Message

From: Keeler, Barbara [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=18DE8E46A51446B38CF6904037A4CEE2-KEELER, BARBARA]
Sent: 7/19/2018 2:27:07 PM
To: Karen McCormick [McCormick.Karen@epa.gov]
Subject: Review of TGTI Deepwater Terminal

Karen:

I know you didn't ask for input on the MPRSA material but your revised version does not include a review of the TGTI proposal with a conclusion (see material marked in red below). The conclusion in the draft below negates the need at this time (until such time that the company changes plans) to go into the testing requirements or to offer up use (unsolicited) of the ODMDS, with an iteration of those procedures. The draft comments discuss beneficial use elsewhere in the coastal and wetlands section, so that material does not need to be repeated. I feel it is my responsibility to offer these thoughts but rest assured that I will not pursue the issue further. Just let me know if you would like any other assistance.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

Under Section 101 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA), 33 U.S.C. § 1401, no person may transport material from the United States or on an American flagged vessel for the purpose of dumping it in ocean waters in the absence of a permit issued by EPA pursuant to MPRSA § 102. A MPRSA §102 permit is also required for any person transporting material from anywhere for the purpose of dumping it in the territorial seas or to the contiguous zone where it might affect the territorial seas.

Based on our current understanding, it does not appear that this proposal includes transporting materials for the purpose of dumping it in connection with the construction or operation of the Texas Gulf Terminals Inc. facility. Moreover, "dumping" does not include "construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters, or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or state law . . ." MPRSA § 3(f). The construction of this deepwater port appears to fall within this statutory exclusion. However, if this understanding is not correct or if dredged materials associated with the construction/placement of the SPM facility and pipelines require disposal, MRPSA Sections 101 and 103 may apply, as well as provisions of the Clean Water Act.

Further, the draft EIS should include an analysis of any potential impacts from the construction, operation, or maintenance of this deepwater port with the use and monitoring of the Corpus Christi Ship Channel Ocean Dredged Material Disposal Site. If there is any potential impact to the site or its use, early coordination with EPA Region 6 is encouraged.

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