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| **From:** | Lee, Mary A |
| **To:** | Jackie Robinson; Kaspar, Paul |
| **Subject:** | FW: SWG-1995-02221, MODA Midstream |
| **Date:** | Monday, September 28, 2020 11:59:14 AM |
| **Attachments:** | mitigation NLCD comparison.pdf<br>Sea grass abundance 2020 MODA.pdf |

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Hi this the response that we sent for the MODA project.

Thanks and have a great day!

Sandra

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**From:** Lee, Mary A
**Sent:** Monday, September 28, 2020 11:52 AM
**To:** Pattillo, Mark E CIV CESWG CESWD (USA) <mark.e.pattillo@usace.army.mil>
**Subject:** SWG-1995-02221, MODA Midstream

Dear Mr. Pattillo:
We received the applicant's, Moda Inc., response to comments dated September 11, 2020, regarding construction of the Moda Ingleside dock expansion in San Patricio County, Texas. We appreciate the Applicant's efforts to address Service concerns; however, there are three points of clarification in the interest of protecting the Federal trust resources in the area.

Long-term effects of sedimentation
On Page 4 of the PDF sent by USACE, the Applicant stated that the sea grasses are not affected by the traffic and sediment dispersal and therefore no long term effects need to be addressed. However, Figure 6 in the submitted document, included here as an enclosure, shows the survey of sea grasses at the project location. The seagrasses on the east side adjacent to the location of the barges, are less dense than the eastern side for approximately 400 feet from the point where the bank drops off. This is an example of the effects of sedimentation. Over time the sediment disturbed by barge traffic shades or consistently covers the seagrass, killing it. The Applicant believes the break water will be sufficient to stop the long term damages. However, the Applicant in the response to Service Comment 2, states that the company is willing to conduct post construction surveys on the surrounding seagrass beds. The Service recommends an adaptive management plan which includes a minimum of 5 years of monitoring the sea grasses during the active operation of the facility as a Suezmax capable facility or a comparable monitoring schedule. The plan should include actions to take if the sea grasses are shown to decline.

Sea grass mitigation
The Applicant is suggesting a 1.58 to 2.26:1 mitigation ratio for unavoidable impacts with a guarantee of at least 70% success rate. The Applicant claims "the proposed mitigation more than adequately replaces the lost functions and services provided by the existing seagrass at the project site". The current standard of 3:1 mitigation rate is based on industry understanding of the difficultly of restoring sea grass beds with an average 37% lower in coverage than natural beds (Rezek, et al, 2019), and their critical importance in carbon sequestration and habitat functions (33

CFR § 332.3 f(2)). For this mitigation project, the sea grass functions as hatchery and feeding ground with high aquatic species diversity will be completely removed from an area of known use, and moved to a location several miles away where there is minimal use due to the high wave action. The breakwater proposed is critical to the function of the planned mitigation due to the location's high wave action. The Service believes that it is part of the cost of the location selection. The break waters also have the potential of habitat conversion of the sea grass and the tidal flats, which is unpredictable until after the project is in place. These factors were considered in the evaluation of the project and are why the Service recommended the 3:1 mitigation rate. Please note that as part of the informal consultation letter sent on April 23, 2020, total of 38.0 acres (26.6 acres at a 70% success rate) was the requested mitigation.

Out of kind mitigation

The Applicant proposes to use the forested and pothole wetland adjacent to the property as part of the mitigation for the estuarine and sea grass losses. However, there is no functional connectivity of the animal use between the sea grasses and the forested area (e.g. fish hatchery, sea turtle and manatee feeding). While this is an important habitat type in its own right, it cannot mitigate the losses of the other types. The Service believes that if the land adjacent to the facility was considered as an out of kind mitigation for the estuarine wetland, it would need to include the pothole wetlands and not just the forested area adjacent to the community. The current arrangement of the mitigation area, as a long linear track, creates predominantly edge habitat which reduces the function of the area for more cryptic species. Nor does the selected area include the pothole wetland habitat on the central and Eastern half of the property. The map enclosed shows the approximate proposed area in comparison the National Land cover data. The dashed line shows the areas of the larger water features. The Service suggests that the mitigation area be rearranged if it is used as part of the mitigation. However, the Service suggests that mitigation out of kind not be considered acceptable.

Thank you for the opportunity to participate in the planning of the project. A letter format version will be sent as a follow up.

Sincerely,

Sandra Lee

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