring requirements according to the following schedule:

Flow - Report (MGD)
Ph - 6.0 - 9.0 standard units
Oil and Grease - 10mg/L, daily average, 15 mg/L daily maximum
TDS - Report, daily average, daily maximum
Temperature - Report, daily average, daily maximum
Chloride - Report, daily average, daily maximum

C. Outfall 005- Marine cargo hose testing water, stormwater and wash water.

Marine cargo hose testing water, stormwater and wash water are discharged from the containment area surrounding the oily tank at the Small Boat Harbor to Bayou Lafourche will receive BPJ limitations/monitoring requirements according to the following schedule:

Flow - Report (MGD)
COD - 100 mg/L, daily maximum
TOC - 50 mg/L, daily maximum
Oil and Grease - 15 mg/L, daily maximum
pH - 6.0 - 9.0 standard units

D. Outfall 015- Non-contact cooling water

Noncontact cooling water being discharged to a discrete outfall receives BPJ limitations/monitoring requirements according to the following schedule:

Parameter	Daily Average mg/L	Daily Maximum mg/L
Flow, MGD	4.32 MGD	5.4 MGD

TOC	N/A	5
Oil and Grease	N/A	15
Chlorine	0.5	1.0
pH, Std. Units	6.0	9.0
	(min)	(max)

E. Outfalls 012, 018, 020, 021 and 022 - Stormwater

Uncontaminated or low potential contaminated stormwater discharged through discrete outfall(s) not associated with process wastewater shall receive the following BPJ limitations in accordance with this Office's guidance on stormwater, letter dated 6/17/87, from J. Dale Givens (LDEQ) to Myron Knudson (EPA Region 6).

Parameter	Monthly Average mg/L	Daily Maximum mg/L
Flow, MGD	Report	Report
TOC	N/A	50
Oil and Grease	N/A	15
pH, Std. Units	6.0	9.0
	(min)	(max)

F. Outfalls 002, 006*, 007, 008 and 023 - Sanitary Wastewaters

Sanitary wastewaters (internal or external) are regulated in accordance with LAC 33:IX.711 or 709.B/40 CFR 133.102, by BPJ utilizing the sanitary general permits issued by this Office, and the Louisiana Water Quality Management Plan, Appendices B (Areawide Sanitary Effluent Limits Policy) and C (Statewide Sanitary Effluent Limits Policy), as applicable. Concentration limits are used in accordance with LAC 33:IX.2363.F.1.b/ 40 CFR 122.45(f)(1)(ii)which states that mass limitations are not necessary when applicable standards and limitations are expressed in other units of measurement. LAC 33:IX.709.B references LAC 33:IX.711 and 40 CFR 133.102 which express BOD_5 and TSS in terms of concentration.

Parameter	Monthly Average mg/L	Weekly Average mg/L
Flow, MGD	N/A	Report
BOD_5		45
TSS		45
Fecal Coliform, colonies/100 ml	200	400
pH, Std. Units	6.0 (min)	9.0 (max)
*Outfall 006		
Fecal Coliform colonies/100 ml		43
Total Residual Chlorine		2.0

G. Water Quality Issues (303(d)) issues:

Outfall 004

The existing discharge from 004 is to the Gulf of Mexico and located within Segment No. 021102 (Barataria Basin) which is listed on the Court Ordered 303(d) report as being impaired with mercury, oil & grease, and pathogen indicators. A TMDL assessment is scheduled to be completed by December 31, 2003. Based upon an evaluation of the effluent discharges, it was determined that the facility has no potential to discharge mercury constituents from any of the outfalls referenced above. However, effluent data submitted by this applicant for oil & grease and pathogen indicators revealed that small concentrations may exist in the discharges from the outfalls limited for the designated pollutants. Therefore, effluent limitations for oil & grease and fecal coliform have been established by the permit to ensure that the integrity of the named waterbody is maintained.

Outfalls 005 and 006

The discharges from outfalls 005 and 006 are to Segment No. 020403. Bayou Lafourche is listed on the 303(d) report as being impaired with mercury, oil and grease, radiation, chlorides, sulfates, salinity/TDS, priority organics and turbidity.

A TMDL is scheduled to be completed by December 31, 2003. Based on the evaluation of the effluent discharges and water quality analysis, it was determined that the facility has the potential to discharge oil and grease due to the discharge of stormwater runoff into Bayou Lafourche. As a result of our evaluation and to be in compliance with regulations cited at 40 CFR § 122.44 (d)(1)/LAC 33:IX.2361.D.1 a limit for oil and grease is established in the permit.

Outfalls 007, 008, 012, 020, 021, and 022

The discharges from 007, 008, 012, 020, 021, and 022 are to the Breton Canal. These existing discharges are located within Segment No. 020801 (Barataria Basin) which is listed on the Court Order 303(d) report as being impaired with nutrients, oil & grease, organic enrichment/low DO, pathogen indicators, radiation, salinity/ TDS/chlorides/sulfates, suspended solids, turbidity, and pesticides. A TMDL assessment is scheduled to be completed by December 31, 2003. Based upon an evaluation of the effluent discharges, it was determined that the facility has no potential to discharge nutrients, pesticides, salinity/TDS/sulfates, radioactive constituents and/or contribute to turbidity from any of the outfalls referenced above. However, effluent data submitted by this applicant for oil & grease, pathogen indicators, chlorides, suspended solids, and organic enrichment revealed that small concentrations may exist in the discharges from the outfalls limited for the designated pollutants. Therefore, effluent limitations for Oil & Grease, TOC, BOD_5, Fecal Coliform, Total Residual Chlorine, and TSS have been established by the permit to ensure that the integrity of the named waterbody is maintained.

Outfalls 018 and 023

The discharges from 018 and 023 are to the Bayou Moreau. These existing discharges are located within Segment No. 020905 (Barataria Basin) which is listed on the Court Order 303(d) report as being impaired with nutrients, organic enrichment/low DO, and pathogen indicators. A TMDL assessment is scheduled to be completed by December 31, 2003. Based upon an evaluation of the effluent discharges, it was determined that the facility has no potential to discharge nutrients from any of the outfalls referenced above. However, effluent data submitted by this applicant revealed that the discharges are not likely to release pathogen indicators and/or contribute to organic enrichment and, therefore, will not further impair the named waterbody. Effluent limitations for TOC BOD_5, and Fecal Coliform have been established by the permit to ensure that the integrity of the named waterbody is maintained.

A reopener clause will be established in the permit to include more stringent limits, if needed, based on final loading allocations in the completed and approved TMDL.

H. Monitoring Frequencies

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity [LAC 33:IX.2369/40 CFR 122.48(b)] and to assure compliance with permit limitations [LAC 33:IX.2361.I/40 CFR 122.44(I)]. The following s ection(s) explain the rationale for the monitoring frequencies stated in the draft permit.

1. Outfall - 004 - Brine discharge

Flow and Oil and Grease are to be monitored once/day when discharging.

The following pollutants are to be monitored 1/week.

Parameter(s):
TDS
pH

The following pollutants are to be monitored 1/month.

Parameter(s):
Temperature
Chloride

2. Outfall 005 - Marine cargo hose testing water, stormwater and wash water

The following pollutants are to be monitored 1/month.

Parameter(s):
Flow
TOC
COD
Oil and Grease
pH

3. Outfall 015 - Non-contact cooling water

Non-contact cooling water pollutants being discharged to discrete outfalls shall receive monitoring frequencies according to the following schedule:

The following pollutants are to be monitored 1/month.

Parameter(s)
Flow
TOC (net
Oil and Grease
pH

Chlorine - 1/week

4. Outfalls 012, 018, 020, 021 and 022 - Stormwater

Non-process area stormwater that is uncontaminated or has a low potential of contamination and is discharged at a discrete outfall, will receive monitoring frequencies according to the following schedule:

All parameters - 1/quarter, when discharging

5. Outfalls 002, 006, 007, 008 and 023 - Sanitary Wastewater

Sanitary wastewater being discharged at discrete outfall(s), the monitoring frequency of sanitary wastewater follows LDEQ's sanitary general permits which are based on flow ("X" = Amount of Flow).

Class I, X <5,000 gpd - All parameters, 1/6 months

7. EFFECTS DETERMINATION

A. This biological evaluation accounts for the direct, indirect, and cumulative effects of the proposed National Pollutant Discharge Elimination System (NPDES) permit modification on Federally-listed threatened and endangered species. EPA is jointly issuing this permit with the State of Louisiana as three of the fourteen authorized discharges in this permit are to the Gulf of Mexico, outside the jurisdictional waters of the State. The eleven discharges located in Louisiana Stream Subsegments 020403, 020801, 020905, and 021102 of the Barataria Basin are addressed by NPDES program authorization documents. A Memoranda of Agreement was signed March 1996 and subsequent Implementation Strategy dated September 25, 2001 has been used for determining the effects of discharges to Louisiana jurisdictional waters. Subsegments 020403, 020801, 020905, and 021102 of the Barataria Basin are not listed in Section II.2 of the Implementation Strategy as requiring consultation with the U.S. Fish and Wildlife Service (FWS). Therefore, in accordance with the Memorandum of Understanding between the LDEQ and the FWS, no further informal (Section 7, Endangered Species Act) consultation is required. It was determined that the issuance of this permit is not likely to have an adverse effect on any endangered or candidate species or the critical habitat. The effluent limitations established in the permit ensure protection of aquatic life and maintenance of the receiving water as aquatic habitat.

Discharges to the Gulf of Mexico, outside the jurisdictional waters of the State of Louisiana, have potential to affect the following threatened and endangered species reported to exist in the Gulf of Mexico: Fish: Gulf sturgeon (Acipenser oxyrinchus desotoi); Whales: northern right (Eubalaena glacialis), blue (Balaenoptera musculus), finback (Balaenoptera physalus), sei (Balaenoptera borealis) humpback (Megaptera novaeangliae) and sperm (Physeter macrocephalus); Turtles: Kemps ridley (Lepidochelys kempii), loggerhead (Caretta caretta), leatherback (Dermochelys coriacea), hawksbill (Eretmochelys imbricata), green (Chelonia mydas). EPA Region 6 has determined that modification of the permit may affect but is not likely to adversely affect those species.

"GulfCet" refers to two studies of Gulf of Mexico cetaceans performed in the 1990s: GulfCet I and GulfCet II. The purpose of GulfCet was to determine the distribution and abundance of cetaceans along the continental slope in the northern Gulf of Mexico and to help assess the potential effects of deepwater oil

and gas exploration and production on marine mammals in the Gulf of Mexico. The GulfCet study area was the oceanic northern Gulf of Mexico within the U.S. Economic Exclusive Zone in waters deeper than 100 m, with an emphasis on the Minerals Services' (MMS) Eastern Planning Area (EPA). The latter area was located in the northeastern Gulf from 18.5 km offshore to waters 2,000 m deep.

The continental shelf of the EPA was inhabited by bottlenose and Atlantic spotted dolphins, and by loggerhead, leatherback and Kemp's ridley sea turtles. Seventeen cetacean species and loggerhead and leatherback sea turtles were identified in the EPA continental slope study area. In the oceanic northern Gulf, 19 cetacean species were sighted, of which pantropical spotted, spinner and Clymene dolphins were the most abundant. Sperm whales were also commonly sighted. The abundance of several cetacean species, such as the dwarf/pygmy sperm whale, Risso's dolphin, and pantropical spotted dolphin, appeared to vary seasonally on the continental slope. The abundance of common cetacean species was similar to previous estimates based on aerial and shipboard surveys from 1991-94, although the abundance of some species may vary regionally in the northern Gulf. Simultaneous acoustic surveys using a towed hydrophone array identified sperm whales, pantropical spotted dolphin, clymene dolphin, spinner dolphin, striped dolphin, Atlantic spotted dolphin, false killer whale, bottlenose dolphin, rough toothed dolphin, and Fraser's dolphin. Sperm whales occurred year-round near the Mississippi Canyon in the north-central Gulf. Thirty-seven different sperm whales were identified by tail fluke photography in 1994 and 1996, and four of these were resighted in similar areas between those two years indicating site fidelity.

A logistic regression model that included the variables of ocean depth, mixed layer depth (MLD) and PMB of zooplankton and micronekton best predicted the presence of cetaceans in the EPA. Specifically, more cetaceans were seen in areas of shallower depth and in areas where the MLD was shallower and PMB was higher compared to areas where cetaceans were not seen. Similar results were observed for sperm whales and oceanic stenellids. The distribution of cetaceans in the entire oceanic northern Gulf was significantly different from an expected, uniform distribution with respect to ocean depth and oceanographic features based on a Chi-square test for independence using data from GulfCet I and II. Cetaceans in general were concentrated along the upper continental slope (200 to 1,000 m), although sperm whales occurred more frequently along the lower slope (1,000 to 2,000 m).

Overall, cetaceans occurred in higher abundance in or near cyclonic, cold-core eddies that had a shallower MLD and higher PMB. We presume that the higher PMB indicates a higher concentration of cetacean prey. In contrast, cetaceans

were less common in the nutrient-poor, low chlorophyll waters that are diagnostic of surface convergence circulation such as the interior of warm-core eddies. However, there was no significant difference from a uniform distribution with respect to oceanographic features for sperm whales in the oceanic northern Gulf. This indicates that factors other than food distribution may influence sperm whale distribution. Bottlenose dolphins and Atlantic spotted dolphins occurred mostly in features other than eddies and confluence areas because they were concentrated on the continental shelf and along the shelf break.

GulfCet studies of the oceanic cetacean community yield the following species. The most numerous species were pantropical spotted dolphin (46,625 individuals), spinner dolphin (11,251), and Clymene dolphin (10,093) comprising about 50%, 12%, and 11%, respectively, of the estimated total cetacean abundance (94,182 individuals) in the study area. Those three species were followed in order of abundance by bottlenose dolphin (5,618), striped dolphin (4,858), melon-headed whale (3965), Atlantic spotted dolphin (3,213), Risso's dolphin (3,040) and short-finned pilot whale 1,471), rough-toothed dolphin (852), false killer whale (817), dwarf/pygmy sperm whale (733), sperm whale (530), pygmy killer whale (518), killer whale (277), Cuiver's beaked whale (159), Fraser's dolphin (127), and Bryde's whale (35). The cetaceans of the continental shelf and shelf-edge were almost exclusively bottlenose dolphin and Atlantic spotted dolphin. Clymene dolphin, pantropical spotted dolphin, spinner dolphin, and striped dolphin occurred more often over the lower slope and deepwater regions in areas of cyclonic or confluence circulation. Squid-eaters, including dwarf and pygmy sperm whale, false killer whale, melon-headed whale, pilot whale, pygmy killer whale, Risso's dolphin, rough-toothed dolphin, and Cuvier's beaked whale, occurred most frequently along the upper slope in areas outside of anticyclones. Loggerhead, Kemp's ridley, and leatherback sea turtles were sighted throughout the study area but were most numerous during winter months and over shelf waters.

B. Whales

A review of final and draft recovery plans available on the NOAA website as well as other grey literature, indicates that threats to the North Atlantic right whale, Blue whale, Fin whale, Humpback whale, Sei whale, and sperm whales include interaction with and disturbance by sea-going vessels, entrapment and entanglement in fishing gear, habitat degradation by acoustic and chemical pollution, military operations and hunting.

Sperm whales are the most common large whale in the Gulf of Mexico. Baleen

whales are occasionally reported in the Gulf. Only one species, the Bryde's whale, resides here and only in small numbers, probably less than 100. Other baleen whale species sighted are probably individuals (most likely subadults) that have strayed during migrations to breeding grounds (southward) or on their return migrations (northward) to feed grounds. For example, a young humpback whale was sighted off the Texas coast a few years ago, the first sighting of a humpback whale for the western Gulf.

D. Turtles

A review of final and draft recovery plans available on the NOAA website as well as other on-line information posted by Texas Parks and Wildlife indicates that threats to these listed endangered Hawksbill turtle, Green turtle, Kemp's ridley turtle, and Leatherback turtle and the threatened Loggerhead turtle include human activities on beaches, including beach armoring, beach nourishment, activities which affect beach erosion, sand mining, artificial lighting, beach cleaning, obstacles placed on beaches, vehicular traffic, introduction of exotic vegetation, increased human presence and poaching. Beach impacts affect nesting success and the ability of newly hatched turtles to successfully return to the ocean.

Threats to all species of turtles in the marine environment include entanglement in nets, lines and ropes, ingestion of marine debris, collisions with sea-going vessels, contact with oil and gas byproducts such as oil spills and tar balls and other pollutants from industrial, agricultural, and residential activities.

E. Environmental Baseline

History of Section 7(a)(2) Consultations - EPA is aware of many federal actions in the Gulf of Mexico which may help establish the environmental baseline of the area surrounding the proposed aquaculture facility. EPA has attempted to find biological assessments or opinions arising from these actions. Among activities occurring in the Gulf of Mexico which establish the environmental baseline of this gulf region are construction and operation of oil and gas facilities. EPA is aware of a section 7 consultation between the National Marine Fisheries Service and the Minerals Management Service in 1988 regarding removal of certain oil and gas platforms using explosives. In 2001, EPA, Region 6 has consulted with the Service on a general permit for the use of synthetic drilling fluids for oil and gas operations in the Gulf of Mexico. Other federal actions in the area establishing the current environmental baseline include oversight by the National Marine Fisheries Service for fishery conservation under the Magnuson-Steven

Fishery Conservation and Management Act, application for a Letter of Acknowledgment from NMFS for scientific research in federal waters, and exempted fishing permits from NMFS if juvenile fish are held in federal waters. The Corps of Engineers issues Section 10 permits which allow the agency to regulate installations and other devices permanently or temporarily attached to the seabed, used for exploring, developing or producing resources from the outer continental shelf. EPA was unable to find documents discussing section 7(a)(2) consultations which might have occurred under these activities

F. Direct Effects

Permit requirements for discharges to the Gulf of Mexico, Outfalls Nos. 001 (stormwater from oily water system), 002 (sanitary wastewater) and 015 (non-contact cooling water) are BPJ limitations/monitoring requirements. The intermittent flow of 0.009015 MGD of oily water system stormwater is discharged as **Outfall No. 001** approximately 45 feet below the surface adjacent to the pumping platform. Limitations on discharge of free oi l should avoid adverse effects to listed species in the area. The intermittent and small quantity discharge may affect but is unlikely to adversely affect listed species.

Permit requirements for **Outfall No. 002**, sanitary wastewater discharge, are limitations regulated in accordance with LAC 33:IX.711 or 709.B/40 CFR 133.102, by BPJ utilizing the sanitary general permits issued by this Office, and the Louisiana Water Quality Management Plan, Appendices B (Areawide Sanitary Effluent Limits Policy) and C (Statewide Sanitary Effluent Limits Policy), as applicable. Limitations on BOD, TSS, Fecal Coliforms, and pH should avoid adverse effects to listed species in the area. The small quantity discharge of 0.001767 MGD, combined with the instantaneous mix with ocean water, may affect but is not likely to adversely affect listed species.

Outfall No. 015, non-contact cooling water, is limited for flow, TOC, Oil and Grease, Chlorine and pH. The proposed permit also requires whole effluent toxicity testing designed to address potential toxicity due to synergistic, additive and antagonistic effects as well as due to toxicity degradation and persistence. Testing will be performed once per quarter on the invertebrate Mysidopsis bahia (Mysid shrimp) and the vertebrate Menidia Berllina (Inland silverside minnow) in six dilutions of 0%, 31%, 42%, 56%, 74%, and 99% effluent using test methods mentioned in Part II Section K of the permit. The permit conditions will prevent adverse effects from the discharge on the listed species in the area.

Based on available information, EPA has determined that the re-issuance of this

permit may directly affect but is not likely to adversely affect federally listed threatened and endangered sea turtles including: Hawksbill turtle, Green turtle, Kemp's ridley turtle, the Leatherback turtle and the Loggerhead turtle. Re - issuance of the permit also may affect but is not likely to adversely affect federally listed Sperm whales. The five baleen whales federally listed for the Gulf of Mexico appear in the Gulf infrequently and typically only during migration. EPA has determined that the re-issuance of this permit may affect but is not likely to affect the Blue, Sei, Fin, North Atlantic Right, and Humpback whales.

G. Indirect Effects

The proposed limits are equivalent to the limitations set in the previous permit. After a Discharge Monitoring (DMR) review and applying BPJ (Best Professional Judgement), the limitations have remained in the draft permit. Growth and development in the geographical area associated with the authorization of these discharges has occurred previous to this permit action. EPA does not anticipate that re-issuance of this permit will result in additional construction, increased ship traffic, increased risk of oil spills or increased levels of marine debris.

Based on available information, EPA has determined that the re-issuance of this permit may indirectly affect but is not likely to adversely affect federally listed threatened and endangered sea turtles including: Hawksbill turtle, Green turtle, Kemp's ridley turtle, the Leatherback turtle and the Loggerhead turtle. Re-issuance of the permit also may affect but is not likely to adversely affect federally listed Sperm whales. The five baleen whales federally listed for the Gulf of Mexico appear in the Gulf infrequently and typically only during migration. EPA has determined that the re-issuance of this permit may affect but is not likely to affect the Blue, Sei, Fin, North Atlantic Right, and Humpback whales.

H. Cumulative Effects

Other State, private and human activities in the action area - The issuance of this permit does not authorize nor control future action that are reasonably certain to occur within the action area and contingent upon the issuance of this permit. However, the Gulf of Mexico, one of North America's most productive marine areas, is heavily affected by coastal development and human activity. It is an area of high density offshore oil extraction with chronic low-level spills and occasional massive spills. Floating debris in the Gulf of Mexico is a threat to turtles of all ages. Plastics, monofilament, discarded netting and many other waste items may be eaten by Kemp's ridleys or may entangle swimming turtles. Ingestion of plastic, rubber, fishing line and hooks, tar, cellophane, rope and string, wax, styrofoam, charcoal, aluminum cans and cigarette filters has occurred in sea turtles. Threats to listed whales, to include ship traffic, byproducts of human presence, and the potential for spills, are neither increased nor minimized by the re-issuance of this permit. Acoustic pollution levels, which have undetermined effects on listed whales, are not regulated by EPA. The re -issuance of this permit does not increase nor minimize current levels.

J. Conclusion

Based on available information, EPA has determined that the re-issuance of this permit may affect but is not likely to adversely affect federally listed threatened and endangered sea turtles including: Hawksbill turtle, Green turtle, Kemp's ridley turtle, the Leatherback turtle and the Loggerhead turtle. Re- issuance of the permit also may affect but is not likely to adversely affect federally listed Sperm whales. The five baleen whales federally listed for the Gulf of Mexico appear in the Gulf infrequently and only during migration. EPA has determined that the re-issuance of this permit may affect but is not likely to affect the Blue, Sei, Fin, North Atlantic Right, and Humpback whales.