



U.S. Department
of Transportation
Maritime Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

February 14, 2025

Mr. Jeff P. Ballard
President and Chief Executive Officer
Sentinel Midstream LLC
2950 N. Harwood Street, Suite 1550
Dallas, TX 75021

Re: Record of Decision on the Texas GulfLink, LLC Deepwater Port License Application

Dear Mr. Ballard:

In accordance with the provisions of the Deepwater Port Act of 1974, as amended, and by delegated authority from the Secretary of the U.S. Department of Transportation to the Maritime Administrator, I inform you of the approval, with conditions, of the Texas GulfLink, LLC (TGL) Deepwater Port License Application, which was submitted to the Maritime Administration (MARAD) on May 30, 2019.

The rationale for this decision and the required conditions of approval are discussed in the enclosed Record of Decision (ROD) document issued on February 14, 2025.

TGL will be required to address the conditions described in the ROD to the satisfaction of the Maritime Administrator before MARAD issues the deepwater port license. For this purpose, I have authorized MARAD's Office of Deepwater Port Licensing and Port Conveyance and the Office of Chief Counsel to work with TGL, its representatives, and designated agents to develop and execute the documents necessary for MARAD to issue the deepwater port license.

MARAD will work with TGL to address and satisfy the conditions of approval for the issuance of the License, as described in the enclosed ROD.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Kammerer".

Jack Kammerer
Executive Director
in lieu of the Administrator

Enclosure: Record of Decision on the TGL Deepwater Port License Application

Department of Energy
Pipeline and Hazardous Materials Safety Administration
U.S. Army Corps of Engineers
U.S. Environmental Protection Agency
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
U.S. Fish and Wildlife Service
Department of the Interior
Bureau of Safety and Environmental Enforcement
Bureau of Ocean Energy Management
Department of State
Department of Defense
Advisory Council on Historic Preservation
Office of the Governor of Texas
Texas General Land Office
Texas Parks and Wildlife Department

**DEPARTMENT OF TRANSPORTATION
UNITED STATES OF AMERICA**



**RECORD OF DECISION ON
THE DEEPWATER PORT LICENSE
APPLICATION
OF
TEXAS GULFLINK, LLC**

February 14, 2025

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UNITED STATES OF AMERICA
RECORD OF DECISION ON
THE DEEPWATER PORT LICENSE APPLICATION
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TEXAS GULFLINK, LLC

Washington, D.C.

February 14, 2025

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LIST OF ACRONYMS

<u>Acronym</u>	<u>Definition</u>
ACS	Adjacent Coastal State
The Act	Deepwater Port Act of 1974, as amended
AEO	Annual Energy Outlook
Applicant	Texas GulfLink, LLC
Application	Texas GulfLink, LLC Deepwater Port License Application
AQD	Air Quality Division
ATBA	Area-to-be-Avoided
BA	Biological Assessment
BAT	Best Available Technology
BACT	Best Available Control Technology
BBL	Barrels
B/D	Barrels per day
BiOp	Biological Opinion
BMP	Best Management Practices
BOEM	Bureau of Ocean Energy Management
BSEE	Bureau of Safety and Environmental Enforcement
CAA	Clean Air Act
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CMP	Compensatory Mitigation Plan
COVID-19	Coronavirus Disease 2019
CWA	Clean Water Act

CZMA	Coastal Zone Management Act of 1972
DEIS	Draft Environmental Impact Statement
DHS	Department of Homeland Security
Direct Parent	Sentinel Midstream LLC
Docket	Federal Docket Management System
DOD	Department of Defense
DOE	United States Department of Energy
DOT	United States Department of Transportation
DPI	Direct Pipe Installation
DWP	Deepwater Port
DWPA	Deepwater Port Act of 1974, as amended
ECO	Environmental Consultation Organizer
EEZ	Exclusive Economic Zone
EIA	United States Energy Information Administration
EIS	Environmental Impact Statement
EJ	Environmental Justice
EMPCO	ExxonMobil Pipeline Company
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FEIS	Final Environmental Impact Statement
FM	Farm to Market Road
FR	Federal Register
GA	Galveston Area/Galveston Protraction Area

GHG	Greenhouse Gases
GIWW	Gulf Intracoastal Waterway
GLO	General Land Office
GoM	Gulf of Mexico
HRP	Habitat Restoration Plan
ID	Internal Diameter
IMO	International Maritime Organization
LEP	Limited English Proficiency
License	Deepwater Port License
Licensee	Deepwater Port Licensee
LLC	Limited Liability Company
LOOP	Louisiana Offshore Oil Port
MARAD	Maritime Administration
MARPOL	International Convention for the Prevention of Pollution from Ships
NAA	No-Anchoring-Area
NEPA	National Environmental Policy Act
NGO	Non-Governmental Organizations
NHPA	National Historic Preservation Act
NOA	Notice of Application
NOAA	National Oceanic and Atmospheric Administration
NMFS	National Marine Fisheries Service
NOI	Notice of Intent
OCS	Outer Continental Shelf

OPA 90	Oil Pollution Act of 1990
OPS	Office of Pipeline Safety
OSV	Offshore Service Vessel
PHMSA	Pipeline and Hazardous Materials Safety Administration
PLEM	Pipeline End Manifold
PMMP	Prevention, Monitoring, and Mitigation Plan
Port	GulfLink Deepwater Port
Project	GulfLink Deepwater Port project
ROD	Record of Decision
ROW	Right of Way
SC	Social Cost of Carbon
SCADA	Supervisory Control and Data Acquisition System
SDEIS	Supplemental Draft Environmental Impact Statement
Secretary	Secretary of the U.S. Department of Transportation
Sentinel	Sentinel Midstream LLC
SERO	Southeast Regional Office
SHPO	State Historic Preservation Officer
SPCC	Spill Prevention, Controls, and Countermeasures
SPM	Single Point Mooring
SPR	Strategic Petroleum Reserve Facility (Bryan Mound, TX)
TCEQ	Texas Commission on Environmental Quality
Texas GLO	Texas General Land Office
TGL	Texas GulfLink, LLC

THC	Texas Historical Commission
TPWD	Texas Park and Wildlife Department
UDP	Unanticipated Discoveries Plan
UNCLOS	United Nations Convention on the Law of the Sea
U.S.	United States
U.S.C.	United States Code
USACE	United States Army Corps of Engineers
USCG	United States Coast Guard
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
VLCC	Very Large Crude Carriers
VOCs	Volatile Organic Compounds
VCU	Vapor Control Unit
WMA	Wildlife Management Area

1. INTRODUCTION¹

This Record of Decision (ROD) is for the Texas GulfLink, LLC (TGL or Applicant) application to own, construct, and operate a deepwater port. The ROD serves as the public record for the TGL Deepwater Port License Application (Application).

The ROD does not serve as a license under the Deepwater Port Act of 1974, as amended (DWPA), nor does it authorize the Applicant to own, construct, or operate a deepwater port. Moreover, the issuance of a ROD does not indicate that the issuance of a license is a *fait accompli*, nor does it indicate that a license will be issued to the Applicant in the future.

TGL must comply with state and Federal permitting, mitigation, and related requirements outlined in this ROD before a Deepwater Port License (License) can be issued and TGL can begin construction of the proposed deepwater port.

The DWPA declares it to be the intent of Congress to “...authorize and regulate the location, ownership, construction, and operation of deepwater ports in waters beyond the territorial limits of the United States.”^{2,3} The term *deepwater port* includes offshore structures other than

¹ The Texas GulfLink, LLC application, public comments, and other documents related to the application and environmental review process may be viewed on the Federal Government’s Docket Management System (Docket) at <http://www.regulations.gov/> by entering the official docket number, MARAD-2019-0093.

² In September 1984, the DWPA was amended by Public Law No. 98-419, Deepwater Port Act Amendments of 1984, to define an “application” as any application submitted under the DWPA for a license for the ownership, construction, and operation of a deepwater port. Also, the 1984 amendment of the DWPA granted the Secretary the authority to issue, amend, transfer, or reinstate a license (if consistent with the findings made at the time the said license was issued). The amendment directed that a license issued under the DWPA shall remain in effect until revoked by the Secretary or surrendered by the licensee. In October 1996, the DWPA was amended by Public Law No. 104-324, Deepwater Port Modernization Act, to promote the use of deepwater ports to transport Outer Continental Shelf (OCS) oil by reducing unnecessary and duplicative regulatory requirements, and promote innovation, flexibility and efficiency in the preparation and processing of a license by providing a streamlined regulatory approach utilizing provisions in an operations manual rather than specific license conditions or regulations. In addition to the streamlining process, the Secretary delegated responsibilities for processing licenses to the United States Coast Guard (USCG) and to the Maritime Administration (MARAD). The DWPA was later amended in January 2002, by Public Law No. 107-295, the Maritime Transportation Security Act of 2002, which, at Section 106, amended the DWPA to cover the importation, transportation, and production of natural gas. The DWPA was later amended by Public Law No. 109-241, the Coast Guard and Maritime Transportation Act of 2006, to address crew nationalities, vessel flag registries, and other requirements. The DWPA was subsequently amended in 2012 by Public Law No. 112-213, the Coast Guard and Maritime Transportation Act of 2012, by modifying the definition of deepwater port to include transportation of oil or natural gas from a State. The DWPA was most recently amended by Public Law No. 113-281, the Howard Coble Coast Guard Authorization Act of 2014, providing technical amendments to 33 U.S.C. § 1503(i) concerning crew nationalities and vessel registries for natural gas export facilities. The DWPA is codified at 33 U.S.C. § 1501 through 1524, and citations in this document are either to sections of the DWPA or, whenever possible, to corresponding sections of the U.S. Code (U.S.C.) or to the Code of Federal Regulations (CFR).

³ 33 U.S.C. § 1501(a)(1).

vessels used as terminals to transport, store, or further handle oil or natural gas to or from any State.⁴

Under the DWPA, persons seeking a license to own, construct, and operate a deepwater port must submit a detailed application to the Secretary of the U.S. Department of Transportation (hereinafter, the Secretary). The Secretary has delegated to the Maritime Administrator “the authority to issue, transfer, amend, or reinstate a license for the construction and operation of a deepwater port” as provided for in the DWPA.⁵

By a 1997 delegation, the Secretary delegated the authority to process license applications to MARAD and USCG in coordination with each other.⁶ The Secretary has delegated to the Pipeline and Hazardous Materials Safety Administration the authority to establish, enforce, and review regulations concerning the safe construction, operation, or maintenance of pipelines on Federal lands and the OCS (33 U.S.C. § 1520).⁷

In response to the 1973 oil embargo and resulting higher domestic gasoline prices, Congress passed the Energy Policy and Conservation Act of 1975 (Public Law 94-163), which prohibited the export of crude oil produced in the United States (U.S.), subject to a few statutory exceptions related to national security and national policy matters.⁸

The ban on exports was designed to ensure adequate domestic supplies of crude oil were maintained within the United States. Although crude exports were prohibited during this period, refined petroleum types manufactured in the U.S. were permitted to be sold abroad, which resulted in a thriving export trade. Subsequently, in December 2015, the Consolidated Appropriations Act of 2016 (Public Law 114-113), Section 101(a) of Division O, Title I, repealed the 1975 crude export ban. After the repeal, U.S. producers began exporting crude oil overseas.⁹

⁴ The term “deepwater port” is defined at 33 U.S.C. § 1502(9) to include any fixed or floating structures located beyond State seaward boundaries and deepwater port components located seaward of the high-water mark. The Port, however, discussed herein, has onshore components *and* offshore components. As such, the general term, “deepwater port,” used herein shall have the statutory meaning referenced above.

⁵ “Organization and Delegation of Powers and Duties,” *Federal Register*, Vol. 77, No. 160, Friday, (August 17, 2012), pp. 49964-49990 (77 FR 49964); 49 CFR § 1.93(h). The term FR refers to the Federal Register.

⁶ “Organizations and Delegation of Powers and Duties; Delegation to the Commandant, United States Coast Guard and Administrator, Maritime Administration,” *Federal Register*, Vol. 62, No. 48, Wednesday, (March 12, 1997), pp. 11382-11383 (62 FR 11382). The USCG has the additional statutory responsibility to approve an operations manual for a deepwater port. 33 U.S.C. § 1503(e)(1). The USCG retained the statutory authority and its delegated authorities upon its transfer to the Department of Homeland Security (DHS) (Department of Homeland Security Delegation Number: 0170, Sec. 2. (75), March 3, 2003; Public Law. 107-296, Section 888).

⁷ Id.

⁸ 42 U.S.C. § 6212. Repealed.

⁹ Public Law 114-113, div. O, title I, Section 101(a).

In recent years, U.S. crude oil production has steadily increased as a result of technological advancements in exploration and production methods as well as increased global demand.^{10,11} In 2020, the United States became a net exporter of petroleum for the first time since 1949.¹²

While a portion of the crude oil produced by the U.S. is refined for domestic use, the U.S. Energy Information Administration (EIA) projects that the U.S. will be a net petroleum exporter from 2024 to 2050.¹³

High export levels are driven by less consumption of liquid fuels in the U.S. as well as the production of crude oil grades that cannot be processed economically by U.S. refineries.¹⁴ These developments, along with the lifting of the crude oil export ban in 2015, have increased interest in the development of offshore deepwater ports for exporting U.S.-produced crude oil.¹⁵

1.1. Deepwater Port Applicant

On May 30, 2019, TGL, a wholly-owned subsidiary of Sentinel Midstream LLC (hereinafter referred to as Sentinel or direct parent), organized and existing under the laws of the State of Texas, submitted to MARAD and USCG an application for a license under the DWPA to own, construct, and operate the proposed Texas GulfLink Deepwater Port

¹⁰ See EIA, “U.S. Crude Oil Exports Reached a Record in 2023,” March 18, 2024, <https://www.eia.gov/todayinenergy/detail.php?id=61584>, accessed November 27, 2024.

¹¹ See EIA, “U.S. Energy Production Exceeded Consumption by Record Amount in 2023,” June 26, 2024, <https://www.eia.gov/todayinenergy/detail.php?id=62407>, accessed July 29, 2024.

¹² See EIA, “Oil and Petroleum Products Explained,” last updated January 19, 2024, <https://www.eia.gov/energyexplained/oil-and-petroleum-products/imports-and-exports.php>, accessed July 29, 2024.

¹³ EIA, *Annual Energy Outlook 2023 Narrative*, March 16, 2023, https://www.eia.gov/outlooks/aeo/pdf/AEO2023_Narrative.pdf. Note: EIA did not publish a 2024 Annual Energy Outlook. Its webpage (<https://www.eia.gov/outlooks/aeo/>), accessed October 22, 2024, notes “EIA’s National Energy Modeling System (NEMS), which we use to produce our Annual Energy Outlook (AEO), requires substantial updates to better model hydrogen, carbon capture, and other emerging technologies. To facilitate these model enhancements, we will not publish an AEO in 2024. You can find more information in our Statement on the Annual Energy Outlook and EIA’s plan to enhance long-term modeling capabilities.”

¹⁴ *Id.* at 23-24.

¹⁵ See EIA, “In 2022, U.S. crude oil exports increased to a new record, 3.6 million barrels a day,” March 20, 2023, <https://www.eia.gov/todayinenergy/detail.php?id=56020>, accessed October 22, 2024 (“U.S. crude oil exports in 2022 were 22% [640,000 b/d (Barrels per day)] higher than in 2021. Increased U.S. crude oil production, releases from the U.S. Strategic Petroleum Reserve, and more global demand for crude oil from countries other than Russia all drove the growth in U.S. crude oil exports”).

(hereinafter referred to as the Port, or the Project) for the transportation of domestically produced crude oil for export to the global market.^{16,17}

1.2. Project Description

The Port will have both onshore and offshore components. The onshore components will support the Port's operation and, if constructed, will be wholly located in Brazoria County, TX.

1.2.1. Onshore Components

The onshore storage and supply components of the Project will include the construction of an onshore crude oil storage tank farm (designated as the TGL Jones Creek Terminal) located in Brazoria County, TX, an existing shoreside support facility at the Port Freeport public docks in Freeport, TX, as well as installation of buried onshore pipelines and ancillary facilities, which are described in more detail below.

The proposed TGL Jones Creek Terminal will receive crude oil from a newly constructed 36-inch diameter pipeline which will connect to an existing 40-inch pipeline that is owned by the United States Department of Energy (DOE) and leased and operated by ExxonMobil Pipeline Company (EMPCO). The EMPCO pipeline is located on the grounds of the DOE's Strategic Petroleum Reserve (SPR) facility located in Bryan Mound, TX. This connection of the EMPCO pipeline to the proposed GulfLink Jones Creek Terminal is known as the incoming pipeline.¹⁸

In order to use the EMPCO pipeline, the flow direction of the pipeline would need to be reversed. Currently, the pipeline flow direction is from external sources to the SPR. The proposed direction would be from the pipeline that traverses through the property of the SPR to the proposed TGL Jones Creek Terminal. The pipelines would be bi-directional for maintenance, pigging, changing crude oil grades, or evacuating the pipeline with water.

The connection of the 36-inch incoming pipeline to the 40-inch EMPCO pipeline at the SPR would be located within a TGL-operated station occupying 85 feet by 192 feet (0.37 acres). Equipment located at the station would include a pig launcher, a custody transfer meter for line surveillance and leak detection, and

¹⁶ Deepwater Port License Application: Texas GulfLink, LLC, *Federal Register*, Vol. 84, No. 123, Wednesday, June 26, 2019), pp. 30298-30300 (84 FR 30298).

¹⁷ The terms *TGL* and *Applicant* refer to the corporate entity; the terms *Port* and the *Project* refer to the deepwater port's onshore and offshore structures.

¹⁸ The pipeline that transfers the crude oil from the TGL Jones Creek Terminal to the Port is referred to as the outgoing pipeline and is described in the offshore components section of this document.

ancillary communication equipment. The station would be fenced and signed as a TGL-operated facility.

The incoming pipeline from the SPR to the proposed GulfLink Jones Creek Terminal would be 9.1 miles in length and would follow a northwesterly path. The incoming pipeline would parallel an established right-of-way (ROW) for existing pipelines and power lines for the entire distance except for a short section (300 feet) on the SPR property.

Property ownership along the incoming pipeline route would include federally owned lands of the SPR, lands of the Justin Hurst Wildlife Management Area (WMA) owned by the Texas Parks and Wildlife Department (TPWD), lands owned by Port Freeport, and privately-owned lands. There would be 3.43 miles of the pipeline located within the boundaries of the Justin Hurst WMA.

The TGL Jones Creek Terminal will be located in Jones Creek, TX, on the north side of State Highway 36, west of Farm to Market Road 304 (alternatively known as FM 304 or Peach Point Road). Crude oil that would be delivered to the Jones Creek Terminal would be sourced from the Houston market via multiple long-haul pipelines, which run from Wink, TX; Crane, TX; and Midland, TX to Texas City, TX in the general Houston, TX, area.

The TGL Jones Creek Terminal will include the following items:

- A maximum of twelve aboveground external floating roof storage tanks, each with a total storage capacity of 708,168 barrels (bbls) (667,251 bbls working capacity), for a total onshore capacity of 8.5 million bbls (8.0 million bbls working capacity).¹⁹
- Six variable frequency drive, electric-driven centrifugal pumps to pump crude oil at or up to 1,480 pounds per square inch gauge to provide a maximum flow of 85,000 barrels per hour to the deepwater port (DWP). All pumps would be equipped with variable speed capability to accommodate adjustable flow rates.
- Three electric-driven vertical can pumps to drain the tanks and provide sufficient suction pressure for the mainline centrifugal pumps.
- One pig receiver for the incoming 36-inch pipeline.
- One pig launcher for the outgoing 42-inch pipeline.

¹⁹ The Project includes installation of eight tanks with space and pipeline connections available to add up to four additional tanks for a total of twelve tanks. See page 4-61 of the Final Environmental Impact Statement (FEIS) for reference.

- One custody transfer meter skid with turbine meter for the incoming pipeline from the existing 40-inch pipeline leased and operated by EMPCO on the property of the SPR.
- An additional meter skid for leak detection surveillance on the outgoing pipeline leading to the Port.
- One sampling system for the incoming custody transfer skid.
- One bi-direction displacement prover shared by both the incoming and outgoing meter skids.
- One emergency generator for use during loss of commercial power.
- One firewater pump and freshwater well to provide water for tank seal fires and small emergencies.
- An administration building that would include offices, as well as a main Operations Control Center for overall controls of the pipelines and the TGL Jones Creek Terminal using supervisory control and data acquisition (SCADA) over microwave communications to the fixed offshore platform and fiber-optic cable within the onshore terminal.
- Space for temporary vapor combustion units that would be brought onsite for use during tank maintenance or inspection. These units will be used to destroy volatile organic compounds (VOCs) while a tank roof is elevated to allow tank maintenance or inspection.

Ancillary facilities at the proposed TGL Jones Creek Terminal would include an electrical substation; water wells for potable and sanitary water supply, stormwater management infrastructure, including berms and containment dikes, and a security fence.

Other onshore facilities include a shore-based support facility, which would be established at the Port Freeport Public Docks. The Applicant would lease dock space for docking of support boats, lease nearby office and warehouse space, and would contract support services to be provided by vendors at that location.

1.2.2. Onshore Component of the Outgoing Pipeline

A proposed 42-inch pipeline (the outgoing pipeline) would be constructed from the proposed onshore TGL Jones Creek Terminal to the proposed Port. The total length of the outgoing pipeline from the TGL Jones Creek Terminal to the Port would be 44.4 miles.

The outgoing pipeline would include an onshore portion that would be 12.1 miles in length and an offshore portion that would be 32.3 miles (28.1 nautical miles) in length that would continue from the shoreline to the Port.

The onshore portion of the outgoing pipeline would follow a southeasterly path from the TGL Jones Creek Terminal to the shoreline. The outgoing pipeline would be installed adjacent to the incoming pipeline for approximately eight miles. The pipelines would then diverge, with the incoming pipeline traversing an additional 1.1 miles eastward to the existing 40-inch EMPCO pipeline, and the onshore portion of the outgoing pipeline traversing an additional 4.1 miles southward to the exit point of the direct pipe installation (DPI) boring that would pass under the shoreline.²⁰

Property ownership along the outgoing pipeline route would include lands of the Justin Hurst WMA owned by the TPWD, lands owned by Port Freeport, and privately-owned lands. There would be 3.4 miles of pipeline located within the boundaries of the Justin Hurst WMA, and 4.2 miles of pipeline located on property of Port Freeport along the Brazos River.

1.2.3. Offshore Components

The offshore components of the Project will include the proposed offshore 42-inch pipeline (which is an extension of the onshore outgoing pipeline), the fixed offshore platform, two floating single point mooring (SPM) buoys, two support boat mooring buoys, and associated pipelines and manifolds to deliver crude oil from the outgoing pipeline to the tankers. In addition, navigation areas in the vicinity of the proposed Port would be designated for safe movement of tankers.

The Port platform would be sited in the Gulf of Mexico 26.6 nautical miles off the coast of Brazoria County, TX, at a location with a water depth of approximately 104 feet located within the Galveston Area (GA) Lease Block GA-423.²¹

From the proposed TGL Jones Creek Terminal, the crude oil would be transferred to the DWP through a newly constructed 42-inch pipeline, 44.4 miles long (12.1 miles onshore and 32.3 miles offshore), that would originate at the proposed TGL Jones Creek Terminal.

²⁰ Of the 12.1-mile length of the onshore portion of the outgoing pipeline, 3.4 miles would be installed adjacent to an existing 30-inch ExxonMobil pipeline, 2.8 miles would be installed adjacent to other various existing pipeline infrastructure, and 5.9 miles would not be installed adjacent to existing infrastructure.

²¹ The subsea pipelines would transect the following OCS lease blocks: BA-308, BA-336; BA-341; BA-342; BA-364; BA-392; BA-396; BA-403; BA-413; GA A-36; GA-362; GA-363; GA-380; GA-381; GA-391; GA-392; GA-393; GA-422; and GA-423. SPM Buoy 1 would be in lease block GA-423 and SPM Buoy 2 would be in lease block GA A-36. The support boat buoys would be in lease block GA-422 and GA-423.

Continuing from the shoreline end of the onshore portion of the outgoing pipeline, the offshore pipeline would traverse an additional 28.1 nautical miles (32.3 miles) southeast to the Port. The offshore pipeline would enter the Port from the northwest. At the Port, the pipeline would enter the fixed offshore platform, and would there split into two pipelines, each 1.25 nautical miles in length. These two pipelines would connect to two SPM buoys for loading crude oil into the tankers.

1.2.4. Project Construction and Commissioning

According to the Applicant, construction of the proposed Port will begin in the fourth quarter of 2025, but only if all License conditions are met and a License is issued. Onshore construction is expected to begin in the fourth quarter of 2025 and be completed in the second quarter of 2027. The Applicant anticipates that the commissioning of the Port will occur in the fourth quarter of 2027. The Applicant advises that the proposed Port would generate 450 jobs with average salaries ranging from \$75,000 to \$100,000. In addition, the average annual salary of the offshore and shore-based staff will be between \$70,000 and \$200,000 when the Port becomes operational. The Applicant anticipates that the first exports of crude oil will commence in the fourth quarter of 2027, contingent upon the company's ability to obtain all required State and Federal permits and satisfy all License conditions.

Details regarding the Federal environmental evaluation of the Port's short and long-term impacts on the environment during construction, operation, and decommissioning are summarized in "Section 5.5 – *Protecting and Enhancing the Environment*" of this document and are discussed in detail in the *Texas GulfLink Deepwater Port Final Environmental Impact Statement*.

1.3. Texas GulfLink, LLC's Corporate Structure

Texas GulfLink, LLC, is a Texas limited liability company established to own, construct, and operate the proposed GulfLink DWP. Texas GulfLink, LLC is a wholly owned subsidiary of Sentinel Midstream LLC. Sentinel Midstream LLC provides midstream solutions for crude oil gathering, storage, and terminaling as well as natural gas gathering, processing, and treating. Sentinel Midstream, its parent and affiliate entities are ultimately owned by Cresta Energy Fund I, LP and Cresta Energy Fund I Carry, LP. Cresta Energy Fund I, LP and Cresta Energy Fund I Carry, LP (Collectively, Cresta) are private equity firms.

Texas GulfLink, LLC and its team of industry experts will provide the necessary financial, management, and technical support to construct, operate, and decommission the Port.²²

²² "The Texas GulfLink project team comprises an exclusive grouping of individuals with specific midstream and offshore oil and gas experiences. From commercial development to operations, the team has extensive experience designing, managing, and leading an organization that can store large volumes of crude oil in above ground storage facilities with pipeline connectivity to load Very Large Crude Carriers (VLCC) at an offshore Deepwater Port complex. Coupled with the financial backing of a private equity fund dedicated to investing in the energy midstream space, who also have extensive operating and management experience, the team is uniquely positioned to

The Applicant has met all citizenship requirements necessary to receive a License under 33 U.S.C. § 1503(g). Based on the information and representations provided by Texas GulfLink, LLC, including its May 14, 2019, affidavit of U.S. citizenship, MARAD has determined that the Applicant is a citizen of the United States within the meaning of 33 U.S.C. § 1502(4).

1.4. Texas GulfLink Deepwater Port Application Review Process

On May 30, 2019, the Applicant submitted to MARAD and the USCG an Application for a License under the DWPA to own, construct, and operate the Port for the export of domestically produced crude oil to the global market.²³ On June 20, 2019, the TGL Application was deemed complete by MARAD, USCG, and other Federal cooperating agencies.²⁴ On June 26, 2019, MARAD and USCG published a Notice of Application in the Federal Register (84 FR 30298) summarizing the Application and Project design.²⁵ The Federal Register Notice of Application was posted to the Federal Docket for the Project at www.regulations.gov.²⁶ The docket number for the Project is MARAD-2019-0093.

Pursuant to 33 U.S.C. § 1508(a)(1), the State of Texas was designated as the Adjacent Coastal State (ACS) for the Project because Texas will be directly connected by pipeline to the Port. No other state will be directly connected by pipeline to the Port or located within fifteen nautical miles of the proposed Port. Moreover, no other state petitioned MARAD for ACS status. As such, Texas is the only designated ACS for the Project. Sections 1503(c)(8) and 1508(b)(1) of Title 33 provide that the Secretary may not issue a License without the approval of the Governor of the ACS who must approve, approve with conditions, or deny the application within 45 days of the final public hearing on the proposed deepwater port license application. If the Governor fails to transmit a decision within this timeframe, an approval is conclusively presumed under the DWPA.^{27,28}

take this project from conceptual design, through permitting, and construction to commissioning.” “Experience Related to Deepwater Ports,” *GulfLink Deepwater Port License Application*. Federal Docket Management System, Vol.1, page 31. Found online here: <http://www.regulations.gov>, docket number MARAD-2019-0093-0002.

²³ “Texas Gulf Link - Deepwater Port Application /Appendix”: Vol. 1, 2, and 3, June 27, 2019. Federal Docket Management System, found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0002>.

²⁴ “GulfLink – Completeness letter – 6-8-19,” June 8, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-8572>.

²⁵ “Deepwater Port License Application: Texas GulfLink, LLC (Texas GulfLink),” *Federal Register*, Vol. 84, No. 123, Wednesday, June 26, 2019), pp. 30298-30300 (84 FR 30298).

²⁶ Id.

²⁷ 33 U.S.C. § 1503(c)(8).

²⁸ 33 U.S.C. § 1508(b)(1).

By letter dated June 21, 2019, MARAD notified the Governor of Texas of the Application and 45-day period after the last public hearing, during which the Governor could exercise his authority under the DWPA to approve, approve with conditions, or deny the Application under 33 U.S.C. § 1508(b)(1)(C).²⁹

On August 20, 2024, MARAD issued a second letter to the Governor of Texas informing him of the availability of the TGL FEIS, the date of the final public hearing, and the 45-day period during which he could exercise his authority to approve, approve with conditions, or deny the Application.³⁰

1.5. National Environmental Policy Act Review Process

In addition to the statutory requirements stipulated under the DWPA, the Project required review under the National Environmental Policy Act (NEPA). NEPA requires Federal agencies to consider the environmental impacts of a proposed action (and reasonable alternatives), which may significantly affect the quality of the natural and human environment, into their decision-making process.

The FEIS has been prepared in compliance with NEPA (42 U.S.C. § 4321, *et seq.*), consistent with the implementing regulations of the Council on Environmental Quality (CEQ), and in accordance with USCG Environmental Planning Policy and Environmental Planning Implementing Procedures, Commandant Instruction Manual (COMDTINST) 5090.1, DHS Management Directive 023-01, Rev 01, Implementation of the National Environmental Policy Act, the United States Department of Transportation (DOT) Order 5610.1C, “Procedures for Considering Environmental Impacts” and Maritime Administrative Order 600-1, “Procedures for Considering Environmental Impacts.”³¹

The FEIS was prepared by USCG, in coordination with MARAD, with technical support from the third-party environmental contractor, AECOM.

The purpose of the NEPA review is to provide an environmental analysis sufficient to support the Maritime Administrator’s licensing decision; to facilitate a determination of

²⁹ “GulfLink - ACS Governor letter - 6-21-19,” June 21, 2019, Federal Docket Management System: <https://www.regulations.gov>, docket number MARAD-2019-0093. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-8573>.

³⁰ “GulfLink - Letter to Adjacent Coastal State Governor (Notice of Final Public Hearing)-8-20-24,” August 20, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10616>.

³¹ CEQ updated its implementing NEPA regulations on July 15, 2020. Pursuant to 40 CFR § 1506.13, the new regulations went into effect on September 14, 2020. The environmental review for the TGL Project began prior to September 14, 2020. As such, this EIS was prepared under the previous CEQ regulations. Any citations to CEQ regulations in this EIS refer to the regulations in effect prior to September 14, 2020. (40 CFR § 1506.13 was later replaced by 40 CFR § 1506.12 in CEQ’s subsequent Final Rule promulgated on May 1, 2024. [89 FR 35442]. 40 CFR § 1506.12 contains similar text that agencies may, but are not required, to apply the current regulations to NEPA processes begun prior to the effective date of the rulemaking).

whether the Applicant has demonstrated that the proposed Project would be located, constructed, operated, and decommissioned using the best available technology necessary to prevent or minimize adverse impacts on the environment; and to encourage and facilitate involvement by the public and interested agencies in the environmental review process.

The environmental review process, required by NEPA and the DWPA, began on July 3, 2019, with the publication in the Federal Register of a Notice of Intent to prepare an Environmental Impact Statement (EIS) and receive public comments regarding the scope of the proposed action and its potential environmental impacts.³² MARAD and USCG held multiple public meetings in the ACS.³³ During the scoping process, MARAD and the USCG conducted an informational open house and public scoping meeting on July 17, 2019, in Lake Jackson, TX, to receive public comments and information on issues to be addressed in the EIS. Seventeen individuals provided oral comments at the July 17, 2019, public scoping meeting. Eight individuals provided written comments at the public scoping meeting.

The comments included concerns regarding: direct, indirect, and cumulative impacts on human health and the environment, environmental impacts on wildlife, the location of the impacts of the TGL Jones Creek Terminal and its effect on the local infrastructure conditions such as traffic, lighting, water quality, operational noise levels, power acquisition to operate the facility, drainage system, and emergency services, potential impacts due to potential spills or contamination, impacts to socioeconomics, aesthetics and property values, potential impacts from the Project to nearby residents and communities, as well as general opposition to the Project.³⁴

In addition to the public comments received at the July 17, 2019, public scoping meeting, written comments were submitted to the Federal Docket Management System at www.regulations.gov.³⁵

Generally, these comments expressed concerns with the TGL Jones Creek terminal location; socioeconomic impacts; aesthetic impacts; impacts on the displacement of wildlife; potential for leaks, contamination, spills, and the spill response plan; operational noise levels, lighting levels, and odors; infrastructure impacts; water quality impacts; and direct, indirect, and cumulative impacts on human health and the environment.

The transcripts of the July 17, 2019, public scoping meeting and its Public Scoping Meeting Report (which includes a summary of the oral and written public comments) are

³² “Deepwater Port License Application: Texas GulfLink, LLC,” *Federal Register*, Vol. 84, No. 128, Wednesday, July 3, 2019), pp. 32008-32010 (84 FR 32008).

³³ These meetings are required under 33 U.S.C. § 1504(g).

³⁴ “GulfLink - Final Scoping Report - 10-13-19,” October 13, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0047>.

³⁵ Id., Final Scoping Report contains all the information from the Public Scoping Meeting

available on the Federal Docket.³⁶ Following the close of the public scoping meeting comment period, the regulatory timeline for processing the application was suspended two times to obtain additional information from the Applicant that was needed to sufficiently develop the required environmental document.

The regulatory timeline was initially suspended on November 8, 2019, to receive additional information regarding the project description, biological resources, air quality data, noise impact data, and water resources.³⁷ MARAD and USCG received responses from the Applicant to all information requests and the information submitted was deemed sufficient to continue the environmental review. As such, MARAD and USCG restarted the regulatory clock on April 27, 2020.³⁸

The regulatory timeline was suspended a second time on September 15, 2020, to receive additional information regarding onshore and inshore oil spill modeling.³⁹ On November 10, 2020, MARAD and USCG restarted the regulatory clock as all requested information from the Applicant had been received and was deemed sufficient to continue the environmental review.⁴⁰

On Friday, November 27, 2020, MARAD published a Federal Register Notice of Availability announcing the publication of the TGL Draft Environmental Impact Statement (DEIS), and the agencies' plans to host a DEIS public meeting.⁴¹ Publication of the Notice of Availability began a 45-day comment period during which the public could submit formal comments concerning the TGL DEIS.

The public's ability to assemble was impaired due to the nationwide impacts of the public health emergency referenced by Section 319 of the Public Health Services Act in response to Coronavirus Disease 2019 (COVID-19), the President's declaration of a national emergency due to the COVID-19 outbreak, the continuation of that national emergency,

³⁶ Id.

³⁷ "GulfLink - Stop Clock Letter - 11-8-19," November 8, 2019. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0046>.

³⁸ "GulfLink - Letter (Removal of the stop clock - restart letter) - 4-28-20," April 27, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0064>.

³⁹ "GulfLink - Letter: Notice of Suspension (Stop Clock Letter) - 9-15-20," September 15, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0083>.

⁴⁰ "GulfLink - Reinstatement of Deepwater Port Act Timeline - 11-10-20," November 10, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0085>.

⁴¹ "Deepwater Port License Application: Texas GulfLink, LLC," *Federal Register*, Vol. 85, No. 229, Friday, November 27, 2020, pp. 76157-76159 (85 FR 76157).

as well as state and local actions in response to COVID-19.⁴²⁴³ MARAD and USCG decided to conduct future public meetings in a virtual platform to comply with national health and safety protocols due to COVID-19.

On December 16, 2020, and December 17, 2020, MARAD and USCG held an online informational open house and a virtual public meeting. The purpose of the informational open house and DEIS public meeting was to receive comments from Federal and State agency representatives, tribal leaders, elected officials, and other members of the public regarding the scope and content of the DEIS.⁴⁴

During the DEIS meetings, MARAD and USCG received comments from various members of the public representing residents, Non-Governmental Organizations (NGO), and local tribal representatives. The December 16, 2020, and December 17, 2020, DEIS public meeting transcripts are available on the Federal Docket.⁴⁵⁴⁶

In addition to receiving oral comments at the December 16, 2020, and December 17, 2020, DEIS public meetings, MARAD and USCG provided a 45-day public comment period for which the public could submit written comments on the Federal Docket for the TGL DEIS. 2,550 submissions (2,366 of which were duplicated form letters representing 44,920 signatories) were received during the public comment period, which occurred from November 27, 2020, to January 22, 2021. It was determined that 189 submissions were unique comments^{47,48,49,50}

During the public comment period, MARAD and USCG received comments that public notification and opportunities for comment did not include sufficient outreach and

⁴² “Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak,” *Federal Register*, Vol. 85, No. 85, Wednesday, March 18, 2020, pp. 15337-15338 (85 FR 15337).

⁴³ “Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic,” *Federal Register*, Vol. 87, No. 36, Wednesday, February 23, 2022, pp. 10289 (87 FR 10289).

⁴⁴ *Id.*

⁴⁵ “GulfLink - Transcript Public Meeting - 12-16-20,” December 16, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0318>.

⁴⁶ “GulfLink - Transcript Public Meeting - 12-17-20,” December 17, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0319>.

⁴⁷ All substantive comments were considered and responded to in “Appendix C” of the *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

notification to Limited English Proficiency (LEP) persons. After a thorough review, MARAD determined that affected Spanish-speaking LEP persons were not provided sufficient and adequate opportunity to fully participate in the application and environmental review process for the TGL Deepwater Port License application.

As such, the DEIS was published for a second time and on September 24, 2021, MARAD published a Federal Register Notice of Availability (86 FR 53144) to announce the re-opening of the public comment period for the DEIS for 45-days.⁵¹ The Federal Register Notice also announced a third DEIS virtual public meeting, and informational open house which were held on October 14, 2021.⁵² The purpose of reissuing the DEIS was to ensure the meaningful engagement of identified Spanish-speaking LEP persons in the environmental impact review process.

Further, the following actions were taken to ensure that the LEP community could participate in the Application review process:

- (1) The DEIS Executive Summary was translated into Spanish and posted on the docket and on the Proposed Action's commercial website.
- (2) A bilingual postcard mailer announcing the re-opening of the public comment period and the public meeting was mailed to all mailing addresses and parcel owners within 1-mile of the project area.
- (3) A bilingual advertisement announcing the re-opening of the public comment period and the public meeting was published in the October edition of the La Voz de Brazoria County paper. English language advertisements were published in The Facts and The Baytown Sun.
- (4) The virtual open house website was translated into Spanish, including registration protocols, posters describing the Proposed Action, and information on the NEPA process.
- (5) Spanish interpretations were provided live during the October 14, 2021, public meeting. The public meeting included both a Spanish and English language channel. All remarks and comments presented in English were interpreted to Spanish on the Spanish channel. All comments presented in Spanish were interpreted to English on the English channel. All presentation materials were presented in both Spanish and English.
- (6) Spanish and English transcripts of the public hearing were posted on the docket.

⁵¹ "Deepwater Port License Application: Texas GulfLink, LLC," *Federal Register*, Vol. 86, No. 183, Friday, September 24, 2021, pp. 53144-53147 (86 FR 53144).

⁵² *Id.*

During the second comment period 131 submissions (of which 38 were duplicated form letters [representing 21,911 signatories]) were received, and 93 responses were considered unique comments.⁵³ The transcript of the October 14, 2021, DEIS public meeting is available on the public docket in English and Spanish.⁵⁴

On November 22, 2021, MARAD and USCG received a letter from the Applicant proposing the incorporation of a vapor control module into the design and operation of the proposed GulfLink DWP. The Applicant proposed using a dynamically positioned third-party offshore service vessel (OSV), referred to as a Vapor Recovery Vessel, equipped with a vapor recovery module to control the release of VOC emissions during the cargo loading operations of the proposed DWP.

On February 28, 2022, MARAD received USCG's recommendation to proceed with the preparation of a Supplemental Draft Environmental Impact Statement (SDEIS) for the proposed GulfLink DWP. The recommendation was consistent with CEQ implementing NEPA regulations and guidance, and language in the DEIS that expressly assured the public the opportunity to review and comment on a VOC control system, in the event a control system was proposed for the GulfLink DWP. Specifically, page 2-71 of the DEIS contained the following language:

If USEPA determines that the application is acceptable and that the Proposed Action can be implemented without a vapor control system, as proposed by the Applicant, this information will be documented in the FEIS. However, if the [USEPA] review process results in a decision by the Applicant to either modify the Proposed Action to incorporate a vapor control system or to provide the data necessary to support analysis of a vapor control system alternative, then these revised analyses would need to be presented within a Supplemental DEIS.⁵⁵

On September 30, 2022, MARAD in coordination with USCG, published a Notice of Availability for the SDEIS in the Federal Register (87 FR 59487), to announce the availability of the SDEIS for the Application and a public meeting to receive comments on the SDEIS, which was scheduled for October 18, 2022.⁵⁶ The Federal Register Notice announced a 45-day comment period, which was initially scheduled to end on November 14, 2022, but was extended to November 30, 2022, to allow the public and interested

⁵³ All substantive comments were considered and responded to in "Appendix C" of the *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

⁵⁴ "GulfLink - DEIS Public Meeting Transcript," October 14, 2021, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-2853>.

⁵⁵ "GulfLink Draft Environmental Impact Statement (DEIS) - November 2020 508," December 3, 2020. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0088>.

⁵⁶ "Deepwater Port License Application: Texas GulfLink, LLC—Supplemental Draft Environmental Impact Statement," *Federal Register*, Vol. 87, No. 189, Friday, September 30, 2022, pp. 59487-59490 (87 FR 59487).

parties a full 45 days to review the SDEIS and provide written comments.⁵⁷ Additionally, the USCG and MARAD took the following actions to ensure meaningful public engagement on the SDEIS:

- (1) The October edition of the La Voz de Brazoria County paper was printed in both English and Spanish.
- (2) The SDEIS Executive Summary was translated into Spanish and posted on the docket and on the Proposed Action's commercial website.
- (3) A bilingual postcard mailer, containing a dual language map of the project area, notification that the recipient is within the Proposed Action site for the TGL Project, and information on how to join the Virtual Public Meeting for the project was sent to addresses within a one-mile buffer area on October 5, 2022 (760 addresses, residential and business).
- (4) A copy of the English and Spanish versions of the Notice of Availability and Notice of Public Meeting was mailed and emailed to city offices, town offices, community centers, and churches within a five-mile radius of the Project Area on Friday, September 30, 2022.
- (5) A Spanish language version of the virtual open house website including registration protocols, posters describing the Proposed Action, and information on the NEPA process was available during the public comment period.
- (6) The Spanish translation of the Executive Summary was posted to the docket on October 7, 2022, and was made available at the libraries to have available for public review during the public comment period.
- (7) Live Spanish translations were provided during the October 18, 2022, public meeting. The public meeting included both a Spanish and English language channel. All remarks and comments presented in English were translated to Spanish on the Spanish channel. No comments were presented in Spanish. All presentation materials were presented in both Spanish and English.
- (8) The Spanish and English versions of the transcript were posted to the docket on January 10, 2023.

During the SDEIS Public Comment Period, 508 submissions were received (of which 12 were duplicated form letters [representing 37,521 signatories]) and 496 responses were

⁵⁷ "Deepwater Port License Application: Texas GulfLink, LLC; Extension of Supplemental Draft Environmental Impact Statement Comment Period," *Federal Register*, Vol. 87, No. 217, Thursday, November 10, 2022, pp. 68001-68002 (87 FR 68001).

considered unique comments.^{58,59} The transcript of the October 18, 2022, SDEIS public meeting is available on the public docket in English and Spanish.^{60,61}

Overall, the SDEIS public comments expressed concern regarding the three primary subcategories as listed below:

- (1) *Primary Category -NEPA Process:*
Subcategories: Alternatives, application area, public participation, request for programmatic analysis, and the statutory schedule.
- (2) *Primary Category -General Opinion:*
Subcategories: General opinion, lack of benefit to the community, opposition, project not in national or public interest, project not needed, request for hearing on U.S. Army Corps of Engineers (USACE) permit, and support for the Project.
- (3) *Primary Category -Analysis:*
Subcategories: Air quality, biological resources, birds, climate change and greenhouse gas (GHG) emissions, coastal zone, commercial fisheries, commercial fishing and tourism, conflict with infrastructure, cultural and tribal issues, cumulative impacts, economic analysis of oil spill impacts, environmental justice, flooding, health impacts, impacts from oil spills, impacts to multiple resources, lightering, marine ecosystems, marine fisheries, marine navigation, marine water quality, mitigation, oyster reefs, project induces drilling/fracking, property values, recreation and tourism, safety, sea turtles, seagrass, severe weather events, shoreline erosion, socioeconomics, state regulations, threatened and endangered species, traffic, underwater noise, utilities, vessel strikes, visual resources, VOC control, water quality, water supply, wetlands, wildlife and wildlife management.

In addition to the above-cited comments, MARAD and USCG received other substantive comments on the SDEIS from Federal and State agencies as well as NGOs.⁶²

⁵⁸ All substantive comments were considered and responded to in “Appendix C” of the *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

⁵⁹ Id.

⁶⁰ “GulfLink – Public Meeting Transcript - 10-18-22 (English),” October 18, 2022, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3097>.

⁶¹ “GulfLink – Public Meeting Transcript - 10-18-22 (Spanish),” October 18, 2022, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3098>.

⁶² All substantive comments were considered and responded to in “Appendix C” of the *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

The Notice of Availability of the GulfLink FEIS and request for comments was published in the Federal Register on July 5, 2024 (89 FR 55680).⁶³ The notice announced a 45-day comment period beginning on July 5, 2024, and ending on August 19, 2024. A subsequent Federal Register Notice was published on August 16, 2024, (89 FR 66757) to advise the public that the comment period was extended to August 30, 2024, due to the impacts of Hurricane Beryl. The same Federal Register notice also advised the public of the final virtual public hearing that was scheduled for September 13, 2024.⁶⁴ Transcripts of the final hearing are available on the Federal Docket.⁶⁵ Additionally, the USCG and MARAD took the following actions to ensure meaningful public engagement on the FEIS:

- (1) The August edition of the La Voz de Brazoria County paper was printed in both English and Spanish.
- (2) A bilingual postcard mailer, containing a dual language map of the project area, notification that the recipient is within the Proposed Action site for the TGL Project, and information on how to join the Virtual Public Meeting for the project was sent to addresses within a one-mile buffer area.
- (3) A copy of the English and Spanish versions of the Notice of Availability and Notice of Public Meeting was mailed and emailed to city offices, town offices, community centers, and churches within a five-mile radius of the Project Area.
- (4) The Spanish translation of the Executive Summary was posted to the docket on July 5, 2024, and was made available at the libraries to have available for public review during the public comment period.
- (5) Live Spanish translations were provided during the September 13, 2024, public meeting. The public meeting included both a Spanish and English language channel. All remarks and comments presented in English were translated to Spanish on the Spanish channel. All presentation materials were presented in both Spanish and English.

During the FEIS Public Comment Period, 44,732 submissions (of which 44,060 were duplicated form letters [representing 194 signatories]) were received and 762 responses were considered unique comments. All substantive comments were considered by MARAD. Additional mitigation measures have been added as conditions to this ROD to address public comments, as appropriate. Additional details regarding the environmental review process for the application are discussed later in this ROD.

⁶³ “Deepwater Port License Application: Texas GulfLink, LLC—Final Environmental Impact Statement,” *Federal Register*, Vol. 89, No. 129, Friday, July 5, 2024, pp. 55679 - 55680 (89 FR 55680).

⁶⁴ “Deepwater Port License Application: Texas GulfLink, LLC—Final Environmental Impact Statement,” *Federal Register*, Vol. 89, No. 159, Friday, August 16, 2024, pp. 66757 - 66760 (89 FR 66757).

⁶⁵ “GulfLink - Transcript (Final Public Meeting) - 9-13-24,” September 13, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10708>.

This ROD sets forth MARAD’s decision on the application submitted by TGL. In reaching this decision, a broad range of expert advice and information from other Federal agencies, the ACS, and the public must be evaluated and considered. Moreover, the DWPA requires specific findings be made that seek to protect, promote, and, in some cases, reconcile national priorities on energy, the environment, the economy, and freedom of navigation on the high seas .⁶⁶

2. DECISION

For the reasons set forth in this document, the Texas GulfLink, LLC Application for a License under the DWPA has been approved.

This document does not serve as a License to own, construct, and operate a deepwater port.

If the Applicant does not satisfy the conditions for license issuance established below by February 14, 2030, this ROD’s approval will expire and become void on that date.

In order to receive a License, TGL must comply with state and Federal permitting, mitigation, and related requirements outlined in this ROD before a License can be issued. This approval is subject to conditions designed to protect and advance the national interest, ensure adequate demonstration of financial capability to construct, operate, and decommission the Port, and make certain that the Port will be constructed and operated using the best available technology to prevent or minimize adverse impacts to the marine environment. Several of the conditions are self-evident: the need for an operations manual, the need to submit further technical information and detailed drawings concerning the construction of the Port, and the need to obtain all required Federal and State permits, as well as other conditions that are the natural product of the application process. The precise conditions, including conditions required by the cooperating Federal and State agencies, will be set forth in the License if a License is issued.

The EPA, National Marine Fisheries Service (NMFS), USACE, U.S. Fish and Wildlife Service (USFWS), TPWD, Texas General Land Office (Texas GLO), Texas Commission on Environmental Quality (TCEQ), and other Federal and State agencies have made sound and constructive recommendations to preserve the marine and coastal environments in which this Port will be located and operate. These recommendations were considered by MARAD.

MARAD also considered the specific concerns expressed by members of the local Jones Creek, Freeport, and Surfside Beach communities regarding the proposed Port, its pipeline route, and the potential impact the facility and its components may have on local resources. Also, MARAD thoroughly evaluated the TGL application, the FEIS, and other related supporting documentation and considered the purpose and need of the Project, whether it meets the nation’s interest, the effects of potential oil spills, increased air pollution, GHG emissions, and other impacts that may adversely affect threatened and endangered species, local water

⁶⁶ 33 U.S.C. § 1504(i)(1).

systems, local fishing communities, communities with environmental justice concerns, and LEP persons.

MARAD has worked extensively with the USCG, the Applicant, and other Federal and State agencies to ensure a comprehensive environmental and cultural resources evaluation was completed for the proposed Project. The substantive comments provided by residents of the local communities, elected officials, NGOs, and Federal and State agencies such as the EPA, NMFS, USACE, TPWD, TCEQ, Texas GLO, and the other participating agencies, as well as the Governor of Texas, were considered and addressed during the application and environmental review process. All substantive public comments on the DEIS, SDEIS, and FEIS are available on the Federal Docket. Substantive comments and concerns have been incorporated through conditions, where appropriate, as outlined in Section 5.5 of this ROD, titled *Protecting and Enhancing the Environment*. Moreover, specific environmental conditions, mitigation measures, and other requirements recommended by the participating agencies will also be addressed in further detail within the official License, if a License is issued.

MARAD has considered recommendations provided by the cooperating Federal, State, and local agencies. Conditions are discussed in Section 5.5 of this document (titled *Protecting and Enhancing the Environment*) and will be incorporated in the License upon its issuance. Additionally, MARAD recommended to the USCG that such conditions and other appropriate requirements be addressed in the Operations Manual that will govern the operation of the Port.

In approving this application, and by delegation of the Secretary, MARAD is relying on broad authority under the DWPA to impose such conditions as are necessary to carry out the applicable provisions of the DWPA.⁶⁷ These conditions create special obligations with which the Applicant must agree to comply. For this reason, TGL may decide not to accept the License upon its issuance and not undertake the project.

Finally, it is important to recognize that the USCG and other agencies were instrumental in developing the environmental and marine navigation aspects of this ROD, among many other valuable inputs throughout the application and environmental review process. MARAD expresses appreciation for this collaborative effort.

3. DECISION-MAKING PROCESS

In reaching this decision, MARAD followed the procedures prescribed by the DWPA, which are designed to ensure full exposure to a broad range of relevant information and expertise. Also, this decision can only be fully understood if it is placed within the context of the statutory framework of the DWPA.

3.1. The Deepwater Port Act

⁶⁷ 33 U.S.C. § 1503(e)(1).

The DWPA authorizes the Secretary to consider License applications for deepwater ports by:

- Providing that no person may engage in the ownership, construction, or operation of a deepwater port except in accordance with a License issued pursuant to the DWPA (33 U.S.C. § 1503(a));
- Confirming that the applicant is a citizen of the United States (33 U.S.C. § 1503(g));
- Prohibiting the transportation or transfer of any oil or natural gas between a deepwater port and the United States unless such port is licensed under the DWPA (33 U.S.C. § 1503(a));
- Authorizing the Secretary of Transportation to issue, amend, transfer, and reinstate Licenses for the ownership, construction, and operation of deepwater ports (33 U.S.C. § 1503(b) and (f));
- Allowing such Licenses to be effective unless suspended, revoked, or surrendered (33 U.S.C. § 1503(h));
- Setting forth prerequisites, conditions, application procedures, regulations, and criteria for the issuance of Licenses for deepwater ports (33 U.S.C. § 1504(a) and (b));
- Requiring public notice and hearings before Licenses are issued (33 U.S.C. § 1504(g));
- Allowing ACSs to set reasonable fees for the use of deepwater ports (33 U.S.C. § 1504(h)(2));
- Setting forth criteria for determining what is an ACS (33 U.S.C. § 1502(1) and 33 U.S.C. § 1508);
- Requiring the Secretary to prescribe procedures governing the environmental and navigational effect of such ports (33 U.S.C. § 1509);
- Permitting the Secretary to suspend or revoke Licenses for noncompliance with the DWPA (33 U.S.C. § 1503(h));
- Declaring that the laws of the United States and the nearest ACS, as applicable, shall apply to such ports (33 U.S.C. § 1518);
- Requiring the Secretary to issue regulations as necessary to assure the safe construction and operation of pipelines on the OCS (33 U.S.C. § 1504(a) and 33 U.S.C. § 1520);

- Establishing civil and criminal penalties for violations of the DWPA (33 U.S.C. § 1514(b)(3));
- Requiring that communications and documents transferred between Federal officials and any person concerning such ports are available to the public (33 U.S.C. § 1513);
- Allowing civil actions for equitable relief for violations of the DWPA (33 U.S.C. § 1514(c)); and
- Prohibiting issuance of a License unless the ACS to which the port is to be connected by pipeline has developed, or is making reasonable progress toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (CZMA) (33 U.S.C. § 1503(c)(9)).

3.2. Regulations

This application has been processed, and this decision is made in conformance with regulations promulgated under the DWPA of 1974, as amended. The regulations appear in the Code of Federal Regulations at 33 CFR Parts 148, 149, and 150.⁶⁸

In addition, it is important to note MARAD's authority to enforce the provisions of the DWPA and the terms and conditions of a License under the law once it is issued. Failure of the applicant to comply with any applicable rule, regulation, restriction, or condition imposed by the License may result in suspension or termination of the License pursuant to 33 U.S.C. § 1511.

The License, if issued subsequent to this ROD, along with any required assurances, will be in a form and substance satisfactory to MARAD, reflecting the terms, criteria, and conditions set forth in this ROD.

3.3. Facts

On May 30, 2019, TGL submitted to MARAD and USCG an application for a License to own, construct, and operate the Port.⁶⁹ As mentioned above, the proposed Port will be located in U.S. Federal waters approximately 26.6 nautical miles off the coast of Brazoria County, TX, in water depths of approximately 104 feet.

⁶⁸ "33 CFR Parts 148, 149, and 150 [USCG 1998-3884] 1625-AA20 (Formerly RIN 2115-AF63) Deepwater Ports," *Federal Register*, Vol. 71, No. 189, Friday, September 29, 2006, pp. 57644-57694 (71 FR 57644).

⁶⁹ "Deepwater Port License Application: Texas GulfLink, LLC (Texas GulfLink)," *Federal Register*, Vol. 84, No. 123, Wednesday, June 26, 2019, pp. 30298-30300 (84 FR 30298).

On June 20, 2019, the application was deemed complete by MARAD and USCG.⁷⁰ On June 26, 2019, a Notice of Application was published in the Federal Register, summarizing the application, project design, and designating the State of Texas as the ACS, in accordance with 33 U.S.C. § 1508(a)(1).⁷¹ The application, including the Applicant's environmental reports and other related documents, was posted to the Federal Docket Management System for the Project.⁷²

The environmental review process, required by NEPA and the DWPA, began on July 3, 2019, with the publication of a Notice of Intent in the Federal Register to prepare an EIS, hold a public scoping meeting, and receive public comments regarding the Port and its potential environmental impacts.⁷³ During this process, MARAD and the USCG conducted a public scoping meeting in Lake Jackson, TX on July 17, 2019, to receive public comments and discuss issues to be addressed in the DEIS.

During this public scoping meeting, the USCG and MARAD advised that the public scoping period would be extended because of delays in getting the application properly posted on the docket. On August 14, 2019, a Notice of Extension of the public scoping comment period was posted on the docket; this Federal Register Notice announced the closing date of the extended scoping period to be August 30, 2019.⁷⁴ Seventeen oral comments were provided during the public scoping meeting and eight written comments were received during the meeting.⁷⁵ Thirty-three comments were received via the public docket during the scoping period.⁷⁶

Following the close of the public scoping meeting comment period on August 30, 2019, the regulatory timeline for processing the application was suspended two times to obtain additional information that was needed from the Applicant to sufficiently develop the required environmental documents.

⁷⁰ “GulfLink - Completeness letter - 6-8-19,” June 20, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-8572>.

⁷¹ “Deepwater Port License Application: Texas GulfLink, LLC (Texas GulfLink),” *Federal Register*, Vol. 84, No. 123, Wednesday, June 26, 2019, pp. 30298-30300 (84 FR 30298).

⁷² “Texas Gulf Link - Deepwater Port Application /Appendix”, Vol. 1, 2, and 3, June 27, 2019. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0002>.

⁷³ “Deepwater Port License Application: Texas GulfLink, LLC,” *Federal Register*, Vol. 84, No. 128, Wednesday, July 3, 2019, pp. 32008-32010 (84 FR 32008).

⁷⁴ “Deepwater Port License Application: Texas GulfLink, LLC; Extension of Scoping Period,” *Federal Register*, Vol. 84, No. 157, Wednesday, August 14, 2019, pp. 40476-40477 (84 FR 40476).

⁷⁵ “GulfLink - Final Scoping Report - 10-13-19,” October 13, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0047>.

⁷⁶ *Id.*

The regulatory timeline was initially suspended on November 8, 2019, to obtain information from the Applicant regarding the project description, biological resources, air quality, noise, and water resources.^{77,78} MARAD and USCG received responses from the Applicant to all information requests and the information submitted was deemed sufficient to continue the environmental review. Thereafter, the regulatory clock was restarted on April 27, 2020.⁷⁹

The regulatory clock was suspended a second time on September 15, 2020, to address modeling for onshore oil spills and inshore oil spills.⁸⁰

MARAD and USCG received and reviewed the oil spill modeling report, and the regulatory clock was restarted on November 10, 2020.⁸¹

The DEIS was issued on November 27, 2020, and two virtual public meetings were held on December 16, 2020, and December 17, 2020, to receive comments from agency representatives, tribal representatives, elected officials, and the public on the DEIS.⁸²

The President's declaration of a national emergency due to the COVID-19 outbreak, and state and local actions in response to COVID-19, impacted the public's ability to assemble and provide feedback on the GulfLink deepwater port license application through in-person public meetings.⁸³ As a result, two virtual public meetings were held remotely due to the nationwide impacts of the public health emergency in response to COVID-19.⁸⁴

MARAD and USCG determined that a ten-day extension of the public comment period for the GulfLink application was necessary to allow the public and interested parties a full 45 days to review the application and provide written feedback to the agencies. An

⁷⁷ "GulfLink - Stop Clock Letter - 11-8-19," November 8, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0046>.

⁷⁸ The authority to suspend the regulatory timeline rests with USCG. See letter in the prior footnote.

⁷⁹ "GulfLink - Letter (Removal of the stop clock - restart letter) - 4-28-20," April 27, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0064>.

⁸⁰ "GulfLink - Letter: Notice of Suspension (Stop Clock Letter) - 9-15-20," September 15, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0083>.

⁸¹ "GulfLink - Reinstatement of Deepwater Port Act Timeline - 11-10-20," November 10, 2020, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0085>.

⁸² "Deepwater Port License Application: Texas GulfLink, LLC," *Federal Register*, Vol. 85, No. 229, Friday, November 27, 2020, pp. 76157-76159 (85 FR 76157).

⁸³ "Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak," *Federal Register*, Vol. 85, No. 53, Wednesday, March 18, 2020, pp. 15337-15338 (85 FR 15338).

⁸⁴ "Deepwater Port License Application: Texas GulfLink, LLC," *Federal Register*, Vol. 85, No. 229, Friday, November 27, 2020, pp. 76157-76159 (85 FR 76157).

announcement was made in the December 21, 2020, edition of the Federal Register to extend the comment period from January 11, 2021, to January 21, 2021.⁸⁵ This extension was due to delays in getting the DEIS fully posted on the project's online docket at www.regulations.gov.

During this DEIS public comment period, there were 2,550 total submissions, of which 2,366 were duplicated form letters and 189 were unique representing a total of 44,920 signatories.

During the public comment period on the DEIS, MARAD and USCG received comments regarding access to documents and materials by LEP populations. MARAD, after thorough review and consultation with the USCG, determined that the affected minority and low-income communities and LEP P populations had not been provided sufficient and adequate opportunity to fully participate in the application and environmental review process.

As such, MARAD and USCG published a Notice of Availability in the Federal Register on September 24, 2021, announcing an additional virtual public meeting on October 14, 2021, and the reopening of the DEIS public comment period for an additional 45 days (ending November 8, 2021) to provide affected communities, including LEP persons, further opportunity to review and comment on the DEIS.⁸⁶ Further information regarding public engagement, including engagement with LEP persons, is included in Section 1.5 of this ROD.

During the second DEIS public comment period, there were approximately 131 total submissions, of which 38 were duplicated form letters and 93 were unique, representing a total of 21,911 signatories.

After the DEIS was published, the Applicant revised its proposal in response to public comments on the DEIS, ongoing consultation with regulatory agencies, and refinements to Proposed Action designs. These revisions included removing a designated Anchorage Area, adjustments to the onshore pipeline route, final plans for the proposed shoreside support facility at the Port Freeport docks, additional pilings for the DWP buoy systems, and the addition of a vapor recovery system for crude loading. Given the revisions to the proposed action after publication of the DEIS, a SDEIS was prepared.

⁸⁵ "Deepwater Port License Application: Texas GulfLink, LLC; Extension of Draft Environmental Impact Statement Comment Period," *Federal Register*, Vol. 85, No. 245, Monday, December 21, 2020, pp. 83142-83143 (85 FR 83142).

⁸⁶ "Deepwater Port License Application: Texas GulfLink, LLC," *Federal Register*, Vol. 86, No. 183, Friday, September 24, 2021, pp. 53144-53147 (86 FR 53144).

A Notice of Availability for the SDEIS was published in the Federal Register on September 30, 2022.⁸⁷ The Notice announced the opening of a 45-day public comment period, as well as an intention to hold a virtual public meeting. Additionally, advertisements announcing the availability of the SDEIS, and the virtual public meeting were published in local newspapers: *The Facts*, the *Baytown Sun*, and *La Voz de Brazoria County*. Printed copies of the SDEIS were provided at the Freeport Branch Library, Lake Jackson Branch Library, Angleton Library, and Sweeny Library, among other places. The SDEIS was also available on the virtual open house website. The virtual public meeting on the SDEIS was held via webinar on October 18, 2022.

On November 10, 2022, the public comment period was extended by approximately two weeks with a notification published in the Federal Register and on the virtual open house website.⁸⁸ The public comment was extended from November 14, 2022, to November 30, 2022, to allow the public and interested parties a full 45 days to review the SDEIS and provide comments.

During the SDEIS public comment period, there were approximately 508 total submissions, of which 12 were duplicated form letters and 496 were unique, representing a total of 37,521 signatories.

Since the publication of the SDEIS, the Applicant revised the layout of the proposed Jones Creek Terminal to improve flood retention and drainage. The FEIS was edited to account for regulatory changes, ongoing consultation with regulatory agencies, and to provide additional supporting data in response to comments received on the SDEIS.

MARAD and USCG worked in collaboration with the cooperating Federal and State agencies to complete the development of the TGL FEIS. On July 5, 2024, MARAD and USCG published a Notice of Availability and Request for Comments in the Federal Register.⁸⁹ Subsequently, MARAD and USCG published a Notice of Availability; Notice of Virtual Final Public Hearing; Notice of Extension; and Request for Comments for the FEIS in the Federal Register on August 16, 2024.⁹⁰ Due to the impacts of Hurricane Beryl, the public comment period was extended from August 19, 2024 to August 30, 2024.⁹¹

⁸⁷ “Deepwater Port License Application: Texas GulfLink, LLC—Supplemental Draft Environmental Impact Statement,” *Federal Register*, Vol. 87, No. 189, Friday, September 30, 2022, pp. 59487-59490 (87 FR 59487).

⁸⁸ “Deepwater Port License Application: Texas GulfLink, LLC; Extension of Supplemental Draft Environmental Impact Statement Comment Period,” *Federal Register*, Vol. 87, No. 217, Thursday, November 10, 2022, pp. 68001-68002 (87 FR 68001).

⁸⁹ “Deepwater Port License Application: Texas GulfLink, LLC—Final Environmental Impact Statement,” *Federal Register*, Vol. 89, No. 129, Friday, July 5, 2024, pp. 55679-55681 (89 FR 55679).

⁹⁰ “Deepwater Port License Application: Texas GulfLink, LLC—Final Environmental Impact Statement,” *Federal Register*, Vol. 89, No. 159, Friday, August 16, 2024, pp. 66757-66760 (89 FR 66757).

⁹¹ *Id.*

Additionally, due to the impacts of Hurricane Beryl and prior storms, MARAD and the USCG held a virtual Final Public Hearing on September 13, 2024.⁹² During this FEIS public comment period, there were 44,732 total submissions. That total number of submissions includes 44,701 comments to the Project's docket and 31 speakers during the Final Public Hearing. There were 44,060 duplicated form letters. Of the 1,239 comments extracted from the submissions, 762 were identified as unique, substantive comments. All substantive comments were considered by MARAD.

Additional mitigation measures have been added as conditions to this ROD, as appropriate. Additional details regarding the environmental review process and relevant conditions of approval of the TGL application are summarized under Section 5.5 – *Protecting and Enhancing the Environment* of this ROD.

3.4. *Environmental Protection Agency Approval*

Section 4(c)(6) of the DWPA [33 U.S.C. § 1503(c)(6)] provides that the License may be issued if the Secretary has not been informed within 45 days following the last public hearing on a proposed License for a designated application area, by the Administrator of the EPA that the deepwater port will not conform with all applicable provisions of the Clean Air Act (CAA), as amended [42 U.S.C. § 7401 *et seq.*], the Federal Water Pollution Control Act, as amended (Clean Water Act [CWA, 33 U.S.C. § 1251 *et seq.*]), or the Marine Protection, Research and Sanctuaries Act, as amended [16 U.S.C. § 1431 *et seq.*, 16 U.S.C. § 1447 *et seq.*; 33 U.S.C. § 1401 *et seq.*, 33 U.S.C. § 2801 *et seq.*].

EPA participated in the NEPA review as a cooperating agency and provided comments to MARAD and USCG during the Project's environmental review process. The DEIS, SDEIS, and FEIS incorporated EPA's comments, where appropriate.

After the FEIS was issued, EPA provided comments, by letter dated August 30, 2024, regarding GHG and several potential sources of emissions changes resulting from the construction of the proposed Project. Pursuant to CEQ's 2023 NEPA Guidance on Consideration of Greenhouse Gas Emissions and Climate Change, and previous conversations with EPA staff, EPA recommended that USCG identify the additional oil produced and/or exported because of the project, and the respective GHG emissions, as compared to the no-action alternative.

EPA also recommended that the analysis of the social cost of carbon (SC) throughout the FEIS be further improved by using the EPA's recently updated SC-GHG estimates. In November 2023, the EPA published the Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances, which provides updated estimates of the SC-GHGs that reflect advancements in the scientific literature on climate change and its economic impacts and incorporates recommendations made by the National Academies of Science, Engineering, and Medicine.

⁹² Id.

MARAD has reviewed EPA's comments on the FEIS and has determined that, consistent with the analysis included in the FEIS, the proposed project, which serves as an alternate method of transporting oil, would have a *de minimis* impact on upstream production. The global supply and demand, which is impacted by various factors such as macroeconomic conditions, technological change, and government policies, determines U.S. production levels. Additionally, the FEIS included a conservative, worst-case scenario for downstream consumption (all crude oil being refined into gasoline and diesel fuel and combusted). As the proposed action only serves to add to oil transportation infrastructure and facilitate access between domestic producers and non-domestic end users, the FEIS finds that the proposed project would result in a *de minimis* impact on the global oil market. Therefore, consistent with the analysis in the FEIS, MARAD concludes that the project will have a *de minimis* impact on the global price and consumption of petroleum (downstream), and thus would have a *de minimis* impact on GHG emissions.

As the project would have only a *de minimis* impact on GHG emissions, and consistent with Executive Order 14154, “Unleashing American Energy,” issued on January 20, 2025, MARAD determines that no further analysis with regard to the social cost of carbon is necessary.

In response to EPA’s input during the NEPA process, MARAD has included conditions in Section 5.5 - *Protecting and Enhancing the Environment*.

The EPA Region 6 informed MARAD by letter dated October 25, 2024, that the agency “does not object to the issuance of a license for the TGL DWP based on our authority under the CAA, the CWA, and the Marine Protection, Research and Sanctuaries Act.”⁹³

3.5. Section 7 Consultation

Section 7 of the Endangered Species Act ([ESA] 16 U.S.C. § 1536) requires federal agencies to consult with the USFWS and/or NMFS when any action an agency carries out, funds, or authorizes may affect either a species listed as threatened or endangered under the ESA, or any critical habitat designated for such species.

U.S. Fish and Wildlife Service (USFWS)

USCG and MARAD submitted a Request for Informal Consultation and Technical Assistance to USFWS on May 15, 2020.⁹⁴ USCG and MARAD developed a Biological Assessment (BA) for the proposed TGL project, which contained an initial analysis of the potential effects of the proposed project on federally listed threatened and endangered

⁹³ Environmental Protection Agency, Region 6, “Gulflink - Letter from Dr. Earthea Nance of EPA (45 day letter) - 10-25-24,” October 25, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10712>.

⁹⁴ “Appendix D, Agency Correspondence,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, page 156, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

species and designated critical habitats. The BA was first provided to USFWS on November 20, 2020, as part of MARAD's request for informal consultation. USFWS received an updated draft BA and began informal consultation with USCG in March 2022. As a result of comments from the USFWS, the BA was amended to include additional information and resubmitted to USFWS on June 13, 2022. On July 13, 2022, USFWS recommended that USCG and MARAD initiate formal consultation for the potential effects to the eastern black rail and the species' suitable habitat. On September 15, 2022, USCG and MARAD requested initiation of formal consultation in accordance with 50 CFR 402.14(c) for the potential impacts to the eastern black rail for the TGL deepwater port project license application. In the same letter, USCG and MARAD requested USFWS' concurrence with the determination that the proposed project "may affect but is not likely to adversely affect" the following federally listed threatened and endangered species and critical habitat under the jurisdiction of the USFWS and occurring in the action area: West Indian manatee (*Trichechus manatus*); piping plover (*Charadrius melodus*); red knot (*Calidris canutus rufa*); whooping crane (*Grus americana*); Green sea turtle (*Chelonia mydas*); hawksbill sea turtle (*Eretmochelys imbricata*); Kemp's ridley sea turtle (*Lepidochelys kempii*); leatherback sea turtle (*Dermochelys coriacea*); loggerhead sea turtle (*Caretta caretta*) and designated critical habitat for piping plover. MARAD and USCG also requested concurrence on the determination the proposed project was not likely to jeopardize the continued existence of the proposed Texas fawnsfoot (*Truncilla macrodon*), and candidate Monarch butterfly (*Danaus plexippus*) pursuant to section 7(a)(2) of the Act, as amended (16 U.S.C. 1531 et seq.). MARAD and USCG provided additional information and further formal consultation documentation on December 22, 2022. On May 24, 2023, the USFWS determined that it had adequate information to begin formal consultation. Formal consultation concluded on September 28, 2023, with the issuance of the USFWS Final Biological Opinion (BiOp). In the final BiOp, the USFWS concurred with the determination that the proposed project may affect but is not likely to adversely affect the species listed above. Additionally, the USFWS concluded that the proposed project is not likely to jeopardize the continued existence of the Eastern black rail. The USFWS included that no critical habitat for the Eastern black rail has been designated, therefore none will be affected by the proposed project. Pursuant to the consultation with USFWS, the Applicant has a continuing obligation to employ the best available technology and use the agreed upon best management practices (BMP) as conservation measures, as listed and described in Appendix M of the FEIS.

On August 14, 2024, MARAD received a letter from the USFWS requesting further evaluation of the Tricolored bat, Texas fawnsfoot, black-capped petrel, and Eastern black rail. The USFWS indicated that several changes had occurred after the BiOp, including listing the Texas fawnsfoot as a threatened species, and listing the Black-capped petrel as an endangered species. The USFWS stated that the FEIS did not include details on the proposed listed Tricolored bat and recommended conducting acoustic surveys and a habitat assessment in accordance with USFWS protocol, to determine if the Tricolored bat is present in the project area and the potential project effects on Tricolored bat habitat. In addition, the USFWS indicated that the FEIS included information on the Eastern black rail not discussed in the BA. On November 14, 2024, MARAD ran an IPaC to obtain an Official Species List. According to the Official Species List, the black-capped petrel was

absent within the TGL Project area, and the Determination Key for the Tricolored bat indicated that the proposed project “may effect” the species. On December 11, 2024, MARAD responded to the USFWS’s letter indicating that coordination, as needed, will be conducted to evaluate the Project’s environmental effects on these species. Conditions have also been included in this ROD, described in Section 5.5 – *Protecting and Enhancing the Environment*, to address USFWS comments.

National Marine Fisheries Service (NMFS)

MARAD and USCG provided NMFS with the BA on November 20, 2020. On December 1, 2020, USCG and MARAD requested NMFS’ concurrence with the determination that the proposed project was not likely to adversely affect ESA listed species under NMFS purview. During the consultation process, NMFS decided to batch the proposed project and the SPOT Deepwater Port project into a single consultation document. MARAD entered formal consultation with NMFS on March 20, 2021. Formal ESA Section 7 consultation between MARAD and NMFS was completed on November 9, 2022, with the issuance of a NMFS Final Biological Opinion.⁹⁵ Information regarding the NMFS ESA Section 7 formal consultation is addressed in the final NMFS BiOp, which concludes that the proposed project is not likely to jeopardize the continued existence of the Kemp’s ridley sea turtle, loggerhead sea turtle (NWA DPS), green sea turtle (NA and SA DPSs), leatherback sea turtle, giant manta ray, oceanic whitetip shark, or sperm whale. NMFS further concluded that the proposed project is likely to adversely affect, but is not likely to destroy or adversely modify, loggerhead seas turtle critical habitat. The NMFS final BiOp provides reasonable and prudent measures that the Applicant must comply with during the Project’s construction, operation, and decommissioning and specific conditions concerning underwater noise and oil spill monitoring and reporting. NMFS specific conditions are described in greater detail below.

3.6. Cultural Resources and Section 106 Consultation

The National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR Part 800) represent the principal Federally mandated process for assessing the effects of Federal undertakings on cultural resources. The lead Federal agency for a Federal undertaking performs this assessment through the NHPA Section 106 review process. The purpose of the NHPA Section 106 review is to require Federal agencies to consider the effects of their undertakings on historic properties and cultural resources.

Chapter 3.9 of the FEIS discusses the Project’s impacts on onshore and offshore cultural resources. The Chapter includes a definition of cultural resources based on applicable Federal laws, Executive Orders, and state law; a discussion of existing threats to onshore and offshore cultural resources; a description of the existing conditions for onshore and

⁹⁵ National Marine Fisheries Service, “SERO 2020 00075-03309 Batch 2 deepwater ports final,” *NMFS Final Biological Opinion for GulfLink*, November 9, 2022, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0011-7887>.

offshore cultural resources; an assessment of Project impacts on cultural resources and proposed mitigations; and conclusions and recommendations.

MARAD consulted with the Texas Historical Commission (THC) on potential impacts to cultural resources. Additionally, prior to submitting its application, the Applicant sent information letters to ancestral, cultural, and/or historic connections to southeast Texas.

On May 1, 2019, after the submission of the application, MARAD and the USCG sent seventeen letters to five Indian tribes with ancestral, cultural, and/or historic connections to southeast Texas to initiate consultations as part of the NHPA Section 106 review for the Project.⁹⁶ A list of the Indian tribes contacted by the Applicant, MARAD, and USCG is contained in Section 3.9.3 of the FEIS. Those tribes are as follows: the Apache Tribe of Oklahoma; the Comanche Nation of Oklahoma; the Coushatta Tribe of Louisiana; the Tonkawa Tribe of Oklahoma, as well as the Wichita and Affiliated Tribes. As of the publication of the FEIS, no response has been received from any of the recipients.

On February 18, 2022, THC concurred with MARAD and USCG that the Project would not impact historic properties.⁹⁷ On May 19, 2022, the USCG and MARAD re-initiated consultation with the THC/State Historic Preservation Officer (SHPO) regarding a revised APE. The THC/SHPO once again concurred in their response on June 30, 2023.

The BMPs that the Applicant will employ to minimize impacts on cultural resources that would likely result from the construction and operation of the onshore and offshore components of the Project are identified below.

3.7. The Final Environmental Impact Statement

MARAD determined that the FEIS for the Project meets the statutory requirements of NEPA and the DWPA. The FEIS evaluated the direct, indirect, and cumulative impacts of the proposed Port that is subject to MARAD's Federal action, which is the licensing of the construction, operation, and decommissioning of the Port. In addition, reasonably foreseeable connected actions were analyzed in the FEIS as required under NEPA, such as the Federal actions of cooperating agencies, including but not limited to USACE (for permit authorization under Section 404 of the CWA), EPA (for permit authorization under the CWA and CAA), USFWS and NMFS (for Section 7 ESA consultation), and Texas GLO (for CZMA consistency determination) in coordination with Section 404 permit authorization from USACE. Federal and State agency comments were addressed in the FEIS, and many are included as conditions of this ROD, described in Section 5.5 –

⁹⁶ The letters are included in "Appendix D, Agency Correspondence," *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

⁹⁷ A copy of THC's concurrence is included in "Appendix D, Agency Correspondence," *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

Protecting and Enhancing the Environment. The precise conditions required by the cooperating Federal and State agencies will be set forth in the License upon issuance.

3.8. *Adjacent Coastal State Approval*

As discussed herein and under Section 4(c)(8) of the DWPA [33 U.S.C. § 1503(c)(8)], a condition for issuance of a License is contingent on the approval(s) of the Governor of the ACS or States.

The State of Texas was designated as the ACS for the Project.⁹⁸ ACS designation entitles such State to certain rights and privileges, including effective veto power over a deepwater port license application by the Governor of any designated ACS. Under 33 U.S.C. § 1508(b)(1):

If the Governor fails to transmit his approval or disapproval to the Secretary not later than 45 days after the last public hearing on applications for a particular application area, such approval shall be conclusively presumed.

As such, for the subject Application review process, the 45-day time limit ended on October 28, 2024. The Governor of Texas provided a letter indicating his approval of the proposed TGL project dated October 2, 2024, without conditions, within the 45-day period following the final public hearing.⁹⁹

4. **POLICY DETERMINATIONS**

The following sections will address whether the applicant has or will meet the statutory criteria for issuance of a License. Section 4(c) of the DWPA (33 U.S.C. § 1503(c)) provides nine conditions for the issuance of a License. Section 5 - Criteria for Issuance of this ROD discusses these conditions in detail.

In general, the determination regarding whether the nine conditions are met requires the evaluation of the financial, technical, and management capability of the applicant and its owners to ensure that, if a License is granted, the Licensee is able to comply with all applicable laws, the DWPA's criteria, regulations, and License conditions to meet any contingent liabilities, and to fulfill its obligation to construct, operate, and decommission the Port in a timely and efficient manner.

⁹⁸ "GulfLink - ACS Governor letter - 6-21-19," June 21, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-8573>.

⁹⁹ "GulfLink - Letter from Governor Abbott (Adjacent Coastal State 45 day letter) - 10-2-24," October 2, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10710>.

Consequently, if TGL becomes a Licensee, it takes on a special obligation to conform to the conditions of the License. MARAD must be confident of TGL's ability to meet such License conditions.

In making these statutory determinations, the task has been complicated by the fact that some of the values involved can be described and quantified with precision, while others, equally important to their advocates, are more qualitative. It would be a plain error, however, to ignore a value simply because it cannot be reduced to numbers, and therefore MARAD's reasons and findings for each of these requirements are set forth in the following sections, drawing upon the substantial record.

Accordingly, MARAD's specific determinations on each of the nine statutory criteria are set forth below.

5. CRITERIA FOR ISSUANCE

Section 4(c) of the DWPA [33 U.S.C. § 1503(c)] requires the Secretary to make nine findings or determinations prior to issuing a deepwater port License. When issued, the License will reflect the terms, conditions, and other requirements discussed in this Record of Decision and the License and will be in a form and substance satisfactory to MARAD. Additional construction, operating, and decommissioning conditions will be included in the License upon its issuance. Each of the nine factors are addressed herein in the order they appear in section 4(c) of the DWPA.

5.1. Financial Responsibility

Section 4(c)(1) of the DWPA, [33 U.S.C. § 1503(c)(1)], requires the determination that the "applicant" or in this case, TGL, "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 for oil spill liability are promulgated by regulation at 33 CFR § 138.230. Determination of financial responsibility is based upon the following three factors:

- The Applicant must demonstrate the ability to meet the OPA 90 requirements either through financial ability, insurance coverage, or a USCG determination that the deepwater port is not a facility under OPA 90;
- The Applicant must be financially able to own, construct, and operate the proposed Port; and
- 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.

5.1.1. General Obligations

In granting the first deepwater port License, the Secretary at the time provided insights into the general obligations of the Licensee that are still valid today. In the 1976 Louisiana Offshore Oil Port (LOOP) decision, the Secretary wrote:

Perhaps the most important requirement for financial responsibility arises out of the obligations which flow from the rights and privileges under the license. We cannot grant a license without recognition of the importance of the licensee going forward with the project.¹⁰⁰

MARAD agrees with this assessment and must be reasonably assured that the Applicant, its parent, guarantor, and its affiliates have the financial resources and wherewithal required to complete the full life cycle of the project.

As presented, the Applicant's proposed Project plan includes the ownership, construction, operation, and eventual decommissioning of one fixed offshore platform that will connect to two single-point mooring buoys that will transfer crude oil to VLCCs for export. The Port's platform and SPM buoy 1 will be located in Federal waters within the OCS in lease block GA 423 and SPM buoy 2 will be in lease Block GA A-36 approximately 26.6 nautical miles off Brazoria County, TX. The Port will be supplied with oil from an onshore transmission network and will transport the oil to the VLCCs via one 42-inch diameter 28.1 nautical mile-long crude oil pipeline.

The Applicant advises that it will generate revenues by using assets that are part of the deepwater port and onshore appurtenant facilities that receive and export crude oil. The Applicant owns or has access to several crude oil pipelines from multiple sources that will supply the proposed port and VLCCs at a rate of 85,000 barrels per hour.

Full construction and start-up of the Port will require significant investment by the Applicant and its parent affiliates. The total onshore and offshore Project construction costs, including capitalized interest, for the entire Project will require approximately \$700 million, with additional decommissioning costs that are currently estimated at \$26.4 million. Execution of the full Project plan, including the timeframe for the full build-out of the Port, is estimated to take approximately twenty-one months after the Applicant has obtained all required State and Federal permits and secured and executed all financial commitments and commercial agreements with its anticipated partners.

¹⁰⁰ The Secretary's Record of Decision on the Deepwater Port License Application of LOOP Inc. (Dec. 17, 1976), p. 14.

The financial responsibility determination addressed herein shall apply to the Applicant's financial capability to meet the maximum oil spill liability requirements of OPA 90, obtain sufficient financing for the construction and operation of the Port, and satisfy requirements for the full removal (decommissioning) of the Port, including the deepwater port pipeline. The results of this analysis are addressed herein.

5.1.2. Oil Spill Liability

Under section 4(c)(1) of the DWPA [33 U.S.C. § 1503(c)(1)], “[t]he Secretary may issue a license...if he determines that the applicant is financially responsible and will meet the requirements of section 2716 of this title [33 U.S.C. § 2716 - Financial Responsibility].” MARAD is responsible for ensuring that the required parties provide evidence of financial responsibility sufficient to meet the maximum amount of liability prescribed by OPA 90. The USCG is charged with administering and enforcing applicable requirements of OPA 90, including issuing a Certificate of Financial Responsibility.

As currently designed, the Port will maintain and transport substantial amounts of crude oil for export to nations abroad. The Oil Pollution Act of 1990 (33 U.S.C. § 2716) requires deepwater port operators who maintain any amount of oil or other substances covered under OPA 90 to secure sufficient liability coverage for the maximum amount required by OPA 90. In this case, the maximum liability coverage required for the Port is currently assessed at \$725,710,800.

Accordingly, MARAD evaluated and assessed the financial proposal of the Applicant and its plan to obtain the maximum required oil spill liability coverage of \$725,710,800 to satisfy the requirements of 33 U.S.C. § 2716. This review included an in-depth assessment of the financial resources and technical expertise of the Applicant, its parent, guarantor, and affiliates. An evaluation was conducted of the financial and operating performance of the guarantor proposed to provide oil spill liability coverage for the Port. The Applicant's direct parent, Sentinel Midstream LLC, has provided a written draft OPA 90 insurance policy in the amount of \$725,710,800 to demonstrate financial responsibility for the full liability amount for the Port.

The Applicant is a Texas limited liability company established to construct, own, and operate the proposed Port. The company is comprised of a team of energy professionals with expertise in developing domestic and international oil and gas projects within the global energy sector. The Applicant's parent, Sentinel Midstream LLC, its parent and affiliate entities are part of a larger corporate group that is ultimately owned by Cresta.

Cresta is a private equity firm with a focus on investing that includes sustainable and conventional energy, industrial, logistics, and agricultural infrastructure. Since the establishment of TGL, the Applicant has been marginally capitalized and will

need to rely heavily upon the financial support and resources of its parent, guarantor, and other related investors.

Based upon the results of this analysis, it is hereby concluded that the Applicant, through the support of its parent companies, financial guarantor, and affiliates, will possess sufficient resources to meet the requirements of 33 U.S.C. § 2716.

Prior to issuance of the License and commencement of construction, the Applicant will be required to provide MARAD and USCG with final documented evidence, such as an executed Final OPA 90 Guarantee Agreement, in a form acceptable to MARAD, which validates that the Applicant has secured the maximum oil spill liability coverage of \$725,710,800. Any request made by the Applicant for a reduction in the OPA 90 liability amount for deepwater ports must be requested from the USCG and will be subject to all applicable regulatory and administrative procedure requirements. The VLCCs and all other vessels that call on the Port must maintain separate vessel COFRs to comply with OPA 90.

5.1.3. Ownership, Construction, and Operation

As provided in section 4(c)(1) of the DWPA, [33 U.S.C. § 1503(c)(1)], the Applicant must demonstrate, prior to License issuance, the financial ability to own, construct and operate the proposed Port. Similar to the OPA 90 requirements, MARAD must have reasonable assurance that this statutory requirement for the construction and operation of the Port will be met, and such evidence will be provided in a satisfactory form in advance of License issuance.

To validate this requirement, MARAD conducted an extensive and comprehensive evaluation of the financial resources, operating performance, and overall wherewithal of the Applicant, its parent, guarantor, and affiliates proposed to finance and/or support the construction and operation of the Port. The Applicant has proposed to secure Project financing from its parent, Sentinel Midstream LLC, for the total costs of construction and operation of the Port.

As referenced above, TGL is a wholly owned subsidiary of Sentinel Midstream LLC, which is a midstream solutions company focusing on crude oil gathering, storage, and terminaling. Sentinel's management brings together over a century of diversified experience and a broad range of resources in commercial development, project engineering, project management, and midstream operations.

Sentinel Midstream LLC will provide its subsidiary, TGL, with the necessary financial resources to meet its guarantee obligations to finance the total construction and operation costs of the Port. To demonstrate financial responsibility and support of its plan, the Applicant provided MARAD with suitable evidence of a Draft Construction and Operating Costs Guarantee Agreement, which will be executed by TGL prior to License issuance.

Based upon the detailed analysis and assessment of the Applicant's financial proposal, the Draft Construction, and Operating Costs Guarantee Agreement, and other evidence of financial support, it is concluded that the Applicant, through the direct and indirect support of its financiers, has sufficiently demonstrated its ability to own, construct and operate the proposed Port. Therefore, for purposes of this ROD, the Applicant meets the construction and operational financial responsibility requirements of the DWPA, subject to the full satisfaction of the following conditions:

- Prior to the issuance of the License, the Applicant must provide the Maritime Administrator with a fully signed and executed agreement between the Applicant and ExxonMobil, permitting the Applicant access to (and use of) the pipeline leased and operated by ExxonMobil Pipeline Company at the Bryan Mound Strategic Petroleum Reserve for the purpose of connecting the pipeline to the proposed TGL Jones Creek Terminal.
- Prior to issuance of the License, the Applicant must execute a Final Construction and Operating Costs Guarantee.

5.1.4. Removal Requirements

Section 4(e)(3) of the DWPA [33 U.S.C. § 1503(e)(3)] requires the Applicant to furnish, prior to issuance of the License, a bond, or other assurance(s) demonstrating that all components of the Port will be removed at the termination or revocation of the License. The Applicant's financial plan provides an estimate of costs for full removal of the Port in the estimated amount of \$26.4 million. These costs include full removal of the Port, the pipelines, and other related offshore Port components.¹⁰¹

To demonstrate financial responsibility for the removal of the Port, the Applicant provided a Draft Decommissioning Guarantee Agreement to be executed by the Applicant's parent, Sentinel Midstream LLC, prior to License issuance. As detailed above, an analysis of the Applicant's parent and proposed guarantor, Sentinel, and its parent Cresta, was conducted. Each entity's financial resources, operating performances, and credit ratings were evaluated and assessed. The long-term financial wherewithal and operating performance of Sentinel and Cresta were considered and deemed acceptable for purposes of the financial responsibility determination for decommissioning the Port.

¹⁰¹ As decommissioning is not to occur until the termination of the DWP license in the future, it is likely that regulatory requirements, technologies available for decommissioning, and general environmental conditions that may affect impacts would change between now and then. Therefore, the FEIS analyzed the potential impacts of all known methods, based on the current technology available, current regulatory requirements, and current information regarding potentially impacted resources. However, the specific plan would be re-evaluated at the time of decommissioning and may be modified at that time.

Sentinel, through its corporate affiliation to Cresta, will provide the Applicant with sufficient financial, management, and technical support to satisfy the applicable decommissioning requirements of the DWPA.

Prior to issuance of the License, MARAD will require an executed final guarantee agreement in an acceptable form and substance, as set forth in the Draft Decommissioning Guarantee Agreement provided by the Applicant during the application review process.

Alternatively, the Applicant may arrange and complete necessary financing agreements from another credit-worthy source(s) of investment-grade quality. Evidence of such financing agreements must be provided in an acceptable form and substance, including all supporting financial documentation, such as annual financial statements, guarantee agreements, and other relevant agreements.

Once all decommissioning requirements and all other conditions outlined in this ROD are met, MARAD will issue a License to TGL.

On an annual basis, following License issuance, MARAD will prepare an adjustment of the total estimated amount of \$26.4 million of the executed Final Decommissioning Guarantee Agreement. This adjustment will be determined and applied in accordance with the inflationary percentage rate of the Consumer Price Index for All Consumers (CPI-U), established and published annually by the U.S. Bureau of Labor Statistics.

Since financial analysis will become obsolete over time, TGL must provide audited annual financial statements or other financial evidence to confirm its continued financial capability and wherewithal and the financial standing of its guarantor and affiliate(s) to perform under the proposed guarantee agreements discussed above.

5.2. Compliance with Applicable Laws, Regulations, and License Conditions

Section 4(c)(2) of the DWPA [33 U.S.C. § 1503(c)(2)] requires a finding “...that the applicant *can and will comply* with applicable laws, regulations, and License conditions” (emphasis added).

The proposed Port involves the construction and operation of both onshore and offshore industrial components. As evidenced by the number of cooperating agencies involved in processing GulfLink’s application, several of which also have a responsibility to issue permits, approvals, and authorizations, GulfLink’s ability to comply with all applicable Federal and State laws, regulations, and License conditions is critical.

GulfLink and its affiliated entities, including Sentinel Midstream have over a century of experience in the midstream industry. GulfLink and its affiliates’ managerial, technical, and practical expertise in operating midstream crude oil assets, including pipelines, subject

to Federal and State regulation is evidence that the Applicant both understands the legal requirements for constructing and operating the Port and the adverse ramifications that may result from failure to comply with all applicable laws, regulations, and License conditions (including, suspension or revocation of its operating License).¹⁰²

As a condition of receiving a license, GulfLink must agree in writing that: (1) GulfLink will make no substantial change from the plans, operational systems, methods, procedures, and safeguards set forth in the License before receiving, in writing, any Federal, State, or local authorizations required by law, regulation, or License condition as a result of the proposed changes; and (2) GulfLink will comply with all conditions prescribed in its License (see section 4(e)(2) of the DWPA ([33 U.S.C. § 1503(e)(2)]). This agreement must be provided to MARAD by GulfLink no later than 90 days before a License can be issued. Similar assurances, by the parent or affiliate companies (as applicable) for those License conditions, which they alone can satisfy, must also be provided a minimum of 90 days before a License can be issued. Further, the License will provide that neither the License nor any ownership interest in the Licensee may be transferred without the written approval of the Maritime Administrator. Additionally, the License will require GulfLink to maintain and comply with all applicable Federal and State permits, approvals, and authorizations throughout the life of the Project, including the BMPs and mitigation measures listed in Appendix M of the FEIS. Those BMPs and mitigation measures address:

- Minimizing erosion, soil degradation, and runoff;
- Implementation of spill and contamination response plans;
- Maintaining and restoring wetland and waterbody integrity and ecosystems, as directed in the conditions;
- Ensuring the safety and protection of wildlife and its habits near or on the construction site including:
 - Daily monitoring efforts;
 - Hiring at least one designated on-site Environmental Inspector;
 - Environmental training for all construction employees; and
 - Implementing National Oceanic and Atmospheric Administration (NOAA), USFWS, EPA, and NMFS best practices and conditions.
- Reducing and mitigating noise, light, and other pollution from construction sites; and other conditions that will apply to this approval and will be specified in the License.

MARAD has determined that 33 U.S.C. § 1503(c)(2) will be satisfied upon execution of the agreements described above.

¹⁰² “Texas Gulf Link - Deepwater Port Application /Appendix,” Vol. 1, 2, and 3, June 27, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0002>.

5.3. National Interest

Section 4(c)(3) of the DWPA requires that issuing a deepwater port license be “in the national interest” and consistent with other policy goals and objectives, including energy sufficiency and environmental quality. In reaching its national interest determination, MARAD has considered a broad range of factors including the following:

- The offshore location of the Port is expected to move vessel traffic away from more congested safety fairways and navigation areas. As a result, the offshore location of the proposed Port is expected to reduce the likelihood and consequences of VLCC and other vessel collisions.
- The proposed deepwater port would enable loading of VLCCs without the need for ship-to-ship transfers, a process known as reverse lightering, thereby enabling the export of domestically produced crude oil of various grades to foreign global markets. The proposed deepwater port would reduce the number of shuttle tanker transits in the future by avoiding the need for reverse lightering.
- Operation of the Port is not expected to impact oil prices in the U.S. because the major drivers of oil price movements, such as global oil demand, wars and civil unrest, technological innovation, and government policy, are minimally influenced by U.S. exporter decisions and largely independent of U.S. exports.¹⁰³
- The Port will add to the Nation’s infrastructure resilience as a state-of-the-art alternative to existing shoreside terminals and ship-to-ship loading.
- The proposed deepwater port would allow for the export of crude oil from excess production capability from the United States to meet global market demands at competitive prices.¹⁰⁴ This capacity may benefit U.S. allies subject to crude oil disruptions due to natural disasters or man-made events and could reduce environmental impacts associated with shoreside loading.

¹⁰³ See “Section 5.3.7.3.2, Downstream Emissions,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

¹⁰⁴ See EIA, *U.S. crude oil exports reached a record in 2023*, March 18, 2024, <https://www.eia.gov/todayinenergy/detail.php?id=61584>, accessed September 16, 2024 (“U.S. crude oil exports established a record in 2023, averaging 4.1 million barrels per day (b/d), 13% (482,000 b/d) more than the previous annual record set in 2022.”)

- Construction of the Port will positively impact the employment levels in Texas. Construction would require a workforce of up to 441 employees, including 268 offshore and 173 onshore workers.^{105,106,107,108}

In light of the Project’s benefits to local and national economic growth and the Nation’s infrastructure resilience, its minimal impact on the availability and cost of crude oil in the U.S. domestic market, and environmental and safety profile compared to current transportation methods for crude oil export, as well as the Applicant’s experience in the midstream and offshore oil and gas sectors, MARAD has determined that the approval of TGL’s application is in the national interest and consistent with other policy goals and objectives, including energy sufficiency and environmental quality, subject to the mitigation conditions outlined below.

5.4. Navigation, Safety, and Use of the High Seas

Section 4(c)(4) of the DWPA [33 U.S.C. § 1503(c)(4)] lists criteria for the issuance of a License upon a finding that “...a deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention or customary international law.”

As a declaration of policy, Congress stated in section 2(b) of the Act [33 U.S.C. § 1501(b)] “...that nothing in the Act shall be construed to affect the legal status of the high seas, the super adjacent airspace, or the seabed and subsoil, including the Continental Shelf.”

The United Nations Convention on the Law of the Sea (UNCLOS) Article 60 grants coastal States the exclusive right to construct, authorize, and regulate installations and structures

¹⁰⁵ Socioeconomic Impacts associated with Project construction and operations can be found in “Chapter 3.14” of the *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

¹⁰⁶ See “Section 3.14.5.2.2,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

¹⁰⁷ See “Table 3.14.5.1,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

¹⁰⁸ See “Section 3.14 *et seq.*,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

in its Exclusive Economic Zone (EEZ), including deepwater ports.^{109,110} Also, the freedom of all nations to make reasonable use of waters beyond their territorial boundaries is recognized by the 1958 International Convention on the High Seas, which defines the term “high seas” to mean all parts of the sea that are not included in the territorial sea or the internal waters of a state.¹¹¹

Prior to the United States adopting the UNCLOS concept of the EEZ, under the Act, a distinction was made between foreign flag vessels using deepwater ports and those only navigating in the vicinity of the ports. At that time, for vessels calling at deepwater ports, the United States exercised the right and authority as the licensing state to condition the use of the ports on compliance with reasonable regulations, including acceptance of the

¹⁰⁹ Even though the United States is not a party to UNCLOS, as a matter of policy, the United States complies with most of its provisions as customary international law.

United States Oceans Policy, *Statement by the President*, 19 Weekly Compilation of Presidential Documents 384 (March 10, 1983).

* * *

Today I am announcing three decisions to promote and protect the oceans interests of the United States in a manner consistent with those fair and balanced results in the Convention and international law.

First, the United States is prepared to accept and act in accordance with the balance of interests relating to traditional uses of the oceans—such as navigation and overflight. In this respect, the United States will recognize the rights of other states in the waters off their coasts, as reflected in the Convention, so long as the rights and freedoms of the United States and others under international law are recognized by such coastal states. Second, the United States will exercise and assert its navigation and overflight rights and freedoms on a worldwide basis in a manner that is consistent with the balance of interests reflected in the convention. The United States will not, however, acquiesce in unilateral acts of other states designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses.* * *

¹¹⁰ Title 33 U.S.C. § 1518 precedes the entry into force of UNCLOS article 60. It also precedes the designation of the Exclusive Economic Zone of the United States, which grants us certain rights and jurisdiction under customary international law, as stated in UNCLOS Part V. While Article 60(7) indicates that a deepwater port does not have the status of an island, has no territorial sea of its own, and its presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf, the United States interprets Article 12 to mean that any roadstead located outside the territorial sea and used for the loading or unloading of ships is included in the territorial sea. See Hayes, Margaret F., “U.S. Department of State Letter to the U.S. Coast Guard”, January 12, 2005, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/USCG-2004-17696-0098>.

¹¹¹ Prior to UNCLOS coming into force, a rule of reason was applied. For example, whether use of the high seas by a deepwater port is reasonable could be determined by examining, among other things, the extent to which deepwater port facilities do not unreasonably interfere with the high seas freedoms of other nations, including the freedoms of navigation, fishing, laying submarine cables and pipelines, and overflight. In fact, a properly located deepwater port could enhance navigation and safety by reducing the chances of vessel collision and pollution of the marine environment in heavily congested areas. Thus, under the reasonable uses test, one would propose to exercise the international right of the United States to make a permissible use of the high seas in a cautious and restrained manner. The use by foreign nations of the same ocean area can be accommodated if they reasonably respect the rights and interests of the United States. The amount of controversy would be decreased where the deepwater port, although in international waters, had close proximity to our shores, suggesting that there was little danger of interference with actual use of the high seas by other nations.

general jurisdiction of the United States.¹¹² If such conditions were not accepted by a foreign state, use of the deepwater port must be denied to vessels registered in or flying the flag of that state.¹¹³

The Act addresses the issue of vessels calling at deepwater ports with respect to extended U.S. jurisdiction as follows:

The DWPA at 33 U.S.C. § 1518(a)(3) requires the Secretary of State to notify the government of each foreign state having vessels under its authority or flying its flag that may call at a deepwater port, that the United States intends to exercise jurisdiction over such vessels. The notification must indicate that absent the foreign State's objection, its vessels will be subject to U.S. jurisdiction whenever calling at the proposed Port or in an established safety zone (not greater than 500 meters) and using or interfering with the use of the deepwater port. Further, Section 1518(c)(2) states that entry by a vessel into the port is prohibited unless the flag state does not object to the exercise of U.S. jurisdiction or a bilateral agreement between the flag State of the vessel and the United States permitting the exercise of jurisdiction is in force.¹¹⁴

Thus, any ship calling at a deepwater port in our EEZ would be subject to U.S. jurisdiction as if it were in the territorial sea. As the proposed Port will be in the EEZ, this principle applies here. Any ship flying the flag of a party to UNCLOS would be subject to Article 12 and would be bound to the same jurisdictional principles of 33 U.S.C. § 1518, thus obviating the need for further bilateral agreements. However, if a ship flying the flag of a non-party to UNCLOS were to call at the deepwater port, the State Department would only object to such calls if the non-party flag State had filed an objection with the United States.¹¹⁵

5.4.1. Navigation Safety

In accordance with section 10(d) of the Act (33 U.S.C. § 1509(d)), a zone of appropriate size around and including the deepwater port for the purpose of navigational safety must be established (safety zone). In such a zone, no installations, structures, or uses will be permitted that are incompatible with the operation of the deepwater port. The required safety zone may be supplemented by the establishment of other offshore routing measures, including no anchoring areas (NAAs) and areas to be avoided (ATBAs). Safety zones will be the minimum size

¹¹² 33 USC 1518(c).

¹¹³ Id.

¹¹⁴ Hayes, Margaret F., "U.S. Department of State Letter to the U.S. Coast Guard," January 12, 2005, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/USCG-2004-17696-0098>.

¹¹⁵ Id.

necessary to ensure safety, but, pursuant to customary international law, will not exceed 500 meters in radius around the primary components of the Port.

In accordance with 33 CFR § 150.915(a), safety zones are developed and designated through rulemaking. As has occurred with other licensed deepwater ports, prior to the establishment of the required safety zone(s), the USCG will publish in the Federal Register a notice that affords prior public notice and comment, unless there is a good cause to expedite the process to protect life and property.

The Department of State has previously commented on the establishment of offshore safety zones and routing measures.¹¹⁶ Under international law, navigation safety zones are governed by three principal sources: UNCLOS, specifically Articles 22, 60, and 211; the International Convention on the Safety of Life at Sea, 1974, Annex, Chapter V, primarily Regulation V/10; and the General Provisions on Ships' Routing, adopted by the International Maritime Organization (IMO) pursuant to Assembly Resolution A.572 (14), as amended.¹¹⁷

The Convention on the Continental Shelf of 1958 also provides for the construction and operation of continental shelf installations and the coastal States' establishment of safety zones, which may extend to a distance of 500 meters around such installations.¹¹⁸ Outside the 500-meter safety zone, uniform international rules to ensure navigational safety around the DWP can best be achieved by seeking appropriate ships' routing measures through the IMO.

Enforceable safety zones will be established around the GulfLink DWP, which will have a radius of 500 meters extending out from the perimeter of the platform, and around each SPM buoy, which will likely extend 500 meters from each of the two buoys. In addition to the safety zones around the DWP and SPM buoys, the USCG will also establish a safety zone for the support vessel mooring areas. The actual dimensions of each safety zone would be set forth in regulations promulgated at 33 CFR Part 150, Subpart J (150.900-150.940).

¹¹⁶ Id.

¹¹⁷ Id.

¹¹⁸ Convention on the Continental Shelf, 15 U.S.T. 471 (1958), Article 5 provides in part:

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection. 3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 meters around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones. 4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

In addition to the Safety Zones, GulfLink has proposed the establishment of a continuous 500-meter ATBA and designated NAA beyond the zones for the platform and SPM buoys, to further reduce vessel traffic around the GulfLink DWP and SPM buoys, allow moored vessels to move with the currents as necessary and to navigate to and from the SPM buoys, and to prevent damage or entanglement of the SPM buoy anchor system and pipelines.

As discussed in 33 CFR § 150.915(c), NAAs and ATBAs are established by the IMO. In accordance with past practice, the USCG, in coordination with the Department of State, will prepare and submit to the IMO for adoption of a proposal to establish the NAAs/ATBAs. If adopted, the NAAs/ATBAs will be implemented by the IMO and published in the appropriate IMO Circular. The USCG will undertake the preparation and publication of a Federal Register notice that sets forth the geographic boundaries of all offshore routing measures adopted by the IMO. In accordance with 33 CFR § 150.905(c), compliance with the requirements of a Safety Zone is mandatory, whereas an NAA and ATBA are recommendatory routing measures. This comports with the advice given by the Department of State.¹¹⁹

Following issuance of this ROD, and prior to commencing Port operations, USCG will coordinate with GulfLink and appropriate stakeholders to determine if the proposed routing measures properly address matters including, but not limited to: Port and vessel operational hazards and risks; vessel traffic characteristics, volumes and trends; and other maritime operations and facilities in the vicinity of the Port.

In addition to these safety measures, the USCG Captain of the Port has the authority to introduce additional vessel movement controls within the safety zone to enhance the safety of ship movements to and from the deepwater port.

Moreover, the Operations Manual, which GulfLink is required by law and regulation to develop for USCG approval, will specify vessel operating procedures for oil carriers calling at the deepwater port.¹²⁰

Based on the above, the Port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law.

¹¹⁹ Hayes, Margaret F., "U.S. Department of State Letter to the U.S. Coast Guard," January 12, 2005, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/USCG-2004-17696-0098>.

¹²⁰ 33 U.S.C. § 1503(e)(1).

5.5. Protecting and Enhancing the Environment

Section 4(c)(5) of the Act [33 U.S.C. § 1503(c)(5)] requires the Secretary to determine, in accordance with environmental review criteria established pursuant to 33 U.S.C. § 1505, "...that the applicant has demonstrated that the deepwater port will be constructed and operated using best available technology, so as to prevent or minimize adverse impact on the marine environment."

To support the best available technology criteria, the Applicant proposes building a deepwater port for the purpose of exporting crude oil to international markets. As proposed, the Project would have both onshore and offshore components.

The onshore storage and supply components will include constructing and operating of an onshore crude oil storage tank farm (designated as the TGL Jones Creek Terminal) in Brazoria County, TX. A Shoreside Support Facility would be located at an established Port Freeport Public Docks marine facility with warehouse access and berths for support vessels in the Freeport, TX area. Crude oil would be pumped through a newly constructed 36-inch diameter pipeline, connecting to an existing 40-inch diameter pipeline leased and operated by EMPCO on DOE's SPR facility. This pipeline would extend to a new onshore storage and pumping facility constructed on approximately 319 acres in Brazoria County, TX. A portion of the incoming and outgoing pipelines would be co-located within the same ROW.

The offshore footprint consists of the proposed 42-inch offshore pipeline, fixed offshore platform, four decks, two floating SPM buoy systems, two support boat mooring buoys, including floating crude oil supply hoses and associated pipelines and manifolds to deliver crude oil from the outgoing pipeline to the tankers. Operations would involve using a dynamically positioned third-party Offshore Support Vessel equipped with a vapor recovery system to control the release of vapor emissions during the cargo loading operations of the proposed TGL DWP.

Four floating crude oil supply pipelines (two per pipeline end manifold [PLEM]) connect the VLCC or other crude oil carriers to the DWP and the platform. This configuration would allow the SPM buoys to move as needed based on wind, waves, current, and VLCC or other crude oil carrier conditions within defined limits. Each vessel would enter the U.S. EEZ from international waters, transit to a shipping fairway, and then exit the shipping fairway to approach the TGL DWP.

The Applicant revised its deepwater license application in response to ongoing consultation with regulatory agencies and subsequently refined the design of the proposed deepwater Port by adding a vapor recovery system into the design and operation of the proposed TGL DWP. The vapor recovery system would achieve greater than 95 percent control efficiency. The proposed TGL Jones Creek Terminal design has been revised to increase the volume of the stormwater detention pond and add a compensatory flood storage area for the displaced flood volumes associated with the Proposed Action. The Applicant changed the drainage and flood control system in response to feedback from the

local community about flooding and in coordination with West Brazoria County Drainage District 11 (WBCDD 11).¹²¹

5.5.1. Best Available Technologies, Safety, and Control Features

As a condition of the ROD, the Applicant will enact specific BMPs listed in Appendix M of the FEIS to minimize the effects on resources throughout the Port's construction, operation, and decommissioning. The Applicant will install portions of both the incoming and outgoing pipelines that would cross paved roads and surface water bodies using trenchless methods. Hand digging will be implemented to avoid damage to buried utilities during excavation. The DPI method will be installed for the incoming pipeline beneath the Brazos River and the outgoing pipeline beneath the Gulf Intracoastal Waterway (GIWW) and shoreline. The Applicant will undertake these measures to minimize impacts on wetlands, water quality, cultural resources, sensitive habitats, and beach areas that experience commercial and recreational use. It is noted that—where applicable—the FEIS considers safety but does not function as the final safety evaluation.

The Port will contain state-of-the-art processes, the best available technologies, and enhanced safety controls. The safety and control features will include state-of-the-art pollution controls to ensure that the ambient air quality will not degrade within the project area.

The safety and control system would be independent of the process control system and would manage all the platform safety systems. A programmable logic controller industrial computer-based control system would interface with all field safety instrumentation and equipment to provide Safety Shutdowns and Emergency Shutdowns of systems and equipment when adverse unsafe conditions are present.^{122,123}

5.5.2. Vapor Control Systems

The tank farm will include up to 12 aboveground external floating roof storage tanks. VOC emissions controls on each tank will include a floating roof and a dome over the roof. The Applicant will use a temporary portable vapor combustion unit (VCU) on-site during the tank cleaning process. The temporary VCU will destroy

¹²¹ *Texas GulfLink Supplemental Draft Environmental Impact Statement and attachments*, September 30, 2022, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-2953>.

¹²² *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

¹²³ See “Appendix Y,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

VOC vapors while a tank roof is elevated for maintenance or inspection. The VCU will control VOC emissions to at least 95 percent destruction and removal efficiency.

To control the release of VOCs, hazardous air pollutants (HAPs), and other emissions during cargo transfer at the DWP, the Applicant proposes to use a vapor processing module (VPM) mounted on a third-party OSV to recover vapors in combination with submerged fill loading. In submerged fill loading, the fill pipe is situated below the oil level in the receiving tank rather than above. This configuration limits the turbulence and disturbance of the liquid surface and minimizes the volatilization of VOCs, HAPs, and other emissions from the cargo. The VPM allows for any vapors released during submerged fill loading to be captured, processed, and transported to shore for transfer to a third party. The VPM system proposed for the TGL project would recover and process VOCs emitted during crude oil cargo loading with greater than 95 percent overall VOC capture efficiency.

5.5.3. Public and Agency Involvement

In analyzing the Applicant's proposal to construct and operate the Port for the export of crude oil, the EPA, NOAA, NMFS, USACE, PHMSA, Bureau of Ocean Energy Management (BOEM), Bureau of Safety and Environmental Enforcement (BSEE), USFWS, and other Federal, State, local and tribal entities served as cooperating agencies and/or provided information and recommendations that were considered. MARAD also received, reviewed, and considered comments and suggestions in response to the TGL DWP Application and NEPA review from interested persons representing the general public, environmental stakeholders, and NGOs, some in favor of the Port and others opposed. MARAD has considered recommendations from the cooperating Federal, State, and local agencies that may become part of the License upon issuance. These recommendations and other substantive feedback from the public and cooperating agencies, including responses, can be found in Appendix C of the FEIS.¹²⁴

MARAD received comments on the TGL DEIS and SDEIS from Federal and State agencies, the public, NGOs, and members of the surrounding communities. Common categories of comments included concerns about the alternatives analysis, impacts to air quality, to include climate change and greenhouse gas emissions, impacts to communities with environmental justice concerns, flooding impacts, oil spill impacts, economic analysis, impacts to threatened and endangered species, reduction of reverse lightering, requests for VOC control, requests for compensatory mitigation and habitat restoration plans, and general opinions concerning the relationship between the proposed project and the national interest.

¹²⁴ For agency correspondence during the environmental review process see “Appendix C, Public Comments” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024. Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>

In consideration of these comments, where applicable, the EIS was updated to include additional information and analysis. MARAD has also included conditions in Section 5.5 of this ROD. The complete list of substantive public comments received on the DEIS and SDEIS, and the agencies' responses to the comments are provided in Appendix C of the FEIS.¹²⁵

In order to assure that all possible care is taken to protect the environment, the Applicant will maintain a continuing obligation to employ best available technologies and use BMPs and conservation measures as listed and described in the FEIS, Appendix M, which the Applicant has committed to incorporate into their proposed action. These include measures that require the Applicant to apply best practices during construction spill responses, wetland and waterbody protection, soil stabilization, revegetation, air emissions, industrial and wastewater discharges, minimizing impacts to the Justin Hurst Wildlife Management Area, avoiding adverse effects on historical and archaeological sites, and during project decommissioning. The License will be subject to the conditions listed below in Section 5.5.5 of this ROD (titled *Conditions*), as well as additional conditions consistent with Appendix M of the FEIS and this ROD, all of which will be set forth in detail in the License.

Based upon the above factors, the FEIS and the comprehensive review performed by MARAD and the USCG support MARAD's determination under Section 4(c)(5), [33 U.S.C. § 1503(c)(5)] that the proposed technologies to be used by TGL for constructing and operating the proposed Port are the best available technologies to minimize or prevent adverse impact on the environment for this project.

As the License to construct and operate the Port is prepared, conditions will be included that incorporate the results, assessments, BMPs, and operating conditions listed in the FEIS. Compliance with the requirements imposed by other Federal and State agency permits (e.g., EPA permits issued under the authority of the CWA and CAA) will be a condition of the License.¹²⁶ Further, it is noted that the NEPA process undertaken by MARAD, USCG, and cooperating agencies included the required ESA consultation process conducted with the USFWS and NMFS. The results of those consultations have been factored into MARAD's decision and are addressed in this ROD. Any related conditions specified by the cognizant agencies will be incorporated into the License upon its issuance.

¹²⁵ Id.

¹²⁶ For listing of the BMPs that TGL has agreed to incorporate into the construction, operation and decommissioning of the DWP as a result of Federal, State and local agency comments received during the environmental review process, see "Appendix M," *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

5.5.4. System Alternatives

The DWPA requires compliance with NEPA. To identify the environmentally preferred alternative, a reasonable range of alternatives to the proposed action were examined. The action alternatives are described in Sections 2.0 to 2.10 of the FEIS. The potential environmental consequences for the proposed action and alternatives are addressed in Section 3 of the FEIS. Cumulative impacts of alternatives are addressed throughout Chapter 5.0 of the FEIS.

The Applicant has a continuing obligation to employ the best available technology and use the BMPs and conservation measures described in the FEIS and in Appendix M into their proposed action.¹²⁷ These include measures that require the Applicant to apply best practices during construction spill responses, wetland and waterbody protection, unanticipated discovery of existing contamination, soil stabilization, revegetation, construction methods, habitat-based workspace limitations, night construction limitations, noise protection, Port operations, industrial and wastewater discharges, potential for impacts on marine protected species and habitats, avoidance of adverse effects on historical and archaeological sites, and endangered species habitat and during project decommissioning. The License, if issued, will be subject to the conditions listed below as well as additional conditions consistent with Appendix M of the FEIS and this ROD, all of which will be set forth in detail in the License.

5.5.5. Conditions

All applicable Federal, State, and local authorizations and permits must be obtained for the Port's construction, operation, and decommissioning. The Applicant will comply with all applicable authorizations, permits, and License requirements, including monitoring and mitigation requirements. Any additional requirements and conditions will be explained in detail in the License or under the relevant permit authorizations upon issuance. The Applicant shall provide copies of all final permits and authorizations to MARAD and the USCG.

The Applicant shall comply with the following conditions:

1. Access to ExxonMobil Pipeline. Prior to issuance of the License, the Applicant must provide the Maritime Administrator with a fully signed and executed agreement between the Applicant and ExxonMobil, permitting the applicant access to (and use of) the pipeline leased and operated by ExxonMobil Pipeline Company at the Bryan Mound Strategic Petroleum Reserve for the purpose of connecting the pipeline to the proposed TGL Jones Creek Terminal.

¹²⁷ For listing of BMPs, see "Appendix M," *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

2. DOD Risk, Incident, Mitigation, and Management Plan. The Applicant will create and submit for Department of Defense (DOD) approval a risk, incident mitigation, and management plan to address the proposed oil platform project in /near the vicinity where specific military aerial exercises would impact said oil platform. The risk, incident, mitigation, and management plan will be submitted to MARAD & USCG after obtaining final approval from the DOD. The Applicant will ensure that mitigation measures within the plan include proper measures to address events and risks that would implicate or jeopardize the safety and security of the proposed oil platform. The Applicant will update the risk, incident, mitigation, and management plan each year or when required changes occur with the DOD aerial exercises. The Applicant will ensure that the plan remains in place for the project's life, including after 3 years post-decommissioning.

3. Clean Air Act, as amended (CAA). The Applicant shall comply, at a minimum, with the following conditions relating to the CAA: The Applicant shall obtain a Title V Operating Permit from the EPA and comply with the terms and conditions of such permits.
 - The Applicant shall obtain, from the Texas Commission on Environmental Quality (TCEQ), Air Quality Division (AQD), in coordination with EPA, the following permits: 1) A New Source Review (NSR) Permit for Oil and Gas Handling and Production Facilities for the Jones Creek Terminal; 2) A Non-Rule Standard permit from the TCEQ, AQD, in coordination with EPA. The Applicant is not required to obtain a Prevention of Significant Deterioration air permit for the onshore components and has obtained a minor source NSR preconstruction permit from TCEQ. The GulfLink Project would partially take place in Brazoria County, Texas, a part of the Houston-Galveston-Brazoria nonattainment area, an area designed as severe nonattainment area for 8-hour Ozone National Ambient Air Quality Standards and an attainment area for the other criteria pollutants. The Applicant 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 Clean Air Act General Conformity Rule Applicability Analysis and the FEIS. The Clean Air Act General

Conformity Applicability Analysis is included in the FEIS Appendix V.¹²⁸

4. Federal Water Pollution Control Act, as amended Clean Water Act (CWA).
The Applicant shall comply, at a minimum, with the following conditions relating to the CWA:

- The Applicant shall obtain a Texas Railroad Commission Section 401 Water Quality Certification in conjunction with the USACE Section 404 permit authorization and provide the Certification to EPA.
- The Applicant shall obtain an EPA National Pollutant Discharge Elimination System permit for regulated discharges of wastewater, including hydrostatic test water for the DWP and stormwater associated with industrial activities for the onshore facilities.
- The Applicant shall obtain an TCEQ Construction General Permit for stormwater discharges from construction activities for onshore facilities prior to beginning construction activities and/or construction support activities.
- The Applicant shall implement a Spill Prevention, Controls, and Countermeasures (SPCC) plan for onshore oil storage tanks and obtain a Texas Pollutant Discharge Elimination System Permit (CWA Multi-Sector General Permit) for onshore process water and stormwater, including hydrostatic test water.
- The Applicant shall, to the extent required, obtain permits under Section 10 of the Rivers and Harbors Act and a Section 404 Individual Permit and Section 408 authorization administered by USACE.
- The Applicant shall complete and supply a USACE-approved Compensatory Wetland Mitigation Plan (CMP) to MARAD before initiating Project construction. The Applicant is required to coordinate with the USACE Galveston District, including the determination of compensatory mitigation needed for the loss of wetland functions and values resulting from the impacts of the TGL Project. The Compensatory Mitigation Plan will be marked as final after USACE, EPA, Texas GLO, and TPWD approvals.

¹²⁸ For the General Conformity Rule Applicability Analysis of construction and operation emissions from the proposed action, see “Appendix V,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

- The Applicant shall complete and supply a USACE-approved Habitat Restoration Plan (HRP) to the USCG and MARAD prior to the issuance of the license. The restoration plan shall focus on replanting, restoring, and returning impacted wetlands to their pre-impacted state. MARAD has final approval authority of the HRP.
5. Endangered Species Act of 1973 (ESA) and Marine Mammal Protection Act (MMPA). MARAD and USCG have developed a BA for the TGL project to be used for consultation required under the ESA and requested concurrence from the USFWS and NMFS with the findings of effect for federally listed species.
- On September 15, 2022, MARAD and the USCG submitted a letter to the USFWS requesting to initiate formal consultation for the eastern black rail. That request was added to the existing informal consultation request for concurrence, sent June 13, 2022, for all other threatened and endangered species present in the proposed project area. MARAD entered formal consultation with USFWS on May 24, 2023. Formal consultation between MARAD and USFWS was completed on September 28, 2023, with the issuance of the USFWS BiOp. On August 14, 2024, MARAD received a letter from the USFWS requesting further evaluation of four species. On December 11, 2024, MARAD responded to the USFWS's letter indicating that coordination, as needed, will be conducted to evaluate the Project's environmental effects on these species effectively. Conditions have also been included in this ROD, described in Section 5.5 – *Protecting and Enhancing the Environment*, to address USFWS comments. MARAD entered formal consultation with NMFS on March 20, 2021. Formal consultation between MARAD and NMFS was completed on November 9, 2022, with the issuance a NMFS final BiOp. As a condition of this Record of Decision and the License, the Applicant must comply with all mitigation measures and requirements contained in the USFWS final BiOp and the NMFS final BiOp for the proposed project, some of which are listed in detail below.

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 BiOp 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 Applicant wishes to make changes to the proposed construction, operation, or decommissioning of the Port after issuance of the License, the Applicant must first notify MARAD and the USCG of any proposed Port changes and their potential effects. MARAD and the USCG will evaluate the proposed changes to determine if they warrant re-initiation of ESA Section 7 consultations with the NMFS and USFWS.

If issued a License, the Applicant shall at a minimum comply with the below listed conditions related to the ESA, and as identified in the FEIS. All ESA related conditions will be explained in more detail within the License upon issuance.

6. NMFS Consultation. The Applicant shall consult with NMFS to determine if Port construction, operation, and/or decommissioning activities require Incidental Take or Harassment Authorizations under the Marine Mammal Protection Act of 1972, as amended. If required, the Applicant shall obtain such authorization and submit the authorization to MARAD and the USCG prior to the commencement of construction or decommissioning activities.
7. Acoustic Survey and Habitat Assessment. The Applicant must complete and submit to MARAD, an acoustic survey and habitat assessment for the tricolored bat prior to issuance of license. Results of those surveys and assessment may require additional ESA consultation to be completed.
8. Protected Species Construction Conditions. The Applicant shall implement NMFS' Protected Species Construction Conditions, 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.
9. Vessel Strike Avoidance Measures. The Applicant shall ensure adherence to procedures described in NOAA Fisheries Guidelines for Vessel Strike Avoidance Measures for all vessels that the Applicant operates. These guidelines will also be provided to the operators of VLCCs that are not owned or operated by the Applicant.

10. Protected Species Construction Conditions. The Applicant shall ensure that all construction vessels comply with NOAA’s NMFS Southeast Region’s Protected Species Construction Conditions (NMFS 2021) which require all vessels to operate at “idle/no wake” speeds at all times while in the project construction area, while in water depths when the draft of the vessel provides less than four feet of clearance from the bottom, and in all depths after a protected species has been observed in and has recently departed the area. These measures require that vessel operators and crew maintain a vigilant watch for protected species (i.e., marine mammals and ESA-listed species) to avoid striking sighted protected species. These conditions require that operations of moving equipment shall cease if a protected species is observed within 150 feet of operations and that all activities shall not resume until the protected species has departed the project area of its own volition. Construction vessels will also comply with NOAA Fisheries’ Vessel Strike Avoidance Measures (NMFS 2021).
11. Vessel Strike Avoidance Measures and Reporting for Mariners. The Applicant shall ensure that adherence with the procedures described in NOAA Fisheries Guidelines for Vessel Strike Avoidance Measures and Reporting for Mariners and to the reporting procedures related to injured or dead protected species as described in Best Management Practice B2 on all vessels operated by TGL. These guidelines will also be provided to the operators of VLCCs that are not owned or operated by TGL.^{129,130}
12. Protected Species Observer. The Applicant shall implement mitigations and BMPs related to pile driving noise generation that include: clearing of the surrounding waters by a Protected Species Observer (PSO); implementing a “soft start” procedure to pile driving and a “shut down” of pile driving activity, if ESA-listed species are observed approaching or within the area of acoustic effects that can cause injury; applying a bubble curtain system to all pile driving activity; and ensuring a PSO monitors the Zone of Influence (ZOI) for the entirety of the in-water activity afterward. All marine mammal and ESA-listed species sightings must be fully documented.
13. Spill Reports. The Applicant 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 Applicant shall provide annual reports to NMFS Southeast

¹²⁹ TGL will implement the procedures described in the “NOAA Fisheries Guidelines for Vessel Strike Avoidance Measures,” revised 2021. https://media.fisheries.noaa.gov/2021-06/Vessel_Strike_Avoidance_Measures.pdf.

¹³⁰ For listing of the Best Management Practices (BMPs) and mitigation measures that TGL 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, See “Appendix M,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

Regional Office (SERO), which includes 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 NMFS BiOp. 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.

14. Hydroacoustic Monitoring Plan. The Applicant 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 final NMFS BiOp. The Applicant must submit its hydroacoustic monitoring plan to NMFS Southeast Regional Office (SERO) for approval prior to commencement of pile driving activities. The Applicant 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.
15. Anchor Lines. All anchor lines securing construction and service vessels will be large in diameter, knotless, non-floating, and taut to avoid posing entanglement risks to marine species. The anchor lines associated with the proposed SPM buoys would be chains spaced more than 1,000 feet apart, reducing the potential for marine species to be entangled. A dynamic positioning pipelay vessels may be used if available to minimize anchoring and the use of associated chains or lines during construction.¹³¹
16. Minimal Safe Operating Power. The Applicant will maintain minimal safe operating power for VLCCs at all times and dynamic positioning thrusters will not be engaged unless required. Protection measures include reducing vessel speed, minimal thruster power level, and proper sound control equipment and maintenance.
17. Lighting. The Applicant will minimize all temporary and permanent lighting directed toward the TGL Project area and down-shield to significantly reduce disturbance to resident, migratory birds, and other wildlife. The Applicant will down-shield the security lighting for above-

¹³¹ See page 3-189 under Entanglement, *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

ground facilities and equipment to keep light within the boundaries of the Site (for the operation phase of the project.).

18. Flood Impact Mitigation. The Applicant commits to installing the flood protection and mitigation measures around the TGL Jones Creek Terminal as laid out in Appendix M and will obtain final approval of flood drainage and detention plans from the relevant Brazoria County offices and make said plans and approval publicly available.
19. Groundwater Management. The Applicant commits to ensuring its groundwater withdrawal plans are approved by the Brazoria County Groundwater Conservation District.
20. Continued Public Outreach. The Applicant must continue to conduct public outreach to the impacted communities in the project vicinity. The Applicant must prepare an outreach and engagement plan (Engagement Plan) prior to the construction and operation of any component of the proposed Deepwater Port project. The Engagement Plan must identify 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 phase of the project as well as during the operation of the project.
21. MARPOL Compliance. All facility operations will remain in compliance with the International Convention for the Prevention of Pollution from Ships (MARPOL, 1973) and other applicable regulations set forth to minimize the risk of inadvertent release of materials.
22. Emergency Response. The Applicant has committed to assisting the Jones Creek Fire Department through training on the Applicant's system, annual emergency response drills, and upgrading equipment to support the Jones Creek Terminal (if practicable). Prior to construction, a formal Memorandum of Understanding between the Applicant and the Jones Creek Fire Department for assistance must be developed for actions that may be used to control the spread of an offshore oil spill that threatens onshore areas.
23. Spill Avoidance. The Applicant shall restrict the refueling and transferring of liquids to pre-designated locations away from sensitive areas to minimize the potential for and magnitude of accidental spills during construction.
24. OCS Activities. The Applicant must comply, at a minimum, with the following conditions relating to activities on the OCS:
 - The Applicant will secure the necessary rights to utilize the OCS, including pipeline rights-of-way through BOEM. Additionally, the Applicant will work with BOEM to obtain a Fair Market Rental

Value assessment for the submerged lands required for the construction, operation, and decommissioning of the Port, including pipelines. After the initial assessment is made by BOEM, the Applicant will pay MARAD the annual lease payments for the Fair Market Rental Value and pipeline ROW assessments, which will be calculated and collected by MARAD on an annual basis until the Port is decommissioned.

- The Applicant will also follow all applicable BOEM and BSEE Notices to Lessees and Operators concerning impacts to OCS areas.
- Additional requirements for OCS activities may be imposed upon the Applicant by the respective jurisdictional Federal and State agencies.
- Prior to decommissioning, the Applicant will be required to provide demonstration of site clearance under BSEE regulations (30 CFR Part 250, Subpart Q; Sections 1740—1743 for platforms). BSEE regulations provide for 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. NMFS noted that the use of trawling gear can injure or kill sea turtles. If the Applicant determines that it needs to use trawling gear, it must notify MARAD and MARAD must determine if reinitiation of consultation with NMFS is necessary to consider potential adverse effects on sea turtles.

25. Deepwater Port Operations Manual. Prior to the commencement of construction activities, the Applicant will prepare, submit to the USCG for review and approval, and maintain throughout the operational life of the Port, a Deepwater Port Operations Manual that conforms to the requirements set forth at 33 CFR Part 150.

26. Additional USCG Requirements. The Applicant must meet the requirements of 33 CFR Part 149 governing the design, plan review, fabrication, installation, inspection, maintenance, and equipment requirements and 33 CFR Part 150 governing operations, navigation measures, and oversight of the Port. These include but are not limited to those requirements contained within 33 CFR 149.625, which require 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. USCG Navigation and Vessel Inspection Circular No. 03-05 Guidance for Oversight of Post-Licensing Activities Associated with Development of DWPs provides useful reference information regarding these requirements.

27. Inspections and Monitoring. The Applicant 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 Applicant shall allow authorized representatives of EPA and other authorized Federal and State agencies to verify and enforce the requirements of authorizations issued by them.
28. Safety, Security, and Risk Mitigation. The Applicant has committed to and will work with, local and headquarters USCG units and applicable local stakeholders to ensure the development and implementation of safety and security risk mitigation measures to reduce the risk of, and consequences associated with, a crude oil release caused by either accidental or intentional events that could potentially impact a high consequence area (HCA-including unusual or other maritime activities in the area), and vessel traffic in commercially navigable waterways (Bastrop Bayou, the GIWW, Brazoria River), or the Freeport Harbor Safety Fairway. These measures will meet the requirements of the USCG Maritime Security and Response Operations Manual and also address ships' routing measures, including Safety Zones, NAAs, and an ATBA. The Applicant will address simultaneous operations protocols (communications, identification, safety, security, etc.) to ensure coordination between Port operations and other vessels to manage risks through controlled access and operational restrictions. This effort may include but is not limited to, providing additional or updated vessel traffic and spill consequence analysis if deemed necessary.
29. Pipeline Inspections. The Applicant must periodically inspect the pipelines to ensure protection from any changes in operating and maintenance conditions, including inspection of the pipeline after significant events (e.g., earthquakes or hurricanes). A depth of cover survey must be performed every 10 years, and every 5 years at crossings of navigable waterways, per 49 CFR § 195.412. The proposed pipeline components must be designed to accommodate in-line inspection tools (smart pigs) for integrity inspections.
30. Avoidance of Geologic Hazards and Hazardous Materials. Before the commencement of any marine construction authorized under the License, the Applicant shall update the geophysical and geotechnical survey originally conducted as part of the Application for both the onshore and offshore Port facilities. The purpose of the surveys is to avoid any significant debris that may adversely affect construction activities and to identify cultural areas of significance and/or significant geologic hazards including hazardous waste containers during construction and installation of Port components. Geologic hazards may include but are not limited to, seismicity, slope stability, flooding and storm surge, competency of

bedrock, and subsidence or settlement. The Applicant shall make the results of such surveys known to appropriate personnel in the Department of the Interior, USACE, EPA, and USCG. The Applicant shall comply with all applicable federal and state hazardous material statutes and regulations and contact EPA, MARAD, USCG, State, and Local agencies immediately if hazardous and toxic material sites are encountered during the construction and implementation of the Project.

31. Protection of Cultural/Archeological Resources. The Applicant shall develop and implement an Unanticipated Discoveries Plan (UDP). The UDP will address procedures if previously unidentified cultural or underwater archaeological resources are discovered during the construction of the onshore and offshore components of the deepwater port. 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 by the THC, BOEM, MARAD, and USCG. The onshore UDP shall be reviewed by the THC, appropriate Tribal Historic Preservation Officers, MARAD and USCG. In the event of a cultural resource or archaeological discovery in Federal waters, the Applicant shall follow the UDP and comply with applicable BOEM and NHPA regulations.
32. Port and Pipeline Construction. The Applicant will minimize underwater noise production by the use of the lowest noise-producing impact hammer available, the use of a cofferdam system (including the introduction of bubble curtains within the annulus between the pile and the cofferdam) to reduce the transmission of marine noise, and the use of the 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. The 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. TGL will notify MARAD headquarters and the local USCG in writing at least thirty (30) days prior to the commencement of any marine construction authorized by the License.
33. PHMSA Office of Pipeline Safety (OPS) Requirements. The Applicant will 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 CFR § 190-199 in coordination with the PHMSA OPS. These regulations concern the safe construction, operation, or maintenance of pipelines on Federal lands and the OCS. The Applicant will develop a contingency plan, in coordination

with PHMSA and EPA, for the local impacted communities that describe plans in case of accidents, such as explosion, pipeline failure/fires, and/or other health and safety matters. The contingency plan must be submitted to MARAD for review and approval before the commencement of construction of the Project.

34. Decommissioning. The Applicant will conduct all decommissioning activities in accordance with approved plans required by the Maritime Administrator. Decommissioning plans shall comply with all applicable and appropriate regulations and guidelines in place at the time of decommissioning. As discussed under the Financial Responsibility Section of this ROD, a financial guarantee must be provided to ensure the Applicant has sufficient financial resources to decommission all components of the Port in a manner acceptable to the Maritime Administrator. The guarantor(s) shall provide annual financial statements to MARAD to demonstrate its or their continued financial capability to fund the full costs of decommissioning the Port, which may include removal and/or abandonment of Port structures and associated facilities. Review and approval of removal activities by all applicable authorities, including, MARAD, BSEE, USCG, PHMSA, EPA, and Texas GLO must occur prior to the start of decommissioning and the removal process. Approval of the decommissioning plan may require the preparation of a supplemental NEPA document. All required Federal, State, and local permits, approvals and authorizations must be applied for and received prior to the commencement of any decommissioning activity. Other conditions related to decommissioning requirements will be set forth in the License.

35. Changes to the Deepwater Port. In the event that the Applicant proposes to make any substantive changes to the construction and/or operation of the Port from what is specifically authorized in the License, the Applicant shall submit to USCG, with a copy to MARAD, an Environmental Impact Assessment that details the proposed change and evaluates its probable environmental consequences, adverse or beneficial. The Environmental Impact Assessment shall be appropriate to the nature of the proposed changes and a level of detail and depth of analysis to enable the USCG and MARAD to prepare the appropriate NEPA document, if necessary. USCG and MARAD, in consultation with other agencies as appropriate, will decide what level of further environmental review, if any, will be necessary. To the extent the substantive changes require the preparation of a supplemental NEPA analysis, the Applicant shall reimburse the Government for all costs associated with the preparation thereof. In addition, any proposed major substantive change to the construction and/or operation of the Port not provided for in the License shall require the prior review and approval of MARAD, USCG, and other Federal and State agencies as applicable. Substantive changes include but are not limited to:

- 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 as analyzed in the FEIS;
- Any change that would require significant modifications to the Deepwater Port Operations Manual that are inconsistent with the requirements of the License;
- 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 of the FEIS; and
- Any change that would require significant modifications to the Port's original application, as amended, or as analyzed in the FEIS.

In the event substantive changes are proposed, the Applicant must do the following: provide a list of all Federal, State, or local permits that may be affected by the proposed change and include the permit number (if applicable), the current status and the date of expiration; apply for new or amended permits as required; and 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 National Marine Sanctuaries Act, the Texas DWP Procedures Act or other applicable laws. All required new/amended permits, approvals, and authorizations must be received prior to the commencement of construction or operation activities related to the substantive change.

36. Aquifer Testing. The Applicant will conduct, if applicable, aquifer drawdown test (also known as pumping test) where a well is pumped at a controlled rate and the aquifer's response is measured in observation wells to help determine aquifer depletion.
37. Prevention, Monitoring, and Mitigation Plan (PMMP). The Applicant must prepare a PMMP for review and approval prior to operation. The PMMP, with concurrence from appropriate resource agencies, shall be approved by the MARAD and USCG and be incorporated as an Annex to the Deepwater Port Operations Manual. Compliance with an approved PMMP will be made a condition of the license. The PMMP will:
 - Establish a single consolidated PMMP that will satisfy the needs of Federal, State, and local agencies to ensure the prevention, monitoring, and mitigation of the environmental impacts that may result from the construction and operation of the Port.

- Address regulatory requirements and requirements of permits, approvals, and authorizations; project-specific requirements; best management practices; and any other commitments made by the Applicant included in the application and FEIS, including - Best Management Practices (Appendix M) of the FEIS.
 - Provide Port personnel with the necessary information, training, procedures, and equipment to implement the PMMP's requirements and integrate them into all Port operations.
 - The Applicant will collectively work with MARAD, USCG, NOAA, EPA, the USACE, and other Federal, State, and local agencies, as appropriate, to develop the PMMP. The PMMP will be regulatory and performance-based and include the periodic evaluation of effectiveness to identify environmental protection improvements in the Port's operating area.
38. Coastal Zone Consistency Determination. The Applicant shall receive a Texas GLO coastal zone consistency determination prior to the issuance of the License.
39. Easements and Rights-of-Way. The Applicant shall obtain an easement from the Texas GLO for all portions of the project that cross state-owned submerged lands prior to beginning construction.

The Applicant will be solely responsible for obtaining any and all easements and rights-of-way necessary for the project.

40. Volatile Organic Compounds (VOCs) Control. Members of the public have raised concerns regarding the impacts to human health from the Project's air emissions. To address these health concerns the Applicant has committed to implementing temporary vapor combustion units at the TGL Jones Creek Terminal and a vapor recovery system at the Port.¹³² These systems will eliminate the VOCs emitted from the project by 95 percent. In addition to the installation of onshore and offshore vapor combustion unit/recovery systems, the Applicant shall conduct the following measures to mitigate the potential impacts from VOC emissions:
- Prior to construction and operation, conduct a baseline monitoring test of the vapor combustion units/recovery system.
 - Conduct performance testing of the vapor combustion units/recovery system on a quarterly basis to ensure the efficacy of the

¹³² See Section 2.2.8.6 *Volatile Organic Compound Control Technologies* of the FEIS for details.

units/system. The results of the performance testing must be submitted to MARAD within 30 days of receipt of testing results.

- Conduct visual inspections of the vapor combustion units/ recovery system on a weekly basis to ensure the units/systems are in proper working order.
- Develop a monitoring plan for the TGL Jones Creek Terminal, in coordination with the EPA and TCEQ, that will monitor VOC concentrations at locations sufficient to characterize the facility and local VOC concentrations. The monitoring plan shall be submitted to MARAD for review and approval prior to issuance of the License. Monitoring results shall be provided to MARAD and included in the continued public outreach condition.
- Maintain records of the conducted performance tests.

If the VOC control systems/units do not eliminate the VOCs consistent with the emission elimination projections in the FEIS and this ROD, then the Applicant shall report any deficiencies to MARAD within 30 days of receipt of testing results. The Applicant 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 USC 1511.

41. Self-Enforced Precautionary Requirement. The Applicant 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 the prescribed distance to minimize risk of collision and meet the U.S. Department of Defense (UFC 4-150-06) Unified Facilities Criteria.
42. Requirements for Discharge of Operational Wastes. The Applicant 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 other components of the proposed Port.
 - The Applicant will require VLCCs to use approved equipment, maintain a record of operational discharges, including ballast water, and follow applicable requirements from the International Convention for the Prevention of Pollution from Ships (MARPOL) and USCG regulations. The Applicant will require ballast water

discharge to meet standards for organisms established in the regulation D-2 for Ballast Water Management System.

- Ballast water discharges will be required to meet CFR Title 46, Chapter I, Subchapter Q, Part 162, which addresses requirements for ballast water management systems to be installed onboard vessels for the purpose of complying with the ballast water discharge standard of 33 CFR Part 151, Subparts C and D.

43. Viewshed Mitigation Plan. The FEIS identifies that low-income communities, within 1 mile of the TGL Jones Creek Terminal, may be impacted in regard to the viewshed of the Project. The Applicant must prepare and provide a Viewshed Mitigation Plan to avoid or minimize potential visual impacts associated with the TGL Jones Creek Terminal. The Applicant shall coordinate with TPWD to include the use of native species in the Viewshed Mitigation Plan. The Viewshed Mitigation plan must be submitted to and approved by MARAD prior to the commencement of construction and operations.

5.6. Advice of the Administrator of the Environmental Protection Agency

Section 4(c)(6) of the DWPA ([33 U.S.C. § 1503 \(c\)\(6\)](#)) provides that the License may be issued if the Secretary has not been informed within 45 days following the last public hearing on a proposed License for a designated application area, by the Administrator of the EPA that the deepwater port will not conform with all applicable provisions of the CAA, as amended, the CWA, as amended, or the Marine Protection, Research, and Sanctuaries Act, as amended.

On October 25, 2024, the EPA, Region 6, informed MARAD that the EPA does not object to the issuance of the DWP License for the TGL project pursuant to its authority under the CAA, the CWA, and the Marine Protection, Research, and Sanctuaries Act.¹³³ EPA also recommended continued emphasis on ensuring that environmental justice and climate change considerations are included in the project for the protection of overburdened communities.¹³⁴

5.7. Consultations with the Secretaries of State, Defense, and Army

Pursuant to the requirement of Section 4(c)(7) of the DWPA (33 U.S.C. § 1503(c)(7)), the Departments of State, Defense, and Army have been consulted to determine their views

¹³³ Environmental Protection Agency, Region 6, “Gulflink-Letter from Dr. Earthea Nance of EPA (45 day letter) - 10-25-24,” October 25, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10712>.

¹³⁴ Id.

on the adequacy of the application and the effect of the deepwater port on programs within their respective jurisdictions.

MARAD sent letters to the Department of State, Department of Defense, and the Department of the Army, respectively dated August 21, 2024, to consult on the Application.^{135,136,137}

The Department of Defense did not provide comments on the proposed GulfLink project.¹³⁸

The Department of State sent an email on September 5, 2024, advising that it does not have any comments to include in the final decision process.¹³⁹

USACE, Galveston District sent comments on the FEIS on September 6, 2024, to advise it reviewed the FEIS and identified the following recommendations:

- Impacts to jurisdictional wetlands from the proposed action would require a Section 404/10 Individual Permit from USACE. Subsequently, coordination with the USACE Galveston District is required, including the determination of compensatory mitigation needed for the loss of wetland functions and values resulting from the impacts of the Proposed Action.
- The Compensatory Mitigation Plan included in the FEIS (Appendix O) should be designated as a “conceptual” or “draft” as USACE has not notified USCG and MARAD that a final plan has been approved prior to publication of the FEIS.

USACE, Galveston District also included specific comments on the Compensatory Mitigation Plan in Appendix O of the FEIS and the Habitat Restoration Plan, which is in Appendix P of the FEIS. MARAD has included conditions in Section 5.5 of this ROD, as appropriate, to address USACE’s comments.

¹³⁵ “GulfLink-Letter to Department of State (Deepwater Port Act Consultation SIGNED)-8-21-24,” August 21, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10617>.

¹³⁶ “GulfLink-Letter to Department of Defense (Deepwater Port Act Consultation SIGNED)-8-21-24,” August 21, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10618>.

¹³⁷ “GulfLink-Letter to Department of the Army (Deepwater Port Act Consultation SIGNED)-8-21-24,” August 21, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10619>.

¹³⁸ MARAD made multiple attempts to contact the Department of Defense after the FEIS was issued and did not receive a response from the agency.

¹³⁹ “GulfLink-Consultation with the Department of State - 9-5-24,” September 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10713>.

5.8. Approval of Adjacent Coastal State Governor

Section 4(c)(8) of the DWPA (33 U.S.C. § 1503(c)(8)) conditions the issuance of a License on the approval(s) of the Governor(s) of the “Adjacent Coastal State or States” (ACS). ACS status confers Project approval, disapproval, and approval with conditions authority to States if they meet certain criteria. The DWPA at (33 U.S.C. § 1508(a)(1)) provides that the Secretary must:

Designate as an ‘Adjacent Coastal State’ any coastal State which (A) would be directly connected by pipeline to a deepwater port as proposed in an application, or (B) would be located within 15 miles of any such proposed deepwater port.

In addition, 33 U.S.C. § 1508(a)(2) provides:

The Secretary shall, upon request of a State, and after having received the recommendations of the Administrator of the National Oceanic and Atmospheric Administration, designate such State as an “Adjacent Coastal State” if he determines that there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State directly connected by pipeline to the proposed deepwater port.

The Governor of any State designated by the Secretary as an ACS can prevent the issuance of a deepwater port license by timely notification to the Secretary of his or her disapproval.

The State of Texas was designated as the ACS for the Project.¹⁴⁰ Section 9(b)(1) of the DWPA (33 U.S.C. § 1508(b)(1)(C)) states: “if the Governor fails to transmit his approval or disapproval to the Secretary not later than 45 days after the last public hearing on applications for a particular application area, such approval shall be conclusively presumed.”¹⁴¹

MARAD sent a letter to the Governor of Texas to advise of the FEIS by letter dated August 20, 2024.¹⁴² The Governor of Texas provided a letter indicating his approval of the proposed TGL project dated October 2, 2024, without conditions, which was within the

¹⁴⁰ “Deepwater Port License Application: Texas GulfLink, LLC,” June 26, 2019, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-0001>.

¹⁴¹ “Environmental Impact Statements; Availability, etc.: Texas GulfLink, LLC, Deepwater Port License Application,” August 16, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-9028>.

¹⁴² “GulfLink-Letter to Adjacent Coastal State Governor (Notice of Final Public Hearing)-8-20-24,” August 20, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10616>.

45-day period following the final public hearing, and prior to the end of the 45-day ACS Governor’s decision period October 28, 2024.¹⁴³

5.9. Coastal Zone Management Act

Section 4(c)(9) of the DWPA (33 U.S.C. § 1503(c)(9)) authorizes the issuance of a License if the State or States adjacent to the proposed deepwater port are making reasonable progress toward developing an approved coastal zone management program. Section 9(c) of the DWPA (33 U.S.C. § 1508(c)) provides that a State is considered making such progress if it is receiving a planning grant pursuant to Section 305 of the CZMA. The Texas Coastal Coordination Act of 1991 established a comprehensive coastal resource management program in Texas. The program gives Texas the authority to review proposed Federal actions and activities that are located or may affect land and water resources in the Texas Coastal Zone through a Federal consistency review process.

All of the Project’s onshore storage and supply components will be located within the Texas Coastal Zone Management Area administered by the Texas GLO. Concurrent with the requirements of the DWPA, the Applicant submitted a draft application to the USACE under Section 404 of the CWA in 2019. The Applicant filed a final application with the USACE on January 22, 2020, and the Texas GLO issued its conditional concurrence following its consistency review, which was completed on April 13, 2023.¹⁴⁴

The Applicant must ensure that the Section 404 permit from the USACE, the Section 401 Water Quality Certification from the Railroad Commission of Texas, and the Texas GLO consistency determination are received prior to Project construction.

Consistent with the Texas Coastal Coordination Act, as described above, the Texas Beach Access and Dune Protection Program requires any development within 1,000 feet of mean high tide to obtain approval from the Texas GLO.^{145,146} Additionally, a Dune Protection Permit would normally be required for any alteration (in elevation or vegetation) of nearby sand dunes from mean high tide landward for a distance of 1,000 feet.¹⁴⁷

¹⁴³ “GulfLink - Letter from Governor Abbott (Adjacent Coastal State 45 day letter).” October 2, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10710>.

¹⁴⁴ For the conditional concurrence letter received during the Federal Consistency determination and environmental review process, see “Appendix H,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

¹⁴⁵ See “Chapter 6.0,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement*. July 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-3649>.

¹⁴⁶ *Texas GulfLink Deepwater Port Final Environmental Impact Statement*, July 5, 2024, Federal Docket Management System, <http://www.regulations.gov>, MARAD-2019-0093-3649.

¹⁴⁷ *Id.*

Following a review of the DEIS, the Texas GLO provided a comment letter stating that, since this pipeline crossing is not accessible by a public road or common carrier ferry facility, it would be exempt from this requirement under Texas Natural Resource Code 61.083, the Open Beaches Act. The location would also be exempt from the Dune Protection Act, Texas Natural Resource Code Chapter 63, since the dune area is not accessible by public road or common carrier ferry facility.

The Applicant shall comply with all conditions set forth in the CZMA consistency certifications. Additional information regarding CZMA requirements is outlined in Appendix D of the FEIS, titled Agency Correspondence.

6. CONCLUSIONS

For the reasons set forth above, MARAD has reached the following conclusions:

- The Applicant has provided the necessary documentation, guarantees, and assurances to confirm it has or has access to the required financial capital to construct, operate, and decommission the Port. Also, the Applicant, through the support of its guarantor, has the financial resources to meet the maximum limit of liability requirements for deepwater ports as established by the Oil Pollution Act of 1990 and as amended by regulation at 33 CFR § 138.230(c).
- The Applicant brings together a team of offshore energy (facility and pipeline) development engineers, managers, and financial backers with experience to implement the project. The Applicant's team has been informed of and understands the statutory and regulatory framework under which the construction and operation of the Port are governed. Thus, it is expected that the Applicant will comply with all applicable laws, regulations, and License conditions, and understands the adverse ramifications of noncompliance.
- The construction and operation of the Port is in the national interest because the Project will benefit employment, economic growth, and U.S. energy infrastructure resilience and security. The Port will provide a reliable source of crude oil to U.S. allies in the event of market disruption and have a minimal impact on the availability and cost of crude oil in the U.S. domestic market. During operation, the TGL DWP would reduce marine traffic in the general Houston-Galveston-Texas City port area by providing a safer, efficient alternative to smaller ship-to-ship transfer tankers to travel from ports to lightering areas to fill the VLCCs as an alternative to onshore operations.
- The Port will not interfere with international navigation or other reasonable uses of the high seas. The requirement to establish safety zones and other regulated navigational areas, the Port's location 26.6 nautical miles offshore and outside of the Freeport

Harbor Safety Fairway, and its proximity to other OCS activities is such that the Port will not affect other vessel traffic operating in the Gulf of Mexico.¹⁴⁸

- The Project will be constructed and operated using the best available technology. Operating safety and control features of the Project will include autonomous shutdown valves, high-integrity pressure protection systems, fire and gas detection systems, emergency shutdown and safety controls, and process control systems.
- The Applicant will implement temporary vapor combustion units at the proposed TGL Jones Creek Terminal to eliminate VOC vapors emitted during storage tank filling, maintenance, and inspection activities. The vapor combustion units would be capable of eliminating more than 95 percent of the VOCs. Additionally, the storage tanks at the proposed TGL Jones Creek Terminal incorporate a floating roof, which is used as an emissions control device.
- The Applicant will also install a vapor recovery system at the DWP to collect and eliminate the VOC vapors displaced during the loading of the VLCCs or other crude oil carriers at the DWP. The vapor recovery system will eliminate 95 percent or more of the VOCs to be emitted during the loading process. The conditions provided above will require monitoring of the vapor recovery system to ensure effectiveness as projected. These measures, described above, are considered the best available technology for this Port.
- Moreover, the environmental impact analysis requirements of NEPA have been satisfied. The FEIS was prepared as part of a transparent and publicly inclusive administrative process, which included extensive public comment on the Application, DEIS, SDEIS, and FEIS, as well as the inclusion of a comprehensive Federal, State, local, and tribal consultation process.
- In consideration of the information and analysis included in the FEIS and the comprehensive review performed by USCG, in coordination with MARAD and with input from cooperating agencies, MARAD (in deference to Chapter 2.11 of the FEIS) concludes, by issuing this ROD, that the construction and operation of the Port, as detailed in Chapter 2.2 of the FEIS, is the preferred and environmentally preferable alternative for this Project and proposed technologies to be used by the Applicant for constructing, operating, and decommissioning the proposed Port, are the best available technologies under Section 4(c)(5) (33 U.S.C. § 1503(c)(5)) to minimize or prevent adverse impact on the marine environment from this Project.¹⁴⁹

¹⁴⁸ It is noted that USCG is the federal agency with the responsibility to develop and approve regulations related to the licensing, construction, design, equipment, and operation of deepwater ports under the Deepwater Port Act of 1974.

¹⁴⁹ “Chapter 2.11,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement* notes “CEQ regulations stipulate that this FEIS “identify the agency’s proposed Project or alternatives, if one or more exists...unless another law prohibits the expression of such preference” (40 CFR § 1502.14(e)). Under the DWPA, MARAD has the decision-making authority to approve, approve with conditions, or deny a license application for a DWP. Because

- Additionally, based on the information provided within the FEIS, Chapter 3.3.5.2, MARAD concludes that the location of the proposed TGL Jones Creek Terminal, which is located within the 100-year floodplain, is the only practicable alternative in accordance with Executive Order 11988, *Floodplain Management*, and DOT Order 5650.2, *Floodplain Management and Protection*. Any other location would require additional pipeline, and thus, provoke additional environmental impacts. The Applicant has addressed mitigation and prevention with regards to storage tanks in floodplains experiencing extreme weather events, including hurricanes and flooding, in BMP A77 (Appendix M) which covers the best practices described in the Texas GulfLink Hurricane Preparedness Plan, and will follow the EPA Region 6 Flood Preparedness Recommended Best Practices (RRT 2016). To address public comments on the SDEIS, the Applicant has also amended its design to improve stormwater detention and floodwater management at the proposed TGL Jones Creek Terminal. The proposed TGL Jones Creek Terminal will include a secondary containment dike around the storage tanks that will be capable of containing 110 percent of the capacity of one storage tank plus a 25-year, 24-hour storm water event and will be subject to the SPCC Plan requirements of 40 CFR Part 112. The secondary containment dike will be at a height of 14.5 feet above mean sea level, or between 2.5 and 4.5 feet high, depending on ground surface elevation. The design of the terminal will be based on the latest standards and local, state, and federal requirements and will follow Brazoria County minimum design requirements by elevating all buildings, above-ground piping, and above-ground equipment with electrical components by 2 feet above the base flood elevation of 17 feet above mean sea level.
- In accordance with Executive Order 11990, *Protection of Wetlands*, and DOT Order 5660.1A, *Preservation of the Nation's Wetlands*, the FEIS concludes that no practicable alternative avoiding all wetlands exists for this Project. The Applicant will provide a Compensatory Mitigation Plan that clarifies the Applicant's plan to purchase mitigation bank credits from USACE-approved mitigation banks in the future to offset the unavoidable functional loss of wetlands. The Applicant has further committed to install portions of the onshore pipeline adjacent to existing petroleum infrastructure and commercial rights-of-way and to employ boring and horizontal directional drilling methods for installing portions of the onshore pipelines. These measures will be undertaken to minimize impacts on sensitive and/or protected areas/resources, including wetlands. Additionally, this ROD requires the Applicant to develop a Habitat Restoration Plan to replant, restore, and return impacted wetlands to their pre-impact state.

MARAD is the decision-making authority, identifying its preferred alternative could be interpreted as inappropriate prior to the Secretary's assembling, reviewing, and analyzing all of the relevant information pertaining to the license application, as required under the DWPA."

As a result, the FEIS did not define a preferred or an environmentally preferred alternative.

- As the License to construct and operate the Port is prepared, detailed conditions will be included to address the results, assessments, BMPs, and operating conditions listed in the FEIS. The License will include specific conditions that respond to the requests and recommendations submitted by agencies and members of the public. Compliance with the requirements imposed by other Federal and State agency permits (such as EPA permits issued under the authority of the CWA and CAA) will be included as conditions of the License. Further, the NEPA process undertaken by MARAD, USCG, and cooperating agencies included ESA consultation with the USFWS and NMFS. The results of those consultations are briefly addressed in this Record of Decision. Any related conditions and requirements specified by the cooperating agencies will be incorporated into the License upon its issuance.
- The EPA Region 6 informed MARAD by letter dated October 25, 2024, that the agency “does not object to the issuance of a license for the TGL DWP based on our authority under the CAA, the CWA, and the Marine Protection, Research and Sanctuaries Act.”¹⁵⁰
- MARAD has consulted with the Secretaries of State, Defense, and the Army. The Department of State has advised that it has no comments on the Project.¹⁵¹ USACE has advised that the Project will have no adverse effect on USACE projects within the Galveston District. DOD did not provide comments on the Application.¹⁵²
- The Adjacent Coastal State Governor of Texas provided approval without conditions of the Port’s License for construction and operation in a letter dated October 2, 2024.
- The State of Texas has an approved Coastal Zone Management Program. The Texas GLO issued its conditional concurrence following its consistency review on April 13, 2023.¹⁵³ The Texas GLO consistency determination must be received before the issuance of the License.
- The conditions in the Record of Decision are directed to ensure the Port is located, constructed, and operated in an environmentally sound manner that will mitigate environmental damage caused by the accidental release of crude oil resulting from offshore or onshore operations, transshipment, or harbor collision.

¹⁵⁰ Environmental Protection Agency, Region 6, “Gulflink - Letter from Dr. Earthea Nance of EPA (45 day letter) - 10-25-24,” October 25, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10712>.

¹⁵¹ “GulfLink - Consultation with the Department of State - 9-5-24,” September 5, 2024, Federal Docket Management System. Found online here: <https://www.regulations.gov/document/MARAD-2019-0093-10713>.

¹⁵² MARAD made multiple attempts to contact the Department of Defense after the FEIS was issued and did not receive a response from the agency.

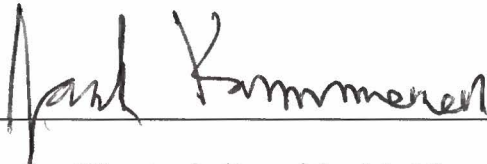
¹⁵³ See “Appendix H,” *Texas GulfLink Deepwater Port Final Environmental Impact Statement* for the conditional concurrence letter received during the Federal Consistency determination and environmental review process.

MARAD finds that the construction and operation of the Port is in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency, environmental quality, and energy security. MARAD also finds that the Texas GulfLink, LLC application to construct and operate a deepwater port 26.6 nautical miles offshore of Brazoria County, TX, meets the requirements of the DWPA. Based on these findings the application is hereby approved.

If the Applicant does not secure funding for the facility; obtain a License as well as the permits that are necessary to operationalize and commence construction of the Port by February 14, 2030, this ROD becomes invalid.

This ROD is not a license under the DWPA, and it does not authorize TGL to own, construct, or operate a deepwater port. TGL must comply with state and Federal permitting, mitigation, and related requirements outlined in this ROD before a License may be issued and TGL can begin construction of the proposed deepwater port.

Dated: February 14, 2025

A handwritten signature in black ink, appearing to read "Paul Kammerer", is written over a horizontal line.

Executive Director in lieu of the Maritime Administrator
Washington, D.C.