

6. COASTAL ZONE CONSISTENCY

Congress enacted the CZMA in 1972 (16 U.S.C. 1451 et seq.) to encourage the preservation, protection, development, and, where possible, restoration or enhancement of valuable natural coastal resources such as wetlands, floodplains, estuaries, beaches, dunes, barrier islands, and coral reefs, as well as the fish and wildlife utilizing those habitats. The CZMA applies to activities within the defined coastal zone, as well as activities outside of the defined coastal zone if they have the potential to impact resources within the coastal zone. Under the CZMA, coastal states have the authority to implement comprehensive coastal management programs and to conduct a consistency review for a Federal action that may have a reasonable foreseeable effect on resources contained within the state's coastal zone (15 CFR Part 930, 15 CFR Part 923). Consistency determinations are also required for activities that are Federally funded, licensed, and/or permitted, including offshore infrastructure in U.S. navigable waters and waters in the EEZ, which might impact coastal waters.

The Texas Coastal Coordination Act (CCA) of 1991 established a comprehensive coastal resource management program in Texas. The TCMP gives Texas the authority to review proposed Federal actions and activities that are located in or may affect the land and water resources in the Texas Coastal Zone through a Federal consistency review process. The Texas Coastal Zone includes all or portions of 18 counties along the GoM, including (from north to south), Orange, Jefferson, Chambers, Harris, Galveston, Brazoria, Matagorda, Jackson, Victoria, Calhoun, Refugio, Aransas, San Patricio, Nueces, Kleberg, Kenedy, Willacy, and Cameron counties, and extends approximately 10 miles into the GoM (TCMP 2017; GLO n.d.a.). The inland boundary of the CZMA in the vicinity of the Project mostly follows the Brazoria County and Harris County lines. Based on TCMP's coastal zone map, all of the Project's onshore storage/supply components would be located within the Texas Coastal Zone Management Area administered by the GLO.

As a condition of the DWPA license issuance, the proposed Project must demonstrate consistency with the TCMP (because Texas is the adjacent coastal state). Consistency determinations are processed by the GLO as part of the TCMP, as required under the CCA.

A consistency determination is performed by the USACE through the CWA Section 404 process, as well as by the RRC through the Section 401 Water Quality Certification process. Concurrent with its DWPA application, the Applicant submitted a draft application to the USACE under Section 404 of the CWA in December 2018. The Applicant filed a final application with the USACE on March 15, 2019. The application contains a consistency review form for the onshore components of the proposed Project. The Applicant provided a revised consistency review form to the GLO on October 24, 2019 (Appendix G). The Section 404 permit from the USACE, the Section 401 Water Quality Certification from the RRC, and the GLO consistency determination must be received before the proposed Project can commence construction.

Brazoria County adopted a Beach Access and Dune Protection Program to assist in implementing the TCMP. The Beach Access and Dune Protection Program requires any development within 1,000 feet of mean high tide to obtain approval from the Brazoria County Commissioners' Court and the GLO (Brazoria County 2019a). Additionally, a Dune Protection Permit is required from the Brazoria County Commissioners' Court for any alteration (in elevation or vegetation) of nearby sand dunes from mean high tide landward for a distance of 1,000 feet (Brazoria County 2019a). Appendix D, Agency Correspondence, presents correspondence regarding the CZMA with these agencies and Brazoria County.