Louisiana Offshore Oil Port (LOOP)

Background:

- Under the Deepwater Port Act (DPA) of 1974, the Department of Transportation (DOT) originally licensed LOOP as an offshore oil import facility on December 19, 1976. LOOP has both onshore / near shore and offshore facilities. Onshore / near shore facilities and discharges are regulated by LDEQ under the Clean Water Act and Clean Air Act. LOOP has operated as an import DPA terminal since 1981.

- The Offshore Marine Terminal is part of the LOOP Deepwater Port Complex and is located roughly 18 nautical miles off the coast of Louisiana, in the Gulf of Mexico outside of the state territorial waters. The Offshore Marine Terminal consists of a pumping platform, control platform and three single-point mooring buoys used for the offloading / on-loading of crude tankers.

- The Maritime Administration (MARAD) for DOT and the US Coast Guard (USCG) assume lead agency responsibilities for consulting with other Federal and State agencies under the DPA. LOOP submitted a request to amend the Operations Manual contained in the existing deepwater port license to convert a portion of the existing crude oil importing operation to accommodate crude oil exporting operations, which were initiated on February 16, 2018. The USCG and MARAD are serving to integrate the project analysis and consultation required in accordance with the National Environmental Policy Act (NEPA) and the DPA.

- LDEQ and Region 6 have individually and now jointly issues the CWA NPDES permit for onshore, near shore (state waters) and offshore (Federal waters) discharges. The last NPDES permit expired over 4 years ago, but has been administratively extended for existing discharges while a new permit with additional discharge points can be proposed and finalized. LOOP has more recently asserted that they no longer believe that they are subject to CWA jurisdiction. This seems an odd assertion since they have had a NPDES permit from Region 6 for the last 40 years and are currently operating under an administratively continued permit. LOOP had not shared with us its rational for their new position.

- LDEQ has issued CAA permits for only the onshore emission points. There has never been a CAA permit (Title I or Title V) for emissions from the Offshore Marine Terminal. LOOP's position is that they are not subject to EPA jurisdiction under the CAA.

- In responding to inquiries from MARAD and USCG about LOOP's permit status under its existing import configuration and proposed export configuration, it became apparent

that the existing 40 year old Environmental Impact Statement (EIS) was inadequate to support issuance of the NPDES permit with additional discharges under NEPA nor were the consultations with the US Fish & Wildlife Service and NOAA Fisheries for compliance with the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), and the Marine Mammal Protection Act (MMPA) in place for any EPA permitting decision.

EPA Actions:

- Region 6 has participated / hosted a series of conference calls with other Federal agencies (MARAD, USCG, FWS, NOAA Fisheries, DOE's Bureau of Ocean Energy Management, and DOI's Office of the Solicitor) on the concerns raised regarding LOOP's federal permit status. There is universal agreement among the Federal agencies that LOOP is a "new source" under the CAA and CWA based on language in the DPA and that LOOP's Offshore Marine Terminal is a deepwater port under the DPA and not an outer continental shelf source under the Outer Continental Shelf Lands Act and therefore excluded from EPA jurisdiction under CAA, Section 328.

- Region 6 Water Division and ORC met with FWS and NOAA Fisheries to outline the consultation process and requirements to be followed to comply with ESA, MSFCMA, and MMPA. Water Division and ORC have examined options to supplement the old EIS to reflect the proposed NPDES discharges.

- Region 6 MultiMedia Division and ORC have held several conference calls with LOOP's outside counsels explaining our position that LOOP is subject to the Clean Air Act under EPA jurisdiction but that the nature of the permitting scheme is dependent on operational factors that only the company can provide. A technical discussion with all parties (EPA, LDEQ, LOOP) is being organized in the immediate future.

Talking Points:

- EPA and LDEQ desire to move forward with the proposed joint NPDES permit in the near future if the resolution of the NEPA and consultations can be achieved in a timely manner. **LOOP has more recently asserted that they no longer believe that they are subject to CWA jurisdiction.** This seems an odd assertion since they have had a NPDES permit from Region 6 for the last 40 years and are currently operating under an administratively continued permit. **LOOP had not shared with us its rational for their new position. We need to discuss with LOOP their basis for this position.**

- While EPA's position is that LOOP needs at least a CAA Title V permit, no decision on other CAA permit requirements can be made without a full disclosure of the company of the operations at the Offshore Marine Terminal, including equipment, emissions inventory, and chronology of the construction, any replacement of equipment over

time, and operations.

- INTERNALLY, EPA has discussed options that would allow LOOP to continue to operate while the CAA permit status is resolved, including a schedule to obtain any necessary permits.