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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Texas Coastal Ecological Services Field Office

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September 6, 2019

Robert Jones
Regulatory Branch, CESWG-PE-RCC
U. S. Army Corps of Engineers
5151 Flynn Parkway, Suite 306
Corpus Christi, TX 78411

Dear Mr. Jones:

The U.S. Fish and Wildlife Service (Service) has reviewed a Public Notice, dated August 8, 2019, for Department of the Army, U.S. Army Corps of Engineers (USACE), and Texas Commission on Environmental Quality (TCEQ), Permit Application SWG-2018-00789. The applicant, Axis Midstream Holdings, LLC, has requested authorization to construct pipelines and related facilities for the export of crude oil via marine transport vessels. The project commences near the town of Taft in San Patricio County and terminates at Harbor Island in Nueces County, Texas.

This report was prepared under the authority of and in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.). It represents the coordinated views of the Department of the Interior. The recommendations in this report have been coordinated with representatives of the Texas Parks and Wildlife Department (TPWD), the Texas General Land Office (TGLO), the National Marine Fisheries Service (NMFS), and the Environmental Protection Agency (EPA).

The applicant proposes to construct a series of facilities and pipelines to store, transport, and load crude oil into marine vessels. The proposed project facilities include the Midway tank farm between Taft and Gregory, a staging facility adjacent to the Gulf Intracoastal Waterway near Aransas Pass, and a loading terminal on Harbor Island along the north shoreline of the Corpus Christi Ship Channel. Components to connect the three facilities include a 2-inch fiber optic line, a 6-inch gas supply line, a 16-inch intermix return pipeline, two 36-inch crude oil pipelines, and two 42-inch crude oil pipelines. According to the public notice, the installation of the proposed Midway to Aransas Pass pipeline bundle would result in 13.94 acres of temporary trench and fill impacts in waters of the U.S., including wetlands. In addition, the construction of the proposed

Aransas Pass facility would permanently fill 16.8 acres of estuarine wetlands. The installation of the Aransas Pass to Harbor Island pipeline bundle is proposed to cause 18.58 acres of temporary trench and fill impacts to waters of the U.S. This includes 7.81 acres of seagrass beds, 0.002 acre of *Spartina alterniflora* (smooth cordgrass), 10.65 acres of unvegetated tidal sand flats, 0.41 acre of black mangrove (*Avicennia germinans*), and 0.11 acre of estuarine wetlands. The permit application states that no impacts to waters of the U.S. would result from the construction of the Midway tank farm or at the upland portion of the Harbor Island terminal. The construction of the vessel berth would result in 70 acres of new work material being dredged and placed onsite for shoreline restoration, beneficial use (BU), and/or in one of the identified and listed placement areas in the project plans.

As described in the public notice, the scope and scale of the proposed impacts of the project are significant. The Service notes that the project would affect the Redfish Bay State Scientific Area, a crucial regional fisheries nursery, recreation, and scientific study resource area that is protected by State law. There is a high level of public concern regarding the impacts of this project and the additional impacts proposed by the Port of Corpus Christi (PCCA) in the Channel Deepening Project (CDP) and PCCA export terminal (permit applications SWG-2019-00067 and SWG-2019-00245). Impacts from these three projects overlap and could be significant. The effects to the environment from the cumulative impacts have not been analyzed. The Service is concerned about the unsubstantiated claim in Permit Application SWG-2018-00789 that the crossing of the Redfish Bay area would result in only temporary impacts to jurisdictional waters and wetlands including seagrasses and tidal flats. The public notice discusses alternatives for the proposed pipeline route, but not alternatives to the location of the export terminal. One alternative would be to avoid Redfish Bay habitats entirely. Since the export terminal is proposed to utilize the depths already authorized for the Corpus Christi Ship Channel 54-foot deepening project, alternative locations for the export terminal component might be available. The Service is concerned that the applicant is already planning to deepen their proposed mooring basin if the CDP 81-foot is authorized and that this is the actual determining factor for the proposed export terminal location rather than an analysis of alternate, less damaging, sites. These factors are, in the assessment of the Service, supportive of the need to evaluate the Axis Midstream Holding LLC Project with an environmental impact statement (EIS).

With regard to the information provided in the public notice, the Service noted the following errors and omissions:

1. The Service plotted the points for the impacts identified in Tables 1, 2 and 3, and found that the latitudes/longitudes did not match aerial imagery in several instances. The Service requests that these data, along with overlays for the proposed pipeline alignments and the facilities boundaries be provided to this office as kmz or similar formats.
2. The Service noted that there is no fire suppression equipment area, or firewater pond shown in the project plans for the Harbor Island terminal as is shown for the Aransas Pass Staging Facility. The Service requests that the location of these essential features for the export facility be clearly identified and the locations provided to the Service for review.

3. With regard to the mitigation site shown on Sheet 39 of 39 of the project plans, the image was not accompanied by site-specific location information in the public notice. Furthermore, the Service, after locating the site on aerial imagery, is aware that other authorized projects impacted this area, but no information regarding the work or impacts of previous projects has been including in the permit application. The Service requests that this information be provided.

The Service has the following additional concerns with the project as proposed:

1. The applicant's assertions that the proposed pipeline installations across Redfish Bay would have only temporary impacts are unsubstantiated. There is no data in the permit application supporting this assertion. A review of historic aerial imagery illustrates how seagrass beds can be scarred for years with the single pass of a boat propeller, and tidal flats by a crossing vehicle. Trenching proposed by the applicant is even more damaging. The Service recommends that the applicant provide the data, including information from other construction projects that was referenced and is being used to support the claim that the work proposed for the installation of the pipeline bundles would be temporary. This information is requested not only for the Redfish Bay portion but also for the entirety of the project area where impacts are being described as temporary. Detailed plans for the construction process and best management practices that would be employed which support the applicant's proposed temporary effects calls are missing from the permit application.

2. Mitigation for acknowledged permanent impacts of the project are proposed at two sites.

The mitigation area identified as the Aransas Pass Tidal Restoration site, shown on sheet 39 of 39 of the project plans is, as noted above, without a site-specific location, and is associated with previous project impacts, also not described. That this site is separated by approximately 2,000 linear feet from the closest tidal channel poses serious concerns about the success of any tidal restoration effort at this site. In short, the permit application does not explain how tidal waters would be able to reach the proposed mitigation site with the removal of a single culvert. Information is also lacking regarding current conditions at the site, whether it is uplands or wetlands, the kind of environmental change or lift that is being proposed, and how that change would be measured. Furthermore, an area just north of the culvert identified on Sheet 39 of 39 is identified on Sheet 18 of 39 of the project plans as Wetland #6, which is proposed to be filled, although this .51-acre wetland is within the 8.7 acre Positive Affected Area boundary for the mitigation site.

The proposed Harbor Island Shoreline mitigation site is same site being proposed as a disposal area for the CDP in Permit Application SWG-2019-00067. As noted above, this, along with other aspects of the project, is supportive of the need for the development of an EIS for the Axis Midstream Holdings, LLC project along with a robust cumulative impacts analysis that addresses these kinds of duplicative impacts on the regional

resources in the project area. The permit application states that the proposed shoreline stabilization and restoration would result in a direct restoration of approximately 76 acres of shoreline as well as protect and enhance approximately 36 acres of seagrass habitat, and that this area should be able to recover post-construction to form a combination of seagrass, mangrove, and emergent marsh habitat. The permit application does not, however, provide any information for how this benefit would happen, particularly, since the placement of material along that shoreline would result in direct and indirect impacts to existing seagrass beds, tidal flats, mangroves, and estuarine marsh.

The Service recommends that the applicant be required to develop a comprehensive mitigation plan for unavoidable impacts. The mitigation plan should include the applicant's sequential analysis of proposed impacts, addressing the appropriate and practicable measures of avoidance and minimization that have been applied, prior to presenting any proposals for compensation. Compensatory mitigation for restoration, enhancement, creation, and/or preservation, should be accompanied by details of the work supporting these efforts.

The permit application indicates the USACE has determined that the proposed action could affect federally listed threatened and/or endangered species and/or their critical habitat. Consultation under section 7(a)(2) of the Endangered Species Act will be initiated by the USACE. Species lists for San Patricio and Nueces counties are enclosed with this letter.

As proposed, the Axis Midstream project would have adverse and potentially permanent impacts to resources of regional scarcity and national significance. The Service reiterates its recommendation that an EIS be prepared to fully analyze the impacts of the project. If the USACE proposes to continue evaluation and possible issuance of this project without an associated EIS, then the Service recommends that Permit Application SWG-2018-00789 be denied and that the project be elevated to the President's Council on Environmental Quality for higher level evaluation.

Thank you for the opportunity to review the proposed project. If you have questions or concerns regarding our comments and recommendations, please contact Dawn Gardiner at dawn_gardiner@fws.gov, or by phone at 361-225-7310.

Sincerely,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Charles Ardizzone
Field Supervisor

Mr. Jones

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cc:

J. Robinson, Ecosystem Resources Program, TPWD, Corpus Christi, TX

L. Koza, Ecosystem Resource Program, TPWD, Corpus Christi, TX

R. Swafford, Habitat Conservation Division, NMFS, Galveston, TX

P. Kaspar, Region 6 EPA, Dallas, TX

G. Gray, 401 Coordinator, TCEQ, Austin, TX

T. Williams, Professional Services, TGLO, Austin, TX

A. Nunez, Coastal Field Operations, TGLO, Corpus Christi, TX

Federally Listed as Threatened and Endangered Species of Texas

May 25, 2017

County-by-County lists containing species information is available at the
U.S. Fish and Wildlife Service's (Service), Southwest Region, web site
http://www.fws.gov/southwest/es/EndangeredSpecies_Main.html.

This list represents species that may be found in counties throughout the state. It is recommended that the field station responsible for a project area be contacted if additional information is needed.

DISCLAIMER

This County by County list is based on information available to the U.S. Fish and Wildlife Service at the time of preparation, date on page 1. This list is subject to change, without notice, as new biological information is gathered and should not be used as the sole source for identifying species that may be impacted by a project.

Nueces County

Brown pelican	(DM)	<i>Pelecanus occidentalis</i>
Green sea turtle	(T)	<i>Chelonia mydas</i>
Gulf Coast jaguarundi	(E)	<i>Herpailurus yagouaroundsi cacomitli</i>
Hawksbill sea turtle	(E w/CHI)	<i>Eretmochelys imbricata</i>
Kemp's Ridley sea turtle	(E)	<i>Lepidochelys kempii</i>
Leatherback sea turtle	(E w/CHI)	<i>Dermochelys coriacea</i>
Loggerhead sea turtle	(T)	<i>Caretta caretta</i>
Northern aplomado falcon	(E)	<i>Falco femoralis septentrionalis</i>
Ocelot	(E)	<i>Leopardus pardalis</i>
Piping plover	(T w/CH)	<i>Charadrius melodus</i>
Red knot	(T)	<i>Calidris canutus ssp. rufa</i>
Slender rush-pea	(E)	<i>Hoffmannseggia tenella</i>
South Texas ambrosia	(E)	<i>Ambrosia cheiranthifolia</i>
West Indian manatee	(T)	<i>Trichechus manatus</i>
Whooping crane	(E w/CH)	<i>Grus americana</i>

San Patricio County

Brown pelican	(DM)	<i>Pelecanus occidentalis</i>
Golden orb	(C)	<i>Quadrula aurea</i>
Green sea turtle	(T)	<i>Chelonia mydas</i>
Gulf Coast jaguarundi	(E)	<i>Herpailurus yagouaroundsi cacomitli</i>
Hawksbill sea turtle	(E w/CHI)	<i>Eretmochelys imbricata</i>
Kemp's Ridley sea turtle	(E)	<i>Lepidochelys kempii</i>
Leatherback sea turtle	(E w/CHI)	<i>Dermochelys coriacea</i>
Loggerhead sea turtle	(T)	<i>Caretta caretta</i>
Ocelot	(E)	<i>Leopardus pardalis</i>
Piping plover	(T w/CH)	<i>Charadrius melodus</i>
Red knot	(T)	<i>Calidris canutus ssp. rufa</i>
West Indian manatee	(T)	<i>Trichechus manatus</i>
Whooping crane	(E w/CH)	<i>Grus americana</i>