

September 29, 2022

Administrator Michael Reagan
Office of the Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dr. Earthea Nance, PhD
EPA Regional Administrator for Region 6
Environmental Protection Agency
1201 Elm Street, Suite 500
Dallas, TX 75270

Dear Administrator Regan and Administrator Nance,

The undersigned represent local and regional groups and tribal nations directly affected by deepwater port terminals¹ proposed throughout the Gulf of Mexico off the Texas and Louisiana coasts to export crude oil and gas. We write to you, alongside support from national organizations, to relay concerns about the Sea Port Oil Terminal under consideration by the Maritime Administration's (MARAD) and U.S. Coast Guard's (USCG).² The public process for the Final Environmental Impact Statement included the final hearing and public comment period for the Sea Port Oil Terminal recently concluded on September 13, 2022. Over 55,000 written public comments were submitted nationwide on the Final Environmental Impact Statement³ between July 29 and September 13, 2022 alone that raise fundamental legal failures in the agencies' reviews and environmental compliance issues with the project application. The deepwater port license for the Sea Port Oil Terminal (SPOT) should be denied as existing Deepwater Port Act (DWPA), National Environmental Policy Act (NEPA), Clean Water Act (CWA), and Clean Air Act (CAA) reviews, while failing to fully assess the extensive impacts of the proposed SPOT project, show clear, harmful impacts to air and water quality, coastal and marine ecosystems and wildlife, public health, and high greenhouse gas emissions that contribute to climate change. The proposed VLCC export fossil fuel terminals undercut policies to combat climate change and protect public health, justice and the environment, and are not in the national interest.

¹ Proposed deepwater fossil fuel export facilities along the Gulf Coast with pending applications include: Bluewater (1.92 million barrels per day (MMbbl/d) crude oil export capacity, sited approximately 15 miles off San Patricio County, Texas coast with Texas onshore components); GulfLink (1 MMbbl/d crude oil export capacity, sited approximately 30 miles off the Brazoria County, Texas coast with Texas onshore components); Sea Port Oil Terminal (SPOT) (2 MMbbl/d crude export capacity, sited approximately 30 miles off Freeport, Texas coast with Texas onshore components); Blue Marlin (1.92 MMbbl/d crude oil export capacity, sited 99 miles off Cameron Parish, Louisiana coast with onshore components in Texas); West Delta LNG (deepwater liquefied natural gas export facility, which has a capacity of 900 million standard cubic feet per day, and sited approximately 11 miles off Plaquemines Parish, Louisiana coast); and New Fortress LNG, cited approximately 15 miles off Jefferson Parish, Louisiana

² Pending Applications, U.S. Dep't of Transp. Mar. Admin.,

<https://www.maritime.dot.gov/ports/deepwater-ports-and-licensing/pending-applications> (last visited September 15, 2022)

³ MARAD-2019-0011-5030, 87 FR 45849-45851

The Environmental Protection Agency plays one of the most important agency roles in reviewing the SPOT project, with an obligation to object to any legal failings in MARAD and USCG's NEPA review, or to the project's failure to comply with the CAA, CWA, or Marine Marine Protection, Research and Sanctuaries Act. Your agency also must issue CAA and CWA permits for offshore project components. We are calling on the Environmental Protection Agency to take full action within your authorities and responsibilities regarding the issuance of a license for ownership, construction, and operation of deepwater ports under the Deepwater Port Act. The EPA has a responsibility to inform the US Maritime Administration and US Coast Guard if your review of the final Environmental Impact Statement finds that there would be harm to the health and safety of coastal residents and a deepwater port project does not comply with national environmental laws.

The Environmental Protection Agency must conduct additional reviews of the environmental impact statements (EIS) to ensure a deepwater port will comply with national environmental laws. We ask the Environmental Protect Agency to object to the issuance of the Deepwater Port Act (DWPA) license based on the deficiencies raised in the comments on the Final EIS. We request for the public comment period on SPOT's draft air permits to be reopened based on new information about GulfLink using more stringent pollution controls compared to what SPOT proposes, the cumulative impacts of SPOT with other proposed sources of pollution like GulfLink, and the proposed reclassification of the Houston-Galveston-Brazoria area from "serious" to "severe" nonattainment for ozone.⁴

There has been a consistent outpouring of opposition to SPOT's project during the application review process, which included 30 day comment periods and public hearings for scoping, the draft EIS, Supplemental Draft EIS, and final EIS, during which the public submitted thousands of comments. Local community members' comments have included opposition due to the air pollution that would be caused by SPOT. However, the EPA's sole 30-day comment period on the draft air permits, in 2019, only attracted comment. The EPA needs to reopen, sufficiently advertise, and ensure that the public has an opportunity to weigh in on the air permits for the SPOT project.

The Environmental Protection Agency is charged under Section 309 of the Clean Air Act to review the environmental impact statements (EIS) of other federal agencies and to comment on the adequacy and the acceptability of the environmental impacts of the proposed action. The Environmental Protection Agency has the responsibility to ensure that the deepwater port will comply with national environmental laws. The Maritime Administrator, under authority delegated from the Secretary of Transportation may not issue a deepwater port license if the EPA Administrator informs the Secretary of Transportation that the deepwater port will not conform to all applicable statutory and regulatory requirements under these statutes within 45 days of the last public hearing on a proposed license for a designated application area.⁵

⁴ Environmental Protection Agency, [40 CFR Parts 52 and 81: Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Serious for the 2008 Ozone National Ambient Air Quality Standards](#), September 15, 2022.

⁵(DPA § 4(0)(6)) [*Conditions* (6)]he has not been informed, within 45 days of the last public hearing on a proposed license for a designated [application](#) area, by the Administrator of the Environmental Protection Agency that the [deepwater port](#) will not conform with all

The communities in the Gulf Coast and Permian Basin live at the frontlines of climate disaster, and have a lifetime of experience with industry applications, exploitation and environmental racism. In our written comments, we have raised concerns the SPOT project would harm the health and safety of coastal residents, degrade environmental quality, exacerbate air pollution, irreparably damage the marine environment, increase risk of oil spill and increase severity of the climate crisis. Approval of any VLCC deepwater port fossil fuel project will lead to increased domestic oil and gas production in the Permian Basin and more build-out of transport and export infrastructure in areas with unhealthy levels of pollution. Brazoria County, Texas, for example, suffered extensive damage in 2020 from storm surges and outer bands of hurricanes that hit the region and destroyed homes. The extreme freeze event that hit Texas in February 2021 also caused severe infrastructure damage. The proposed SPOT projects includes infrastructure sited on and off the Brazoria County coastline, would increase pollution and be vulnerable to hurricanes and increasing extreme weather effects.

Environmental justice

Federal environmental justice policy directs EPA to address environmental injustices to the full extent authorized by law.⁶ The Biden-Harris administration made a commitment to prioritize environmental justice and human health, economic and social effects of their actions on minority and low-income communities.⁷ The Maritime Administration (MARAD), US Coast Guard (USCG), and other coordinating agencies have a responsibility to identify and address disproportionate impacts environmental, human health, economic and social effects. During the application review and NEPA process for the Sea Port Oil Terminal, MARAD, USCG and other coordinating agencies have failed to uphold their responsibilities to “make achieving environmental justice part of [their] mission[s] in identifying and addressing, ... disproportionately high and adverse human health or environmental effects of [their] programs, policies, and activities on minority populations and low-income populations.” SPOT is one of dozens of fossil fuel export facilities proposed in the Gulf Coast, along with other existing and proposed petrochemical projects that increasingly pose risks to environmental justice communities. The increase in toxic pollution and the Sea Port Oil Terminal must be considered comprehensively and cumulatively with existing facilities and additional pending applications for projects.

Communities in Brazoria County, Texas are low lying coastal areas on the frontline of the impacts of climate change and have long-suffered disproportionate public health and environmental impacts of toxic pollution from oil refineries, petrochemical plants, and other fossil fuel industrial facilities. For example, Freeport in Brazoria County is already surrounded by large industrial sources of pollution, including four chemical processing plants, numerous petrochemical facilities, and fossil fuel import/export terminals. The residents are 64% Hispanic or Latino and 14% African American,

applicable provisions of the [Clean Air Act](#), the [Federal Water Pollution Control Act](#), as amended the [Marine Protection, Research and Sanctuaries Act](#)]

⁶ Executive Order 12898: “Federal actions to address environmental justice in minority populations and low-income populations,” <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>

⁷ The White House, “[Fact Sheet: A Year Advancing Environmental Justice](#),” January 26, 2022.

and 57% are low-income and situated near more high-risk facilities handling “ultra-hazardous” substances than 98% of communities in the country.

Just a few months ago, on June 8, a failure at the Freeport LNG gas export facility caused an explosion that created a 450-foot-high fireball. The explosion happened along a 700-foot section of pipe where LNG had become trapped, causing pressure to build. That section that had reportedly been inspected several weeks earlier, according to a report. This is just one example of how the onshore components, as well as the offshore export terminal, of the proposed SPOT project pose significant risks to vulnerable coastal communities from fires, hazardous spills, and air pollution emissions during future storms that are increasing in severity and frequency.

Clean Air Act: Air Quality and Public Health

The EPA recently denied draft permits for the nearby Bluewater Texas oil export. Similar in size and scope to the SPOT project, Bluewater Texas would have been the nation’s largest source of volatile organic compounds (VOC’s), exporting up to 384 million barrels of crude oil annually.

The proposed fossil fuel export facilities will emit harmful air pollutants including volatile organic compounds (VOCs), carbon monoxide, NO_x, SO_x, particulate matter (PM₁₀ and PM_{2.5}), and hydrogen sulfide. These pollutants cause ground level ozone and smog, which exacerbates illnesses such as asthma and emphysema, and is linked to premature death, heart failure, chronic respiratory damage, and premature aging of the lungs. Brazoria County is currently in severe nonattainment for ozone levels and under-resourced to address growing cancer clusters resulting from industrial air emissions. The pollution controls for the Sea Port Oil Terminals are insufficient and would result in thousands of tons per year of VOCs in Brazoria County’s air.

Ozone pollution is also damaging to plants and ecosystems, and contributes substantially to global climate change and ocean acidification. Additionally, the SPOT project would emit significant quantities of hazardous air pollutants such as benzene, a known carcinogen. The toxic emissions from SPOT and other export terminals cannot be justified in agency decision-making that prioritizes climate change, environmental justice and serving frontline communities. These considerable air impacts necessitate denial of permit applications.

Clean Water Act: Oil Spills, Water Quality and Marine Life

The deepwater port terminals proposed throughout the Gulf of Mexico off the Texas and Louisiana coasts to accommodate the international export of massive quantities of crude oil on Very Large Crude Carriers (VLCCs). The Sea Port Oil Terminal has the capacity to load and export as much as 2 million barrels per day of fracked crude largely produced in Texas’ Permian Basin.

There are a number of factors that increase the risk of oil spills. The increased tanker traffic of Very Large Crude Carriers (VLCCs) and associated loading, increased risk of collisions would increase the risk and severity of impacts from oil spills. In addition, there is risk of oil spill from

pipeline infrastructure and the entire project particularly vulnerable to the highly corrosive marine environment and damage and oil spill from extreme weather events, stronger hurricanes or storm surges which are becoming more severe due to climate change. The SPOT project, alone, could process more oil than is currently produced in the entire Gulf of Mexico in a year. Like the Deepwater Horizon disaster and Taylor Energy spills, an oil spill from the Sea Port Oil Terminal would have significant detrimental impacts on the Gulf region environment. The significant risks and impacts of oil spills necessitate denying these project applications.

Many of the VLCC project applicants, their parent companies, and subsidiaries have deeply alarming histories of well-documented spills and violations of state and federal laws in constructing and operating fossil fuel infrastructure projects. Both of the SPOT project subsidiaries have lengthy histories of environmental violations. Since 2000, Enterprise Products Partners, has paid over \$16 million in penalties, over half of which were for federal environmental and pipeline safety violations.⁸ And, in 2010 an Enbridge Energy Partners pipeline ruptured, releasing 843,000 gallons of oil into the Kalamazoo River, where it was carried dozens of miles downstream.⁹

Harm to Marine Life, Endangered Species Act/Marine Mammal Protection Act

Please provide confirmation that the agencies have completed legally required Endangered Species Act Section 7 consultation with the U.S. Fish & Wildlife Service and the National Marine Fisheries Service for all federally protected species and their designated critical habitats that may be affected by these projects.¹⁰

SPOT's offshore pipelines and deepwater port are sited within three Marine Protected Areas: Reef Fish Stressed Area, Reef Fish Longline and Buoy Gear Restricted Area, and Texas Shrimp Closure. In addition, the Gulf of Mexico's only marine sanctuary – the Flower Garden Banks National Marine Sanctuary — is located approximately 40 nautical miles southeast of the proposed SPOT DWP. The NEPA documents fail to provide detailed analysis describing the types and duration of spill impacts on these sensitive ecosystems, and entirely omits analysis of a worst case scenario that accurately reflects the magnitude of a spill event resulting from a facility of this size. The SPOT EIS must evaluate the immediate and long-term impacts of a potential spill on sensitive ecosystems, and species and habitat of the Gulf of Mexico.

The region is home to the Sam Bernard National Wildlife Refuge, Justin Hurst Wildlife Management Area, Brazoria National Wildlife Refuge, important marine turtle and avian nesting grounds for endangered species, and unique avian flyways. The region also relies on fishing, duck

⁸SPOT is a wholly owned subsidiary of Enterprise Products Operating LLC which is a subsidiary of Enterprise Products Partners, L.P. (hereinafter "Enterprise"). Between 2010 and 2016, Enterprise Product Operating LLC and another Enterprise subsidiary reported 360 pipeline incidents, the most reported incidents by any pipeline operator. Matt Kelso, BA, Updated Pipeline Incident Analysis, FRACTRACKER ALLIANCE (Nov. 23, 2016), <https://www.fractracker.org/2016/11/updated-pipeline-incidents/>. Since 2000, Enterprise has paid over \$16 million in penalties, over half of which were for federal environmental and pipeline safety violations. Violation Tracker Parent Company Summary for Enterprise Products Partners, <https://violationtracker.goodjobsfirst.org/parent/enterprise-products-partners>

⁹ Environmental Protection Agency, "[Enbridge Spill Response Timeline](#)", Updated March 2022.

¹⁰ 16 U.S.C. § 1536.

hunting, and coastal and eco-tourism economies that would be devastated by projects and their impacts. Not only would a spill or leak contaminate the ecosystem, but construction would damage the delicate balance of the wetland vegetation that absorbs storm surges and helps prevent inland flooding. By building this project, the area would lose its future as a family-friendly destination recreation area.

SPOT would have significant short- and long-term harmful impacts of spills, vessel strikes and noise pollution on marine mammals inhabiting the Gulf. This includes impacts on critically endangered Rice's whales, critically endangered Kemp's Ridley sea turtles, and species of corals, seagrasses and fish. This includes impacts to Gulf Coast commercial fisheries that have long suffered from the ongoing and persistent effects of the catastrophic Deepwater Horizon disaster and ongoing Taylor Energy spill.

Climate Change and National Policies to Reduce Greenhouse Gas Emissions

Large-scale international crude exports facilities that would emit greenhouse gas pollution for 30-40 years do not align with the national interest and policies of this administration, including Executive Order 14008 and Executive Order 13990, that demand greenhouse gas reductions, responsible technological and infrastructure investments, and acceleration of clean energy sources, along with responsible infrastructure planning and investment, particularly along our nation's shorelines and coastal communities.

Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," also calls for urgent action to avoid catastrophic climate impacts. It sets the goal of economy-wide net-zero emissions by 2050, by compelling agencies to assess, disclose and mitigate climate pollution and risks in every sector to ensure an equitable, clean energy future. It calls for action to increase resilience to climate impacts, protect public health and natural resources and advance environmental justice through deployment of clean energy technologies and infrastructure. Executive Order 14008 also calls for urgent action to avoid catastrophic climate impacts. It sets the goal of economy-wide net-zero emissions by 2050, by compelling agencies to assess, disclose and mitigate climate pollution and risks in every sector to ensure an equitable, clean energy future. It calls for action to increase resilience to climate impacts, protect public health and natural resources and advance environmental justice through deployment of clean energy technologies and infrastructure.

Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," promotes the protection of public health and the environment, advances environmental justice, and calls for reducing greenhouse gas emissions and bolstering resilience to the impacts of climate change. It demands that science guide federal agency decision-making and those disproportionately harming communities of color and low-income communities. The over 300 million tons of greenhouse gas quantified in the Final EIS for SPOT¹¹

¹¹ APPENDIX BB SPOT Deepwater Port Greenhouse Gas Emission Calculations
https://www.spotnepaprocess.com/content/feis/A28_SPOT_App_BB_GHG_Calcs_FEIS_508.pdf

alone justify license denial. The proposed Gulf Coast fossil fuel export projects' unavoidable and significant adverse impacts to coastal ecosystems and habitat, which are disclosed in the existing NEPA review, would severely undercut these policy goals.

We have submitted written comments to the US Maritime Administration and US Coast Guard on the Sea Port Oil Terminal since 2019. The proposed project raises significant concerns about cumulative impacts, harms to the marine environment, the health impacts to nearby residents, and whether the deepwater port project construction and operation is in the "national interest" and "consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality."¹²

The Environmental Protection Agency must conduct additional reviews of the environmental impact statements (EIS) to ensure a deepwater port will comply with national environmental laws. We ask the Environmental Protect Agency to object to the issuance of the Deepwater Port Act (DWPA) license based on the deficiencies raised in our joint comments on the Final EIS and to reopen the public comment period on SPOT's draft air permits.

We thank you for your consideration and welcome the opportunity to meet with agency representatives to further discuss the pending permit and license applications and environmental reviews. We would be grateful for your response and to schedule a meeting with decision-makers.

Sincerely,

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Freeport, Texas

Sue Page
Surfside, Texas

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Frankie Orona
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¹²33 U.S.C. § 1503(c)3 "Condition for issuance;The [Secretary](#) may issue a license in accordance with the provisions of this chapter if— (3)he determines that the [construction](#) and operation of the [deepwater port](#) will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality"

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